

# DRAFT

**Innocenti Working Paper**

**SECURITY SECTOR REFORM  
AND CHILDREN**

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## **Introduction**

Access to justice and security are a central element of establishing sustainable peace and ensuring long-term stability, and engaging children and youth in this process a vital part of peacebuilding. Conflict is often associated with the injustice of political and legal bias that leads to marginalisation and grievance amongst certain parts of the population. Post-conflict stabilisation will require a range of peacebuilding activities and involve a range of actors. Crucially, security is a pre-requisite for providing the space necessary for these processes to be realised and to achieving sustainable social development. Demonstrating that those responsible for past atrocities are held accountable is also an essential part of building trust and enabling effective and transparent governance institutions to take hold.

This is a particularly challenging paper on two counts. Firstly, little consideration/research has been given to how security sector reform impacts on children, and equally, the role that children and youth have to play in supporting improved security and/or peacebuilding. In addition, there seems to be a grey-area in terms of the understanding of the concepts and approaches to transitional justice and security sector reform. By comparing and contrasting these two areas of intervention, it is hoped that this paper will illustrate some of the links and therefore demonstrate why children's security requires increased attention from the security sector.

Some definitions of transitional justice present security sector reform as one element of that process, but at the same time security sector reform has been developing into a significant area of response in its own right of which justice reform is a vital component. Increasingly, the two are being recognised as distinct but complementary processes of post-conflict peacebuilding with recent discussions at the United Nations Security Council affirming this perspective:

The Security Council recognises the inter-linkages between security sector reform and other important factors of stabilisation and reconstruction, such as transitional justice, disarmament, demobilisation, repatriation, reintegration and rehabilitation of former combatants, small arms and light weapons control, as well as gender equality, children and armed conflict and human rights issues.<sup>1</sup>

Important to also recognise is that the two processes attract and have the ability to mobilise somewhat different constituencies of actors, although very often these do overlap or are actually the same. While they may have a different focus and be based on somewhat different imperatives, the two processes are closely bound together and have the potential to be mutually supportive. Ultimately the aim of the two should be recognised as one and the same, namely the establishment of rule of law and respect for human rights.

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<sup>1</sup> Source: Excerpt from the Statement by the President of the Security Council at the 5632nd meeting of the Security Council, held on 20 February 2007 (S/PRST/2007/3)

Effective strategies aimed at achieving this dividend must seek to support both the political will and technical capacity for reform. The United Nations therefore has an important role in promoting domestic reform constituencies, building the capacity of national justice and security institutions, and facilitating national consultations on transitional justice and reform.<sup>2</sup>

### **Security Governance**

The end of the cold war in the early 1990s offered an opportunity to better implement and apply the provisions of the body of international human rights law that had been developed since the formation of the United Nations. The international community became more capable of pushing states on their obligation to prosecute the perpetrators of human rights violations. Coupled to this was an increase in United Nations deployments to post-conflict peacekeeping. The notion of integrated missions developed, recognising the need for multi-disciplinary approaches to re-establishing rule of law and securing the peace. Key to this was addressing past crimes but also avoiding their reoccurrence.

With this came an increased recognition at the political level of the importance of good governance in the area of security, and the need for priority attention to security sector reform as means to minimising abuse. A more effective and accountable security sector will play an important role in both creating and sustaining an environment in which conflict is less likely but will also limit the potential for any abuse of power by the security services themselves.

If peace is to be lasting, then the security needs of both the state and its population must be addressed, along with the political and socio-economic aspects of reconstruction. Just as in the political and socio-economic dimensions of post-conflict peacebuilding, security requires due attention to governance, particularly good governance in the security sector.<sup>3</sup>

From a security governance perspective there are three foci in post-conflict peacebuilding requiring special attention namely, security sector reform, DDR, and rule of law issues. Often approached as discrete areas of intervention, the synergies between the three issues are increasingly being recognised and explored, recent attempts trying to view the peacebuilding process in a more holistic way. The impact of and implications for children and youth need to be considered in each dimension of the peacebuilding process.

Considering security as a public good, the service providers should be ultimately accountable to the beneficiaries hence the need for civilian control of the armed forces. Allowing impunity to reign without putting in place systems of accountability, whether judicial or non-judicial, or dealing with the past in some way will ultimately impact on

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<sup>2</sup> UNSC. The rule of law and transitional justice in conflict and post-conflict societies, Report of the Secretary-General, S/2004/616, August 2004.

<sup>3</sup> Nicole Ball, 'The Challenge of Rebuilding War-Torn Societies', in *Turbulent Peace. The Challenges of Managing International Conflict*, eds, Ch. Crocker, F.O Hampson and P. Aall, (United States Institute of Peace Press: Washington D.C., 2001), 723-725.

SSR. If perpetrators of abuses do not go through some process of accountability or acknowledgement there is little to stop them from continuing their abusive behaviour.

### **Linking TJ and SSR**

One of the key elements of the transitional justice process is the need for institutional reform. Whether considering transitions from autocratic rule or post-conflict peacebuilding, the remaining justice institutions and structures are likely to have been weakened, or may even be non-existent. Transitional justice comprises the processes and mechanisms associated with a society's attempt to come to terms with a legacy of past abuses, in order to ensure accountability, serve justice and achieve reconciliation.<sup>4</sup>

The reforms associated with transitional justice may be focussed around the justice system, but a more holistic approach to reform requires broader consideration of security governance issues that, as such, link closely to the concept of security sector reform. Transitional justice and security sector reform processes are closely linked elements of the broader peacebuilding agenda. Their objectives and approaches bear many similarities in terms of both the constituencies they involve and the outcomes they seek, and indeed in many ways they overlap. Ultimately, the two contribute to the overarching aim of establishing rule of law and ensuring respect for human rights.

This paper will highlight synergies between the processes of transitional justice and security sector reform and the imperative that this implies for ensuring co-ordinated actions, but above all will draw attention to the mutually supportive role that they can play for each other. The paper will focus above all on domestic rather than international structures and mechanisms, focussing on the community level appreciation of justice. It is at this level that social reconstruction, including reconciliation, is of most relevance to the lives of children and young people and it is also at this level that the importance of the protective environment is at its most apparent.

Prosecution in the form of domestic and hybrid courts is considered. Truth commissions and traditional informal justice mechanisms, and their role in furthering reconciliation and affecting sustainable reform of the security sector are explored. National processes may provide the framework for change but the impact felt at the local level can be affected by a whole set of additional factors and needs the engagement of a whole range of actors.

### **Why Children's Security Matters**

In ratifying an international treaty a state takes on an obligation to realise and respect its provisions. This has special significance in relation to commitments to children as not only are they holders of universal human rights that they share with all other persons, but they hold additional rights as children that recognise their particular dependence, development and protection needs. This having been said, although the Convention on

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<sup>4</sup> UN Security Council. The rule of law and transitional justice in conflict and post-conflict societies: Report of the Secretary-General. New York, August 2004. S/2004/616.

the Rights of the Child is the most widely ratified of all international treaties, some argue that it is the least consistently implemented.

The state's ability to realise its obligations towards the respect and promotion of children's rights not only becomes a core indicator of good governance, but provides an insight into the development status and well-being of a nation. Ensuring children's security not only represents a legal obligation, but also reflects a moral one for a range of both state and non-state actors. Ensuring that all parties are aware of their role and responsibilities toward young people is a key aspect of promoting the protection and well-being of children and the population as a whole. Security and justice are necessary conditions of realising social development.

*a. Rights obligations*

International human rights law addresses the protection of individuals from violations by governments of their fundamental rights and freedoms. The state's responsibility extends to ensuring that provision is made to secure the human rights of each and every person within its jurisdiction. This involves respecting the rights of individuals or groups, and ensuring that they are protected from violations of their rights by others i.e. ensuring that 'wrongs' are not committed against them. All state institutions share responsibility for implementing these obligations, with the state's formal security apparatus being a key duty-bearer. A key responsibility of the state thus involves guaranteeing that its own security system is not involved in the violation or abuse of human rights.

Effective application of human rights principles requires awareness and understanding on the part of government institutions and related bodies at all levels. While parents, families and communities are responsible for ensuring the immediate well-being of children, the state in the form of its national and local authorities is responsible for ensuring that children's rights are respected. Ensuring a co-ordinated response at these different levels requires that the security perspectives of children and youth are integrated into security policy and decision-making. In practical terms, where this process is most crucial is at the level of local authorities and communities, but long-term success will be dependent on the commitment and support of central government.

Children's rights are codified in the United Nations Convention on the Rights of the Child providing protection standards that go beyond the usual guarantees of health, education and welfare, and include guarantees relating to civil and political rights including freedom of expression, religion, association, assembly and privacy. Intrinsically this involves listening to children's opinions and concerns regarding security, and additionally, the right to 'be heard in any judicial and administrative proceedings affecting the child' is specifically referenced in the Convention. It should also be noted that in the exercise of their rights, children have the same obligations as adults do to obey the law, to respect the rights and reputations of others, and not to jeopardise national security, public order, public health and morals.

*b. Protecting Social Capital*

In contrast to the traditional state-centric notion of security, the wide-spread adoption of notions of societal security and human security mean communities and individuals respectively are also the subjects of security provision. Ensuring public security means predicting and addressing a wide range of existing and potential threats to individuals, groups and institutions including, for example, crime, violence, corruption, and other violations of human rights. Public security can equally be compromised by natural disasters, pandemic health issues, or terrorist acts. In situations of armed conflict additional threats will exist such as antipersonnel landmines, small arms and light weapons, the recruitment or use of children into armed conflict, and other violations of international humanitarian law.

Security, as a public good, should be accessible to all parts of society without discrimination, and with all individuals and groups having the possibility to claim its benefits, whatever their legal status may be in a particular jurisdiction. In the broader notion of ‘human security’, this idea is developed to also refer to a broader imperative of promoting human development, including economic, food, health and environmental security.

In positioning children within this framework it is important that they are seen as active agents in their own development. Portraying children exclusively as either victims or demons is neither representative of all their interests, or helpful to recognising the value and contribution that young people have to offer society. Empowering this segment of the population, including through education and meaningful opportunities for participation, will build resilience allowing them to resist peace-spoilers, avoid negative coping strategies, and actively engage in peacebuilding processes. Making sure that the child is able to develop within a protective environment will require a range of actors, both state and non-state, working together at multiple levels in securing children’s healthy development. Investment in young people should be aimed at encouraging their active engagement in society. Today’s children become the decision-makers of tomorrow and, naturally, their experiences will inform their future role and ability to pursue positive outcomes.

As such, there is not only a legal obligation to protect children but also a moral one. As children lack of political expression to demand accountability themselves it becomes the legal and moral responsibility of the state and its institutions, as well as non-state actors, to intervene to guarantee the safety and security of children, their families and their communities.

*c. Demographics*

Children represent a significant portion of any population, especially those in developing countries. This is a dynamic that needs to be recognised and better understood by policy-makers, not only in terms of positively engaging this group in society, but also in acknowledging that social development brings a reduction in fertility rates, improved

health status, and results in reduced mortality rates and longer life expectancy. The combined effect is to reduce the overall proportion that children and youth represent of the population as a whole.

This results in significant demographic variations between industrialised countries, where the percentage of children in the population is as low as 25 percent, and developing countries where as many as 50 percent of the population are under the age of 18 years. In a number of refugee and internally displaced populations, particularly in sub-Saharan Africa, the proportion of the population under the age of 18 can increase to over 60 percent.

Not all developing countries, even those with similar demographic profiles, descend into conflict. What this indicates is that violence and conflict scenarios require a far more complex set of social and political conditions in order to ignite them. Development on the other hand appears to support, even encourage, positive decision-making options within all parts of society, while at the same time diminishing the opportunities available to spoilers to de-rail the peace.

The World Bank's World Development Report (2007)<sup>5</sup> considers the risk dynamic that youth pose to peace and security but, referring to Urdal (2004), observes that a large youth cohort can aggravate tensions caused by growth but does not by itself lead to conflict. In launching the report in September 2006, François Bourguignon, the World Bank's Chief Economist and Senior Vice President for Development Economics focussed on stressing the positive contribution that youth can make, adding "But, these young people must be well-prepared in order to create and find good jobs". The conclusion drawn from the report is that developing countries which invest in better education, healthcare, and job training could produce surging economic growth and sharply reduced poverty.

As Jo Boyden (2006) points out, 'the moral panic propagated by youth bulge theorists is too often based on only one form of influence on human development and action, whether an aspect of environment, personal experience, or individual traits'.<sup>6</sup> Furthermore, the 'youth bulge' theorists are divided among themselves on the question of whether young people's violence is ultimately caused by greed or grievance, promotion prospects or inequality and poverty.<sup>7</sup>

If the environment is right, a large youth cohort will be the engine of economic and social development. The notion of a 'demographic dividend' refers to the idea that the age structure of the population has a significant impact on the growth, and that youth are

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<sup>5</sup> World Bank, World Development Report (2007)

<sup>6</sup> Jo Boyden, Children, War and World Disorder in the 21st Century: A Review of the Theories and the Literature on Children's Contributions to Armed Violence, Working Paper Number 138, (Queen Elizabeth House, University of Oxford). November 2006.

<sup>7</sup> Yvonne Kemper, Youth in War-to-Peace Transitions: Approaches of International Organizations. (Berghof Research Center, Berlin, Germany). January 2005.

essential to this process.<sup>8</sup> To realise this dynamic will require cross – government investment, with security provision being a significant element of the overall strategy and approach. Ultimately, it is argued here that engaging youth, and providing them with meaningful and constructive occupations, will generate that elusive peace dividend so essential for long-term stability.

*d. Breaking the Cycle of Violence*

The transition from childhood to adulthood is a period full of challenges for the evolving individual, often characterised by risk-taking and actions that at times test the limits of acceptable social behaviour. Where disaffected children and youth are exposed to destabilising factors such as social exclusion, restricted access to education, long-term unemployment, poverty or political strife this can lead them into conflict with the law. Armed conflict will provide a potent cocktail of factors that can impact negatively on young people, among them insecurity, uncertainty over the future, limited or no access to services including education, availability of small arms, and general breakdown in rule of law, any of which could suffice to push them towards negative choices such as violence, crime, or radicalism. The key to any strategy must be to reduce the opportunities for peace-spoilers to profit from the instability of the post-conflict situation.

The approach promoted by a range of international legal instruments focuses on diverting those involved in criminal or violent activity to more constructive roles and a meaningful place in society. This partly involves promoting preventive strategies that avoid individuals getting into trouble in the first place, but also intervening in a timely and appropriate manner to assist those who do, including their rehabilitation and social reintegration. As referred to above, recognising young people as active agents in their own development and investing in helping them achieve positive outcomes needs to be a key strategy of preventive public security. This is perhaps most conspicuous in relation to juvenile justice.

The reform of the juvenile justice system in the post-conflict environment will have a key role to play in breaking the cycle of violence. Demonstrating rule of law including justice and security will be central to re-establishing confidence and trust, and the pursuit of restorative and educational approaches to justice central addressing recidivism. Many of these children will have only committed petty crimes or minor offences such as vagrancy, truancy, begging or alcohol use (status offences, that would normally not be considered criminal when committed by adults), but their experiences of the justice system could have long-term and profound effects on their future lives and their interactions with the law.

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<sup>8</sup> David Bloom, David Canning, Jaypee Sevilla, *The Demographic Dividend: A new perspective on the economical consequences of population change* (Sta Monica: RAND, 2003).

## **Children and the Peacebuilding Process**

The United Nations Security Council has acknowledged that protecting child rights and preventing violations are integral to peacebuilding efforts in post-conflict environments. Since 1999, the Security Council has made children a priority, discussing the issue on an annual basis, culminating in Resolution 1612 (2005) that called for the implementation of a monitoring and reporting mechanism – the first time such an initiative has been taken by the Council. While the focus of their deliberation has been the recruitment or use of children by armed forces or groups, their concern is also with a number of other 'grave violations', namely: killing or maiming of children; attacks against schools or hospitals; abduction; rape or other grave sexual violence against children; and denial of humanitarian access for children. Members of both armed forces and armed groups appear in early reports as perpetrators of abuses against children, highlighting the importance of engaging these same actors in safe-guarding the security of children. Not only are these security actors the key players in protecting the rights and physical well-being of children, they are also key to preventing some of the gravest violations against children.

Children and youth have an active role to play in developing and promoting sustainable post-conflict initiatives. Unfortunately however, the idea of mobilising this resource is generally overlooked, viewed as an issue that is exclusively the domain of social workers or teachers. What is argued here is that establishing young people's participation is not only essential to fulfilling the obligations that the security sector has for providing for the security of all, but is an imperative if the hard-won peace is to be durable. Children and youth have their own perspectives on their experiences of security and insecurity, and engaging with them will not only allow a better understanding of the issues required for designing and delivering appropriate services, but will also provide valuable insights into potential or evolving security threats.

Restoring normality to young lives requires that actions aimed at addressing the legacies of conflict involve young people directly, including their active participation, allowing a better understanding of how they have been affected and how to design and implement appropriate programmes to assist them in dealing with the consequences of conflict.

Breaking the cycle of violence will mean dealing with unaccountable or corrupt security services; where necessary engaging armed non-state actors; demobilising and reintegrating former child soldiers into society; addressing the proliferation of small arms and light weapons; implementing mine action initiatives; reforming the justice system particularly the juvenile justice system; implementing transitional justice mechanisms; re-establishing rule of law; dealing with criminality; and addressing past human rights violations; and providing youth with alternatives and a vision of a constructive and productive future.

One of the challenges in identifying and responding to gaps in children's security is the tendency to categorise issues on a thematic basis. In recent years the categories to have received such special attention have been those of 'child soldiers' and 'trafficking'. While

it may be hard to judge whether this phenomenon is generated by international organisations or the demands of donors to see where and how funding is dispersed and its impact, what should be acknowledged is that this compartmentalised approach is not necessarily compatible with addressing the broader security and protection aspects of many of the issues that affect children. Children will not be exclusively the victims of trafficking but rather the victims of a series of causal effects that make them vulnerable to such exploitation. The children recruited to serve in the ranks of fighting forces will have suffered compound violations of their rights that eventually led to them being susceptible to recruitment.

In presenting the issues affecting children in such a packaged way, academic and programming attention tends to be channelled accordingly, including in terms of the allocation of resources. Focussing on such ‘high-profile’ issues risks diverting attention away from a range of broader concerns that children may face, some of which that may appear relatively minor on the surface, but that are potentially the catalysts that make children susceptible to more serious violations. Restricting our emphasis in this way risks ignoring children’s realities, and diverts attention from building more robust protective systems that could offer a safety-net to children affected by a broader range of issues, including domestic violence, drug misuse, bullying, or perhaps neglect, just to name a few. Also, presenting these thematic issues as technical and complex areas of programme intervention may restrict the range of actors who may be prepared or willing to engage. Multi-sectoral approaches need to recognise the importance of all duty-bearers to the process of building a protective environment, including the vital contribution of security sector actors to providing a secure environment.

### **Transitional Justice**

According to the International Centre for Transitional Justice, “Transitional justice is a response to systematic or widespread violations of human rights. It seeks recognition for the victims and to promote possibilities for peace, reconciliation and democracy.”<sup>9</sup> Basic approaches to transitional justice include, but are not limited to, criminal prosecutions, truth seeking, reparation, institutional reform, and reconciliation.<sup>10</sup>

Transitional justice seeks accountability for the past to ensure rule of law in the future. Preventing the recurrence of human rights violations requires fact-finding so that lessons can be learned through social reconstruction and re-establishing rule of law. For reconciliation among affected population to be effective, legacies of war need to be addressed including those that impact directly on children such as lost schooling, family separation, injury due to landmines etc.

Access to an effective justice system is a central element of establishing sustainable peace and ensuring long-term stability. A poorly functioning justice system equally risks violating the rights of those entering the system if it is not fit for task. While the formal

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<sup>9</sup> Source: ICTJ, What is Transitional Justice? (ICTJ, 2008).

<sup>10</sup> Paul van Zyl.

justice system may be oriented towards adults seeking redress, it is important that young people also get to see that justice is done. Perceptions of injustice can be harboured by communities for generations and undermine efforts to re-establish peace and stability. Not only is it necessary to actively engage in addressing misperceptions for long-term stability but also young people are likely to provide more fertile ground for such approaches. However they are rarely consulted, and their views and opinions seldom captured, and opportunities to engage them in peacebuilding activities generally overlooked or at least not adequately harnessed.

Justice sector programmes need to adopt a holistic approach to address a broad spectrum of legal, social and institutional challenges. Coordination between key institutions is a prerequisite for effective legal and judicial reforms and will involve judges, prosecutors, defence attorneys, administrators, police officers, prison guards, human rights institutions and civil society organisations. Many of these actors will also be directly implicated in security sector reform activities.

Immediate post-conflict interventions tend to focus on short-term capacity building and infrastructure rehabilitation. However, broader transitional justice initiatives should be aimed at the mid to long-term objectives of ensuring access to justice for the population as a whole, not just filling a temporary void. Insufficient impact of justice programmes on the most disadvantaged people risks widening existing gaps with regard to access to justice, with negative consequences for the prospects of peace and human development. To this end, hybrid courts can play a vital role in working alongside and supporting national capacity while it re-establishes itself.

Exploring the potential of indigenous and traditional systems to enhance access to justice, particularly in post conflict contexts, and examining how they can link to formal systems and how human rights standards and principles can be introduced may often be useful entry points. Build on comparative the advantages of formal and traditional adjudication, “traditional” adjudication is best suited to conflicts and disputes between people living in the same community who seek reconciliation based on restoration, and who will have to live and work together in the future. Formal justice, on the other hand, is best able to provide the legal and procedural certainty required where serious penalties such as imprisonment are regarded as appropriate, or where the parties are unwilling or unable to reach a compromise.

A key consideration for transitional justice initiatives is timing and pacing. In post-conflict settings, the priorities tend to be the criminal justice system, restorative justice and transitional justice mechanisms and the legal framework relating to property rights.

Demonstrating legitimacy and establishing confidence/trust in the justice system is a particular challenge in post-conflict settings not just because of the challenge of rebuilding degraded or destroyed structures and human resource capacity but in many conflict affected countries the justice system may have been viewed with suspicion and associated with impunity prior to the conflict. Although there is a need to restore

confidence in the justice system quickly, reform needs to be perceived as an on-going and long-term process.

Injustice is the single most important factor in generating conflict. In 2001, the UN Security Council recognised that peacebuilding ‘is aimed at preventing the outbreak, the recurrence or continuation of armed conflict’, requiring short and long-term actions that focus on ‘fostering sustainable institutions and processes in areas such as sustainable development, the eradication of poverty and inequalities, transparent and accountable governance, the promotion of democracy, respect for human rights and the rule of law and the promotion of a culture of peace and non-violence’.<sup>11</sup>

With the continuation and the escalation of the conflict over time, the judicial and legal system generally becomes less able to cope with the injustices of war, thus compounding the perception that the judicial establishment is either unable or unwilling to fulfill the demands for justice. A successful transition from conflict to democratic governance, must take into account the causes of the conflict, including the absence of an effective justice and human rights mechanism that allows the aggrieved to claim their right to redress.

States undergoing transition following a conflict must not only focus on addressing human rights abuses and war crimes of the past, but also concentrate on re-establishing the rule of law and the justice system, addressing social injustice, restoring distributive justice and preventing the recurrence of large-scale human rights abuse.

(Source: Mani, R. 2002, *Beyond Retribution: Seeking Justice in the Shadows of War*).

Critically, unless past crimes are dealt with in some way that is supported by the majority of the population instability may persist.

### **United Nations Security Council & SSR**

The topic of security sector reform has been receiving increased attention for the past years from international organisations and institutions. Among those, the UN Security Council has positioned itself as a forum for new concept definition and application. Approaching SSR dimension in relation to peacebuilding agenda, the Security Council provides the debate with interesting documents casting light on the modifications needed for better efficiency.

Implication of UN missions in supporting countries achieve a successful transition to stable and peaceful situation has automatically confronted them with a wide mandate during which effort must be directed towards humanitarian, development, rule of law and security aspects of peacebuilding. The variety of these tasks led to the need of a better identification and understanding of the concepts at stake and to a possible re-evaluation of the security actors and their position in UN strategies.

Recognising the relevance of security sector reform priorities in peacebuilding efforts and the need to engage it in strategies and programmes, a presidential statement in February

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<sup>11</sup> United Nations Security Council, Statement by the President of the Security Council, UN Doc. S/PRST/2001/5 (20 February 2001).

2007 initiated the debate on the necessity of addressing SSR, putting forth a call for a report concerning Security Council's support of SSR in the context of peace and security maintenance (S/PRST/2007/3). The same interest was expressed by the Special Committee on Peacekeeping Operations. Such information was considered to be necessary in order to improve the effectiveness and coordination of UN entities on field / mission.

The request resulted in the presentation of a report from the Secretary-General, *Securing peace and development: the role of the United Nations in supporting security sector reform*, in January 2008 for the Security Council (A/62/659 – S/2008/39) and a corresponding presidential statement in May 2008 (S/PRST/2008/14).

Following previous experience of UN missions in the past 60 years, the 2008 Report positions security, along with development and human rights, as one of the preconditions for sustainable peace, application of which is dependent to state's action. As such, the overall task of the UN being to support state in transition throughout post-conflict situation and ensuring stable development, deployed peacebuilding missions are in direct contact with SSR. This being the situation, the Report remarks nonetheless the absence of a coherent UN strategy concerning SSR, this influencing the mission's capacity to deploy effectively capacity and resources when it comes to support to national authorities.

Two main aspects are summoned by the Report: UN actual experience and approach to security, and respectively changes needed to occur, both in conceptual theory and practice, in order to have better performances.

In its task to prevent and mediate conflict, the UN have been involved with supporting states in various domains that create possible causes of conflict – social, economic, etc., thus bringing strategies to evolve at different levels and in cooperation with diverse actors. Due to the precariousness of population's security, UN was forced to approach security challenges in order to insure civilian protection, highlighting the significance of security issues in order to address post-conflict situations – giving a burst to the social and economical domain. As such, long-term development is conceived and approached as closely related to a secure situation of the population, that is ready to actively participate in the state reconstruction.

In order to highlight the importance of SSR approach in post-conflict peacebuilding initiatives, a few key elements are given for the understanding of the concept. A diverse range of actors are implicated with the insuring of an efficient SSR except classical state armed forces, such as ministries, legislative bodies and civil society groups, the report stressing however the importance in assisting national authorities, in their role of primary providers of security, in leading the process.

As security sector concerns a wide range of services and actors, the report found it relevant to stress the fact that SSR does not apply only to institutional reform – as it has previously been understood, but to the whole state economic, social and political system. As such, SSR would go well beyond the military rooted domain and concern just as much defence as law enforcement, corrections, border management, civil emergencies.

SSR would be defined as a “process of assessment, review and implementation as well as monitoring and evaluation led by national authorities that has as its goal the enhancement

of effective and accountable security for the State and its people without discrimination and with full respect for human rights and the rule of law”. The definition stresses the variety of duties in SSR, the importance of the national perspective and the value of this process in peacebuilding for insuring population protection.

The report also puts forth a set of common features that any accountable and efficient SS would share, this permitting the UN to set a strategy in order to include all of these. It is very useful to take note of the direct link between security sector and its developing in state given framework – becoming a legitimate use of force in the hands of state empowered bodies and institutions, having as major purpose the protection of all population. Also, the report remarks the conjugation of SS on different capacity levels that can provide effective security (such as structures, personnel, equipment, resources) but also in need of interaction and cooperation according to principles of discipline and human rights.

By their implication in assisting national strategies to enhancing and maintaining a stable security situation, UN missions come in close contact with security system and even involve in SSR activity and develop strategies accordingly to the context. UN experience with SSR also sprung from bodies such as the Department of Political Affairs, the Department of Peacekeeping Operations, the Office of the High Commissioner for Human Rights, UNDP and UNODC. Necessity to address security sector issues in peacebuilding situations has revealed its importance for peace implementation, prevention of future conflict and protection of marginalized and socially excluded groups. The UN thus becomes one of the many actors that support SSR by the range of their purpose, collaborating in an emerging and very comprehensive concept of security sector. Lessons learned from these past experiences show primarily that UN engagement in this domain must continue to include security sector strategies in peacekeeping operations, security being a precondition for sustainable peace, development and human rights. Nonetheless, UN implication must always proceed with the aim to propel national engagement and commitment, as well as engaging all the security actors mentioned – international, national and local. Security sector needs to be included in a global governance and reform agenda, in order to be considered and to take its role as national strategy.

Effective governance and civilian oversight of the security sector are also considered relevant aspects for an effective reform process in the domain, security benefiting from interaction of rule of law, governance and oversight, with the support of non-State actors. However, useful knowledge gathered does not benefit from the absence of a coherent framework as opposed to sectorial experience that only applies on specific contexts and cases. An adequate assessment of the ways SSR is or should be engaged during peacebuilding missions would benefit to the overall quality of the UN activities and assistance.

Based on these observations and given the recognised importance of security in peacebuilding situation, the report presents a set of basic principles that should structure a comprehensive UN approach to the security sector reform. Such a framework would include not only existing standards defined by SSR actors but also, and thus enlarging the spectrum of application of this concept, principles of international law and UN policies

on the rule of law, as well as practical knowledge from previous UN missions. The benefit of achieving to such a consensus would be directly integrated in mission's strategies, activities and purposes, with special regard to the national empowerment. Translated into better resource planning, training and targeting of all population (also groups exposed to exclusion), a security sector reform framework would have a direct and positive impact to UN missions in planning and implementation of post-conflict activities. As such, based on a set framework, the UN would be able to extend their help to national authorities in providing assistance to the creation of an enabling environment for reform with a range of actions, intervening in fields such as monitoring of human rights, promotion of good governance principles and reconciliation process, and DDR – insisting, for example, on integration of former non-state combatants into the national forces. The presence of a UN strategy would also benefit the dialogue on SSR between diverse actors inside the country as local authorities, civil society and other non-State actors. On a more practical level, set standards also provide basis for resource allocation and thus technical advice and support to the security sector actors and institutions. Officially integrating SSR principles to its mandate, the UN would position itself not only as an important actor in the domain but as an organisation with a normative role, introducing the concept on a global peacebuilding agenda and helping in setting cornerstones in the establishment of international principles and standards relating to SSR implementation.

Possible UN SSR strategy should not, however, be considered independently from already existing UN approaches. The development of this new framework can be made in parallel with already declared commitment – such as DDR. It should also be done in regard to its specific components, that requiring the setting of new components and mandates such as a UN inter-agency SSR support unit in the Department of Peacekeeping Operations.

### **What is Security Sector/System Reform?**

According to the OECD DAC Guidelines on Security System Reform and Governance (2005), support for security system reform "seeks to increase the ability of partner countries to meet the range of security needs within their societies in a manner consistent with democratic norms and sound principles of governance and the rule of law".

The Handbook defines the security system as comprising 'a broad range of security and justice institutions', both statutory and non-statutory, stating that its use of the terms 'security system' and 'security system reform' also denotes activities sometimes referred to by international actors as 'security sector reform', 'security and justice reform' and 'rule of law'.

For our purposes however, we will be referring to the 'security sector reform', and considering a yet broader range of security actors that includes civil society as an actor, with a key stake in security and having an important role to play in security provision.

*Defining the Security Sector*

With the security sector being a key duty-bearer in relation to the protection of children, it is important to focus on clearly defining the actors that constitute the security sector. Traditional notions tended to focus on the military forces, while a broader definition of the security sector brings to attention not only those statutory actors who are officially authorised to use force, but also non-statutory security providers as well as the management and oversight bodies, and of course civil society who are ultimately the beneficiaries of security but also key players in its realisation.

This vision is respectful of the OECD DAC Handbook definition of SSR, that includes defence, police, justice and prison reform in its integrated approach, as well as PSCs and civil society. A broad definition of a country's security community goes beyond the traditional concept of considering only armed forces and their oversight bodies to include a much more diverse range of actors<sup>12</sup>:

- Bodies authorised to use force: armed forces; police; paramilitary forces; gendarmeries; intelligence services (including both military and civilian agencies); secret services; coast guards; border guards; customs authorities; reserve or local security units (national guards, presidential guards, militias, etc.).
- Civil management and oversight bodies: the president/prime minister; national security advisory bodies; legislature and legislative select committees; ministries of defence, internal affairs, foreign affairs; customary and traditional authorities; financial management bodies (finance ministries, budget offices, financial audit and planning units); and statutory civil society organisations (civilian review boards and public complaints commissions).
- Judicial and public security bodies: judiciary; justice ministries; defence attorneys; prisons; criminal investigation and prosecution services; human rights commissions and ombudsmen; correctional services; customary and traditional justice systems.
- Non-state security force institutions: liberation armies; guerrilla armies; traditional militias; political party militias; private security companies; civil defence forces.
- Non-statutory civil society bodies: professional organisations, including trade unions; research/policy analysis organisations; advocacy organisations; the media; religious organisations; non-governmental organisations; concerned public.

The above categorisation includes ‘non-statutory civil society groups’, who have a key role to play in safe-guarding children’s security and safety. Not only are they closest to the issues of concern affecting the community and children in particular, they are often

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<sup>12</sup> Nicole Ball, ‘Reforming Security Sector Governance’, in Security and Development. Investing in Peace and Prosperity, eds. Robert Piciotto and Rachel Weaving (New York: Routledge, 2006).

themselves service providers within the community, and have a vital role to play in monitoring and reporting abuses affecting the population.

Rebuilding governance institutions, promoting respect for human rights and the rule of law, and fostering participatory dialogue are critical in driving forward peace-building and nation-building processes. What SSR brings is a holistic approach to reforming security institutions that goes beyond the justice system per se and addresses other security institutions that are vital to the effective functioning of the justice system and as such will lay the foundations for re-establishing rule of law and upholding democratic principles of governance.

Holistic approach to SSR that includes (ii) development of democratic, law-abiding police services and armed forces, including appropriate civilian oversight mechanisms, and (iii) necessary linkages between the judicial system, the police service and the prison service. As with transitional justice, SSR in the post-conflict sense aims to re-establish rule of law and demonstrate redress for violations committed during the conflict.

Getting the balance right between the short-term imperative for reform and the long-term strategy is vitally important. The early work needs to provide the platform for the longer term reforms and needs to acknowledge other priorities such as vetting, capacity building and law reform. Discussion of strong security sector needing reform to ensure it does not unduly influence government choice of TJ mechanism can be developed further by putting it in the hands of the 'people's' truth commission. Sequencing is an issue at stake, being difficult to conceive juvenile justice without some form of SSR beforehand. Security is a public good and the service providers should be ultimately accountable to the beneficiaries hence the need for civilian control of the armed forces. It is therefore vital to ensure that the security sector is responsible and accountable for its present and future actions.

### **Security Sector and Child Protection**

A whole range of security sector actors have a significant role in preventing abuses from reoccurring and are key duty bearers in protecting children's rights. Ensuring that they are able and capable of realising their responsibilities to all segments of the population is vital to providing the necessary environment for social reconstruction and development. Young people represent the social capital that will enable change and will mould society's future.

As presented earlier, the security sector has a legal obligation to protect and promote the rights of children. Nowhere is this need more pressing perhaps than in the post-conflict environment where lack of traditional support and protective structures undermine the ability of communities and families to protect their children, and the local authorities and security structures that are ostensibly responsible for providing the necessary security cover are unable or unwilling to do so at a time when they are desperately in need of reform. The challenge is to get children onto this agenda – an agenda that is, in general, blind to their specific security needs and concerns. A focus on security governance is

proposed here as the necessary framework for guiding the priorities and actions of the reform process – the ultimate aim being good security governance, that is accountable to the citizens that it is meant to protect.

Beyond developing the notion that the security sector is bound by its obligations to protecting children's rights and preventing wrongs, it is also important to identify the entry points through which opportunities exist for developing a better understanding of the situation of children and youth. This includes exploring ways in which children and youth can provide concrete contributions to the post-conflict peacebuilding process. The views and opinions of children can be captured in a meaningful way and inform public discussion on the expectations for and delivery of security provision.<sup>13</sup>

What is argued here is that establishing young people's participation is not only essential to fulfilling the obligations that the security sector has for providing for the security of all, but is an imperative if the hard-won peace is to be durable. Children and youth have their own perspectives on their experiences of security and insecurity, and engaging with them will not only allow a better understanding of the issues required for designing and delivering appropriate services, but will also provide valuable insights into potential or evolving security threats.

### **Transitional Justice and SSR**

Crosscutting issues that affect the outcome of both transitional justice and security sector reform are: local ownership, external involvement, sequencing, context and history of the conflict, existence of a peace agreement and what it outlines, political will, culture of the country, available resources, and the type and extent of atrocities committed. These are factors that can impede or facilitate the outcome of both processes, individually as well as in the way they impact on each other. For example, the outcomes of transitional justice will be significantly influenced by the position and power of the security services and the ability for democratic norms to be applied to them.

Both transitional justice and SSR are critical components of sustainable peace – both of which aim to address the legacies of war, and both reform processes aim to strengthen rule of law and respect for human rights.

Rule of law is about providing justice and security – it is about addressing human rights violations and nurturing reconciliation. Rule of law provides the foundation for the achievement of the MDGs. Following a crisis, the restoration of justice and security is a core democratic governance responsibility.

UNDP, Rule of Law in Conflict and Post-conflict: A UNDP Global Programme (UNDP Brochure) - Crisis Prevention and Recovery: Rule of Law website accessed Dec. 2008.  
[http://www.undp.org/cpr/we\\_do/security\\_reform.shtml](http://www.undp.org/cpr/we_do/security_reform.shtml)

Allowing impunity to reign without putting in place any systems of accountability whether judicial or non-judicial or dealing with the past in some way will ultimately

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<sup>13</sup> Save the children Norway chapter 12

impact on SSR. If perpetrators of abuses do not go through some process of accountability or acknowledgement there is little to stop them from continuing their abusive behaviour.

The link between transitional justice and security sector reform is perhaps most evident in relation to criminal justice organisations: the judiciary, the police, and the correctional services, as well as oversight of these bodies. However there are tensions, the OECD DAC Handbook<sup>14</sup> recognising some of these in noting that, 'In no way should this be seen as implying that justice is subordinate to security.' Some of the tension between justice and security is in some way similar to the tension that sometimes exists between security and human rights.

The link between TJ and SSR is encompassed by the desire to re-establish rule of law and respect for human rights. Both a fundamental elements of the post-conflict peacebuilding process. What is particularly pertinent is the need to reform institutions that have the ability to misuse their power to abuse (or, are capable of human rights violations). Both of these processes can contribute positively to the reform processes that will lead to an accountable, legitimate and transparent security sector.

"Justice and human rights" initiatives and SSR have significant overlaps not just in terms of some of the same actors implicated e.g. police and prisons, but in the overall objective of contributing to rule of law and respect for human rights, but also in the sequencing i.e. need for immediate post-conflict plasters but long-term approaches, and that many of the activities are the same such as assessment etc. These linkages require co-ordinated approaches that ensure both processes work together.

In certain cases, disadvantaged individuals or groups may be in need of knowledge on specific laws and regulations affecting them (e.g., agrarian reform), rather than generic knowledge of international or constitutional human rights. Similarly, the latter does not suffice to influence police behaviour; training in rights-sensitive police investigation methods is more likely to improve police performance, e.g. by reducing over-reliance on confessions, and ensuring cases are not dismissed in court due to legal technicalities.

Police reform is critical to post-conflict justice and human rights interventions. With community policing initiatives of the most direct relevance to the day-to-day lives of children. Police have to be independent of the executive and prepared for its civilian role to safeguard the citizenry's security in times of peace. Reform will need to transform the often present culture of violence that may exist in police forces as a consequence of years of conflict.

Security sector reform assistance still tends to focus on the executive and the security providers, with parliaments and the public at large only marginally involved. This approach leads to increased competence of the security instruments at the disposal of the

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<sup>14</sup> OECD DAC, Handbook on Security System Reform. Supporting Security and Justice (Paris: OECD, 2007), <http://www.oecd.org/dac/conflict/if-ssr> (accessed October 2008).

executive while not addressing the governance dimension, i.e. the accountability of those instruments to the elected parliament.

From the outset of post-conflict peacebuilding or implementation of a peace accord the close links between justice sector reform and SSR need to be acknowledged, and co-ordination put in place to avoid duplication in areas where there is obvious overlap and build capacity in areas that need to be strengthened.

### **Sequencing**

Sequencing of post-conflict peacebuilding activities is vital for achieving long term sustainability. As in the immediate post-conflict situation infrastructure and personnel (judges, prosecutors, legal materials, and courthouses) may be lacking, as for example in Timor and Rwanda, a fair trial is unlikely to take place. Also, some states have decided to conduct prosecutions only long after the conflict or abusive regime has ended. Reforms need to be a major issue as a fair trial is therefore unlikely immediately after conflict.

Reforms will need to guarantee minimum requirements for fair trial. For prosecution to be a viable TJ mechanism, immediate support needs to be given to judicial reform. However, delay can de-legitimise the new government and undermine SSR. In such cases a complementary process such as a truth commission on which prosecutions would eventually be built might minimise this impact.

The aim is to realise a security sector that is accountable, legitimate and transparent as opposed to abusive, corrupt and politicised. All these last three risk severely damaging or undermining any reforms and the entire credibility of the security sector. A major focus needs to be placed on addressing corruption or security cannot be seen to represent any of the above.

The inherent tension between external intervention and the need to foster local ownership and capacity requires broad consultation with local constituencies and enhance civil society oversight mechanisms. This represents an un-stated goal of the SSR process that takes time, since with SSR reforms laws and criminal codes the problem lies in implementation; the challenge is mainly the need to change attitudes.

Both transitional justice and SSR are highly political and context-specific processes and while they have the possibility to be mutually reinforcing, they also effect and influence each other, including the potential to impact negatively on each other. Often transitional justice and SSR activities run as parallel initiatives co-ordinated by different actors. The linkages between the two need to be more firmly addressed in post-conflict peacebuilding because of both operational and policy implications.

The TJ mechanisms with the closest links to SSR are hybrid courts and truth commissions. Will probably be covered by other papers but, enforcing prosecution could lead to further instability and a renewal of fighting (needs to be a local decision). Does not have to be a strict choice between criminal prosecution and non-judicial approaches

but there is scope for complementarity. Domestic prosecutions if used should be used in conjunction with other transitional justice mechanisms.

Local actors play an important role in the sequencing process, as they have to be handed responsibility and must engage in the peacebuilding activities. However, the transition from international community implication to local one must be done accordingly to a clear and planned assessment.

### **Civil Society**

The 2008 Security Council report stressed the importance of national ownership in the process of SSR as confirming sovereign rights and adequacy of the objectives with the particular needs and conditions of the given country. The focus of external actors should therefore be on building the capacities of national and local actors to respond to the security and protection needs of local populations, including children.

Realising such an objective would require, acknowledged by a comprehensive framework, strengthening the role of civil society in SSR.

Building local capacity is also reinforcing dialogue between local authorities and civil society organisations, the latter being in touch with community and more informed of the reality. Population would benefit from this tandem because they would be directly addressed by authorities, but would also find a forum of discussion and information about how to access certain services.

Local ownership, the principle stated in the Security Council 2008 report as guiding the SSR, implicitly benefits from civil society involvement as a security provider, since the latter brings community demands on a more bigger forum of discussion and to public attention, and also involve in the implementation of these reforms.

Civil society has direct access to excluded groups of society and to the issues of concern affecting the community, in particular socially or politically excluded groups. The absence of a political voice by which children would express discontent and demand accountability puts them in great need of a special focus from the part of state and international SSR agents. By this, peacebuilding strategies would follow not only political priorities but a more accurate agenda that expresses local and urgent concerns.

Child protection strategies would, in particular, benefit from directly engaging civil society organisations. Civil society organisations can be particularly important in combating youth exclusion and ensuring that young people have access to opportunities for personal development such as education and vocational training. Assisting young people through the challenging transition from childhood to adulthood is essential to helping them establish a meaningful and positive role in society, and therefore to protecting our collective social capital. With civil society implication, children and youth become not only a focus for social strategies but become a public safety issue.

Work of civil society groups with other actors implicated in the SSR process is very profitable, thus creating new and more effective approaches as well as targeting more hidden populations that, due to their exclusion, remain unnoticed. By providing youth the

free space for expression, civil society renders valuable information on evolving threats more accessible for security actors and allow an easier engagement and consolidation of strategy. Though autonomous from the state, civil society must be encouraged to interact with the state actors. Its implication in the SSR process can also benefit from the direct monitoring of the situation – having as subject target population but also making sure that actors in charge with protection comply to their responsibilities, thus improving their efficiency and the democracy level.

Civil society, being closer to the community, also represents a trustworthy agent in the eyes of the population and, being frequently already engaged in providing service, can share knowledge and practice with other agents. Empowering civil society would also re-establish and re-position political and state actors at a community level, thus improving dialogue between population and the higher spheres. Civil society should therefore play an important role not only in designing the reform or the target groups, but also in its implementation and oversight, positioning itself among other SSR actors and key duty-bearers of population's welfare.

Engaging civil society in peacebuilding helps establishing realistic set priorities when addressing community protection issues. Among these, enabling youth alternatives such as access to education, as well as support networks and community assistance, can form an adequate response to constant peace spoilers.

### **Hybrid Courts**

Hybrid courts have the potential to positively influence SSR – development of domestic judicial system and law reform. For hybrid courts a key element of the institutional reform that will impact on children is to get the juvenile justice up and running as quickly as possible. This is often overlooked post-conflict with one of the most damaging impacts being poor detention arrangements that mean children and adults being locked up together. Particular attention needs to be paid to the Administration of juvenile justice. Also, the system needs to be able to differentiate between children as victims, perpetrators and witnesses.

Hybrid courts can potentially enhance and reform the judicial system whilst ensuring accountability, truth commissions can identify problem issues and generate recommendations, vetting can ensure that past perpetrators are not allowed back into positions of responsibility within public office or in government institutions such as security services including the military, police and intelligence, and reparations can seek to strengthen structures and processes that enhance children's security and protection.

The advantage of the hybrid court when compared to the domestic is its perceived or anticipated impartiality, greater fairness, capacity building, positive impact on rule of law and sustainable peacebuilding.

- Legitimacy
- Capacity Building
- Rule of Law and Law Reform.

Compared to international courts, hybrid ones have the ability to enhance local ownership. Challenge is to make sure that the hybrid court is adequately funded and long-term in outlook to ensure that capacity building with civil society is achieved and that children and young people are appropriately considered or factored in to this process. Brahimi report suggestion for generic penal and criminal codes while the country develops and agrees its own codes and laws. Co-ordination between the work of the hybrid court and the agents of SSR is essential.

### **Domestic Prosecution**

Criminal prosecution demands that the parties are identified as victims on the one side and perpetrators on the other when in reality the distinction may not be evident as in the case of child soldiers. Domestic prosecution will no doubt require extensive judicial reform – absence of trust, corruption, non-functioning, compromised, condoning violations committed by the security services, or effectively non-existent. Judicial reform is no, however, good without police reform and prison reform.

Evidently meaningful reform requires close consultation with civil society. Truth commissions provide a forum, that allows large portion of the population to have a say, including elements that may not have otherwise been represented. One of the priorities should be to ensure that the security concerns and priorities of young people are adequately represented. While this may involve children being provided opportunity themselves to directly participate it should also be recognised that civil society organisations have a responsibility to listen to and represent the opinions of the population as a whole including children. One of the specific recommendations is to encourage and build the capacity of civil society organisations interested in security matters in order that they develop participatory approaches with children and young people to identify the types of security concerns that they face and find solutions on how to address these. These organisations then have a key role to play in advocating with the local authorities to address gaps and put in place mechanisms to address problem areas.

The challenge of domestic prosecution is that the police and prison reform also needs to have been tackled, keeping in mind that transitional justice needs security sector reform initiatives and vice-versa. Prosecutions require investigations that require police reform and perhaps international assistance could be provided to the investigate to speed up the process but also to provide a capacity building function. As such the TJ process here could be seen as contributing the police reform.

Penal reform often receives less attention, as well as its impact on children caught in detention. However it also relates to the holding conditions, e.g. in Rwanda, but also correctional facilities. Obviously the punishment cannot contravene the same international standards used to prosecute i.e. again reform of penal and correctional facilities has to be part of the process. SSR goes beyond institutional reform as its aim is to establish credibility and trust in the security services from the population as a whole. An important vehicle here will be civil society organisations. Choosing domestic courts

to deal with past crimes might strengthen trust in and the legitimacy of the judicial system but also the new government.

The choice of restorative justice strategies over retributive ones is also related to the domestic prosecution issue. Bodies in contact with juvenile delinquents need to revise not only approaches (therefore considering the young population entitled to rights protection as any other citizen) but also mechanisms – including the specialisation of staff and of methods to deal with this reality, such as choosing a restorative over retributive conception of justice to be applied. According to this, juveniles must profit from the same range of rights as any other citizen – such as presumption of innocence, with an emphasis on educational and non-custodial sanctions (instead of detention or other forms of punishments).

The use of alternatives must be also envisaged, as ways of restoring social harmony, repairing the harm suffered, improving public safety and promoting respect for child rights. Not only do these offer adjustable means (to the age or gravity of the crime) but also help reposition the victimiser in the society without resort to stigmatisation and humiliation.

### **Truth Commissions**

No criminal justice system or hybrid court is able to deal with all crimes committed during conflict; instead, the truth commission process can be used in order to achieve agreement by consensus and select which prosecutions to pursue. Truth commission should also be used with the general understanding that its findings could inform prosecutions (i.e. allowing reforms to take place in the meantime). This would be based on the objective of building public consensus on how best to proceed via either targeted prosecution or reconciliation, limiting the inherent risk associated with immediate post-conflict that external actors are by default the ones conducting the assessments of what is best.

When is a country ripe for a truth commission? Three critical elements should be present. First, there must be the political will to allow and, hopefully, encourage or actively support a serious inquiry into past abuses. Ideally, the Government will show its active support for the process by providing funding, open access to State archives or clear direction to civil servants to cooperate. Second, the violent conflict, war or repressive practices must have come to an end. It is possible that the de facto security situation will not yet have fully improved, and truth commissions often work in a context where victims and witnesses are afraid to speak publicly or be seen to cooperate with the commission. Indeed, the commission itself may receive threats while undertaking its work. But if a war or violent conflict is still actively continuing throughout the country, it is unlikely that there will be sufficient space to undertake a serious inquiry. Third, there must be interest on the part of victims and witnesses to have such an investigative process undertaken and to cooperate with it. There are, of course, other possible means of addressing the past, including through inquiries by non-governmental organizations (NGOs) or locally based processes that are less formalized than a national truth commission. These choices can ultimately only be made through broad consultation.

Transitional justice is responsible for making sure that perpetrators are held responsible for past crimes/violations, while SSR's role can be viewed as ensuring that security providers are aware of their responsibilities, both in terms of protecting and promoting the rights of children and not abusing them. The logical framework for our promoting our security governance agenda on behalf of children is the existing international legal framework. Special protection of children.

## **Conclusion**

The security sector has a legal and moral obligation to protect and promote the rights of children. Nowhere is this need more pressing perhaps than in the post-conflict environment where lack of traditional support and protective structures undermine the ability of communities and families to protect their children. Local justice and security structures that are ostensibly responsible for providing the necessary protective environment are often found unable or unwilling to do so at a time when they are desperately in need of reform.

Focussing on the governance aspects of public security places children firmly on the justice and security agenda, as well as providing the necessary framework for guiding the priorities and actions of the reform process – the ultimate aim being good security governance, that is accountable to the citizens that it is meant to protect. Understanding the linkages between TJ and SSR will assist reform processes to re-establish legitimate, effective and transparent governance so essential to ensuring child protection and supporting social development. As recognised by the Security Council, SSR and TJ should be recognised by policy makers as perhaps separate but certainly complementary processes of post-conflict peacebuilding. The commonality of their purpose, namely the establishment of rule of law and respect for human rights, should reflect their potential to also be mutually supportive. It is however also worth noting the importance of effective sequencing as well as the potentially negative impact that they can have on each other if separate initiatives are not co-ordinated amongst the various actors involved.

Key to realising these reform processes is the need to ensure that a wide range of relevant actors are ready and able to work together in achieving structural change at multiple levels. National and local authorities will be responsible for co-ordinating actions that ensure all of the necessary agencies have the appropriate resources and capacities required. In particular, strengthening mechanisms that acknowledge the capacities of civil society to participation in justice and security reform processes will have an important role to play. Supporting civil society participation in justice and security reform is essential to realising and enhancing the ability to protect and promote children's rights.

Their role in establishing local ownership of post-conflict peacebuilding and reconstruction will be vital to achieving long-term sustainability of the reform of state and political institutions, and subsequently of socio-economic development. More specifically with regard to the security sector, the involvement of civil society will be central to creating legitimacy and trust. Realising effective and accountable governance

of security institutions requires an involvement of civilian control in the management and oversight of the security sector. Yet, although inclusion of civil society is upheld as a norm of democratic governance, the actual role and influence of civil society in the post-conflict reconstruction of security institutions has received insufficient systematic attention and analysis. This has particular consequences for our ability to truly reflect children's views, concerns and aspirations in post-conflict reform processes.

Over-arching policy approaches and principles of relevance to decision-makers and practitioners should include the following.

- 1) Ensure that all activities are guided by principles of good governance and respect for human rights.
- 2) Monitor and analyse critical threats to children and young people at both the national and local levels, putting in place responses that engage all necessary stakeholders at all levels.
- 3) Establish mechanisms and procedures within the juvenile justice system for dealing appropriately with children who come into conflict with the law, respecting their human dignity, and focussing on restorative and educational approaches aimed at diverting children away from the formal justice system.
- 4) Develop the capacity of different interest groups represented by civil society organisations, involved in both security and child protection activities, to pursue and engage in dialogue with national and local service providers, ensure adequate resource allocation.
- 5) Promote national and local understanding of the notion of human security encompassing the civil and political rights of the population.