

Innocenti Working Paper

**CHILDREN AND SECURITY
SECTOR REFORM IN POST-
CONFLICT PEACE-BUILDING**

David Nosworthy

IWP 2010-9

June, 2010

Innocenti Working Papers

UNICEF Innocenti Working Papers are intended to disseminate initial research contributions within the Centre's programme of work, addressing social, economic and institutional aspects of the realisation of the human rights of children.

The findings, interpretations and conclusions expressed in this paper are entirely those of the author and do not necessarily reflect the policies or the views of UNICEF.

The designations employed in this publication and the presentation of the material do not imply on the part of UNICEF the expression of any opinion whatsoever concerning the legal status of any country or territory, or of its authorities, or the delimitation of its frontiers.

Extracts from this publication may be freely reproduced with due acknowledgement.

© 2010 United Nations Children's Fund (UNICEF)
ISSN: 1014-7837

For readers wishing to cite this document, we suggest the following form
Nosworthy, David (2010), 'Children and Security Sector Reform in Post-Conflict Peace-Building', *Innocenti Working Paper* No. 2010-9. Florence, UNICEF Innocenti Research Centre.

The UNICEF Innocenti Research Centre

The UNICEF Innocenti Research Centre in Florence, Italy, was established in 1988 to strengthen the research capability of the United Nations Children's Fund and to support its advocacy for children worldwide. The Centre (formally known as the International Child Development Centre) generates knowledge and analysis to support policy formulation and advocacy in favour of children; acts as a convener and catalyst for knowledge exchange and strategic reflections on children's concerns; and supports programme development and capacity-building.

Innocenti studies present new knowledge and perspectives on critical issues affecting children, informing current and future areas of UNICEF's work. The Centre's publications represent contributions to a global debate on child rights issues, and include a range of opinions. For that reason, the Centre may produce publications which do not necessarily reflect UNICEF policies or approaches on some topics.

The Centre collaborates with its host institution in Florence, the Istituto degli Innocenti, in selected areas of work. Core funding for the Centre is provided by the Government of Italy and UNICEF. Additional financial support for specific projects is provided by governments, international institutions and private sources, including by UNICEF National Committees, as well as by UNICEF offices in collaborative studies.

For further information and to download or order this and other publications, please visit the IRC website at <http://www.unicef-irc.org>.

Correspondence should be addressed to:

UNICEF Innocenti Research Centre
Piazza SS. Annunziata, 12
50122 Florence, Italy
Tel: (+39) 055 20 330
Fax: (+39) 055 2033 220
Email: florence@unicef.org
www.unicef-irc.org

Children and Security Sector Reform in Post-Conflict Peace-Building

David Nosworthy^a

^aIndependent consultant; email: nosworthy.david@gmail.com

Summary: The restoration of justice and security is a priority of post-conflict peace-building, but children and youth – two groups especially affected by armed conflict – rarely receive consideration in this process. This paper considers how reform of the security sector can contribute to making security provision more relevant to the concerns of young people and more reflective of their needs and aspirations. Security sector reform and transitional justice have been recognized as central elements of post-conflict peace-building, and engaging children constructively in these processes will assist in successfully establishing long-term stability. The central role of civil society receives particular attention. The paper concludes with policy recommendations aimed at assisting decision-makers to integrate the security concerns and expectations of children into programme responses.

Keywords: Children, protection, civil society, transitional justice, security governance, security sector reform, peacebuilding,

Acknowledgements: Warm thanks go to Saudamini Siegrist for the dedication and effort that has gone into realizing the Innocenti series on transitional justice, in particular her vision in recognizing the importance of integrating child protection considerations into the security sector reform process.

I would also like to thank the peer reviewers for their valuable contributions, namely, Paul Jackson, Christine Muhigana, Samar Al-Bulushi and the Oxford University Transitional Justice Research Network.

Children and Transitional Justice Working Paper Series

The Children and Transitional Justice Working Paper Series is intended to generate dialogue and consensus, and to better inform children's protection and participation in ongoing or planned transitional justice processes in diverse country situations. Based on experience, the papers document and identify challenges, dilemmas and questions for further debate and formulate recommendations to better protect the rights of children involved in transitional justice processes.

The research conducted has created broad interest and visibility, helping establish a child rights-based approach to transitional justice that addresses advocacy, policy and programme concerns within UNICEF and among partners. Key areas of focus include:

- International legal framework and child rights
- Children and truth commissions
- Local processes of accountability and reconciliation
- Transitional justice and institutional reform.

The identification of topics and authors in this Working Paper Series was undertaken in the context of strategic partnerships with the Human Rights Program at Harvard Law School, and the International Center for Transitional Justice (ICTJ). The review of the Series was guided by a peer review oversight panel, chaired by Jaap Doek. A network of practitioners, academics, legal experts and child rights advocates participated in the peer review. The Series was initiated and overseen by Saudamini Siegrist, with the support of Ann Linnarsson.

An Expert Discussion on Children and Transitional Justice was convened by UNICEF Innocenti Research Centre (IRC) in June 2008 to provide comments to individual authors and to assess the range and coverage of the Series. A subsequent conference on Children and Transitional Justice was jointly convened by the Human Rights Program at Harvard Law School and IRC in April 2009 in Cambridge, MA USA.

UNICEF IRC's research on children and transitional justice was generously supported by the Italian Ministry of Foreign Affairs (Ministero degli Affari Esteri, Cooperazione allo Sviluppo) and by the Government of France.

This series of Working Papers supports and complements the publication *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation*, edited by Sharanjeet Parmar et al., published by the Human Rights Program, Harvard Law School, Cambridge, MA, March 2010.

Titles in this series, with authors' affiliations, are:

Children and Transitional Justice Working Paper Series 2010

- No. 7: Children and the Commission for Reception, Truth and Reconciliation in Timor Leste. Megan Hirst, International Criminal Court, Victims' Participation and Reparation Section; Ann Linnarsson, UNICEF, IRC.
- No. 8: Children and Reparation: Past Lessons and New Directions. Khristopher Carlson and Dyan Mazurana, Feinstein International Center, Tufts University.
- No. 9: Children and Security Sector Reform. David Nosworthy, Independent Consultant.
- No. 10: Children, Education and Reconciliation. Alan Smith, University of Ulster.
- No. 11: Child Victims of Torture and Cruel, Inhumane or Degrading Treatment. Dan O'Donnell, Independent Consultant; Norberto Liwski, Ministry of Social Development, Argentina.

- No. 12: Genetic Tracing, Disappeared Children and Justice. Michele Harvey-Blankenship, Department of Pediatrics, University of Alberta; Phuong N. Pham, Human Rights Center, University of California at Berkeley; Rachel Shigekane, Human Rights Center, University of California at Berkeley.
- No. 13: Prosecuting International Crimes against Children: The Legal Framework. Christine Bakker, European University Institute, Florence.
- No. 14: Psychosocial Support for Children: Protecting the Rights of Child Victims and Witnesses in Transitional Justice Processes. An Michels, Independent Consultant.
- No. 15: Restorative Justice after Mass Violence: Opportunities and Risks for Children and Youth. Laura Stovel, Department of Global Studies, Wilfred Laurier University; Marta Valinas, Catholic University Leuven.
- No. 16: Transitional Justice and the Situation of Children in Colombia and Peru. Salvador Herencia Carrasco, Advisor Constitutional Court of Peru.
- No. 17: Transitional Justice and Youth Formerly Associated with Armed Forces and Armed Groups. Theresa Betancourt and A'Nova Ettien, François-Xavier Bagnoud Center for Health and Human Rights.

Other papers produced by the project have been published in *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (UNICEF and Harvard Law School, 2010), and are available on the UNICEF IRC website.

- Chapter 1: *Child Rights and Transitional Justice*. Saudamini Siegrist, UNICEF IRC.
- Chapter 2: Basic Assumptions of Transitional Justice and Children. Alison Smith, No Peace Without Justice.
- Chapter 3: International Criminal Justice and Child Protection. Cecile Aptel, ICTJ.
- Chapter 4: Children and the South African Truth and Reconciliation Commission. Piers Pigou, South African Archives.
- Chapter 5: Child Participation in the Sierra Leonean Truth and Reconciliation Commission. Philip Cook and Cheryl Heykoop, International Institute for Child Rights and Development, University of Victoria.
- Chapter 6: Children and the Liberian Truth and Reconciliation Commission. Theo Sowa, Independent Consultant.
- Chapter 7: Accountability and Reconciliation in Northern Uganda.
- Part I: Accountability for Sexual and Gender-Based Crimes by the Lord's Resistance Army. Khristopher Carlson and Dyan Mazurana, Feinstein International Center, Tufts University.
- Part II: The Potential and Limits of Mato Oput as a Tool for Reconciliation and Justice. Prudence Acirokop, Norwegian Refugee Council.
- Chapter 8: Disappeared Children, Genetic Tracing and Justice. Michele Harvey-Blankenship, Department of Pediatrics, University of Alberta; Rachel Shigane, Human Rights Center, University of California, Berkeley.
- Chapter 9: Truth Commissions and National Curricula: The Case of the Recordándonos Resource in Peru. Julia Paulson, University of Oxford.
- Chapter 10: Realizing Economic Justice for Children: The Role of Transitional Justice in Post-Conflict Societies. Sharanjeet Parmar, Access to Justice Program, Global Rights.

Contents

1. INTRODUCTION	1
2. POST-CONFLICT PEACEBUILDING AND SECURITY GOVERNANCE	2
3. CHILDREN AND THE PEACE-BUILDING PROCESS	4
4. CHILDREN’S SECURITY IN POST-CONFLICT PEACE-BUILDING	5
4.1 RIGHTS OBLIGATIONS	5
4.2 PROTECTING SOCIAL CAPITAL	6
4.3 DEMOGRAPHICS	7
4.4 BREAKING THE CYCLE OF VIOLENCE	8
5. ENGAGING CHILDREN IN POST-CONFLICT PEACE-BUILDING	9
6. WHAT IS SECURITY SECTOR/SYSTEM REFORM?	10
6.1 DEFINING THE SECURITY SECTOR	11
6.2 CIVIL SOCIETY	12
7. SECURITY SECTOR REFORM AND TRANSITIONAL JUSTICE IN POST-CONFLICT PEACEBUILDING	13
7.1 SEQUENCING	15
7.2 NATIONAL AND LOCAL OWNERSHIP	16
7.3 HYBRID COURTS IN POST-CONFLICT ENVIRONMENTS	17
7.4 DOMESTIC PROSECUTION	17
7.5 TRUTH COMMISSIONS	18
8. CONCLUSIONS	19
9. RECOMMENDATIONS	20
REFERENCES	21

1. INTRODUCTION

Access to justice and security are a central element of establishing sustainable peace as well as ensuring long-term stability, and engaging children and youth in this process is vital. Conflict is often associated with political and legal bias, which marginalizes people and leads to grievances. Post-conflict stabilization requires a range of peace-building activities and involves a range of actors. Security is a crucial prerequisite for these processes and for 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.

Little consideration has been given to how security sector reform affects children, and equally, the role of children and youth in supporting improved security and post-conflict peace-building. In addition, lively discussion continues about how security sector reform relates to other peace-building processes, notably transitional justice. This paper, while comparing and contrasting these two areas of intervention, aims to illustrate some of the links between them and demonstrate why children's security requires special attention.

Security sector reform has been developing into a significant area of peace-building in its own right. Justice reform is a vital component, but some definitions of transitional justice present security sector reform as one element of it. Increasingly, the two are recognized as distinct but complementary processes of post-conflict peace-building, as affirmed by recent discussions at the United Nations Security Council:

“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.”¹

It is also important to recognize that security sector reform and transitional justice involve somewhat different actors, although there is overlap. While these processes have different focuses and are based on somewhat different imperatives, they have the potential to influence each other. Ultimately they share a common objective of establishing the rule of law and respect for human rights, which requires coordination among agencies. Strategies must reflect political will and the technical capacity for reform. A key element of this is promoting domestic reform constituencies, building the capacity of national justice and security institutions, and facilitating national consultations on transitional justice.²

This paper highlights the synergies between the processes of security sector reform and transitional justice, drawing particular attention to their mutually supportive roles. It focuses on domestic structures and mechanisms, particularly at the community level, where social reconstruction and reconciliation are particularly pertinent to children and young people and

¹ Excerpt from the Statement by the President of the Security Council at the meeting of the Security Council, 20 February 2007, S/PRST/2007/3.

² United Nations Security Council, ‘The rule of law and transitional justice in conflict and post-conflict societies’, Report of the Secretary-General, S/2004/616, August 2004.

where the protective environment is most important. It addresses prosecution in hybrid and domestic courts. The paper also explores truth commissions and traditional informal justice mechanisms and their role in furthering reconciliation and aiding sustainable reform of the security sector.

2. POST-CONFLICT PEACE-BUILDING AND SECURITY GOVERNANCE

The end of the Cold War in the early 1990s offered an opportunity to better implement the provisions of the body of international human rights law that had been developed since the formation of the United Nations. The international community got better at encouraging states to fulfil their obligation to prosecute the perpetrators of human rights violations. At the same time there was an increase in United Nations deployments for post-conflict peacekeeping. Also emerging was the notion of integrated, collaborative missions to ensure that the objectives of all United Nations forces and agencies are channelled towards a common overarching goal. This reflected the need for multidisciplinary approaches to re-establishing rule of law and securing peace. Key to this was addressing past crimes and preventing their recurrence.

With this came more recognition at the political level of the importance of good governance in the area of security and the need to prioritize security sector reform in order to minimize human rights abuses.³ An effective and accountable security sector also helps to create and sustain conditions that make conflict less likely and limits the potential for abuse of power by the security services themselves.

If peace is to last, the security needs of both the state and its population must be addressed along with the political and socio-economic aspects of reconstruction. Good governance is as important to the security sector as it is to the political and socio-economic dimensions of post-conflict peace-building.⁴

The United Nations Security Council recognizes that peace-building is aimed at preventing the outbreak, recurrence or continuation of armed conflict and therefore encompasses a wide range of political, developmental, humanitarian and human rights programmes and mechanisms. This requires short- and long-term actions tailored to address the particular needs of societies sliding into conflict or emerging from it. These actions should focus on fostering sustainable institutions and processes; eradicating poverty and inequalities; establishing transparent and accountable governance; and promoting democracy, respect for human rights, the rule of law and a culture of peace and non-violence.⁵

³ Hänggi, Heiner, 'Approaching Peacebuilding from a Security Governance Perspective in Security Governance' in *Post-conflict Peacebuilding*, Alan Bryden and Heiner Hänggi (eds.), Münster: LIT Verlag, 2005.

⁴ Ball, Nicole, 'The Challenge of Rebuilding War-Torn Societies', in *Turbulent Peace. The Challenges of Managing International Conflict*, C.A. Crocker, F.O Hampson and P. Aal, (eds,) United States Institute of Peace Press: Washington D.C., 2001, 723-725.

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

From the perspective of security governance, three areas require special attention in post-conflict peace-building: security sector reform; disarmament, demobilization and reintegration (DDR); and rule of law. Often approached as discrete areas of intervention, the three issues have synergies that are increasingly being explored with a view to approaching the peace-building process more holistically. The implications and impact of the peace-building agenda on children and youth need to be considered in each dimension of the process.

Conflict brings insecurity and instability. Far-reaching reform is required to ensure effective and accountable delivery of public services, including security services. Viewing security as a public good means approaching it in much the same way as democratic institutions deliver other public services, guided by good governance principles such as transparency, accountability and civilian management and oversight.

Delivering effective security to the population requires multiple actors working together at multiple levels. Including all stakeholders requires that young people participate in assessing and defining priorities in a context of rule of law and respect for human rights. At state level this calls for an inter-sectoral approach and requires acknowledgement that both state and non-state actors will need to be engaged. Recognizing security beyond the traditional notion of state security requires policy approaches that respond to the concerns of communities and individuals, and it needs mechanisms capable of managing different and at times apparently conflicting objectives.

Governance is defined as “the structures and processes which enable a set of public and private actors to coordinate their independent needs and interests through the making and implementation of binding policy decisions in the absence of a central political authority.”⁶ The concept of ‘security governance’ addresses the mechanisms and structures for providing security. At the state level, security governance refers to the organization and management of the security sector, understood here to comprise all the bodies (ranging from armed forces, police and intelligence agencies to the institutions that formulate, implement and oversee security policy) whose main responsibilities are the protection of the state and its constituent communities.⁷

Armed conflict is particularly detrimental for young people because it leads to insecurity, uncertainty about the future, limited or lack of access to services such as education, availability of small arms, and breakdown in the rule of law. Such factors are likely to be manipulated and used by ‘peace spoilers’ intent on derailing stabilization efforts, whether for political or economic ends, by pushing young people into violence, crime or radicalism.

By using a human rights framework to define and analyse the roles and responsibilities of relevant actors, it is possible to inform the process of security sector reform so as to develop and strengthen child protection systems. An unreformed security sector represents a direct threat to rule of law, respect for human rights, sustainable peace and social development.

⁶ Krahmman, E., ‘Conceptualizing Security Governance’, in *Cooperation and Conflict*, vol 38, no. 1, 2003.

⁷ Bryden, Alan, Timothy Donais and Heiner Hänggi, ‘Shaping a Security Governance Agenda in Post-Conflict Peacebuilding’, *DCAF Policy Paper* no. 11, Geneva, 2005.

Security governance provides the necessary framework for guiding the priorities and actions of the reform process.

3. CHILDREN AND THE PEACE-BUILDING PROCESS

The Security Council has acknowledged that protecting child rights and preventing violations are integral to peace-building efforts in post-conflict environments. Since 1999 it has made children a priority, which notably led to Resolution 1612 (2005), calling for implementation of a monitoring and reporting mechanism addressing serious crimes against children – the first such initiative by the Council.⁸ While its focus has been the recruitment or use of children by armed forces or groups, the Council included five other ‘grave violations’ to be covered in the mechanism: 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.⁹

In addition, children and youth have an active role to play in developing and promoting sustainable post-conflict initiatives. Unfortunately, however, young people are not generally viewed as actors in security policy terms; this arena is seen exclusively as the concern of social workers and educators. Establishing young people’s participation is not only essential to ensure the security sector can effectively fulfil its function, 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. Engaging with them will not only enhance understanding of the issues involved in designing and delivering appropriate services, it will also provide valuable insights into potential or evolving security threats.

Restoring normality to young lives requires their direct involvement in remedial and preventive programmes. Enabling young people’s active participation will improve understanding of how they have been affected by conflict and help guide the design and implementation of programmes that assist them in dealing with its consequences.

Re-establishing stability means dealing with the legacies of war such as unaccountable or corrupt security services, which may involve engaging with armed non-state actors in some cases; demobilizing 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 juvenile justice; implementing transitional justice mechanisms; re-establishing rule of law; dealing with criminality; addressing past human rights violations; and providing young people 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 categorize issues thematically. In recent years the categories given 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 organizations or the demands of

⁸ United Nations Security Council, Resolution 1612 (2005), adopted by the Security Council 26 July 2005, S/RES/1612 (26 July 2005).

⁹ United Nations Security Council, ‘Children and Armed Conflict’, Report of the Secretary-General, A/59/695 – S/2005/72, 9 February 2005.

donors to track dispersal and impact of funding, what should be acknowledged is that a compartmentalized approach hinders efforts to address the broader security and protection aspects of issues affecting children. They are not 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 may have suffered compound violations of their rights making them susceptible to recruitment.

When the issues affecting children are compartmentalized, programming attention tends to be channelled accordingly, including in resource allocation. Approaching child protection based on such high-profile issues risks diverting attention away from a broader range of concerns that may make children susceptible to more serious rights violations. Restricting the emphasis leads to the risk of ignoring children's realities and diverts attention from building robust protective systems that could offer a safety net to children affected by issues such as domestic violence, drug abuse, bullying or neglect. Also, presenting these thematic issues as complex and technical may limit the range of actors prepared to address them.

4. CHILDREN'S SECURITY IN POST-CONFLICT PEACE-BUILDING

In ratifying an international treaty a state takes on an obligation to realize and respect its provisions. This has special significance in relation to commitments to children, as they are the holders of not only universal human rights, but additional rights that recognize their particular dependence, development and protection needs.

The state's ability to realize its obligations to respect and promote children's rights not only becomes a core indicator of good governance but provides insight into a nation's development status and well-being. Ensuring children's security represents a legal obligation as well as a moral one for a range of both state and non-state actors. Ensuring that all parties are aware of their roles and responsibilities towards children is a key aspect of promoting the protection and well-being of children and the population as a whole. Justice and security are necessary conditions for realizing social development.

4.1 Rights Obligations

International human rights law addresses the protection of individuals from government violations of their fundamental rights and freedoms. The state is responsible for ensuring that provision is made to secure the human rights of each and every person in its jurisdiction. This involves respecting the rights of individuals or groups and protecting them from violations of their rights by others. All state institutions share responsibility for implementing these obligations, and the state's formal security apparatus is a key duty-bearer. The state must guarantee that its own security system does not violate or abuse the human rights of citizens.

Application of human rights principles requires awareness and understanding by government institutions and related bodies at all levels. While parents, families and communities are responsible for ensuring the immediate well-being of children, it is the state, through its national and local authorities, that has responsibility for ensuring respect for children's rights. A coordinated response requires integrating the security perspectives of children and youth

into security policy and decision-making at these different levels. In practical terms, this process is most crucial at the local (community) level, but long-term success depends on the commitment and support of central government.

Children's rights are codified in the Convention on the Rights of the Child, which pledges respect for social and economic rights, such as access to health, education and welfare as well as civil and political rights, including freedom of expression, religion, association, assembly and privacy. Intrinsicly this involves listening to children's opinions and concerns regarding security. The Convention also references the right to 'be heard in any judicial and administrative proceedings affecting the child'. In exercising their rights, children have the same obligations as adults to obey the law, respect the rights and reputations of others, and not jeopardize national security, public order, public health and morals.

4.2 Protecting Social Capital

Traditional notions of security were focussed on the state, protecting its institutions and borders. But more recently the widespread adoption of the notion of societal security and human security means communities and individuals are also the subjects of security provision. Ensuring public security means predicting and addressing a wide range of existing and potential threats such as crime, violence and corruption that can harm individuals, groups and institutions. Public security can equally be compromised by natural disasters, pandemic health issues or terrorist acts. Situations of armed conflict present additional threats, such as antipersonnel landmines, weapons, recruitment or use of children by armed forces or groups.

As a public good, security should be accessible to everyone in society without discrimination; all individuals and groups should be able to claim its benefits regardless of their legal status in a particular jurisdiction. Some definitions of 'human security' develop this notion further, incorporating human development, including economic, food, health and environmental security.

In positioning children within this framework it is important to see them as active agents in their own development. The standard portrayal of children in security terms, which sees them as either victims or demons, is neither representative of all their interests nor helpful in recognizing the value and contributions 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 peace-building. Making sure that the child can develop healthily in a protective environment requires a range of state and non-state actors working together at multiple levels. Investment in young people should be aimed at encouraging their active and positive engagement in society. Children's experiences will inform their future role as decision makers and their ability to pursue positive outcomes.

Given children's evolving ability for political expression to demand accountability themselves, it is the legal and moral responsibility of the state and its institutions, as well as a range of non-state actors, including their families and communities, to intervene to guarantee their safety and security.

4.3 Demographics

There are significant demographic variations between industrialized countries, where children may be only 25 per cent of the population, and developing countries, where up to 50 percent of the population may be under the age of 18 years. In a number of refugee and internally displaced populations, particularly in sub-Saharan Africa, over 60 per cent of the population may be under the age of 18.

This dynamic needs to be recognized and better understood by policy makers, particularly in terms of the mechanics involved in actively engaging this group in society. Conflicting views regarding this demographic divide exist. One view, which uses the term ‘youth bulge’ in a pejorative sense, sees it as a destabilising factor, while the other views a young population as having a positive impact on social and economic development.

As Boyden 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”.¹⁰ Furthermore, the ‘youth bulge’ theorists are divided among themselves as to whether violence by young people is ultimately caused by greed or grievance, promotion prospects or inequality and poverty.¹¹ What is clear is that social development brings falling birth and mortality rates, improved health status and longer life expectancy. Such demographic shifts arising from social development, and seen in developing countries around the world, lead to a reduction in the proportion of children and youth in the population as a whole.

In addition, not all developing countries, even those with similar demographic profiles, descend into conflict. In other words, violence and conflict scenarios result from a far more complex set of social and political conditions. Development, on the other hand, appears to support and even encourage positive decision-making options in all parts of society, while at the same time diminishing the opportunities for peace spoilers to derail the peace process.

The World Bank's 2007 *World Development Report* addresses this issue, observing that while a large youth cohort can aggravate tensions caused by growth, it does not by itself lead to conflict. In launching the report, the World Bank's Chief Economist and Senior Vice President for Development Economics (François Bourguignon) stressed 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 report draws the conclusion that developing countries that invest in better education, health care and job training could produce surging economic growth and sharply reduced poverty.

If the environment is right, a large youth cohort can be the engine of economic and social development. The notion of a ‘demographic dividend’ refers to the idea that the population’s

¹⁰ Boyden, Jo, ‘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.

¹¹ Kemper, Yvonne, ‘Youth in War-to-Peace Transitions: Approaches of International Organizations’, Berghof Research Center, Berlin, January 2005.

age structure has a significant impact on growth and that youth are essential to this process.¹² Realizing this dynamic will require cross-government investment, and providing security will be a significant element of the overall strategy and approach. Ultimately, this author believes that engaging youth and providing them with meaningful and constructive occupations is central to generating the peace that is so essential in maintaining long-term stability.

4.4 Breaking the Cycle of Violence

Adolescence is a time of transition for the evolving individual, often characterized by risk-taking and actions that at times test the limits of acceptable social behaviour. Additionally this period is associated with a growing awareness of one's surroundings and the realities faced by others, often leading to an idealistic desire to make the world a better place. It is this capacity for change that can provide a valuable impetus to peace-building efforts, particularly those aimed at addressing what may be deep-rooted social norms that previously bred violence and stifled reconciliation. An important element of any peace-building process must be to limit the opportunities for peace-spoilers to profit from the instability associated with post-conflict situations by targeting and exploiting young people to propagate insecurity, which generally underpins their power base.

Exposure to destabilizing factors – social exclusion, restricted access to education, long-term unemployment, poverty or political strife – can lead disaffected children and youth into conflict with the law. The destabilizing elements of armed conflict – insecurity, uncertainty about the future, limited or lack of access to services – can push disaffected children and youth towards negative choices such as violence, crime or radicalism.

A major contribution to changing attitudes and breaking the cycle of violence is reform of the juvenile justice system. The approach supported 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. A key aspect of this is promoting strategies that prevent individuals from getting into trouble in the first place and intervening to assist those who do, including through rehabilitation and social reintegration. Recognizing 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.

Demonstrating rule of law, including justice and security, is central to re-establishing confidence and trust, and restorative and educational approaches to justice are central to addressing recidivism. Many of the children who come into conflict with the law have committed only minor offences such as vagrancy, truancy, begging or alcohol use – status offences that are not normally considered criminal when committed by adults. Their experience with the justice system could have long-term and profound effects on their future and their interactions with the law.

¹² Bloom, David, David Canning, Jaypee Sevilla, 'The Demographic Dividend: A new perspective on the economical consequences of population change', Santa Monica, CA: RAND, 2003.

5. ENGAGING CHILDREN IN POST-CONFLICT PEACE-BUILDING

Communities can harbour perceptions of injustice for generations, undermining efforts to re-establish peace and stability. But young people can be a valuable resource and fertile ground for approaches that promote change if they are engaged in peace-building activities and their views and opinions are captured.

Listening to the perspectives of young people who have experienced conflict is the first step to promoting their role in peace-building. They may highlight new security challenges, thus helping to guide sector reforms and approaches. Children can actively contribute to peace through rebuilding social relationships and helping develop a culture of peace. They can play a role in enhancing security, reconciliation, the search for truth and justice, and rebuilding the education system, economy and livelihoods.¹³ Children are more likely to participate if they receive encouragement and support from their parents, teachers, community elders and non-governmental organizations as well as figures in public authority, including security sector officials.¹⁴

This support may take place at different levels. Locally, community leaders and adults from schools, local NGOs and local government may facilitate children's groups that develop peace initiatives. Non-governmental organizations may provide children with resources (for example, a basic fund for materials and transport), relevant information (child-friendly versions of relevant government policies or legislation) and skills training (on children's rights, life skills, conflict resolution). Adult civil society organizations can cooperate in identifying and providing the conditions needed to support children and young people to speak with decision-makers at various levels. They can find ways to build and strengthen children's and young people's groups at local, sub-national and national levels to establish regular or permanent cross-generational dialogue between local authorities and groups of young people's representatives. This in turn can lead to an ongoing national, inter-generational dialogue.

Examples of children's participation include action in support of fulfilling the right to education for out-of-school children and the development of a code of conduct for teachers and students (Nepal); preventing violence in school through establishment of school councils (Zambia); action around protection issues including reporting on violations of children's rights (Angola); action against violence and sexual abuse (Cambodia) and against corporal punishment and early marriage (Nepal); and support to and care for children affected by HIV/AIDS (Zimbabwe).¹⁵ Creative participatory tools, such as risk-mapping to understand where girls and boys feel safe and unsafe and body-mapping to document injuries, can also be used to gain children's perspectives.¹⁶

¹³ Brown, Maggie, 'Global Evaluation: Children Affected by Armed Conflict, Displacement or Disaster', Save the Children Norway, 2005.

¹⁴ O'Kane, Claire, Clare Feinstein and Annette Giertsen, 'Children and Young People in Post-Conflict Peacebuilding' in *Seen, but not Heard: Placing Children and Youth on the Security Governance Agenda*, David Nosworthy, ed., Münster, LIT Verlag, 2009.

¹⁵ Ibid.

¹⁶ Save the Children Norway, 'Thematic Evaluation on Children's Participation in Armed Conflict, Post Conflict and Peace Building', 2007, www.reddbarna.no/chp (accessed October 2008).

It is important to identify entry points 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 peace-building process so that their views and opinions can inform public discussion on the expectations for and delivery of security provision.¹⁷

6. WHAT IS SECURITY SECTOR/SYSTEM REFORM?

Security sector reform has been receiving increased attention in recent years as a key element of post-conflict peace-building efforts from international organizations and institutions, notably the Security Council with its work on United Nations approaches. Following Security Council debate of the United Nations Secretary-General's report, 'Securing Peace and Development: The role of the United Nations in supporting security sector reform' (September 2008),¹⁸ a presidential statement from the Security Council recognized that "the establishment of an effective, professional and accountable security sector is one of the necessary elements" for peace and development and that it should be a nationally owned process within a broad framework of the rule of law.¹⁹

The United Nations works with states and other actors to prevent and mediate conflict. Given precarious public security in post-conflict situations, reform of the sector has become a priority for the United Nations as it works to ensure civilian protection and promote long-term development. The Secretary-General's report described such reform 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 peoples without discrimination and with full respect for human rights and the rule of law".²⁰ It also noted that the absence of a coherent United Nations strategy for security sector reform limited the capacity to effectively plan and provide resources for such efforts. In addition it identified the need for changes in conceptual theory and practice.

Reforming the security sector is recognized as highly specific to the context; there is no single model of the role and structure. However, effective and accountable systems exhibit a number of common features:

- A legal and/or constitutional framework;
- An institutionalized system of governance and management;
- Sufficient structures, personnel, equipment and resources;
- Transparent coordination and cooperation among actors;

¹⁷ O'Kane, Claire, Clare Feinstein and Annette Giertsen, 'Children and Young People in Post-Conflict Peacebuilding' in *Seen, but not Heard: Placing Children and Youth on the Security Governance Agenda*, ed. David Nosworthy, Münster: LIT Verlag, 2009.

¹⁸ Report from the United Nations Secretary-General, 'Securing peace and development: The role of the United Nations in supporting security sector reform', S/2008/39-A/62/659, 23 January 2008.

¹⁹ UN Security Council, Presidential statement S/PRST/2008/14, 12 May 2008.

²⁰ Report from the United Nations Secretary-General, op. cit.

- A culture of service promoting unity, integrity, discipline, impartiality and respect for human rights.²¹

Effective governance and civilian oversight of the security sector are central to reform. The participation of non-state actors such as civil society organizations and the media is critical, and it requires planning and training. Special efforts must be made to engage groups that are typically excluded. A coherent framework is crucial; where this is lacking, the result will be typically sectoral approaches that address only specific issues rather than holistic reform.

Based on an established framework, international organizations can assist national authorities in creating an enabling environment for reform, addressing issues such as monitoring of human rights, promotion of good governance and reconciliation.

According to the Guidelines on Security System Reform and Governance (2005) issued by the Organization for Economic Co-operation and Development's Development Assistance Committee, 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.

6.1 Defining the Security Sector

The security sector is a key duty-bearer in child protection, and it is important to clearly define the key actors. When a right has been violated or insufficiently protected, not only has a rights violation been perpetrated, but an individual or an institution has failed to perform a duty of protection.

Traditional notions of security tend to focus on the defence aspects of state security. However, a broader definition of the security sector incorporates not only statutory actors authorized to use force, but non-statutory bodies involved in providing security and civil society actors and beneficiaries of security. This broad definition of a country's security community includes:²²

- Bodies authorized to use force: armed forces, police, paramilitary forces, gendarmeries, intelligence services (both military and civilian), secret services, coast guards, border guards, customs authorities and 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 committees; ministries of defence, internal affairs and foreign affairs; customary and traditional authorities; financial management bodies (finance ministries, budget offices, financial audit and planning

²¹ Ibid.

²² Ball, Nicole, 'Reforming Security Sector Governance', in *Security and Development. Investing in Peace and Prosperity*, Robert Picciotto and Rachel Weaving, eds. New York: Routledge, 2006.

units); and statutory civil society organizations (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 ombudspersons; correctional services; customary and traditional justice systems.
- Non-state institutions: liberation armies, guerrilla armies, traditional militias, political party militias, private security companies and civil defence forces.
- Non-statutory civil society bodies: professional organizations, including trade unions; research/policy analysis organizations; advocacy groups; the media; religious organizations; non-governmental bodies; concerned public.

Non-statutory civil society groups in particular are important in safeguarding children. Not only are they informed on the issues that affect the community and its children, but they are often service providers, playing a vital role in monitoring and reporting abuses.

Rebuilding governance institutions, promoting respect for human rights and the rule of law, and fostering dialogue are critical in driving peace-building and nation-building processes. A holistic approach to security sector reform ensures (i) sustainable disarmament, demobilization, repatriation, reintegration and resettlement of former combatants; (ii) development of democratic, law-abiding police services and armed forces, including appropriate civilian oversight mechanisms; and (iii) appropriate linkages between the judicial system, the police and the prison system.²³

6.2 Civil Society

States do not always live up to their obligations to children, and children generally lack the political voice to express discontent and demand accountability. Often it falls to civil society organizations (CSOs) to provide this function by monitoring the situation of children and pressing state institutions to fulfil their child protection responsibilities. CSOs serve as the link between children and relevant state bodies. They often operate youth services relevant to security such as telephone help lines, youth clubs or other targeted programmes. CSOs also monitor and report on the performance of key duty-bearers.

CSOs contribute to accountability and good governance in the security sector through their role in monitoring government performance in policymaking, compliance with laws and upholding of human rights. In addition, advocacy by civil society groups helps give voice to marginalized groups and opens up the policy process to a wider set of perspectives.

Civil society groups may be more aware of security realities at the community-level experienced by children. This allows them to establish mechanisms for enabling children and young people to express their concerns. In their representations to relevant authorities CSOs have a responsibility to accord due weight to the opinions of the children in a neutral and

²³ 'Afghanistan National Human Development Report: Security with a Human Face, Evaluation of Afghanistan's State-building Process from a Human Security Perspective', 2004.

unbiased way. They also may facilitate dialogue with government and law enforcement agencies.

At the national level, CSOs can provide vital testimony and analysis to parliament and other governance institutions about how national security policies and activities affect children and society as a whole. Civil society groups concerned with freedom of speech, human rights, policing or access to justice are in the forefront of discussions on security sector issues, and they have a vested interest in promoting respect for children's rights.

7. SECURITY SECTOR REFORM AND TRANSITIONAL JUSTICE IN POST-CONFLICT PEACEBUILDING

Institutional reform is a key element of transitional justice processes. Whether emerging from autocratic rule or conflict, a country's justice institutions and structures are likely to be weak or even non-existent. Both security sector reform and transitional justice are critical components of sustainable peace, aiming to address the legacies of war and strengthen the rule of law and respect for human rights. Following any crisis, the restoration of justice and security is a core democratic governance responsibility.²⁴

An effective justice system is a central element in establishing sustainable peace and ensuring long-term stability. A justice system that is not fit for purpose risks violating the rights of those who enter it. While the formal justice system may be oriented towards adults seeking redress, it is important that young people also have access to justice.

According to the International Center 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."²⁵ Basic approaches to transitional justice include criminal prosecutions, truth seeking, reparation, institutional reform and reconciliation.²⁶

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 empowerment and reconstruction. For reconciliation to be effective among affected populations, the legacies of war need to be addressed. For children these include an insecure environment, lost schooling, family separation and injury.

Both security and justice sector reforms need to adopt a holistic approach to address a broad spectrum of legal, societal and institutional challenges. Coordination among key institutions is a prerequisite for creating an effective legal and judicial framework, involving judges, prosecutors, defence attorneys, administrators, police officers, prison guards, human rights bodies and civil society organizations.

²⁴ UNDP, 'Rule of Law in Conflict and Post-conflict: A UNDP Global Programme' (UNDP brochure accessed Dec. 2008 at www.undp.org/cpr/we_do/security_reform.shtml).

²⁵ ICTJ, 'What is Transitional Justice?', ICTJ, 2008.

²⁶ van Zyl, Paul, 'Promoting Transitional Justice in Post-Conflict Societies' in *Security Governance in Post-Conflict Peacebuilding*, Bryden, Alan and Heiner Hänggi, eds., DCAF, 2005.

Immediate post-conflict interventions tend to focus on short-term capacity building and infrastructure reconstruction. However, both security sector reform and transitional justice processes 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.

As with security sector reform, 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 for resolving property rights. Demonstrating legitimacy and establishing trust in the justice and security systems is a particular challenge in post-conflict settings. This is not just because of the challenge of rebuilding structures and human resource capacity, but because in many countries the conflict led people to be suspicious of the justice and security sectors. Although confidence needs to be restored quickly, reform should be perceived as an ongoing, long-term process.

Injustice is probably the single most important factor in igniting and sustaining conflict. The longer the conflict, the weaker the capacity of the judicial and legal system to cope with the injustices of war, compounding the perception that the judicial establishment is unable or unwilling to fulfil demands for justice.²⁷

The reforms associated with transitional justice may be focused on the justice system, but a more holistic approach requires broader consideration of security governance issues. The transitional justice mechanisms with the closest links to security sector reform are probably hybrid courts and truth commissions. However, shedding light on past crimes could lead to further instability, and such efforts need to be informed by local realities. Equally, it is not necessary to make a categorical choice between criminal prosecution and non-judicial approaches; they can be complementary. Likewise, domestic prosecutions should take place alongside other transitional justice mechanisms.

Other cross-cutting issues that affect the outcome of both security sector reform and transitional justice include 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 crimes committed.²⁸ These factors can impede or facilitate the outcome of both processes, either singly or in relation to how they influence each other. For example, transitional justice outcomes will be significantly influenced by the position and power of the security services and their capacity to reflect democratic norms. Allowing impunity without establishing systems of accountability (whether judicial or non-judicial) or dealing with the past in some way will ultimately hamper security sector reform. If perpetrators of abuses do not go through a process of accountability or acknowledgement, they have little reason to stop their abusive behaviour.

²⁷ 'Governance in Post Conflict Situations: Justice, Security and Human Rights', UNDP and Chr. Michelsen Institute, Bergen Seminar Series, Norway, May 2004.

²⁸ Mobekk, Eirin, 'Transitional Justice and Security Sector Reform: Enabling Sustainable Peace', Geneva, DCAF, 2005. This paper is drawn on extensively throughout the remainder of this section.

7.1 Sequencing

Security sector reform and transitional justice are highly political and context specific. While they can be mutually reinforcing, they also influence each other, including negatively. Often security sector reform and transitional justice activities run as parallel initiatives coordinated by different actors. These activities have operational and policy implications, and the linkages between them need to be more fully addressed.

Achieving the right balance between the short-term imperative for reform and the long-term need to build stability and efficiency in both the justice and security systems can be very challenging. The reform process also needs to address the vetting of new recruits, capacity building and law reform.

Effective sequencing of peace-building activities is vital for long-term sustainability. Immediately after the conflict fair justice will be affected by the lack of infrastructure (courthouses and legal materials) and personnel (judges and prosecutors). Domestic prosecution for past crimes and judicial reform are interdependent in that judicial reform is needed to hold domestic trials, yet such trials can also affect long-term judicial reform.

Some states have waited to conduct prosecutions until long after the end of the conflict or abusive regime. For instance in Latin America and Central and Eastern Europe the majority of trials were conducted nearly a decade later.²⁹ However, such delays can undermine both the legitimacy of the new authorities and the process of security sector reform. Under these circumstances complementary transitional justice mechanisms can perform an important role in the peace-building process. For example, a truth commission can assist in gathering information that may ultimately inform future prosecutions.

The ultimate aim of reform is to realize a justice and security system that is accountable, legitimate and transparent. A corrupt or politicized system will quickly destroy trust and risk a return to instability. While reforming civil and criminal codes may be relatively straightforward, assuring their implementation is quite a separate matter. The challenge is often in changing attitudes, and while this may be an unwritten aim of reform in general, it remains a time-consuming process.

The need to foster broad local ownership of the reform process will require consultations that bring together a range of national and local actors, which will require time and resources. Local actors are central to the sequencing of the reform process. Time will be needed to build their capacities, and they will also have a role in planning and scheduling the transfer of responsibility back to domestic institutions. Enabling the meaningful participation of young people in this process will likely require extensive sensitization and training of a range of national and local agencies and civil society organizations.

²⁹ Ibid.

7.2 National and Local Ownership

Establishing national and local ownership are priorities in security sector reform, and implicitly involve civil society groups both in representing the views of local communities to policymakers (so that reforms respond to local conditions and requirements) and in monitoring the implementation of those reforms. The Secretary-General's report, 'Securing Peace and Development', and the OECD DAC Handbook on Security System Reform both stress the importance of reforming the security sector through a nationally owned process, responsive to the needs and realities of a given situation.

External actors should focus on building the capacities of national and local actors to respond to the security and protection needs of local populations, including children. A key component of building this capacity is strengthening dialogue between local authorities and civil society organizations, so the latter can function as a conduit for communities to express their needs and aspirations. By providing fora for information sharing, communities should also have the opportunity to influence decision-making related to service provision. Empowering civil society can contribute to establishing a democratic political process, making state actors more accountable to the community. Realizing such an objective requires acknowledgement and strengthening of the role of civil society throughout the security sector reform process.

While addressing national priorities, peace-building strategies should be sensitive to local and community concerns, particularly those of marginalized groups. CSOs can also be encouraged to engage in monitoring the security situation and the effectiveness of security actors, thus promoting respect for human rights and ensuring that security personnel are held accountable for their actions in case of violations.

CSOs can be particularly important in combating youth exclusion and ensuring that young people have access to opportunities for personal development. Assisting young people through the challenging transition from childhood to adulthood is essential to helping them establish a meaningful, positive role in society and promoting social development. When youth have opportunities for expression, they can help to inform security personnel about evolving threats they face, providing an entry point for dialogue. Children and youth can then become an important focus of both social strategies and public safety.

Engaging civil society in peace-building helps to establish realistic priorities in addressing community protection issues. Providing youth with alternatives, including education, support networks and community assistance programmes, is an important element of building young people's resilience and ability to resist peace-spoilers.

The effectiveness of DDR programmes, in particular reintegration, depends on active participation by local authorities and communities. CSOs can provide information on conditions, attitudes and needed skills in communities to help in planning and implementing DDR processes. They can also monitor and evaluate these programmes and provide feedback for further improvement. Civil society groups can help to ensure that appropriate training is provided to the right people at the right time. Working with local media, they can raise awareness about the need to accept former combatants and re-integrate them into community

life. They are also the best placed to provide follow-up, an essential element of DDR programmes that is often lacking.

7.3 Hybrid Courts in Post-conflict Environments

Where the justice system is no longer functioning effectively, hybrid courts have the potential to aid reform of the security sector, specifically through development of the domestic judicial system and law reform. Hybrid courts can work alongside and support national institutions while they are re-established. Such courts need to ensure that the juvenile justice system is functioning effectively as quickly as possible. This is often overlooked in post-conflict situations, and one of the most damaging aspects is poor detention arrangements – specifically, incarcerating children with adults. Administration of juvenile justice needs special attention, particularly to differentiate children’s roles as victims, perpetrators and witnesses and to provide support accordingly. For those who are most marginalized, lack of access to justice or unfair treatment widens gaps in equality, thus impeding peace and social development.

Involving external actors in reforming the justice system can encourage the adoption and development of national structures and codes that reflect the obligations of international standards and norms in relation to children. Hybrid courts operate during a post-conflict window of opportunity when reform and change may be more readily accepted. This opportunity can also be used to promote and guide the establishment of child rights oversight and monitoring mechanisms.

Compared to international courts, hybrid courts have a greater opportunity to enhance local ownership. Their main challenge is ensuring adequate funding and maintenance of a long-term outlook regarding capacity building. As with security sector reform, there is no one model, although the Brahimi Report suggested the development of generic penal and criminal codes for use while a country develops its own codes and laws.³⁰ Coordination between the hybrid court and personnel involved in security sector reform is essential.

The advantage of the hybrid courts relative to domestic courts is their perceived impartiality, capacity building potential and positive impact on rule of law and sustainable peace-building. However, where the progress of such courts is judged purely on the basis of the number of prosecutions conducted, hybrid courts can be construed as slow and cumbersome, which can lead to disillusionment among the population.

7.4 Domestic Prosecution

Using domestic courts to deal with past crimes may strengthen not only the sense of legitimacy and trust in the judicial system but also that of the new government. The choice between restorative and retributive justice strategies is also significant. Criminal prosecution demands identification of the parties on the one side as victims, and on the other as perpetrators. In reality, after a conflict the distinction may not be so evident, particularly in the case of child soldiers.

³⁰ Report of the Panel on United Nations Peace Operations, ‘The Brahimi Report’ (A/55/305-S/2000/809).

Domestic prosecution usually requires extensive judicial reform, given absence of trust, corruption or structures that are non-functioning, compromised or effectively non-existent. However, judicial reform alone is not enough to ensure the viability of domestic prosecution; also needed are reforms to police, prisons and correctional services. Police reform especially is critical to post-conflict justice and human rights interventions. Policing has to be independent of the executive and function in a civilian capacity for the benefit of public safety and security. Reform needs to transform the culture of violence that may exist in police forces following years of conflict. Determining how to deal with political elites who aim to corrupt the police force for their own gain is equally challenging.

Prosecutions require investigations that also depend on police reform. Rather than generic knowledge of international or constitutional human rights law, improving police performance requires training in rights-sensitive investigation methods, such as by reducing reliance on confessions and ensuring that cases are legally sound so they are not dismissed in court.

Critical to child protection is the effectiveness of the juvenile justice system, which must be continuously monitored. Bodies dealing with juvenile delinquency should adopt international standards that promote restorative over retributive approaches. Accordingly, children must profit from the same rights as any other citizen, such as presumption of innocence and an emphasis on educational and non-custodial sanctions. Penal reform often receives less attention, despite the potential for harm to children in detention. Preventive or holding detention requires reform as well as correctional facilities.

Indigenous and traditional justice systems should be explored to determine how they can link to formal systems while reflecting human rights standards and norms. Building on the comparative advantages of formal and traditional adjudication, ‘traditional’ adjudication is best suited to conflicts and disputes between people in the same community who seek reconciliation based on restoration and who will continue 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 when serious penalties such as imprisonment are regarded as appropriate or when the parties are unable to reach a compromise.³¹

7.5 Truth Commissions

Truth commissions provide a forum for people to recount their experiences of conflict and related abuses. One of the priorities should be to ensure that the security concerns and priorities of young people are adequately represented. This may involve providing children with the opportunity to participate directly, but CSOs also have a responsibility to represent the opinions of the community, including those of children. To this end CSOs involved in security matters may need capacity development to help them adopt participatory approaches with children and young people. Such organizations can then have a role in advocating with local authorities to address gaps and establish mechanisms to resolve problem areas.

³¹ Swiss Agency for Development and Cooperation, ‘Rule of Law, Justice Sector Reforms and Development Cooperation’, SDC Concept Paper, Berne: SDC, 2008.

Depending on its mandate, the truth commission may be in a position to gather information and recommend specific prosecutions. There should be agreement that the commission's findings need to inform security sector reforms.

Three elements should be present before deciding to establish a truth commission: first, sufficient political will to allow and encourage a serious inquiry into past abuses. Ideally, the government should show its support by providing funding, opening access to state archives and directing civil servants to cooperate with the proceedings. Second, the violent conflict, war or repressive practices must have come to an end. If the security situation has not yet stabilized, victims and witnesses may be afraid to speak publicly or to be seen cooperating with the commission. Indeed, the commission itself may receive threats. Third, victims and witnesses must desire such an investigative process and be willing to cooperate with it. There are, of course, other means of addressing the past, including inquiries by non-governmental organizations or locally based processes that are less formal than a national truth commission. These choices can only be made through broad consultation.

8. CONCLUSIONS

The security sector has a legal and moral obligation to protect and promote the rights of children. In no situation is this need more pressing than in the post-conflict environment where lack of traditional support and protective structures undermines the ability of communities and families to protect their children. Local justice and security structures that should be responsible for providing a protective environment for children are often unable or unwilling to take on this role at a time when they are desperately in need of reform.

Focusing on the governance aspects of public security places children firmly on the justice and security agenda and provides the framework to guide development of reform priorities and actions. The ultimate aim is good security governance that is accountable to the citizens it is meant to protect.

Understanding the links between security sector reform and transitional justice will assist in re-establishing legitimate, effective and transparent governance, which is essential to ensuring child protection and supporting social development. As recognized by the United Nations Security Council, security sector reform and transitional justice are distinct but complementary processes of post-conflict peace-building. Their common purpose – establishing rule of law and respect for human rights – means they can be mutually supportive. Also important is effective sequencing of reforms and coordination among all actors.

Key to reform is having all relevant actors ready and able to work together; this is primarily the responsibility of national and local authorities. Strengthening mechanisms that help civil society groups to participate in justice and security reform processes are especially important in protecting and promoting children's rights.

CSOs are vital in establishing local ownership of post-conflict peace-building and reconstruction processes. They are also important to ensuring that reforms of state and political institutions are sustainable and will lead to socio-economic development. Civil

society involvement is also central to establishing legitimacy and trust. Effective and accountable governance of security institutions involves democratic control of the armed forces, including civilian management and oversight. Yet the role and influence of civil society in post-conflict reform of security institutions has received little systematic attention and analysis. This has particular consequences for establishing reform processes that reflect children's views, concerns and aspirations.

9. RECOMMENDATIONS

Decision-makers and practitioners need to:

- 1) Ensure that all activities are guided by principles of good governance and respect for human rights.
- 2) Monitor and analyse threats to children and young people at national and local levels and establish responses that engage all necessary stakeholders at all levels.
- 3) Establish mechanisms and procedures in the juvenile justice system for dealing appropriately with children who come into conflict with the law, with the aim of respecting their dignity, focusing on restorative and educational approaches to justice, and diverting children away from the formal justice system.
- 4) Develop the capacities of civil society organizations involved in security and child protection activities to engage in dialogue with national and local service providers, leading to provision of adequate resources.
- 5) Promote national and local understanding of human security that encompasses civil and political rights as well as economic and social rights.
- 6) Ensure civilian control of the armed forces so that service providers are held accountable to the beneficiaries of security.
- 7) Establish systems of accountability, whether judicial or non-judicial, to hold perpetrators of abuses accountable.

References

- Afghanistan National Human Development Report (2004). 'Security with a Human Face: Evaluation of Afghanistan's State-building Process from a Human Security Perspective'.
- Ball, Nicole (2001). 'The Challenge of Rebuilding War-Torn Societies', in *Turbulent Peace. The Challenges of Managing International Conflict*, Crocker, C., F.O Hampson and P. Aall, eds. United States Institute of Peace Press: Washington D.C.
- Ball, Nicole (2006). 'Reforming Security Sector Governance', in *Security and Development. Investing in Peace and Prosperity*, Piciotto, Robert and Rachel Weaving, eds. New York: Routledge.
- Bloom, David, David Canning and Jaypee Sevilla (2003). 'The Demographic Dividend: A new perspective on the economical consequences of population change', Santa Monica: RAND.
- Boyden, Jo (2006). '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.
- Brown, Maggie (2005). 'Global Evaluation: Children Affected by Armed Conflict, Displacement or Disaster', Oslo: Save the Children Norway.
- Bryden, Alan, Timothy Donais and Heiner Hänggi (2005). 'Shaping a Security Governance Agenda in Post-Conflict Peacebuilding', DCAF Policy Paper no. 11, Geneva.
- Hänggi, Heiner (2005). 'Approaching Peacebuilding from a Security Governance Perspective' in *Security Governance in Post-conflict Peacebuilding*, eds. Alan Bryden and Heiner Hänggi, Münster: LIT Verlag.
- International Center for Transitional Justice, 'What is Transitional Justice?', ICTJ website at www.ictj.org/en/tj/.
- Kemper, Yvonne (2005). 'Youth in War-to-Peace Transitions: Approaches of International Organizations', Berlin: Berghof Research Center.
- Krahmann, Elke (2003). 'Conceptualizing Security Governance', in *Cooperation and Conflict*, vol. 38, no. 1.
- Mobekk, Eirin (2005). 'Transitional Justice and Security Sector Reform: Enabling Sustainable Peace', DCAF Occasional Paper No. 13, Geneva.
- O'Kane, Claire, Clare Feinstein and Annette Giertsen (2009). 'Children and Young People in Post-Conflict Peacebuilding' in *Seen, but not Heard: Placing Children and Youth on the Security Governance Agenda*, David Nosworthy, ed. Münster: LIT Verlag.
- Save the Children Norway (2007). 'Thematic Evaluation on Children's Participation in Armed Conflict, Post Conflict and Peace Building', Oslo.
- Swiss Agency for Development and Cooperation (2008). 'Rule of Law, Justice Sector Reforms and Development Cooperation', SDC Concept Paper, Berne: SDC.
- United Nations, 'Report of the Panel on United Nations Peace Operations' (The Brahimi Report), (A/55/305-S/2000/809).

- UNDP and Chr. Michelsen Institute (2004). 'Governance in Post Conflict Situations: Justice, Security and Human Rights', Bergen Seminar Series, Norway.
- UNDP, 'Rule of Law in Conflict and Post-conflict: A UNDP Global Programme', UNDP brochure accessed June 2010, www.undp.org/cpr/we_do/security_reform.shtml.
- United Nations Security Council, Statement by the President, S/PRST/2001/5, 20 February 2001.
- United Nations Security Council, 'The rule of law and transitional justice in conflict and post-conflict societies', Report of the Secretary-General, S/2004/616, August 2004.
- United Nations Security Council, 'Children and Armed Conflict', Report of the Secretary-General, A/59/695 – S/2005/72, 9 February 2005.
- United Nations Security Council, Resolution 1612 (2005), adopted 26 July 2005, S/RES/1612.
- United Nations Security Council, Statement by the President, S/PRST/2007/3, 20 February 2007.
- United Nations Security Council, 'Securing peace and development: The role of the United Nations in supporting security sector reform', Report from the Secretary-General, S/2008/39 - A/62/659, 23 January 2008.
- United Nations Security Council, Statement by the President, S/PRST/2008/14, 12 May 2008.
- van Zyl, Paul (2005). 'Promoting Transitional Justice in Post-Conflict Societies' in Security Governance in Post-Conflict Peacebuilding, Alan Bryden and Heiner Hänggi, eds., Münster: LIT Verlag.
- World Bank (2007). 'World Development Report 2007: Development and the Next Generation', Washington: World Bank.