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USAID GUIDANCE  
FOR DEMOCRACY AND GOVERNANCE PROGRAMMING  
IN POST-CONFLICT COUNTRIES

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This publication was produced for review by the United States Agency for International Development. It was prepared by Phyllis Dininio, Management Systems International.

USAID GUIDANCE  
FOR DEMOCRACY AND GOVERNANCE  
PROGRAMMING IN POST-CONFLICT COUNTRIES



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## PREFACE

This guidance represents contributions from a range of development specialists seeking to learn and describe how development assistance and practices can most effectively be brought to bear on conflict-riven situations, particularly in reconstruction and stabilization environments. A workshop was held to kick off the development of this paper. The workshop, which was attended primarily by democracy and governance (DG) specialists, identified key content, reviewed the literature, and explored and exchanged experiences among representatives of five organizations seeking to compile relevant governance assistance information in unstable state environments. These efforts culminated in this guidance. The five organizations, U.S. Agency for International Development (USAID), Peacekeeping and Stability Operations Institute (PKSOI), Department of State's Office of the Coordinator for Reconstruction and Stabilization (S/CRS), United States Institute for Peace (USIP), and Joint Forces Command (JFCOM), explored the same topic over a similar time frame, but from different vantage points to serve needs and interests of different target audiences.

Although development of this report was led by USAID's Office of Democracy and Governance in the Bureau of Democracy, Conflict, and Humanitarian Assistance (DCHA/DG), other DCHA offices contributed content to this guidance and, along with a wider audience, provided constructive feedback. This document was prepared by Management Systems International, Inc. (MSI), through the Building Recovery and Reform through Democratic Governance Indefinite Quantity Contract. Phyllis Dininio, Ph.D., with MSI, the primary author and editor, deserves high praise for her technical contributions, writing and editing skills, and amicable and effective approach to obtaining the contributions from all who had a role in this endeavor. Pat A. Fn'Piere, Senior Coordinator for Crisis Response Capacity in DCHA/DG, initiated the idea of developing this DG-specific guidance and managed its creation. The Bureau of Economic Growth, Agriculture, and Trade (EGAT) led the way with the publication of their *A Guide to Economic Growth in Post-Conflict Countries*, which served as a model for this paper. Having learned from their experience that updates will be important, we consider this to be primarily an online, living document, to be updated over time.

The guidance is the result of a group effort, and all who contributed deserve recognition. Phyllis Dininio was the lead author for Part I and authored three chapters in Part II: Constituting Processes (Chapter 6); Transitional Governance (Chapter 7); and Demobilization, Disarmament and Reintegration (Chapter 16). Larry Cooley (MSI), Patrick Fn'Piere (USAID/Office of Transition Initiatives (OTI)), and Pat A. Fn'Piere (DCHA/DG) prepared Chapter 8, Strengthening the Executive Branch. Members of USAID's Office of Democracy and Governance prepared chapters 9–15. Keith Schulz prepared Chapter 9, Legislative Strengthening. Edwin Connerley, Ph.D. prepared Chapter 10, Decentralization and Local Governance. Elizabeth Hart, Ph.D., prepared Chapter 11, Anticorruption. Marissa LeMargie and Barbara Smith prepared Chapter 12, Elections. Maryanne Yerkes prepared Chapter 13, Civil Society. Alex Berg prepared Chapter 14, Justice and Reconciliation. Julie Werbel prepared Chapter 15, Security Sector Reform., and also served as reviewer and editor of Chapter 16 on DDR.

Thanks also to a number of people who invested time and effort in reviewing this paper and providing valuable feedback. Elena Brineman and Susan Merrill with PKSOI; Tom Dempsey, U.S. Army Training and Doctrine Command (TRADOC); Deborah Alexander, JFCOM; Beth Cole, USIP; Michele Greenstein and Janet Potash, S/CRS; Larry Cooley, Joel Jutkowitz, and Lauren Parks, MSI; Gary Bland, Ph.D., Research Triangle Inc.; Coralie Bryant, Ph.D., Scholar in Residence, International Development Program at American University; Bishnu Adhikari, USAID/Nepal; Julie Browning, USAID/Middle East Bureau; Tjip Walker, Ph.D., Office of Conflict Management and Mitigation (DCHA/CMM); Dana Peterson and Eleanor Bedford, DCHA/OTI; Tom Pope, DCHA/Office of Civilian Response; Rachael Bahn and David Dod, EGAT/Economic Growth; Natasha Greenberg, EGAT/Women in Development; and Jennifer Ragland, John Wiebler, Achieng Akumu, and Anne Hayes, DCHA/DG.

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## ACRONYMS

AU	African Union
CSO	Civil Society Organization
DDR	Disarmament, Demobilization, and Reintegration
DG	Democracy and Governance
FAA	Foreign Assistance Act
GEMAP	Governance and Economic Management Assistance Program
ICAF	Interagency Conflict Assessment Framework
IMS	Interagency Management System
INCAF	International Network on Conflict and Fragility
INGO	International Nongovernmental Organization
M&E	Monitoring and Evaluation
MPICE	Measuring Progress in Conflict Environments
NATO	North Atlantic Treaty Organization
NGO	Nongovernmental Organization
OECD	Organisation for Economic Co-operation and Development
OECD-DAC	Organisation for Economic Co-operation and Development - Development Assistance Committee
R&S	Reconstruction and Stabilization
S/CRS	Coordinator for Reconstruction and Stabilization
SRSG	Senior Representative of the Secretary General
SSR	Security Sector Reform
TRC	Truth and Reconciliation Commission
UN	United Nations
UNDP	United Nations Development Programme
USG	United States Government

## EXECUTIVE SUMMARY

*The USAID Guidance for Democracy and Governance Programming in Post-Conflict Countries* provides practical information to guide democracy and governance (DG) promotion in countries emerging from conflict. The guidance brings together lessons learned from past and current efforts with the aim of increasing DG program effectiveness and sustainability. It proposes a new approach and provides concrete recommendations for strengthening democracy and improving governance in these challenging contexts. The target audience for this guidance is the U.S. Agency for International Development (USAID) personnel who are responsible for developing and implementing DG field programs. The document also may be useful to other parts of the U.S. government, including the State Department, the Defense Department, the Justice Department, the National Security Council, and others.

The purpose of DG programming in post-conflict countries is to support conflict recovery; foster freedom, justice, and well-being; and prevent a return to conflict. DG-related issues may have contributed to the outbreak of violence in the first place through, for example, corruption, impunity, limited freedom, fraudulent elections, or inequitable access to government services. Although DG initiatives are not the sole solution to resolving post-conflict issues, they clearly can be a significant part of the solution. Post-conflict DG interventions must form an integral part of a comprehensive reconstruction and stabilization program.

The guidance is divided into two parts. Part 1, *A New Approach to Post-Conflict Democracy and Governance*, highlights the need to build effective, legitimate, and resilient states in the wake of conflict. Part 2, *Programmatic Recommendations*, discusses lessons learned and provides recommendations for programming in 11 DG subsectors:

- Chapter 6: National Constituting Processes
- Chapter 7: Transitional Governance
- Chapter 8: Strengthening Ministries and Executive Branch Agencies
- Chapter 9: Legislative Strengthening
- Chapter 10: Local Governance
- Chapter 11: Transparency/Anticorruption
- Chapter 12: Elections
- Chapter 13: Civil Society
- Chapter 14: Justice and Reconciliation
- Chapter 15: Security Sector Reform
- Chapter 16: Disarmament, Demobilization, and Reintegration

### A NEW APPROACH

*Build legitimate and effective states.* USAID holds state building as the highest-order objective of its programming in post-conflict countries. State building provides the foundation for stability and sustainable development that must underpin all reconstruction and stabilization (R&S) operations. Donor assistance must exert special effort to build local capacity, strengthen state institutions, and shore up government legitimacy. This effort entails matching the state's role with its capability. In countries where human and institutional capacity is weak, scaling back the state's role and citizen demand for state services becomes a priority. Low-capacity governments can choose to focus on ongoing tasks such as revenue collection and delegate one-off tasks

such as resettling internally displaced persons to the international community. Regarding ongoing tasks, states can choose to supply services themselves or contract them out to nonprofit and for-profit entities.

*Promote democracy with care.* Alongside state building, the international community must promote democracy with care. Democracy promotion in post-conflict settings must maintain a focus on enabling conditions alongside the typical clamor for elections. The attributes of democracy offer the promise of representative, accountable, and just government only when the enabling conditions are in place alongside the electoral system. If governments hold elections but do not adequately ensure political rights, civil liberties, and rule of law, they will fall far short of their promise. Citizens must be informed, able, and willing to participate in political processes as candidates, voters, advocates, and monitors for democracy to work. Yet residual violence and animosities ignited by conflict inhibit citizen involvement in politics and civil society organizations. In post-conflict settings, donors must give special consideration to programming that protects individuals and fights impunity on the one hand and fosters tolerance, moderation, consensus building, and participation on the other.

*Understand conflict dynamics and core DG problems.* DG programming in post-conflict countries must address conflict dynamics as well as core DG problems. Two analytical frameworks guide practitioners to design effective programs that foster peace and promote democracy. The Interagency Conflict Assessment Framework provides a way of understanding the dynamics driving and mitigating conflict in a country. The conflict analysis can feed into the USAID Democracy and Governance Assessment Framework, which provides a way of understanding the core DG problem(s) in a country. A thorough understanding of conflict dynamics and DG problems is essential to guide resources to the DG areas where they will have the most impact.

*Evaluate tradeoffs.* In post-conflict countries, DG programming involves recurring tradeoffs. These tradeoffs arise from the pursuit of peace after war through democratic politics. Sometimes, advances in democratization threaten peace, and the compromises necessary for peace restrict or defer democratization. As a result, competing needs and priorities arise for advancing both agendas and laying the foundation for sustainable development. An awareness of these tradeoffs helps to guide strategic choices and reduce negative consequences. There is no best response to these tradeoffs; rather, the specific context shapes the better course of action. In general, however, when the choice is between securing the peace and promoting democracy, peace should be given priority.

The guidance discusses six recurring tradeoffs:

- *Meeting needs versus building capacity* refers to the tradeoff between relying on private or international entities to meet the population's immediate needs and thereby reduce the risk of instability and laying the more time-consuming groundwork for state institutions to deliver essential services themselves and strengthen the nascent democracy's legitimacy and effectiveness.
- *Executive power versus checks and balances* refers to the tension between concentrating power in the executive branch to push through a reform agenda and ensuring that the process moves through and helps strengthen the post-conflict state's deliberative and oversight institutions.
- *Power sharing versus power dividing* refers to the tension between bringing rival groups together in a joint exercise of power and dividing power among independent organs of government and between government and civil society.
- *Political appointments versus meritocracy* refers to the conflict between according warlords and other powerful figures a key role in the post-conflict state to keep the peace and opening leadership roles to a wider pool of candidates.



- *Early elections versus allowing time for political processes to mature* refers to the tension between holding elections in the first year or two after the conflict and waiting until conditions improve for credible elections.
- *Stability versus justice* refers to the tension between ensuring that an examination of the past does not reignite the conflict and providing accountability for war crimes and other human rights violations.

*Identify priorities and sequencing requirements.* In the immediate post-conflict period, there is an urgent need to stabilize an insecure environment and reconstruct institutions and services. The needs are vast, but the government’s capacity to implement change is often limited. Therefore, host country officials and the international community must establish priorities and identify sequencing requirements. There is no standard prescription for prioritization and sequencing in post-conflict DG programming, but most countries include security—involving disarmament, demobilization, and reintegration of combatants and security sector reform—at the top of their priority list. Efforts to achieve security should not be pursued in isolation, however, but as part of a broader effort to establish legitimate and effective governance. Where transitional authorities’ legitimacy is a key issue, democracy promotion may become a priority. Where destitution and despair are the dominant issue, providing humanitarian relief, generating employment, and resuming public services may become a priority. The specific context shapes prioritization and sequencing of R&S programs.

*Maintain flexibility.* Flexibility in DG program design in post-conflict countries is necessary to capitalize on events and emerging trends, as well as the advent of new information and resources. Within the framework of a strategic vision, it is essential to build in flexibility to allow for periodic and sometimes rapid adjustments to programming and financing. More regular assessments of trends and impact; more decentralized decision making; and more flexibility in staffing, procurement, and field operations than are the norm for stable development scenarios allows programming in post-conflict countries to respond to threats and opportunities emerging in different parts of the country and in relation to different issues.

*Coordinate.* R&S operations typically involve a multiplicity of actors. To achieve maximum synergies and program impact, USAID must coordinate its DG programming internally across several offices and externally with other U.S. government (USG) agencies, notably the Department of State and the Department of Defense. A whole-of-government approach has been adopted to respond to priority R&S situations, with the Office of the Coordinator for Reconstruction and Stabilization at the Department of State authorized to lead and coordinate integrated U.S. efforts. USAID also must coordinate its DG programming with other donors and international organizations in the field. A multidonor, locally led, inclusive strategic planning process can serve to coordinate initiatives and create consensus on institutional approaches. Through the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action, donor agencies have agreed to improve coordination through simplified procedures, harmonization, and transparency in their planning.

## **PROGRAMMING RECOMMENDATIONS**

Part 2 lays out programming recommendations for each of the DG subsectors. Each chapter contains a discussion of framing issues, tradeoffs, programming options, and resources. Highlights of the programming options include the following:

- Promote participatory constitution-making processes as they tend to result in more democratic and peaceful outcomes than processes without citizen input.
- Steer transitional governance toward the methods, values, and capacity that already exist and focus on ways to strengthen them. Resist introducing standards in service delivery that are not sustainable.
- Subordinate, at least initially, the impulse to push for substantive reforms that entail significant time and effort to implement. Instead, focus on interventions to improve government effectiveness and

transparency that do not require a great deal of administrative capacity to implement, such as eliminating unnecessary procedures and correcting exclusionary policies.

- Begin legislative strengthening efforts as soon as the security situation permits, including assisting interim assemblies, rebuilding facilities, hiring and training staff, and developing legislative processes and procedures. Do not wait until after elections are held or the transitional period is completed to support legislative development.
- Focus on ways to improve the performance of existing subnational offices rather than establishing new subnational governments. Resist political decentralization where the central state is subject to violent resistance or cannot enforce the rule of law throughout its national territory.
- Avoid including corrupt or criminal individuals in post-conflict governments and include specific provisions in the peace agreement that address corruption risks, including support for financial management, audit and control, investigative journalism, and civil society oversight.
- Rather than establishing a firm date for elections, lay out key benchmarks that must be met to be able to hold credible democratic elections and base the timetable and sequencing for donor assistance around the achievement of those benchmarks.
- Look beyond traditional DG functions that civil society performs (e.g., advocacy) to broader peace-building functions, such as establishing community early warning mechanisms, serving as facilitators and mediators among different parties in conflict, and promoting a culture of peace through citizen awareness campaigns.
- Root support for justice and reconciliation in the country's legal traditions. Aim to create a rule of law culture in addition to reconstituting institutions.
- Move forward on multiple fronts simultaneously to advance security sector reform, including laws and policies, strategies and budgets, security force missions and mandates, training and equipping requirements, and deployments.
- Extend reintegration benefits to receiving communities as well as former combatants. Harmonize reintegration programs with other development programs that address the root causes of instability and the motivations of ex-combatants.

In addition to the programming recommendations for each subsector, the guidance contains additional information in the appendices: Appendix B provides programmatic tools that can help DG officers develop programs, and Appendix C gives information on monitoring and evaluation in post-conflict environments. The hope is that this guidance can increase DG program effectiveness and sustainability in these challenging contexts.

## OVERVIEW

U.S. Agency for International Development (USAID) involvement in post-conflict operations has grown in recent years. USAID has implemented programs in such countries as Afghanistan, Bosnia, Democratic Republic of the Congo, Iraq, Kosovo, Liberia, Nepal, Pakistan, Serbia, Sierra Leone, Sri Lanka, Sudan, and Timor-Leste, and continued involvement is anticipated. This report draws on the experience of USAID and others to provide guidance for future reconstruction and stabilization (R&S) engagements.<sup>1</sup> USAID recognizes that stabilization contexts cannot be approached in the same way as programming in stable or “steady-state” environments. Although some of the same tools and development considerations apply, the characteristics of post-conflict countries require contoured responses that are different from those applied in steady-state situations.<sup>2</sup> Differences that need to be taken into account include crumbled infrastructure, decimated institutions, limited economic opportunities, scarcity of skilled workers, immediacy and visibility of needs, internal and external political tensions, ongoing or renewed conflict, psychosocial trauma among populations, and extensive donor involvement, among others.

This report presents guidance for USAID and its partners on developing strategies and implementing democracy and governance (DG) programs in R&S situations. Part 1 presents guiding principles for DG programming in post-conflict countries, and Part 2 offers best practices and recommendations in 11 key DG sectors:

- Chapter 6: National Constituting Processes
- Chapter 7: Transitional Governance
- Chapter 8: Strengthening Ministries and Executive Branch Agencies
- Chapter 9: Legislative Strengthening
- Chapter 10: Local Governance
- Chapter 11: Transparency/Anticorruption
- Chapter 12: Elections
- Chapter 13: Civil Society
- Chapter 14: Justice and Reconciliation
- Chapter 15: Security Sector Reform
- Chapter 16: Disarmament, Demobilization, and Reintegration

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<sup>1</sup> This guidance incorporates findings from several quantitative studies of post-conflict democracy and governance interventions, but due to the paucity of these studies, it relies more heavily on evaluations of single or small cases to offer best practices in this field.

<sup>2</sup> This guidance focuses on conflicts where a formal peace process, foreign intervention, or regime change has signaled an end to the conflict, whether or not all hostilities have ended.

# PART 1: A NEW APPROACH TO POST-CONFLICT DEMOCRACY AND GOVERNANCE

## 1. CONCEPTUAL APPROACH

Post-conflict states present an urgent need to stabilize insecure environments and reconstruct institutions and services. The needs are vast and assistance in most sectors is warranted. To improve well-being and help prevent a return to conflict, however, **efforts must focus foremost on building effective, legitimate, and resilient states.** State building provides the foundation for stability and sustainable development that must underpin all R&S operations. For this reason, **USAID upholds state building as the highest-order objective of its programming in post-conflict countries.** This prioritization holds equally for DG programs and for programs in other sectors such as health, environment, and economic growth. The primary focus on building resilient states does not apply to steady-state countries.

Instability afflicting fragile situations and countries emerging from conflict results from ineffective and illegitimate governance. To improve well-being and help prevent a return to conflict, efforts must focus foremost on building effective, legitimate, and resilient states.

This conceptual approach to post-conflict states draws on the work of the Fragile States Group of the Organisation for Economic Cooperation and Development’s Development Assistance Committee (OECD-DAC).<sup>3</sup> The Fragile States Group has served as a donor forum for coordination on fragile situations and countries emerging from conflict. USAID has played a major role in the Fragile States Group and the development of shared principles and concepts in fragile states. The OECD-DAC “Principles for Good International Engagement in Fragile States and Situations” prioritizes state building as the central objective of international engagement in fragile states, with the goal of promoting effective, legitimate, and resilient states.<sup>4</sup> Figure 1.1 highlights the 10 principles enumerated in this document.

**TABLE 1.1 STATE EFFECTIVENESS AND LEGITIMACY MATRIX**

		State Legitimacy	
		Low	High
State Effectiveness	High	Unstable	Resilient
	Low	Failed or near failure	Unstable

Source: Modified from USAID, “Service Delivery in Fragile States: Framing the Issues” (USAID, July 30, 2006), 11.

<sup>3</sup> In 2009, the Fragile States Group and the OECD-DAC Network on Conflict, Peace, and Development Co-operation merged and formed the International Network on Conflict and Fragility (INCAF). INCAF moves beyond classical aid management concerns to examine substantive policy issues such as security and conflict prevention, peace building, and state building. In the spirit of the Third High-Level Forum on Aid Effectiveness (Accra, 2008), INCAF is taking an inclusive approach to its work by engaging with partner countries.

<sup>4</sup> Organization for Economic Cooperation and Development, “Principles for Good International Engagement in Fragile States and Situations” (Organization for Economic Cooperation and Development, April 2007), 2.

This approach posits that instability afflicting fragile situations and countries emerging from conflict results from ineffective and illegitimate governance. As laid out in the USAID *Fragile States Strategy*, “Effectiveness refers to the capability of the government to work with society to assure the provision of order and public goods and services. Legitimacy refers to the perception by important segments of society that the government is exercising state power in ways that are reasonably fair and in the interests of the nation as a whole. Where both effectiveness and legitimacy are weak, conflict or state failure is likely to result” as individual leaders mobilize people to express opposition to state ineffectiveness and illegitimacy and the state lacks the power to check it. By contrast, where both effectiveness and legitimacy are strong, a resilient state is likely to result. The matrix in Table 1.1 depicts how high and low levels of effectiveness and legitimacy correspond to the likely level of stability in a country.

Although separating the concepts of state legitimacy and effectiveness provides some analytical benefit, in practice the two concepts are linked. A state’s effectiveness in delivering basic services to its citizens increases its legitimacy, and higher levels of state legitimacy make it easier for the state to carry out its basic functions, such as ensuring law and order, in a smooth and effective manner. Legitimacy and effectiveness are both critical to laying the foundation for a resilient state and the goal should be to advance them in tandem.

**State building is embedded in the political dynamic between elites and social groups.**

Positive state building entails the political capacity to agree on mutual responsibilities of the state and its citizens. For the state, these responsibilities include delivering services such as security; recognizing and enforcing property rights; and pursuing social agendas such as equity, human rights, and religious principles. For the citizen, responsibilities include paying taxes, accepting the state’s legal monopoly on force, abiding by the law, and participating in public affairs. The content of these mutual responsibilities changes from one country and time period to the next, shaped by history, values, and context. **A resilient state must be able to manage the process of change and renegotiate the rules of the game as needed.**

Negotiations among social and political groups influence state functions, ranging in intensity from minimal to activist. Table 1.2 provides a list of common state functions, distinguished by a minimal, intermediate, or activist state role. In the interest of effectiveness and resilience, the state’s role should match its capability. Countries with low state capability need to focus on basic functions, whereas countries with strong capability can, if they choose, take on more activist functions. **Where citizens expect more than the state can deliver, the risk of instability is high.**

In contrast to this à la carte approach, Ghani and Lockhart offer a more prescriptive approach to state functions.<sup>5</sup> They identify 10 key state functions (which include most of the minimal and some of the intermediate functions in the *World Development Report’s* delineation):

1. Rule of law.

**Figure 1.1**  
**Ten Principles for Good International Engagement in Fragile Situations**

1. Take context as the starting point.
2. Do no harm.
3. Focus on state building as the central objective.
4. Prioritize prevention.
5. Recognize the links between political, security, and development objectives.
6. Promote nondiscrimination as a basis for inclusive and stable societies.
7. Align with local priorities in different ways in different contexts.
8. Agree on practical coordination mechanisms between international actors.
9. Act fast, but stay engaged long enough to give success a chance.
10. Avoid pockets of exclusion.

*(OECD, “Principles for Good International Engagement in Fragile States and Situations,” April 2007).*

<sup>5</sup> Ashraf Ghani and Clare Lockhart, *Fixing Failed States: A Framework for Rebuilding a Fractured World* (New York: Oxford University Press, 2008).

2. A monopoly on the legitimate means of violence.
3. Administrative control.
4. Sound management of public finances.
5. Investments in human capital.
6. Creation of citizenship rights through social policy.
7. Provision of infrastructure services.
8. Formation of a market.
9. Management of public assets.
10. Effective public borrowing.

**TABLE 1.2 STATE FUNCTIONS**

	Addressing Market Failure			Improving Equity
Minimal Functions	<i>Providing pure public goods:</i> Defense, Law and order, Property rights, Macroeconomic management, Public health			<i>Protecting the poor:</i> Antipoverty programs, Disaster relief
Intermediate Functions	<i>Addressing externalities:</i> Basic education, Environmental protection	<i>Regulating monopoly:</i> Utility regulation, Antitrust policy	<i>Overcoming imperfect information:</i> Insurance (health, life, pensions), Financial regulation, Consumer protection	<i>Providing social insurance:</i> Redistributive pensions, Family allowances, Unemployment insurance
Activist Functions	<i>Coordinating private activity:</i> Fostering markets, Cluster initiatives			<i>Redistribution:</i> Asset redistribution

Source: World Bank, 1997 *World Development Report* (Washington, DC: World Bank, 1997), 27.

Some critics have suggested, however, that even this list goes too far for states such as Somalia, whose capability is exceedingly low. As the Fragile States Group “Initial Findings” cautions, “While lists of universal core state functions contribute to the current thinking about the purposes and obligations of the state, these must be used with care to avoid overambitious reform agendas.”<sup>6</sup>

The state-building work stream of the Fragile States Group corresponds with much of the donor community’s work on governance. The Fragile States Group defines state building as “an endogenous process to enhance capacity, institutions, and legitimacy of the state driven by state-society relations.”<sup>7</sup> In comparison, an often-used definition characterizes governance as “the traditions and institutions by which authority in a country is exercised.”<sup>8</sup> Governance involves the process by which those in authority are selected, monitored, and replaced; the government’s capacity to effectively manage its resources and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions. USAID’s enhancement of state effectiveness and legitimacy in the state-building rubric also supports the good governance agenda of increasing government transparency, accountability, and

<sup>6</sup> “State Building in Situations of Fragility: Initial Findings” (OECD-DAC Fragile States Group, August 2008), 2.

<sup>7</sup> *Ibid.*, 1.

<sup>8</sup> Daniel Kaufmann, Aart Kraay, and Massimo Mastruzzi, “Governance Matters IV,” World Bank Policy Research No. 3630 (May 2005).

responsiveness to citizens; improving legislative, judicial, and administrative capacity; and fostering an active citizenry.

State building and good governance do not require a specific form of government, although many argue that key elements of these—legitimacy, accountability, public participation, and responsiveness—are best promoted through democratic government. In simple terms, democracy is government in which the people hold the ruling power. They do so by electing leaders and representatives through regular, competitive, multiparty elections within a framework of political rights, civil liberties, and rule of law. When competitive elections are truly free and fair, they provide a basis for conferring legitimacy on a government. They also provide an instrument for removing underperforming leaders from office and so provide an incentive for political leaders to govern more effectively. Democracy also gives citizens non-electoral means—associations, movements, the media—to monitor the conduct of public officials and participate in policymaking. Indeed, it is the U.S. government’s position that democracy and good governance together provide the strongest guarantee of security, justice, and economic development.<sup>9</sup>

Notwithstanding the benefits of democratic transition and consolidation, a word of caution is in order. **The attributes of democracy offer the promise of representative, accountable, and just government only when the enabling conditions are in place alongside the electoral system.** If governments hold elections but do not adequately ensure political rights, civil liberties, and rule of law, they will fall far short of their promise. Citizens must be informed, able, and willing to participate in political processes as candidates, voters, advocates, and monitors for democracy to work. A plethora of qualifying terms has emerged to describe the many governments that have the form of democracy but fall short on content: illiberal, weak, façade, pseudo, semi, and partial. Democracy promotion in post-conflict settings must maintain a focus on enabling conditions alongside the typical clamor for elections.<sup>10</sup>

Moreover, as the work of the Political Instability Task Force has shown, partial democracies are more vulnerable to political crisis and armed conflict than authoritarian regimes or established democracies.<sup>11</sup> Authoritarian regimes rely on repressive tactics to quell the sources of instability and established democracies rely on mature institutions with the capacity to manage competition and resolve grievances between groups, whereas partial democracies possess limited means to manage conflict. For countries transitioning toward democracy, promoting institutions that constrain executive authority, such as the legislature, judiciary, media, local governance, and civil society; downplay factionalism (competition dominated by parochial or ethnic-based political factions that advance only their own particular agendas); and offer opportunities for consensus building is critical for fostering stability and avoiding a return to conflict.

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<sup>9</sup> “Foreign Aid in the National Interest: Promoting Freedom, Security, and Opportunity” (Washington, DC: USAID, 2002).

<sup>10</sup> This point is particularly relevant to the timing of elections, which is discussed further in the tradeoffs chapter and the elections chapter below.

<sup>11</sup> Jack A. Goldstone and Jay Ulfelder, “How to Construct Stable Democracies,” *The Washington Quarterly* 28, no. 1 (Winter 2004–2005): 9–20.

## 2. KEY CHALLENGES TO DEMOCRACY AND GOVERNANCE IN POST-CONFLICT COUNTRIES

The characteristics of post-conflict countries present challenges to DG promotion that call for a different programming approach from that used for stable developing countries. Societies emerging from conflict have weakened systems of governance and operate under disproportionate influence from international actors. The costs, dislocations, and disruptions caused by conflict impede the government's ability to collect revenues and deliver services. Where there is a transition to a new regime, as in cases such as Afghanistan, Iraq, and Kosovo, much of the government workforce and infrastructure ceases to exist in the wake of political settlements, and many of the legal and regulatory framework loses its relevance. Moreover, the international community plays a larger role in post-conflict countries, which can provide additional resources but can also undercut sovereignty and the legitimacy of the new government. Such factors need special attention when advancing programs to strengthen state institutions.

Although post-conflict governments may have severe shortcomings in their administrative capacity, they nonetheless must contend with an urgent demand for services. Depending on the conflict's severity, some portion of the population is likely to have difficulty satisfying its basic needs for food, shelter, and clothing. In addition to providing humanitarian assistance, the government will need to restore infrastructure that was damaged during the conflict, facilitate the restarting of businesses and markets, and provide social services in the health and education sectors, among others. The government typically is bestowed with a short-term legitimacy whose durability is contingent on the government's ability to satisfy public expectations, even if unrealistic. Therefore, it is important to show some immediate results in post-conflict programming.

Post-conflict settings also tend to diminish the public space for pluralism, competition of ideas, and tolerance. The danger involved in political affairs pushes ordinary citizens to retreat from the public arena during and immediately following a conflict and hollows out civil society organizations (CSOs). In a culture of fear and a context of scarcity, independent media also withers. By contrast, strongmen and warlords often gain entry into negotiations to end the conflict and establish post-conflict governments because of their control of armed groups. They also have the monetary and political resources to establish political parties or otherwise participate in post-conflict politics. In some cases, they use their resources to exercise influence at the subnational level, perhaps gaining control of specific geographical areas without use of violence, as in Colombia. Conflict, moreover, often ignites animosities based on religious, ethnic, or tribal identities and so weakens democratic norms of tolerance. In this context, donors should give special consideration to programming that fosters tolerance, moderation, consensus building, and participation.

In addition to these challenges to good governance, post-conflict societies face continuing threats of violence and criminality. In many countries, disarmament, demobilization, and reintegration (DDR) programs fall short of their goals, leaving an abundance of weapons among the population and demobilized soldiers without gainful employment. Government security forces fall short of a goal of professional, well-trained, and civilian-led soldiers and police. In addition, conflict in many cases has allowed corruption and organized crime to flourish. Once established, corrupt networks can be hard to dislodge.

These challenges to good governance make post-conflict countries more vulnerable to instability than other countries. The damage caused by conflict, in addition to the conditions that led to conflict in the first place, makes lasting peace difficult to achieve. Research shows that nearly 30 percent of negotiated settlements break down after five years, and 40 percent break down after a decade.<sup>12</sup> For this reason, a thorough understanding of the factors working against peace in a country is essential to guide programming toward reducing drivers of conflict and promoting mitigating conditions, which is discussed more fully in the next chapter.

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<sup>12</sup> Paul Collier, Anke Hoeffler, and Måns Söderbom, *Post-Conflict Risks* (Centre for the Study of African Economies, Department of Economics, University of Oxford, 2007).



### 3. ASSESSMENT

An in-depth analysis of the conflict as well as the DG dynamics must inform USAID's DG strategy in post-conflict countries. The Interagency Conflict Assessment Framework (ICAF) provides a way of understanding the dynamics driving and mitigating a conflict. The conflict analysis can feed into the USAID Democracy and Governance Assessment Framework to generate strategic DG recommendations. The ICAF entails a broader, more general analysis of key forces at work in the country and so ideally should precede the more focused DG assessment. Proximity of the two assessments will strengthen the analysis, as will overlapping participation or comprehensive consultations between the respective teams. Complementing the ICAF and the DG Assessment Framework, this chapter shows how to draw from both frameworks to develop DG strategic plans in post-conflict countries.

The Reconstruction and Stabilization Interagency Policy Committee approved the ICAF in July 2008 and recommended that an ICAF be the first step in any interagency planning process to inform USG goal establishment, activity design or reshaping, program implementation or revision, or resource re/allocation. If a conflict assessment has not been conducted, the DG strategic planning team may recommend that the interagency conduct a conflict assessment, but it may need to perform the conflict analysis itself prior to the DG assessment. The most effective ICAF will be one carried out in the field with host country involvement. However, the ICAF is scalable and flexible and can be carried out in Washington or in both Washington and the field. It can involve as little as one day or as much as three weeks. The conflict assessment has generally taken three weeks of LOE to conduct the necessary interviews, review materials, and write a report, but it may need to be completed in less time to inform urgent programming.

What follows is a brief overview of the steps involved in the conflict analysis and the DG assessment. More complete information on each, respectively, can be found at:

<http://www.crs.state.gov/index.cfm?fuseaction=public.display&shortcut=CJ2R> and [http://pdf.usaid.gov/pdf\\_docs/PNACH305.pdf](http://pdf.usaid.gov/pdf_docs/PNACH305.pdf)

#### **Conflict Analysis**

The ICAF lays out several steps in diagnosing the conflict, which are summarized below.

##### **Step 1: Establish context.**

The ICAF calls first for an examination of the context and focuses on long-standing conditions that may foster conflict, such as environmental conditions, extreme poverty and inequality, youth bulge, or regional instability. For post-conflict countries, this framework also examines:

- The nature of the recent conflict—for example, independence movement (Kosovo, Timor-Leste); irredentists seeking to reclaim adjacent territory (Bosnian Serbs); competition for control of the state (post-invasion Iraq); and opposition to an authoritarian government (El Salvador, Guatemala, Indonesia).
- The scope and duration of the recent conflict.
- The settlement of the conflict, whether through decisive victory, exhaustion, or a negotiated settlement.
- The role of outsiders and international actors, which reflects not only geopolitics but also the nature of the settlement, as less reconciled conflicts call for more intrusive external intervention.

##### **Step 2: Understand core grievances and sources of social and institutional fragility and resilience.**

The ICAF then calls for a description of identity groups who believe others threaten their identity, security, or livelihood. Next it asks assessment teams to examine how societal patterns and institutional performance

reinforce conflict or contribute to its resolution. Societal patterns and institutional performance that could reinforce conflict include elitism and exclusion on the one hand and corruption, lawlessness, and a state unable to provide basic services on the other. By contrast, societal patterns and institutional performance that could contribute to conflict resolution include a culture of compromise on the one hand and traditional dispute mechanisms, inclusive national dialogue, and equitable access to services on the other.

**Step 3: Identify drivers of conflict and mitigating factors.**

The ICAF next asks assessment teams to identify key actors who are central to producing, perpetuating, or profoundly changing the societal patterns or institutional performance identified in Step 2. For key actors, a team writes brief narrative statements describing why and how each actor mobilizes constituencies around core grievances and, separately, around sources of social and institutional resilience. The statements relating to core grievances are listed in a table under the heading “Drivers of Conflict,” whereas the statements relating to sources of social and institutional resilience are listed in a table under the heading “Mitigating Factors.” The example of the Democratic Republic of Congo, presented in Table 3.1, illustrates Step 3.

**TABLE 3.1 CONFLICT DIAGNOSIS, DEMOCRATIC REPUBLIC OF CONGO**

<b>CONFLICT DIAGNOSIS</b>	
<b>Drivers of Conflict</b>	<b>Mitigating Factors</b>
Self-interested leaders responding to the absence of social services and the lack of signs of improvement mobilize disgruntled groups to march on government representatives or exit from the system through formal or de facto secession.	A leader utilizes a sense of Congolese identity to urge participation in the peace plan among competing identity groups in Kivu.
A self-interested leader operating in a culture of ethnic polarization mobilizes a vulnerable group upset by perceived wrongs to seek to remove one or more other groups from their region.	Nonstate actors provide social services to the majority of people who receive services, providing short-term mitigation against conflict by meeting some needs.
Victims form armed groups such as Mai Mai militias in response to predatory actions by the military and police.	The Extractive Industries Transparency Initiative may become more important in mitigating conflict as more of this industry moves into the formal sector.

Source: “Democratic Republic of Congo Conflict Assessment: Substantive Findings of the June 24-26, 2008 Interagency Conflict Assessment Framework (ICAF) Application Workshop.”

**Democracy and Governance Assessment**

The conflict diagnosis can serve as an input into the DG assessment. The information can help to define the DG problem and identify key actors and institutions, which are the first steps in conducting a DG assessment. The following text helps to elucidate how a DG assessment team can draw on the conflict diagnosis.

**Step 1: Define the democracy and governance problem.**

The DG assessment calls first for an analysis of DG in a country, using five key variables: consensus, rule of law, competition, inclusion, and administrative effectiveness. In post-conflict countries, many if not all of these DG aspects will be weak, but they will be weak to varying degrees and with differing implications for

stability and the consolidation of democracy. Moreover, various combinations of these variables increase the likelihood of renewed conflict and state failure. In particular, significant increases in competition or inclusion in an environment characterized by poor public administration, rule of law deficits, and/or a lack of consensus on fundamentals can be especially explosive as those in power may reject challenges to their dominance.<sup>13</sup>

**Consensus** plays a critical role in creating state legitimacy and avoiding renewed conflict. It involves the ability of key actors to agree on fundamental issues of national identity and citizenship, basic rules of the political game, and governing arrangements. Angola, Georgia, Nigeria, and Sri Lanka provide examples of the potentially disastrous consequences of the absence of consensus. For example, in Sri Lanka, disagreements between the Tamils and the Sinhalese have led to an on-and-off civil war since 1983 as the Liberation Tigers of Tamil Eelam have fought for the creation of an independent state in the north and the east of the island. In post-conflict countries, national dialogues and constituting processes can help to forge a consensus, but only with a sustained commitment of time and effort. The DG assessment team should examine the extent of consensus in the society as well as the prognosis for improvements.

**Rule of law** also underpins efforts to rebuild state resilience and reduce the risk of renewed conflict. Restoring order and security is vital to augmenting state legitimacy and effectiveness. By consolidating the use of force into government institutions, a post-conflict state increases its legitimacy. Moreover, the proper functioning of administrative and commercial law improves service delivery and stimulates economic recovery, and a judicial system that offers a structured and impartial approach to conflict resolution can discourage recourse to violence. The assessment team should pay attention to the state's potentially uneven capacity to maintain law and order in different spheres (e.g., government services, private sector, property rights, criminal law) and across different regions.

**Competition** is the essence of democracy but is not necessarily a recipe for stability. In fact, competition can be destabilizing by encouraging the advancement of contending points of view and by allowing some groups, ideas, or corporate entities to succeed as others fail. In post-conflict countries, institutions that structure competition in the least destabilizing ways are key to avoiding renewed conflict. As discussed in the tradeoffs section below, for example, measures that foster power sharing for an interim period may mitigate the winner-take-all aspect of multiparty elections while tensions are still high. In the economic realm, a social safety net can mitigate the dislocations of layoffs and bankruptcies attendant with economic competition while jobs and business opportunities are still scarce. In exploring these and other potential scenarios, a DG assessment team might find it helpful to think about the potential tipping points where an increase in competition can exacerbate drivers of instability and perhaps cause a return to conflict.

Rectifying **inclusion** problems, which are at the heart of many conflicts, can be critical to lasting stability. In many cases, including previously disadvantaged or excluded groups in power-sharing arrangements becomes a centerpiece of peace agreements. In a highly polarized society, however, governmental decision making that requires inclusion of actors with vastly different views and interests may result in either paralysis or substantial patronage to overcome the resistance of some of the players. This kind of inclusion may generate problems for democratic consolidation as well as governance, as further elucidated in the tradeoffs section below. Other forms of inclusion, such as universal franchise and equal access to government services, may offer more clear-cut advantages for stability.

**Administrative effectiveness** is another important element of stability and democratic consolidation. If the government is not effective at providing essential public goods and essential needs are not met, it will likely foment opposition and be replaced through the competitive process or some less benign process. While acknowledging that public administration deficits in a post-conflict setting are usually extensive, the DG assessment team should nonetheless determine whether the state is unable or unwilling to ensure the

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<sup>13</sup> This point and some of the following discussion of the five DG variables is drawn from Guilain Denoex, "Conducting a Strategic Assessment in a Fragile State: Issues for Consideration" (USAID, June 2005).

provision of security and other basic services to a significant segment of its population or to an important portion of its territory.

In defining the DG problem, the assessment team should draw on the conflict diagnosis. Many of the drivers of conflict and mitigating factors will track with one of the five DG variables used in the DG assessment framework. Again using the example of the Democratic Republic of Congo, the first driver of conflict, related to the absence of social services, is an effective administration issue; the second driver of conflict, related to ethnic polarization, is an inclusion issue; and the third driver of conflict, related to predatory actions of the military and police, is a rule of law issue. Similarly, the first mitigating factor, related to a sense of Congolese identity, is a consensus issue; the second mitigating factor, related to the provision of social services, is an effective administration issue; and the third mitigating factor, related to the Extractive Industries Transparency Initiative, is also an effective administration issue.

## **Step 2: Identify key actors and institutions.**

The next step in the DG assessment entails the key actors and institutions that can support or obstruct democratic reforms. The actors, together with the institutions that structure their incentives, constitute the main drivers of political change. Identifying the proponents and opponents of specific reforms, along with the resources they can mobilize, is necessary to craft an optimal DG strategy. The DG assessment calls for an examination of key actors and institutions within nine areas that are often important for democratic reform, though not necessarily in the same depth. The specific context and DG problems in the country should direct the analysis to focus on the actors and institutions most central to democratic reform. The nine areas of analysis are:

- The Legal System
- The Legislature
- The Executive
- Local Government
- Political Parties and Electoral Institutions
- Civil Society
- Media
- Other Nonstate Actors
- International Community

In completing this step, the assessment team can again draw on the conflict assessment, which identifies key actors and institutions that are central to producing, perpetuating, or profoundly changing societal patterns or institutional performance. In the example of the Democratic Republic of Congo, the ICAF identifies as key actors and institutions governmental actors (the president, four vice presidents, ministers, local ministers, army, police, judiciary, national assembly and provincial assemblies, and *fonctionnaires*), rebel groups (General Nkunda and the Democratic Forces for the Liberation of Rwanda), international actors (including international companies, Angola, Belgium, Burundi, China, Rwanda, South Africa, Sudan, Uganda, the United Nations, the United States, and other donors), a variety of civil society actors, and the Extractive Industries Transparency Initiative. A completed ICAF will provide some, if not sufficient, information on the interests, resources, alliances, opponents, and strategies of key actors and institutions.

### Step 3: Identify the donor’s position.

The first two steps of the assessment lead to the identification of the central DG problems and the likely supporters and opponents of reform. The third step introduces USG and USAID interests and resources. Given USG’s and USAID’s position, Step 3 may call for a reordering of priorities in the strategy or even the recommendation that the USG undertake no democratization program at all. The assessment considers six aspects of the USG and USAID position:

- USG and USAID interests.
- USAID’s current DG program.
- Other USAID and USG assistance programs.
- USAID’s resources.
- USAID’s comparative strengths and weaknesses.
- Practical constraints on the recipient side.

### Step 4: Distill the strategy.

The final step of the assessment entails arraying the key problems for stability and consolidation of democracy alongside the allies and opponents of democratic reform and the donor’s interests and resources. The key problems include the drivers of conflict listed in the conflict diagnosis along with any other DG problems that the assessment team has identified. Using a table like the one below, the DG assessment team makes a programming recommendation for each of the DG problems.

**TABLE 3.2 PROGRAMMING RECOMMENDATIONS**

Key DG Problem	Actors and Institutions	Donor Position	Programming Recommendation

Once the DG team has developed broad programming recommendations based on the conflict analysis and DG assessment, it needs to evaluate the tradeoffs inherent in the post-conflict environment that can reinforce or undermine DG programming in the short, medium, and long term. An understanding of recurring tradeoffs allows the DG team to shape DG programs to reduce negative consequences. The next section explores this issue.

## 4. KEY TRADEOFFS

In post-conflict countries, DG programming involves recurring tradeoffs. These tradeoffs arise from the pursuit of peace after war through democratic politics. As Jarstad and Sisk note, “[D]emocracy and peace do not always move forward hand in hand: sometimes, advances in democratization threaten peace, and the compromises necessary for peace restrict or defer democratization.”<sup>14</sup> What results are competing needs and priorities for advancing both agendas and laying the foundation for sustainable development. An awareness of these tradeoffs helps to guide strategic choices and reduce negative consequences. There is no best response to these tradeoffs; rather, the specific context shapes the better course of action. In general, however, **when the choice is between securing the peace and promoting democracy, peace should be given priority.** The threat of renewed conflict should not, however, be used as an excuse for maintaining a permanent state of authoritarianism; usually there are avenues for promoting democracy that are less likely to threaten peace. The following discussion fleshes out these tradeoffs and provides insights into evaluating the options.

### Meeting Needs versus Building Capacity

Meeting needs versus building capacity refers to the tradeoff between relying on private or international entities to meet the population’s immediate needs and thereby reduce the risk of instability and laying the more time-consuming groundwork for state institutions to deliver essential services themselves and strengthen the nascent democracy’s legitimacy and effectiveness. Often there is an urgency to restore electricity, repair roads, reopen clinics and schools, and otherwise signal that the new government can meet the population’s needs in order to garner public support for the post-conflict state. In the interest of expediency, the international community frequently provides these services itself or in partnership with private entities. By doing so, however, the assistance providers may crowd out rather than strengthen the weak capacity of post-conflict states and create a situation of dependency. Moreover, specific practices of many international donors and nongovernmental organizations (NGOs) work against capacity building in post-conflict states: by offering high salaries, they lure talent away from government jobs, and by delivering aid directly to recipients, they shut state agencies out of serving their citizenry. These practices can lead to a donor-funded parallel public sector that can undercut a government’s legitimacy.

However, donors can modify their assistance practices to support—not replace—weak state institutions in post-conflict societies. Donors can help to establish transparent and participatory decision-making processes that allow communities to identify their priorities and can strive to ensure that host country officials play a visible role in the delivery of government services (Figure 4.1).

#### FIGURE 4.1 BUILDING HOST GOVERNMENT CAPACITY AND CREDIBILITY

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USAID’s Office of Transition Initiatives (OTI), for example, frequently works with local government officials and communities employing in-kind assistance, procuring goods or services directly for entities that do not have the capacity to do so themselves or cannot meet USAID accounting requirements, and then ensuring that government officials are involved not just in the decision-making and prioritization processes but also in the actual delivery of services to communities. In this way, local governments not only take credit for responding to local priorities but develop their capacity for transparent decision making and problem solving over time. Wherever possible, OTI also ensures that a particular government ministry or local administrative body is recognized during the delivery of assistance through obtaining waivers to branding so that the local counterpart is acknowledged

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<sup>14</sup> Anna K. Jarstad and Timothy D. Sisk, eds., *From War to Democracy: Dilemmas of Peacebuilding* (New York: Cambridge University Press, 2008), 1.

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as the service provider rather than USAID, highlighting that state legitimacy should take priority over goodwill toward the United States.

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In addition to modifying donor practices, another approach to this tradeoff entails examining which services may be better suited than others to provision by the government. In the post-conflict context, low-capacity governments can choose to focus on ongoing tasks such as revenue collection and delegate one-off tasks such as resettling internally displaced persons to the international community. Regarding ongoing tasks, moreover, states can choose to supply services themselves or contract them out to nonprofit and for-profit entities. Where the state opts for the latter course, it must set standards, procure the services, and conduct oversight of the service providers. As the *World Development Report* cautions, however, “Contracting works best where outputs are easy to specify and markets are strong, so that the effectiveness of alternative suppliers can be readily judged.”<sup>15</sup> Markets tend not to be strong in post-conflict societies, but governments can use service contracts, management contracts, leases, and long-term concessions to help align contractor incentives more closely with their own. In addition, governments can and should seek the assistance of civil society in monitoring service delivery.

Another approach to this issue is to examine the specificity, transaction volumes, and international professionalization characterizing each sector and major type of service to evaluate how suitable external assistance is to each. Cliffe and Manning note, “Sectors with high specificity, low transaction volumes, and a significant degree of accepted international professionalization—such as central banking and defense—are in principle likely to be more receptive to rapid and intensive international support.”<sup>16</sup> In sectors such as education and police where the opposite conditions prevail, “a slower and more deliberate process, which allows national stakeholders to produce their own ideas on institutional design to fit their underlying societal conditions and preferences, is likely to be more successful than the import of ready-made international models.”<sup>17</sup>

Whether the government decides to provide services itself or manage the service production of others, the international community’s role must diminish over time. International and local authorities must establish clear lines of responsibility and a timetable, laying out when and how they will transfer authority to local officials and nonstate providers such as businesses, churches, charities, and community-based organizations.<sup>18</sup> In this transfer of authority, mentoring relationships must commence as soon as possible. Figure 4.1 provides a useful example of an explicit transitional strategy to build national capacity in the health sector in Timor-Leste.

This transitional nature of international involvement underscores the importance of domestic ownership and the sustainability of services. Rather than seeing a post-conflict country as tabula rasa, donors must examine what methods, values, and capacity already exist and focus on ways to build on them. Enclaves of capacity may exist in one ministry or region of the country, and donors should aim to support them. In post-Taliban Afghanistan, for example, the health sector was functioning, whereas the education sector was not. Donors also must exercise caution in their reform agendas and resist introducing unsustainable standards in service delivery. Respecting the resource limitations a government will likely face, donors should aim to help a

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<sup>15</sup> *World Development Report 1997: The State in a Changing World* (Washington, DC: World Bank, 1997), 88–89.

<sup>16</sup> Sarah Cliffe and Nick Manning, “Practical Approaches to Building State Institutions,” in *Building States to Build Peace*, ed. Charles T. Call with Vanessa Wyeth (Boulder, CO: Lynne Rienner Publishers, 2008), 169.

<sup>17</sup> *Ibid.*, 179.

<sup>18</sup> United States Agency for International Development, “Service Delivery in Fragile States: Framing the Issues” (USAID, July 30, 2006).

government deliver the highest-priority services well rather than a broader range of services with questionable quality and reliability.<sup>19</sup>

#### **FIGURE 4.2 BUILDING NATIONAL CAPACITY IN AN EMERGENCY OPERATION**

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Timorese and international counterparts accepted at the beginning of the reconstruction period that Timorese government capacity for public health management and service delivery would not immediately be adequate to take over from the humanitarian NGOs. A transition strategy was therefore used to progressively strengthen the government's capacity for public health management. This was an effective manner of maintaining acceptable service standards while promoting national ownership of policy and planning and national capacity building. The transition strategy in the health sector in Timor-Leste involved four phases, explicitly planning a gradual move from emergency provision of critical basic services toward an integrated public health management system:

**PHASE I:** During the initial emergency phase, NGOs reestablished essential services, saving lives and alleviating the suffering of a population traumatized by the recent violence. An Interim Health Authority was established in February 2000 comprising 16 senior East Timorese health professionals based in Dili and one in each district along with a small number of international experts. Interim Health Authority staff made assessment visits to all districts in preparation of a first sectoral planning exercise.

**PHASE II:** The health authority (now called the Department of Health Services) started work on the establishment of a policy framework; medium-term planning for the sector; and national preventive programs, including immunization campaigns. During the second half of 2000, the Department of Health Services signed memoranda of understanding with NGOs for each district to formalize district health plan service standards and initiated a basic system for distribution of essential pharmaceuticals.

**PHASE III:** In April 2001, the Ministry of Health took over the financing of a majority of district NGOs. By the third quarter of 2001, the first round of health staff recruitment had been completed. Most of these staff had worked with NGOs or on government stipends prior to finalization of the recruitment process. Several senior staff members in the department were also sent for public health management training.

**PHASE IV:** At the government's request, NGOs gradually withdrew from the districts between September and December 2001, and the management of all health facilities was placed under the control of the Ministry of Health. International doctors were hired to replace departing NGO practitioners while Timorese doctors were being trained overseas, and five public health specialists were deployed to serve as a relay between the Ministry and district health centers. A new Autonomous Medical Store and associated tracking system were established for pharmaceuticals distribution. A few NGOs remained to provide specialized services countrywide.

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Source: Laura Bailey, "Good Practice on Implementation Arrangements and Capacity Building in Post-Conflict Situations" (World Bank, April 2007).

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<sup>19</sup> Francis Fukuyama, *State-Building: Governance and World Order in the 21<sup>st</sup> Century* (Ithaca, NY: Cornell University Press, 2004).



## **Executive Power versus Checks and Balances**

Executive power versus checks and balances refers to the tension between concentrating power in the executive branch to push through a reform agenda and ensuring that the process moves through and helps strengthen the post-conflict state's deliberative and oversight institutions. International donors often avoid broad deliberative processes to better guide and expedite service delivery, preferring to work with strong executives such as Arafat in Gaza and Karzai in Afghanistan. This approach, however, comes at the expense of reform ownership and institution legitimacy and often fails to generate the envisioned gains in effectiveness. Indeed, promulgating reforms by decree may address the perceived need for urgency and adherence to the "right" course of action but fails to engage stakeholders and legislators in consultations, which help to inform reform measures and contribute legitimacy to the decisions. This may be particularly important where the government needs to build supportive constituencies as a mechanism to overcome divisions in the country that were either the cause or the result of a conflict.

Concentrating power in the executive branch of government, moreover, can facilitate abuse of governmental power and contribute to state fragility. In fact, Political Instability Task Force research has shown that a dominant chief executive was one of the main factors driving a country's risk of instability.<sup>20</sup> The overconcentration of political power is an extremely difficult dynamic to reverse at later stages of consolidation, so assistance providers should resist this temptation and seek to strengthen legislative and judicial institutions, media, local governance, and CSOs. When functioning well, this range of institutions secures the checks and balances that keep a democracy responsive and accountable to its citizens; however, assistance to them will have to be prioritized in the overall strategy and be allocated over time.

## **Power Sharing versus Power Dividing**

Power sharing versus power dividing refers to the tension between bringing rival groups together in a joint exercise of power and dividing power among independent organs of government and between government and civil society. Increasingly, the international community has pushed power-sharing arrangements in post-conflict countries to induce combatants to sign a peace agreement. Operating for a transition period, such interim arrangements have brought rival groups together in governing coalitions in Afghanistan, Angola, Bangladesh, Bosnia and Herzegovina, Burundi, Cambodia, Chad, Colombia, Comoros, Cyprus, the Democratic Republic of Congo, Guinea-Bissau, Ivory Coast, Kosovo, Lebanon, Liberia, Macedonia, Mali, Mexico, Nepal, Rwanda, Sierra Leone, South Africa, Sudan, Tajikistan, and Uganda, among others. This joint exercise of power can facilitate conflict resolution and lay a foundation for cooperation and compromise, although it also may fail to do so.

In addition to exercising power jointly at the national level, power-sharing arrangements tend to grant rival groups some measure of self-government. To the extent that discrimination based on ethnic, racial, or religious identities fueled the conflict, allowing rival groups to formulate policies and provide government services for themselves can help to mitigate conflict. This can include, for example, providing public funding for religious schools and institutions, offering public services in their own languages, recognizing group-specific holidays, and including traditional justice as part of the legal system. Where groups are geographically concentrated, federal structures can provide this kind of autonomy. Where groups are dispersed, parallel institutions or rule systems can provide services differentially to constituents in the same area. Granting this kind of autonomy can lead to tensions, however, if the services offered to different groups are of notably different quality. It can also create new minorities in federal regions and serve to amplify social differences over time. The duplication of bureaucracies, such as courts and educational systems, can also increase administrative costs.

Although power-sharing arrangements often succeed in securing a peace accord, they can become a source of instability in their implementation. Power sharing with mutual vetoes may erode the efficiency of

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<sup>20</sup> Goldstone and Ulfelder, "How to Construct Stable Democracies," 9–20.

government and increase the likelihood of decision-making deadlock. This is especially problematic where former belligerents do not share norms and aspirations. In Sudan, for example, the lack of common aspirations has meant that the northern and southern negotiators have fought strenuously over all aspects of the peace process, forestalling its conclusion. Power sharing can also limit democracy by according leaders of identity-based groups dominance over a deferential following with limited options for alternative allegiance. Power sharing thus limits both competition among elites and accountability of elites to the citizenry and can contribute to corruption. The arrangement also shuts other groups out of the arrangement, giving them an incentive to spoil the peace, and tends to exclude moderates from the governing coalition.

Over the longer term, power-sharing arrangements can entrench identity-based politics and discourage a transition to issue-based politics. They allow a narrow focus on the interests of relatively closed social or communal groups to dominate policymaking rather than a more encompassing focus on the nation's interests. This kind of factionalized political competition represents a latent threat to stability if power sharing breaks down and polarization were to emerge, as illustrated by the recent efforts of Bosnian Serbs to weaken central institutions and cause Bosnia to disintegrate. A variant of power sharing tries to reduce the incentive of exploiting identity-based divisions for political aims through such methods as trans-ethnic districting or requiring that political parties recruit members from two-thirds of a country's states, as Nigeria has. Nonetheless, this so-called integrative approach (in contrast to the consociational approach) still privileges one dimension of social cleavage—identity—in designing and apportioning power in government institutions.<sup>21</sup>

In response to the problems generated by power sharing for mitigation of conflict and consolidation of democracy over the longer term, peace accords can stipulate a time period for ending power sharing after a transitional period. Such sunset clauses have facilitated a successful transition from power sharing to competitive elections in Colombia, Liberia, Sierra Leone, and South Africa. The abolition of power sharing can be a source of conflict, however, as was the case in Cambodia in 1993 when the losing party refused to accept that they lost the election.<sup>22</sup>

Power-dividing arrangements, by contrast, aim to mitigate conflict by limiting the ability of one group to impose its will on others. They do this by expanding individual liberties and taking many decisions (such as religion) out of the hands of government and then dividing the government's remaining responsibilities among separate, independent branches and agencies that represent alternative, crosscutting majorities. Following Madison and the framers of the U.S. Constitution, separate branches of government can prevent one group from overreaching its authority. As Rothchild and Roeder note, "Presidentialism with a real balance of powers between executive and legislature is typically preferable to parliamentarism in protecting democracy and human rights; bicameral legislatures with competing bases of representation are similarly preferable to unicameral bodies; and independent judiciaries empowered with judicial review over the acts of legislatures and executives are also preferable to weak judiciaries."<sup>23</sup>

At the subnational level, the power-dividing approach advises against federalism in ethnically divided societies and instead calls for the creation of multiple, overlapping jurisdictions with governing boards elected by different majorities. For example, it recommends not making the domain of school boards, water basin authorities, transportation development districts, and city councils coterminous but instead creating multiple majorities that make decisions within a limited range of policy issues.

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<sup>21</sup> For more on the consociational versus the integrative approach to power sharing, see Donald Rothchild and Philip G. Roeder, "Power Sharing as an Impediment to Peace and Democracy," in *Sustainable Peace: Power and Democracy after Civil Wars*, edited by Philip G. Roeder and Donald Rothchild (Ithaca, NY: Cornell University Press, 2005).

<sup>22</sup> Anna K. Jarstad, "Power Sharing: Former Enemies in Joint Government," in *From War to Democracy*, ed. Jarstad and Sisk, 122.

<sup>23</sup> Donald Rothchild and Philip G. Roeder, "Power Sharing as an Impediment to Peace and Democracy," in *Sustainable Peace: Power and Democracy after Civil Wars*, ed. Philip G. Roeder and Donald Rothchild (Ithaca, NY: Cornell University Press, 2005), 17.

## Political Appointments versus Meritocracy

Political appointments versus meritocracy refers to the conflict between according warlords and other powerful figures a key role in the post-conflict state to keep the peace and opening leadership roles to a wider pool of candidates. Bringing the main perpetrators of violence into the government can embolden them to lay down their weapons, give them a stake in the post-conflict settlement, and facilitate compromise between rival factions. Especially when the conflict does not lead to a decisive victory and rival groups retain significant power, peace negotiators often attempt to bring potential spoilers into the governing tent.

Warlords are not, however, typically the best qualified individuals to assume the challenging role of state building. They tend to have less education, less experience in government, and less interest in pursuing a public agenda than other citizens. Once in positions of power, they predictably perform poorly. In Afghanistan, for example, the decision to give warlords prominent jobs in the post-Bonn agreement government has contributed to weak governance and corruption. In many cases, jihadi commanders replaced experienced staff with relatives and cronies, many of whom were illiterate, incompetent, and corrupt.<sup>24</sup> Similarly in Liberia, the 2003 peace accords gave each of the three rival military forces control of five ministries, three state-owned enterprises, and two autonomous state agencies. Although this division secured a peace agreement, it led to massive looting of state resources and in 2005 prompted the international community to take on a much more stringent oversight role in the form of the Governance and Economic Management Assistance Program (GEMAP).

Meritocracy, on the other hand, offers a much stronger basis for rebuilding the state and strengthening DG. Appointing qualified persons to office has the advantage of improving the government's technical strength and institutional capacity, as well as having a normative appeal in rewarding talent rather than aggression. One potential drawback with meritocratic appointments, however, is that they could reinforce ethnic or social divisions or gender roles if one group is more skilled or experienced and therefore better placed to secure the top positions. This was the case with the Tutsis, who were more educated and favored by colonizers in pre-genocide Rwanda.

A few strategies can alleviate the tension between political appointments and meritocracy. One strategy is to allow political considerations to dominate appointments initially but to grant warlords time-limited positions and give merit-based selection criteria more precedence over time.<sup>25</sup> Part of this strategy could entail enhancing citizens' understanding of the political process and desire for accountability as a way to increase their demand for meritocracy over time. Another approach is to introduce more stringent international oversight, as was done under GEMAP,<sup>26</sup> alongside these political appointments. A third approach is to remove the most egregious offenders—for example, Ishmael Khan in Afghanistan—from office and otherwise shuffle warlords into different positions where they may have less of a power base, for instance by moving them from their region to the capital.

## Early Elections versus Allowing Time for Political Processes to Mature

Early elections versus allowing time for political processes to mature refers to the tension between holding elections in the first year or two after the conflict and waiting until conditions improve for credible elections. Calling elections in the wake of a peace agreement provides a way to legitimize the provisional system of

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<sup>24</sup> Antonio Giustozzi, "'Good' State vs. 'Bad' Warlords? A Critique of State-Building Strategies in Afghanistan," Crisis States Programme Working Paper No. 51 (London School of Economics, October 2004).

<sup>25</sup> Charles T. Call, "Building States to Build Peace," in *Building States to Build Peace*, ed. Charles T. Call (Boulder, CO: Lynne Rienner, 2008), 377.

<sup>26</sup> GEMAP, "Mid-Term Evaluation of the Governance and Economic Management Programme (GEMAP): Evaluation Report," August 15, 2008  
[http://www.gemapliberia.org/files/gemap\\_evaluation\\_report\\_final\\_version.doc#\\_Toc206902553](http://www.gemapliberia.org/files/gemap_evaluation_report_final_version.doc#_Toc206902553).

government and an exit strategy for the international community. Early elections can also help to replace illegitimate or ineffective office holders. The 2000 municipal elections in Kosovo, for example, allowed Albanian moderates to push out the hardliners who had taken over local offices after the Serbs had withdrawn from the province following the 1999 NATO bombing of Yugoslavia.

However, early elections can jeopardize the effort to build democracy and peace. Early elections can heighten ethnic or socio-ethnic tensions as groups compete for positions of power. They can also put the perpetrators of conflict in power because political parties and alternative leaders have not had time to mature. Moreover, people are concerned with safety immediately after a conflict and so are more likely to elect those who can credibly promise to maintain order or protect their followers rather than advance economic development, social justice, or some other inclusive agenda. The election of nationalists in Bosnia in 1997 is often seen in this light. Worse still, early elections can pave the way for renewed conflict if the electoral losers have not disarmed, as was the case in Angola in 1992 and Liberia in 1997, or if not all groups are on board, as was the case with the Sunni boycott of the 2005 parliamentary elections in Iraq.

Where consensus on the basic rules of the game is still lacking, it is best to promote a national constitutional dialogue or other social reconciliation effort prior to holding elections. In what is widely cited as a success case, political and social actors in South Africa spent more than four years engaged in such a dialogue leading up to the first post-apartheid election in 1994. Efforts to establish a minimum level of civil liberties, political rights, rule of law, and citizen understanding of elections must also accompany election planning to realize the benefits of democratic elections.

### **Justice versus Stability**

Justice versus stability refers to the tension between providing accountability for war crimes and other human rights violations and ensuring that an examination of the past does not reignite the conflict. In most post-conflict countries, there is a need to provide some accounting for past crimes to address victims' grievances, advance the new government's legitimacy, and deter future crimes. This kind of examination of the past can be destabilizing, however, as former warlords and other strongmen may resist a full accounting of their actions through a return to violence.

The nature of the peace influences how aggressive the post-conflict government can be in its pursuit of justice. The relative weakness of the chief perpetrators of violence and the interest of the international community in justice push for a more aggressive accounting of the past, as occurred in Rwanda and El Salvador. By contrast, tribunals in Cambodia and Guatemala have dragged on for one or more decades.

Retributive justice and restorative justice represent different responses to the tradeoff. Retributive justice is punitive and typically takes the form of tribunals, whereas restorative justice tends to be less punitive. Restorative justice attempts to restore relations between victims and offenders using community involvement and participation wherever possible and typically takes the form of truth commissions and community-based reconciliation mechanisms. It emphasizes the larger need of society to learn from past violence and conflict to avoid it in the future, thus breaking the cycles of violence and vengeance. Governments can blend both retributive and restorative functions by offering amnesty to perpetrators who agree to testify and subjecting others to indictment. Post-apartheid South Africa pursued this approach in 1996. Peru also blended retributive and restorative justice in its Truth and Reconciliation Commission, formed in June 2001, which worked to study political violence from 1980 to 2000; document human rights violations; determine responsible actors; and provide proposals concerning reparations, national reconciliation, and violence prevention.

## 5. PROGRAMMATIC GUIDELINES

### Prioritization and Sequencing

The literature on state building does not offer a uniform position on prioritization and sequencing. Although most analysts include security at the top of their priority list, their treatment of political, economic, administrative, and judicial functions of the state varies. This variance points to the importance of context in determining priorities, as discussed further below.

The USAID/United Nations Development Programme (UNDP) report “First Steps in Post-Conflict Statebuilding” examines the cases of Timor-Leste and Liberia to identify priorities in state building. The report identifies security as the most critical state function in a post-conflict situation. Without the state’s legitimate monopoly on the means of violence, it stresses, nothing else can work. In addition to DDR, the report notes that repatriation for internally displaced persons and refugees, humanitarian assistance; basic market formation, employment generation, and civil service pay are urgent priorities for states in the first four to five months after a peace agreement.<sup>27</sup> In the second phase of reconstruction, lasting roughly 18–24 months after a peace agreement, the state needs to prioritize police, border patrol, and army development; a constitution; legitimizing elections; civil society and media; management of public finance; infrastructure; civil service rebuilding; human capital investment; rule of law; truth and reconciliation; and customary law. It is only after the second phase that the report recommends focusing on management of natural resources, export crop production, and service delivery management (Table 5.1).

The RAND publication *The Beginner’s Guide to Nation-Building* also identifies security and humanitarian assistance as first priorities but lays out a different prioritization for the other state functions. Its proposed hierarchy of state-building tasks includes judicial reform as part of the security dimension and prioritizes basic governance over economic stabilization. Its suggested prioritization is as follows:

- Security: peacekeeping, law enforcement, rule of law, and security sector reform.
- Humanitarian relief: return of refugees and response to potential epidemics, hunger, and lack of shelter.
- Governance: resuming public services and restoring public administration.
- Economic stabilization: establishing a stable currency and providing a legal and regulatory framework in which local and international commerce can resume.
- Democratization: building political parties, free press, civil society, and a legal and constitutional framework for elections.
- Development: fostering economic growth, poverty reduction, and infrastructure improvements.

As the authors note, this prioritization “is not to suggest that the above activities should necessarily be initiated sequentially. If adequate funding is available, they can and should proceed in tandem. But if higher-order priorities are not adequately resourced, investment in lower-order ones is likely to be wasted.”<sup>28</sup>

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<sup>27</sup> Harry Blair and Katarina Ammitzboell, “First Steps in Post-Conflict Statebuilding: A UNDP-USAID Study” (USAID and UNDP, 23 February 2007), 23.

<sup>28</sup> James Dobbins, Seth G. Jones, Keith Crane, and Beth Cole DeGrasse, *The Beginner’s Guide to Nation-Building* (Santa Monica: RAND Corporation, 2007), 27.

**TABLE 5.1 CORE STATE FUNCTIONS, PRIORITIES, AND PHASES**

Domain	Core function	First phase (4-5 months after UN mandate)	Second phase (18- 24 months after UN mandate)	Third phase (begins with turnover)
Security	Legitimate monopoly over violence (disarmament & demobilization)			
	Repatriation for IDPs and refugees			
	Reintegration			
	Humanitarian assistance			
	Police, border patrol, army			
Political	Constitution (or operating rules)			
	Legitimizing elections			
	Civil society & media			
Economic	Basic market formation			
	Employment generation			
	Management of public finance			
	Management of natural resources & export crop production			
Administrative	Civil service (pay)			
	Infrastructure			
	Civil service (rebuilding)			
	Human capital investment			
	Service delivery management			
Judicial	Justice system - rule of law			
	Truth and reconciliation			
	Customary law & alternative dispute resolution systems			

	Urgent & heavy priority		Serious but less urgent priority		Lower priority
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Source: Harry Blair and Katarina Ammitzboell, "First Steps in Post-Conflict Statebuilding: A UNDP-USAID Study" (USAID and United Nations Development Program, February 23, 2007).

The Fragile States Group framing paper "From Fragility to Resilience," however, posits a different prioritization. It identifies three policy dimensions that should be the focus of post-war engagement: "political processes that legitimate the state; the development of the framework of the rule of law, including

with respect to economic governance; and the re-establishment of a framework of security, including but not limited to reconstitution of the state security apparatus.” The paper stresses the importance of pursuing these three areas in tandem and not sequentially. It states, “Efforts to achieve ‘security first,’ for example in the Palestinian territories, in the absence of legitimate political governance, have repeatedly failed.”<sup>29</sup>

A series of interviews of practitioners involved in post-conflict reconstruction generates yet a different prioritization. In case studies of El Salvador, Kosovo, and Afghanistan, interviewees noted that security and provision of livelihoods were the top priority for the state.<sup>30</sup> Regarding Kosovo, most also mentioned the provision of essential basic services, including getting the lights on, as a priority, although this was not identified as a priority for the other two cases. As Kosovars were accustomed to a higher level of public services before the conflict than was the case in the other two countries and much of the power grid had been damaged during the war, the resumption of those services was an important signal of a return to normalcy and a key factor for legitimating the post-conflict government. Beyond convenience, the restoration of electricity contributed to reduced crime on the street and an improved business environment. This difference illustrates the situation-specific nature of prioritization and sequencing.

### **Flexible Programming**

Although change is the backdrop of all development assistance, institutions and actors in post-conflict environments change more rapidly than in the typical developing country. Flexibility in the design of DG programs is therefore necessary to capitalize on events and emerging trends, as well as the advent of new information and resources. Within the framework of a strategic vision, it is essential to build in flexibility to allow for periodic and sometimes rapid adjustments to programming and financing. More regular assessments of trends and impact; more decentralized decision making; and more flexibility in staffing, procurement, and field operations than are the norm for stable development scenarios allow programming in post-conflict countries to respond to threats and opportunities emerging in different parts of the country and in relation to different issues. As elaborated in Figure 5.1, USAID’s Office of Transition Initiatives (OTI) has pioneered many of these strategies.

### **Interagency Coordination**

In December 2005, President Bush issued National Security Presidential Directive 44 (NSPD-44) to improve management of reconstruction and stabilization operations. The Presidential Directive states that the State Department is responsible for leading and coordinating integrated U.S. efforts to prepare, plan for, and conduct reconstruction and stabilization activities. The Office of the Coordinator for Reconstruction and Stabilization (S/CRS) has assumed this role at the State Department and engaged with the interagency to develop a new approach to this work. In 2008, the U.S. House of Representatives passed the Reconstruction and Stabilization Civilian Management Act of 2008, H.R. 1084, which codified the establishment of S/CRS and identified USAID as a key partner in carrying out the interagency mandate.

Approved by senior decision makers in March 2007, the Interagency Management System (IMS) for Reconstruction and Stabilization provides the structure for whole-of-government operations. The IMS consists of three elements:

- *Country reconstruction and stabilization group.* A Washington-based decision-making body equivalent to a policy coordinating committee with a planning and operations staff.

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<sup>29</sup> “From Fragility to Resilience: Concepts and Dilemmas of Statebuilding in Fragile States,” OECD Fragile States Group Framing Paper (January 2007), 20.

<sup>30</sup> Joel Jutkowitz, Susan Burgerman, and Phyllis Dininio, “The Importance of Context: Case Studies in Sequencing” (USAID, 2008).

- *Integration planning cell.* A civilian planning cell deployed to the relevant geographic combatant command or multinational headquarters to integrate and synchronize civilian and military planning.
- *Advance civilian team.* A team that deploys to the field to support the chief of mission.

**FIGURE 5.1 FLEXIBLE PROGRAMMING AND THE OFFICE OF TRANSITION INITIATIVES**

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Since 1994, the USAID Office of Transition Initiatives (OTI) has addressed more than 45 post-conflict, transition, and stabilization crises in more than 35 countries. OTI's mandate is to support U.S. foreign policy objectives by helping local partners advance peace and democracy in priority countries in crisis. Seizing critical windows of opportunity, OTI works on the ground to provide fast, flexible, short-term assistance targeted at key political transition and stabilization needs. Flexible, timely program interventions are achieved through a mix of full-time staff; a "bullpen" or surge capacity division of around 20 individuals who can deploy worldwide on short notice; and a group of seven prequalified firms tasked with mobilizing rapidly to target countries, as well as partnerships with international organizations and private voluntary and nongovernmental organizations. Programming areas include peace and reconciliation, conflict prevention, human rights, elections, civil-military relations, transitional justice, demobilization and reintegration of noncombatants, anticorruption, independent media development, short-term employment generation, and stabilization interventions with U.S. and host country military counterparts.

OTI programs are typically two to three years in duration. Interventions are intended to be highly visible, provide tangible benefits of peace, serve as catalysts for positive political change, and buy time for longer-term political and economic reforms. The office applies a range of programming tools, including small grants of in-kind support to nascent local organizations, short-term technical assistance to government counterparts and civil society, and partnerships with other donors. OTI reaches out to new and untested local partners willing to focus on issues of higher risk but with potentially greater impact. The office utilizes an information management system that provides real-time data to all staff on specific activities, local partners, key objectives, and program impact, allowing for up-to-date reporting on program interventions and in-depth analysis of recent trends in grants. In addition, given the fluidity and unpredictability of post-conflict environments, programs are continuously evaluated and adjusted based on rolling assessments that analyze assumptions at the strategic, program, and project level.

OTI works closely with other offices in USAID's Bureau of Democracy, Conflict, and Humanitarian Assistance, USAID regional bureaus, USAID Missions, the Department of State, National Security Council, and other counterparts to identify programs that complement other assistance efforts and lay a foundation for longer-term development. Additional information, including a list of current and past country programs and program evaluations, can be found at: [http://www.usaid.gov/our\\_work/cross-cutting\\_programs/transition\\_initiatives/](http://www.usaid.gov/our_work/cross-cutting_programs/transition_initiatives/).

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Depending on the specific contours of the crisis, USAID Democracy and Governance Officers could serve on any of these three bodies.



The IMS is designed to provide coordinated, interagency policy and program management for complex, priority crises. The IMS is flexible and scalable to meet the particular requirements on the ground and can integrate personnel from all relevant USG agencies. To provide a surge capacity to respond to such crises, new staff are being recruited into a Civilian Response Corps that supplements current personnel in participating agencies. In addition, current staff are being recruited to serve in the Standby Component of the Civilian Response Corps. As a country situation evolves, the IMS structures can be absorbed into routine Embassy structures and the responsibilities for assistance can be cycled back into normal planning and budgeting cycles. Information on joining the Civilian Response Corps can be found at:

<http://www.crs.state.gov/index.cfm?fuseaction=public.display&shortcut=4TWM>.

Aligning USG resources to achieve a U.S. foreign policy goal makes sense; the effort is complicated, however, because each agency brings a different set of skills and agendas to an issue. In the field of foreign assistance, three USG organizations play a dominant role: the Department of Defense provides military force; the Department of State provides diplomatic services and guidance for formulating foreign policy; and USAID provides development assistance, including disaster response. Although their functions can be complementary, innate conflicts exist among them.

Even within USAID, multiple offices have responsibility for post-conflict programming. The Office of Foreign Disaster Assistance and OTI typically establish programs on the ground in the immediate post-conflict period and phase out their programs within two to three years, whereas the Office of Democracy and Governance and the Office of Conflict Mitigation and Management typically engage with a longer lead time and a longer-term focus. Coordination among these offices is also important to achieve maximum synergies and program impact.

### **Working with the Military**

In many post-conflict countries, USAID will need to coordinate its DG work with the U.S. military. Development and security are intertwined and interdependent in these unstable areas. Along with diplomacy, they are key elements in any successful whole-of-government effort to support reconstruction and stabilization. Operating in their conventional lanes, USAID assumes the lead role for development and the Department of Defense assumes the lead for security.

Increasingly, however, the Department of Defense is assuming a larger role in development. In large part responding to the shortcomings of the Iraq and Afghanistan occupations, **Department of Defense Directive 3000.05 (November 2005) makes stability operations a priority comparable to combat operations for the U.S. military.** The directive instructs the military to develop the capabilities to carry out R&S operations in the absence of civilian capacity, even if they are not ones for which the military is necessarily best suited.<sup>31</sup> With a robust budget and staff, the Department of Defense is quickly developing this capability.

The Department of Defense has developed several guides that delineate the military's role in DG operations. The Stability Operations Field Manual establishes support to governance and establishment of civil control in the justice sector as two of the Army's five stability tasks.<sup>32</sup> The Field Manual states that some degree of military support to governance and justice may be necessary "if the host nation government cannot adequately perform its basic civil functions." It continues, "In extreme cases, where civil government is completely dysfunctional or absent altogether, international law requires the military force to provide the basic civil administration functions of the host nation government under the auspices of a transitional military

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<sup>31</sup> "Civilian-Military Cooperation Policy" (USAID, July 2008).

<sup>32</sup> "Field Manual 3-07" (U.S. Army, September 5, 2008), 2–5. The other three stability tasks are establishing civil security, restoring essential services, and supporting economic and infrastructure development.

authority.”<sup>33</sup> Whether the military is in a supporting role or serving as the transitional authority, the manual notes that military forces could:

- Vet host nation officials.
- Reconstitute leadership at multiple levels of government.
- Establish interim legislative processes.
- Advise and assist transitional administrations.
- Establish mechanisms for local-level participation.
- Identify, secure, rehabilitate, and maintain basic facilities for the local government.
- Restore essential local public services.
- Provide resources to maintain essential local public services.
- Implement or reaffirm government employee oaths of office.
- Develop and disseminate ethical standards for civil servants.
- Ensure transparency in the dispersal of government resources.
- Implement reporting procedures for corruption and intimidation.
- Support witness protection programs.
- Determine identification requirements for voter registration.
- Establish or verify voter registry.
- Provide security to ensure free and fair elections.
- Institute interim justice measures that resolve the most urgent issues of law and order until host nation processes and institutions are restored.
- Establish a system of reconciliation to address grievances and past atrocities.
- Establish a legitimate, accountable host nation justice system and supporting infrastructure.

In addition to the Field Manual on Stability Operations, the Peacekeeping and Stability Operations Institute of the U.S. Army War College has developed a manual that provides more detailed guidance on the military’s role in reconstituting governance, and the U.S. Joint Forces Command is developing a series of handbooks on the military’s role in justice and governance. Also, the U.S. Army and Marine Corps published the Counterinsurgency Field Manual in 2007, which highlights the need for integration of military and civilian activities in counterinsurgency. (See the full references in the bibliography.)

The missions of the Department of Defense and USAID now overlap, but their organizational cultures and modes of operations and decision making differ greatly. USAID created the Office of Military Affairs within the Bureau for Democracy, Conflict, and Humanitarian Assistance and has placed at least one USAID employee in each of the five geographic military combatant commands to increase understanding, linkages, and harmonization between the two organizations. The International Development and Humanitarian

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<sup>33</sup> Ibid., 3–13.

Assistance Interagency Policy Committee created a Sub-Interagency Policy Committee for Civil-Military Relations to improve interaction among U.S. civilian and military agencies—for example, to support a whole-of-government approach to security sector reform and to identify ways to link planning among agencies. In addition, civilians and military participate in civilian-military exercises and whole-of-government R&S training and education events to increase familiarity with how the different organizations are structured and operate; how they gather, analyze, and disseminate information; how they make decisions; and the time horizons within which they operate.

### **Partnering with the Host Nation**

The way donors seek to engage with partners and foster change is as important as the structural and technical considerations related to planning and implementing assistance. Donors must be cognizant of local customs and citizens' perceived needs, values, and expectations and should monitor their operations to ensure that they take these into account. In delivering assistance, donors should aim to use and help strengthen local institutions and systems wherever feasible. For some organizations, this can entail a difficult transition from reliance on donor systems to local systems.

To foster ownership, local citizens should lead the change effort as early and as much as possible. Donors should strive to identify and support local champions from the public sector and civil society to serve as spokespersons, conveners, and managers of reform efforts. Donors should also facilitate dialogue on policy issues by fostering venues in which discussions can occur and building skills in negotiation and conflict management. Finally, donors should help to build local constituencies for reform through raising people's awareness of their shared interests and facilitating avenues for participation in policy decision making and implementation. The Paris Declaration on Aid Effectiveness and the Accra Agenda for Action affirm these principles on partnering with host nations (Figure 5.2).

### **International and Donor Coordination**

However well-intentioned, unilateral reform efforts that do not take place within an encompassing framework can lead to wasted resources, procedural disharmony, and dysfunctional institutions. A strategic framework is necessary to coordinate the myriad programs of donors and international organizations. It entails a shared vision for DG reform as well as synchronized programs. Ways to achieve a shared vision include facilitating a multidonor, locally led inclusive strategic planning process and facilitating forums or other opportunities for donors and local stakeholders to come to consensus on institutional approaches.

#### **FIGURE 5.2 THE PARIS DECLARATION AND THE ACCRA AGENDA FOR ACTION**

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The Paris Declaration on Aid Effectiveness, signed in March 2005, promotes enhanced aid effectiveness by committing donors to the following principles:

- Ownership - developing countries set their own strategies for poverty reduction, improve their institutions, and tackle corruption.
- Alignment - donor countries align behind these objectives and use local systems.
- Harmonization - donor countries coordinate, simplify procedures, and share information to avoid duplication.
- Results - developing countries and donors shift focus to development results and results get measured.
- Mutual Accountability - donors and partners are accountable for development results.

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The Accra Agenda for Action, drawn up in 2008, presents an agenda to

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accelerate progress on the Paris Declaration through commitment to the following principles:

- Predictability - donors will provide 3- to 5-year forward information on their planned aid to partner countries.
  - Country Systems - partner country systems will be used to deliver aid as the first option, rather than donor systems.
  - Conditionality - donors will switch from reliance on prescriptive conditions about how and when aid money is spent to conditions based on the developing country's own development objectives.
  - Untying - donors will relax restrictions that prevent developing countries from buying the goods and services they need from whomever and wherever they can get the best quality at the lowest price.
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Once a strategic plan is formed, ongoing coordination is necessary to avoid discrepancies, gaps, and duplication in program implementation (Figure 5.3). Where the local administration is in place, it can serve as the locus for coordination, as in Afghanistan. Where a UN mission is present, the Senior Representative of the Secretary General (SRSG) can assume this role, as in Kosovo, Liberia, and Timor-Leste. The use of pooled funds can also promote donor coordination, relying on a multilateral body such as the World Bank to undertake the management and accountability of reform expenditures. As a matter of policy, USAID has not contributed to pooled donor funds because it could not ensure accountability to the American public for use of the funds; however, this is beginning to change.

### **FIGURE 5.3 LACKING DONOR COORDINATION IN KOSOVO**

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In Kosovo, the process of drafting new codes of criminal procedure lasted several years and was dominated by one group of donors. Simultaneously, police reform efforts were underway with another group. Neither group coordinated with the other. The result was significant discrepancies in rules governing the investigative process, such as evidence handling. Six years after initial interventions, those discrepancies are finally being resolved, requiring further time and resources, as well as retraining.

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Through the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action, donor agencies have agreed to improve coordination through simplified procedures, harmonization, and transparency in their planning (see Figure 5.2).

## **PART 2: PROGRAMMING RECOMMENDATIONS**

Part 2 lays out programming recommendations for each DG subsector. This treatment allows for more specificity and nuance than would treating the sector as a whole, but it runs the risk of conceptualizing program options without sufficient consideration of their linkage to other program areas. Programming in one DG subsector clearly affects and is affected by other subsectors, but the same is also true for much of the programming that USAID undertakes across its assistance portfolio. Programming in transitional governance and executive authority, for example, impacts and is impacted by programming in health, education, economic growth, and environment. More broadly, anticorruption and civil society programming is best pursued through mainstreaming the initiatives across all sectors. Given the importance of these linkages, DG personnel should stay informed of the broader USAID portfolio and work with many people at post. The focus of the DG program will suggest the linkages that are most salient. They may include the defense attaché, political officer, and security officer at the U.S. Embassy and program officer, economic growth officer, and OTI officer in the USAID Mission.

Where these linkages are particularly salient, however, they will appear in more than one chapter. With an understanding that the chapters may stand alone, the authors have included a discussion of the most salient linkages. For this reason, there is some repetition across the chapters.

Each chapter contains a discussion of framing issues, tradeoffs, programming options, and resources. Appendix B contains information on programmatic tools that can help DG officers develop programs and Appendix C contains information on monitoring and evaluation in post-conflict environments.

## 6. CONSTITUTING PROCESSES

### Framing Issues

The process of drafting and adopting a constitution plays a foundational role in the establishment of post-conflict governance. It offers an opportunity to manage and gain from diversity and to promote stability through agreement on a new set of rules and principles of governance. These fundamental rules and principles include agreement on such issues as the religious or secular identity of the state; the regional distribution of power; the division of power across executive, legislative, and judicial branches of government; the electoral system; political rights and civil liberties; the obligations of citizens to the state; citizenship criteria; official languages; and minority rights. There are close to 200 national constitutions in existence today, and citizens have written or rewritten more than half of them in the last quarter-century. Most of these efforts took place in countries transitioning to democracy or out of conflict. In post-conflict countries, amending or replacing the old constitution has become an integral part of peacemaking and stabilization processes.

Increasingly, the constituting process is not a restrictive, technical, and legal exercise but an opportunity for citizens to engage in a national dialogue and negotiate solutions to the divisive issues that led to violence. National dialogues can begin a process of healing and reconciliation and can advance the democratic education of the population. Participation also helps avert charges of partisanship or external control. A broad-based participatory process has become as important as the content of the final document for the legitimacy of the new constitution.

Public participation in the preparation of new constitutions can take many forms. One involves public consultation before or after development of the draft through open forums, meetings with civil society groups, interviews, surveys, and solicitation of written contributions. Another form of public engagement involves identifying delegates to draft the constitution. The use of elections is the most participatory way to identify delegates, selection by interest group representatives is less so, and appointment by the legislature or executive is the least participatory method of identifying delegates. The method for identifying delegates needs to consider how to include women and minorities in the delegate pool. A third form of participation involves the public's ability to check the behavior of delegates through referenda.<sup>34</sup>

High levels of participation have marked recent constitution-making processes in many post-conflict countries. In Nicaragua following the civil war, for example, 100,000 citizens took part in open town meetings, generating 4,300 suggestions on the draft constitution. In South Africa's transition from apartheid, a massive public campaign stimulated the submission of more than two million written comments to the constitutional assembly (Figure 6.1). And in post-genocide Rwanda, thousands of trained facilitators worked in the provinces for six months to educate and stimulate debate on the constitution-making process. Subsequently, 90 percent of the electorate voted on the constitutional referendum, and 93 percent of voters approved the new constitution.<sup>35</sup>

Current research shows that participatory constitution-making processes tend to result in more democratic and peaceful outcomes than processes without citizen input. A 2004 study by the International Institute for Democracy and Electoral Assistance concludes that inclusive processes produced more democratic attributes in 12 constitutions, including free and fair elections, political equality, social justice provisions, human rights protections, and accountability mechanisms. For example, participatory processes led to provisions on corruption and social and economic justice in the Kenyan constitution and protections for marginalized

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<sup>34</sup> Jennifer Widner, "Constitution Writing and Conflict Resolution," Research Paper No. 2005/51 (United Nations University-World Institute for Development Economics Research, August 2005), 7.

<sup>35</sup> Vivien Hart, "Democratic Constitution Making," 7–9.

groups in the Guatemalan constitution.<sup>36</sup> A 2005 study by Jennifer Widner, moreover, shows that selecting constitutional drafters through a national election is more propitious for lasting peace in post-conflict countries than the less participatory method of appointing drafters by the executive.<sup>37</sup>

### **FIGURE 6.1 PARTICIPATORY CONSTITUTION MAKING IN SOUTH AFRICA**

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Four years elapsed between the first meeting of then opposition leader Nelson Mandela and South African Prime Minister P. W. Botha in 1989 and their agreement on an interim constitution in 1993. The interim constitution allowed the dialogue of transition to continue and included sunset clauses so provisions in the interim constitution did not become permanent.

Under the terms of the interim constitution, the country held its first nonracial election for a constituent assembly in 1994. The constituent assembly reached out to educate the public and invite their views. The educational effort included a media and advertising campaign using newspapers, radio and television, billboards, and the sides of buses; an assembly newspaper with a circulation of 160,000; political cartoons; an informational website; and public meetings. Together these efforts reached an estimated 73 percent of the population. From 1994 through 1996 the constitutional assembly received two million submissions from individuals and main advocacy groups, professional associations, and other interests on the drafting process and content.

In tandem with the participatory campaign, committees of the assembly drafted a new constitution. A first draft was published in November 1995, a revised draft was produced in April 1996, and a final text in May 1996. After the constitutional court reviewed the text, the assembly made final amendments and President Mandela signed the constitution into law in December.

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Source: Adapted from Vivien Hart, "Democratic Constitution Making," 7-8.

In generic terms, the constitution-making process has three phases, although a country may not follow each of these steps or may pursue them in an alternate order.

The **preparatory phase** includes:

- Initial negotiations concerning procedure, outline of the process, timeline, basic principles, and agenda.
- Possible adoption of an interim constitution.
- Identification and possible establishment of a body to draft the document (e.g., a constitutional commission) and a body to review and adopt the constitution (e.g., a constituent assembly).
- Initial civic education, public information, and consultations on potential constitutional changes.

The **constitutional drafting phase** includes:

- A national dialogue on key constitutional provisions.

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<sup>36</sup> Kirsti Samuels, "Post-Conflict Peace-Building and Constitution-Making," *Chicago Journal of International Law* 6, no. 2 (Winter 2006): 6-7.

<sup>37</sup> Jennifer Widner, "Constitution Writing and Conflict Resolution," 15.

- Extensive consultation with legal experts and advisors, the international community, a broad array of stakeholders, political parties, and the public, including surveys, solicitation of written comments, meetings, and interviews.
- Preparation of an initial draft through transparent drafting committees.

The **review and adoption phase** includes:

- A public information campaign on the draft constitution.
- Review by the legislature, courts, constitutional assembly, and public.
- Modification of the draft in response to public and expert comments.
- Adoption of the constitution.
- Public education on the final product.

## **Key Tradeoffs**

National constituting processes confront two key tradeoffs, as discussed below.

### **Public participation versus elite support**

In many post-conflict countries, there is a tension between the demand for a consultative process that empowers the people and the desire of the elite to maintain the status quo. Participatory processes can present a threat to ruling elites; they may seek to undermine the constitution-making process or the constitution's implementation. In Kenya, for example, a statutory requirement that gave Kenyans the opportunity to participate in the 2003 constitutional review spurred official ambivalence and attempts to block their participation. In Zimbabwe, popular demands for a new constitution conducted on participatory lines led President Mugabe to establish a commission in 1999, which received about 7,000 written submissions and held more than 4,000 meetings. But the participatory process was a façade: the president controlled the commission, and when partisan disputes surfaced, intimidation and violence erupted. In a referendum, the electorate rejected the draft constitution by 54 to 46 percent because it failed to reflect the wishes of the people.<sup>38</sup> Similarly in Uganda, a highly participatory constitution-making process did not prevent President Museveni from subsequently rejecting the presidential term limits laid out in the constitution in his bid for a third term.

As these examples highlight, major resistance from ruling elites should not be ignored. Because they are likely to retain resources and avenues of leverage, ways to respond to or offset their major concerns deserve consideration. Adopting an incremental and iterative process over a long period of time can help to mitigate elite opposition in some situations. The international community can also play a role in some cases by convincing elites there is no alternative or helping enforce the constitution's implementation. The appropriate course of action will respond to the particular political dynamics between ruling elites and the demands for public participation in the country.

### **Ambitious agenda versus piecemeal approach**

In the wake of conflict, citizens often seek to reframe their system of governance within a new constitution that is less likely to lead them into conflict. The constitution-making process takes on an ambitious agenda of establishing new institutional structures and forging a sense of national identity. Where societies are deeply divided, however, a comprehensive dialogue can risk reigniting conflict rather than alleviating it. In these situations, a piecemeal approach to constitution making can avert the destabilizing exercise of defining the

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<sup>38</sup> Vivien Hart, "Democratic Constitution Making," 9.



state's norms and identity in the wake of conflict. This process separates peace negotiations from constitution making and may enable interim constitutional structures to allow the process to unfold without restrictive timelines. In South Africa, for example, an interim constitution facilitated a phased constitution-making process stretching over seven years.

A piecemeal approach to constitution writing leaves vague more contentious issues, such as the relationship between religion and state, citizens' rights, and citizenship criteria or defers their resolution to the future. The drafters focus instead on the less contentious but critically important institutional aspects of the constitution. Israel and India offer two examples of countries that successfully employed strategies of ambiguity and avoidance in their post-conflict constitutional deliberations. More recently, Afghanistan and Iraq have resorted to ambiguity by incorporating contradictory provisions of Islamic Shari'a and liberal democracy in their constitutions.<sup>39</sup>

## Programming Options

Donor support of national constituting processes focuses on constitution drafting and public consultations.

### Constitution drafting

Once national leaders decide to write or amend the constitution, they need to identify institutions that will prepare the draft and conduct deliberations on its provisions. There are many variations for carrying out these tasks. Most typically, countries establish a constitutional commission to draft the text. A drafting commission is conceived as a nonpartisan, technical body, although sometimes its composition reflects a degree of societal diversity. Some countries that establish a constituent assembly dispense with a constitutional commission, giving all constitution-making tasks to the constituent assembly.

National leaders also need to identify a body to review, amend, and adopt the constitution. Typically this is a politically and socially representative body such as a national legislature (Colombia, India, Sri Lanka), a constituent assembly (Iraq), or a national conference (Afghanistan, Chad). Where a national legislature is in place, it can offer an expedient option for constitutional deliberations, but it is less participatory than the other two bodies: it prioritizes the interests of politicians, restricts groups who participate, and is subject to legislative procedures that may limit constitutional provisions. In some countries, executive-directed processes or peace negotiations among warring parties serve as the main deliberative body rather than a more representative assembly. Of 194 post-conflict constitutions written between 1975 and 2002, 80 percent moved through a legislature, constituent assembly, or national conference; 23 percent relied on executive-appointed bodies; and 6 percent emerged from peace negotiations.<sup>40</sup>

Constitution making is foremost an exercise in self-expression. It provides an opportunity for citizens to define their national identity and political order. It is not, therefore, an area ripe for heavy foreign involvement. The appearance of control by foreigners, such as the Coalition Provisional Authority in Iraq or the United Nations Mission in Kosovo, can delegitimize the constitution. With national actors clearly in the lead, however, international donors can provide some support for the process.

*Provide research and advice to locally driven constitution-drafting efforts.* Donors can support efforts to establish institutions for constitution making and to evaluate choices among competing models and systems of governance. The international community can fund legal and technical advisors or a research unit to provide in-depth analysis of key topics for the drafters, such as electoral systems, federalism, division of powers, and best practices on procedural rules. Best practices on procedural rules include announcing a clear timetable and criteria for extensions; setting up working committees within the first few days; adopting a low quorum

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<sup>39</sup> Aliza Belman Inbal and Hanna Lerner, "Constitutional Design, Identity, and Legitimacy in Post-Conflict Reconstruction," in *Governance in Post-Conflict Societies: Rebuilding Fragile States*, ed. Derick Brinkerhoff (New York: Routledge, 2007).

<sup>40</sup> Jennifer Widner, "Constitution Writing and Conflict Resolution," 8.

requirement and qualified majority voting rules in place of high quorums and simple majorities (to avoid boycotts); and developing the capacity for simultaneous interpretation, rapid translation, and rapid publication of texts.<sup>41</sup> Drafters would then need to evaluate how lessons from other countries might apply to the culture and history of their country and modify the lessons as needed. In Bolivia, for example, USAID's OTI worked with other donors to equip a Constituent Assembly Information Center with computers and internet access to allow staff to provide legislative and technical information for the 255 delegates tasked with rewriting the country's constitution. The Center provided services of both Bolivian and international specialists with expertise in systems of government, citizen rights and responsibilities, administration of land and natural resources, and other topics that the delegates needed to address.

## Public Consultations

The timing of public consultations varies considerably, with some countries seeking public input before preparation of the initial draft, some seeking input after preparation of a draft constitution, and a smaller number providing opportunities for input in both periods. Increasingly, governments are consulting the public prior to the drafting stage, as was done in Eritrea, Ethiopia, Kenya, Thailand, and Uganda. Early consultations give the people a greater role in shaping the constitution's topics and scope. Where governments opt instead to consult the public after the drafting stage, the scope for discussions is limited to a set of constitutional propositions. In this arrangement, however, the government can use a questionnaire to provide preliminary input from citizens in the drafting stage, as was done in Afghanistan.

A referendum allows the public a final say on the constitution. It serves to legitimize the document and enables the public to hold the constitutional drafters accountable for their text. As Ghai notes, "The consideration that at the end of the process the product of consultations and negotiations will be subject to the scrutiny of the people acts to keep the interests and aspirations of the people in front of the constitution makers."<sup>42</sup> Many countries choose not to hold constitutional referenda, however. If the body approving the constitution is truly representative, a referendum may not be necessary.

*Focus on accessibility and inclusion.* Ideally, public consultations on the constitution should seek input from the full spectrum of political, religious, ethnic, disabled, gender, and economic interests. In post-conflict situations, however, many factors work against broad participation. Illiteracy, language barriers, physical barriers, social exclusion, personal insecurity, limited freedom of speech and assembly, and weak civil society can impede the ability of individuals or groups to participate in the constitution-making process. Designing outreach programs and avenues for participation to mitigate these impediments can help make the process more inclusive. Providing information in multiple languages and in oral form, holding meetings at times and places that facilitate women's attendance, providing documents in accessible formats and holding meetings in accessible locations that facilitate the attendance of people with disabilities, guaranteeing minority and female representation through reserved seats, providing security for voters in a constituent assembly election or referendum, and supporting CSOs are all ways that can help broaden public participation in the process. For example, in March 2007, USAID's OTI helped a Nepalese organization—the Nepal National Dalit Social Welfare Organization—organize a constituent assembly awareness campaign for the Dalits, traditionally the most marginalized people in the country. The program mobilized 25 peace facilitators to undertake 221 orientations and 48 Village Development Committee-level dialogues on the constituent assembly for 6,630 people from Dalit communities. In addition, OTI sponsored 33 performances of songs and dances on the constituent assembly to reach out to illiterate populations.

*Support civic education campaigns.* For citizens to take part in constitutional deliberations, they need an understanding of the key topics at issue in the constitution's drafting. A civic education campaign can

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<sup>41</sup> Paul Williams, "The Constitution-Making Process" (paper presented at the Parliamentary and Expert Roundtable on Constitutional Issues, July 21, 2006).

<sup>42</sup> Yash Ghai, "The Constitution Reform Process: Comparative Perspectives" (paper presented at Kathmandu: Toward Inclusive and Participatory Constitution Making Conference, August 3–5, 2004).

increase the general public's familiarity with political issues and enable them to better participate in the constitution-making process. These campaigns can use mass communication media, supplemental materials for schools, local forums, and mobile theater to inform citizens of all ages and literacy levels about the constitutional deliberations. In Eritrea between 1994 and 1997, for example, officials used songs, poems, stories, plays in vernacular languages, and radio to reach communities with markedly low literacy rates.<sup>43</sup> In Iraq, local facilitators addressed a more educated population through seminars and forums on federalism, elections, and democracy, reaching nearly 800,000 citizens.<sup>44</sup> Where they exist, CSOs can support the work of public officials in developing and implementing public education campaigns. Donors can provide funding for outreach efforts by government and civil society.

*Ensure transparency through regular communication.* In addition to educational materials, regular information dissemination on the drafting process is critical to allow the public to participate in the process. The public needs to understand how the drafting process is progressing, how people can provide input, and how the drafting committee is responding to inputs from the public. Establishing partnerships with media outlets and issuing regular press releases, radio updates, and public service announcements in local languages can promote transparency and control rumors about the constitutional process.

*Allow time for public participation.* Public participation in the constitutional process requires adequate time for airing diverse points of view and negotiating consensus positions. Although a range of political factors can influence the timeline, in general, a schedule apportioned in terms of years rather than months provides opportunity for substantive national dialogue. On one end of the spectrum, the constitutional timeline in Afghanistan allotted only two months for the public consultation period, and many Afghans felt excluded from the process<sup>45</sup> (Figure 6.2). On the other end of the spectrum, national dialogue in Uganda stretched over 10 years before culminating in the 1995 constitution.

*Consider an expanded national dialogue.* Many countries have fostered a continuing process of negotiations on a broader range of issues than those addressed in the peace agreement. In Mozambique, for example, negotiations aimed at local-level reconciliation took place in many communities alongside formal negotiation of the Rome Accords. Similarly in South Africa, parallel negotiations dealt with economic issues and violence reduction and supported the formal constitutional deliberations.<sup>46</sup>

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<sup>43</sup> Vivien Hart, "Democratic Constitution Making," 7.

<sup>44</sup> Aliza Belman Inbal and Hanna Lerner, "Constitutional Design, Identity, and Legitimacy in Post-Conflict Reconstruction," 60.

<sup>45</sup> Cornelia Schneider, "The International Community and Afghanistan's Constitution," *Peace, Conflict and Development: An Interdisciplinary Journal* 7 (July 2005): 185–6.

<sup>46</sup> Thomas Ohlson and Mimmi Soderberg, "From Intra-State War to Democratic Peace in Weak States" (paper presented at Department of Peace and Conflict Research Conference, Uppsala University, Sweden).

## FIGURE 6.2 PROBLEMS WITH PUBLIC CONSULTATIONS IN THE AFGHAN CONSTITUTION-MAKING PROCESS

Sima Samar, the Chairperson of the Afghan Independent Human Rights Commission, identifies the following problems with the conduct of public consultations in the 2002–2003 constitution-making process:

“In Afghanistan, the Constitution Commission tried to consult with the public soliciting public opinion. However, this process was not very transparent. First, the draft Constitution was not shared with the civil society until almost the last day before the Loya Jirga (a grand assembly used in Afghanistan to decide important political matters), where it was to be ratified. Second, little effort was made to ensure that the public understood the constitution and the process of constitution making. Third, local commanders and local authorities played a dominant role in the process. The educated sector and civil society had little involvement. Not only were they not included in the process, educated people felt that they could not share their opinions openly because of the poor security situation. Fourth, the questionnaires that were distributed to the public to solicit their opinions were very difficult for them to understand. Fifth, even when the public did complete questionnaires, the Constitution Commission did not have the capacity to read and incorporate these opinions into the process.”

Source: Sima Samar, “Building Capacity for Democracy, Peace, and Social Progress,” The 6<sup>th</sup> International Conference of New or Restored Democracies (Doha, Qatar, October 29 – November 1, 2006), 11.

*Provide adequate resources for public consultations.* Public participation in these important national deliberations requires resources in addition to time. The constitutional drafting body needs staff with an adequate budget to disseminate information, organize and conduct meetings, and assimilate public input. In particular, the work of analyzing public debates and processing questionnaires and written submissions requires a dedicated staff. Donors typically invest only a fraction of the money they spend on elections on supporting constitutional processes, but significant resources are needed to conduct the processes appropriately.<sup>47</sup> In post-genocide Rwanda, for example, it cost the government roughly \$7 million to undertake a substantial effort to educate the population, provide forums for consultation, and arrange a referendum on the draft constitution, but the process provided a solid base of legitimacy for the state.<sup>48</sup>

*Pay attention to fairness and timeliness.* Careful management of the process is also needed. Concerns about fairness and procedural delays can sow distrust and discord. For example, the method of soliciting local opinion led to concerns about fairness in the drafting of Nicaragua’s 1987 constitution. In Chad, delays in translating the draft text, combined with slowness in the deliberations, deepened a Francophone/Arab rift at the national conference in 1996.<sup>49</sup>

### Resources

Ghai, Yash. “The Constitution Reform Process: Comparative Perspectives.” Toward Inclusive and Participatory Constitution Making, Kathmandu. August 3–5, 2004.

<sup>47</sup> Kirsti Samuels and Vanessa Hawkins Wyeth, “State-Building and Constitutional Design after Conflict” (New York: International Peace Academy, 2006), 4.

<sup>48</sup> Vivien Hart, “Democratic Constitution Making,” 8–9.

<sup>49</sup> Jennifer Widner, “Constitution Writing and Conflict Resolution,” 4.

Hart, Vivien. "Democratic Constitution Making." United States Institute of Peace Special Report 107. July 2003.

Inbal, Aliza Belman, and Hanna Lerner. "Constitutional Design, Identity, and Legitimacy in Post-Conflict Reconstruction." *Governance in Post-conflict Societies: Rebuilding Fragile States.*, edited by Derick Brinkerhoff. New York: Routledge, 2007.

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Simar, Sima. "Building Capacity for Democracy, Peace, and Social Progress." The 6th International Conference of New or Restored Democracies. Doha, Qatar, October 29 – November 1, 2006.

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## 7. TRANSITIONAL GOVERNANCE

### Framing Issues

In the immediate period after a conflict, a transitional administration governs the country and prepares the way for a more legitimate successor. The respective roles of the international and national authorities in the transitional administration depend in large part on the way the conflict ends. In the case of decisive victory, national authorities usually assume the role of governing and the international community assumes a supporting and monitoring role, as in El Salvador. In the case of a negotiated settlement among warring factions, national authorities may also take the lead in an interim government, as in Sudan. If factions are still coherent and hostile, however, international personnel may assume a stronger role and jointly run an interim government with nationals, as in Cambodia and Liberia.

By contrast, the international community is likely to assume the role of governing in the case of partition or foreign invasion. The United Nations Security Council may provide a mandate for an SRSG to assume charge of post-conflict R&S, as in Timor-Leste and Kosovo, or an occupying power may assume power, like the United States in Iraq. Rather than governing themselves, international authorities may choose to constitute an interim government run by nationals, as in Afghanistan. A lighter international footprint creates more space for the development of local institutions and requires fewer international personnel but may leave the country more vulnerable to ongoing security and governance problems.

Whether international authorities are in a lead or supporting role, their principal objective is to turn the management of all functions over to nationals at some future time. In all sectors of the government, the engagement of international authorities should undergo phased transitions to local control. Internationals should therefore help lay the groundwork for indigenous executive authority. Reforming the structure of the executive, recruiting and training civil servants, improving revenue generation and management, and providing government facilities form a key part of the transition strategy.

Governance challenges can vary enormously in this transition period. In some countries, transitional governments need to recreate whole ministries and other government offices from scratch as previous public officials had left their posts and public infrastructure was damaged or stolen during or immediately after the conflict. Iraq, Namibia, and Timor-Leste provide examples of this kind of governance challenge. The presence of rivals within state institutions can pose another notable challenge to transitional governance, generating policy gridlock and the threat of renewed conflict. The examples of Bosnia and Cambodia illustrate this point.

### Key Tradeoffs

#### Meeting needs versus building capacity

Programming in transitional governance entails careful consideration of the tradeoff between meeting needs and building capacity. As discussed in the tradeoffs section in Part A, international authorities need to evaluate the tradeoff between relying on private or international entities to meet the population's immediate needs and thereby reduce the risk of instability and laying the more time-consuming groundwork for state institutions to deliver essential services themselves and strengthen the post-conflict government's legitimacy and effectiveness. The transitional nature of international involvement underscores the importance of domestic ownership and sustainability. Rather than seeing a post-conflict country as tabula rasa, international authorities need to examine what methods, values, and capacity already exist and focus on ways to strengthen them. They also need to exercise caution in their reform agendas and resist introducing standards in service delivery that are not sustainable. Figure 7.1 examines transitional governance in Liberia to illustrate this issue.

#### FIGURE 7.1 MEETING NEEDS VS. BUILDING CAPACITY IN LIBERIA

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In Liberia, the security sector was under the direct control of the SRSG, and

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international NGOs and foreign contractors had responsibility for delivering essential services, rehabilitating infrastructure, reforming the rule of law, and running the election. Under the terms of the peace accord, nationals assumed control of key ministerial portfolios and had responsibility for creating a Truth and Reconciliation Commission.

In the first years after the peace accord, a pattern emerged in which functions managed by international actors performed well or at least satisfactorily, whereas those handled by nationals did poorly, even to the extent that in economic management they had to be relieved of command. Rather than concluding that core state functions should be left in international hands as long as possible, however, Blair and Ammitzboell argue that efforts should be increased to turn functions over to locals. They note that costs of contracting with international entities are high, and donor funding diminishes over time. Unless in-country officials are prepared to take responsibility, service quality will deteriorate and perhaps even collapse altogether when funding winds down, thus alienating the citizenry and recreating some of the conditions that led to the outbreak of conflict in the first place. The solution is to recruit and upgrade managerial capacity in the state sector as quickly as possible so that competent civil servants will be available to take charge of delivering these services. The international assistance community should also be careful of setting standards and services at such high levels that they cannot be sustained from a human capital or financial point of view.

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Source: Drawn from Harry Blair and Katarina Ammitzboell, "First Steps in Post-Conflict Statebuilding: A UNDP-USAID Study" (UNDP and USAID, February 2007).

### **Political appointments versus meritocracy**

Programming in transitional governance also entails consideration of the tradeoff between political appointments and meritocracy. International authorities need to consider the benefits of according warlords and other powerful figures a key role in the post-conflict state to keep the peace versus appointing qualified persons to office. As noted in the key tradeoffs section in chapter 4, a few strategies can alleviate the tension between political appointments and meritocracy. One strategy is to allow political considerations to dominate appointments initially but to grant warlords time-limited positions and give merit-based selection criteria more precedence over time.<sup>50</sup> Another approach is to introduce more stringent international oversight, such as GEMAP, used in Liberia, alongside these political appointments.<sup>51</sup> A third approach is to remove the most egregious offenders, such as Ishmael Khan in Afghanistan, from office and otherwise shuffle warlords into different positions where they may have less of a power base, for instance by moving them from their region to the capital.

### **Programming Options**

Programming in transitional governance involves five key areas: structure of the transitional administration, mandate and structure of the executive, pay and staffing, equipment and supplies, and revenue generation and management.

#### **Structure of the transitional administration**

*Clarify the relationship between civilian and military authorities.* Within the international community, the structure of the transitional administration needs to clarify the relationship between civilian and military authorities. The simplest structure combines military and civilian authority in one entity, like the UN in Sierra Leone, or an ad hoc entity such as the Office of the High Representative in Bosnia or the Coalition Provisional Authority in Iraq. Other structures assign responsibility for military operations to NATO or a multinational force led by

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<sup>50</sup> Charles T. Call, "Building States to Build Peace," 377.

<sup>51</sup> GEMAP, "Mid-Term Evaluation of the Governance and Economic Management Programme (GEMAP): Evaluation Report" (August 15, 2008)  
[http://www.gemapliberia.org/files/gemap\\_evaluation\\_report\\_final\\_version.doc#\\_Toc206902553](http://www.gemapliberia.org/files/gemap_evaluation_report_final_version.doc#_Toc206902553).

one nation and control of civilian tasks to the UN, as was the format in Kosovo and Timor-Leste. Where unity of command is not possible, commonality of purpose can compensate for this deficiency in organization structure. If the leaders of both the civilian and military operations have a common understanding of operational priorities, they can move their organizations toward that purpose and communicate the need for coordination and cooperation down through their organizations.

*Establish good communication with stakeholders.* The transitional administration should also establish a framework to give key contributing and neighboring countries information about the mission and to create a forum through which they can express their interests and assist in the mission. Particularly important is the role played by neighboring countries, which can encourage would-be spoilers to adhere to a peace process or undermine R&S efforts by supplying insurgents with arms or money, permitting border access, and providing safe havens.

*Specify roles and responsibilities of national and international personnel.* The structure of the transitional administration also needs to clarify the role of internationals and nationals and specify who is in charge of each government function. This is particularly salient where internationals and nationals are sharing power but also relevant when one or the other group is in the lead. Where possible, the peace agreement or UN mandate should clearly state the respective authorities of each group but also reference how local actors and institutions will assume greater authority during the intervention. The transfer of authority to nationals may not occur evenly across government offices but instead may reflect the varying ability of local actors to take on the work. In Timor-Leste, for example, after nine months the UN mission transferred responsibility of the Ministry of Foreign Affairs to a highly capable East Timorese who had led the fight for independence from outside and was a Nobel Peace Prize laureate, whereas it retained control of other ministries for years.<sup>52</sup>

*Incorporate the local population and structures in transitional governance.* Where internationals take the lead, they should aim to incorporate legitimate components of the existing governance and bureaucratic structures into the transitional administration as quickly as possible. This includes protecting government infrastructure from looting and ensuring the continuity of competent local staff. Internationals should also create institutions of consultation and co-administration at the local and national levels. As characterized by Cole deGrasse and Caan, there are three archetypes for indigenous participation in governance:

- A *political advisory council* is composed of indigenous leaders who provide the transitional administration with advice on a variety of political decisions.
- A *joint military committee* is made up of high-ranking military commanders from various factions who provide counsel regarding military and security issues.
- A *joint functional committee* is composed of civilians from a variety of sectors such as health care, communication services, and education who provide counsel and oversee civil administration functions.<sup>53</sup>

Other arrangements for indigenous participation are possible, though, as illustrated by the joint interim administrative structure in Kosovo (Figure 7.2).

*Foster dialogue with indigenous leaders.* In addition to such formal structures, internationals should regularly seek the counsel of indigenous leaders in public office as well as traditional authorities such as village *mukhtars*, tribal sheikhs, and Islamic clerics in Iraq; local chiefs in Sierra Leone and Liberia; and participants in *jirgas* and *shuras* in Afghanistan (Figure 7.3). As the U.S. Army's new governance manual points out, however, internationals need to "develop an understanding of the political, cultural, and historical factors related to

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<sup>52</sup> Harry Blair and Katarina Ammitzboell, "First Steps in Post-Conflict Statebuilding: A UNDP-USAID Study" (UNDP and USAID, February 2007), 31.

<sup>53</sup> Beth Cole DeGrasse and Christina Caan, "Transitional Governance: From Bullets to Ballots," *Stabilization and Reconstruction Series 2* (2006): 14.



traditional authorities in order to appropriately leverage the contribution they can make to stability operations.”<sup>54</sup> The text also offers three caveats related to consulting with traditional authorities: their inherently exclusionary nature, given their ethnic, tribal, and/or religious foundation; the fact that they often embody values that are nondemocratic, discriminatory to woman, and contrary to international human rights standards; and their role among the sources of grievance that led to conflict.

### **FIGURE 7.2 KOSOVAR PARTICIPATION IN AN ADMINISTRATION**

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The UN Interim Administration Mission in Kosovo (UNMIK) Joint Interim Administrative Structure operated between 2000 and 2001 and featured the following:

- The Special Representative to the Secretary General (SRSG) had sole executive, legislative, and judicial authority.
- Under the SRSG’s authority, the mission operated through four pillars, which were co-led by Kosovar and international officials. The four pillars were humanitarian assistance (led by the UN High Commissioner for Refugees), civil administration (led by the UN), democratization (led by the Organization for Security and Co-operation in Europe), and economic development (led by the European Union).
- The 35-member Kosovo Transitional Council included representatives of all ethnic and societal groups and advised UNMIK on Kosovar priorities.
- The Interim Administrative Council comprised eight members—three Albanians, one Serb, and four UN officials—and proposed policy guidelines for operations in each pillar.

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Source: Drawn from Beth Cole DeGrasse and Christina Caan, “Transitional Governance: From Bullets to Ballots,” United States Institute of Peace, Stabilization, and Reconstruction Series No. 2 (July 2006), 9.

### **FIGURE 7.3 AFGHANISTAN’S JIRGAS AND SHURAS**

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The jirga is a Pashtun institution for discussing and resolving social issues. Participants are all male and decisions are made by consensus according to the code of Pashtunwali. Jirgas may be convened at various levels of tribal organization, from individual clans to tribal confederations. Especially in remote areas, Afghans have preferred jirgas to the cumbersome and frequently corrupt formal justice system of various central administrations for resolving disputes. The equivalent institution for ethnic Hazaras, Tajiks, and Uzbeks in Afghanistan is the shura, though it is more of an advisory council of local elders and elites without clearly defined decision-making rules. Provincial reconstruction teams have engaged with shuras to establish dialogue with local communities on development and security issues.

Reconstruction of post-Taliban Afghanistan has made recourse to these traditional authority mechanisms to legitimize the process of state building, from the well-known 2002 loya jirga (grand assembly) that sought to combine reconciliation with consensus on the way forward, to their incorporation into the Afghan constitution. The two houses of parliament have been designated the mashrano jirga (upper house) and wolasi jirga (lower house).

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<sup>54</sup> “Reconstituting Governance: The Military Role,” *Peacekeeping and Stability Operations Institute* (U.S. Army War College), 70.

Source: Derick W. Brinkerhoff, Ronald W. Johnson, and Richard Hill, "Guide to Rebuilding Governance in Stability Operations. A Role for the Military?" (Carlisle, PA: U.S. Army War College, Peacekeeping and Stability Operations Institute and Strategic Studies Institute, June 2009), 30.

## Structure and operations

*Support public administration reform.* Alongside the erection of transitional structures, international and national authorities need to focus on the government's mandate and structure. Surveys can help inform ministries of the public's key service delivery priorities and establish a baseline to measure progress as ministries undergo reforms. Efforts to reform or establish ministries and independent agencies include developing mission objectives, organization charts, clear lines of responsibility and authority, boundaries between the political and administrative spheres, workforce size, job descriptions, streamlined procedures, process maps, control structures, and oversight. The USAID *Tatweer* project in Iraq illustrates a comprehensive approach to public administration restructuring (Figure 7.4).

### FIGURE 7.4 PUBLIC ADMINISTRATION REFORM IN IRAQ

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In Iraq, USAID is funding the National Capacity Development project, or *Tatweer* (in Arabic), to build the capacity of key Iraqi ministries to deliver core services over the period 2006-2011. *Tatweer* advisors have developed organization charts, job descriptions, process maps, and internet connectivity for key departments, agencies, and ministries and have promoted self-assessment and process reengineering systems as part of the government of Iraq's institutional culture. They have also provided significant assistance to procurement and project management of infrastructure projects across the country's ministries and provinces. (See Figure 8.2 for a more complete description of the *Tatweer* project.)

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Source: Management Systems International, "Iraq—Strengthening National Capacity in Public Management."

*Incorporate elements of good governance throughout government.* Programs that build government capacity should also incorporate elements of good governance from the beginning. These elements include transparency, accountability, participation, and responsiveness. A freedom of information law is a foundation for transparency, but even without one, governments can take steps to make certain types of information available, such as public tenders and budget allocations. Similarly, governments can build accountability mechanisms into the beginning of any capacity-building program. These include oversight mechanisms within government as well as citizen watchdog groups. Finally, reforms should aim to increase citizens' participation in public forums and the government's responsiveness to their needs through such mechanisms as community budgeting and citizen surveys. Experience has shown that including good governance provisions in peace agreements can improve post-conflict governance and makes a case for development agencies to participate in these negotiations (see the discussion in Chapter 11 on addressing corruption in peace agreements).

## Pay and staffing

*Improve civil service remuneration.* Civil service pay tends to be a major concern in post-conflict situations, whether because wages have not been paid in months or years, as in Liberia, or are untenably low, as in Mozambique, or because there is no physical mechanism to pay civil servants, as in Afghanistan. The transitional administration needs to prioritize paying government workers but will also need to give careful attention to pay structures. In many post-conflict countries, international organizations offer high wages to

attract skilled international employees, but this lures talent from the already depleted government service. Extra bonuses or incentives such as training may encourage civil servants to stay at their jobs.<sup>55</sup>

*Recruit and train national staff.* Staffing also poses challenges for transitional administrations. To the extent possible, nationals should occupy administrative positions as they know the culture and language and can provide continuity when the internationals leave. Finding a cadre of nationals with the requisite experience can be problematic, however, as was the case in Kosovo, southern Sudan, and Timor-Leste. Those with experience, moreover, may no longer be acceptable in government, as was the case with the Taliban in Afghanistan and the Baathists in Iraq. In other countries, political considerations may dictate balanced recruitment among different factions or even preferential treatment to women or other members of groups who had been excluded from government positions in the past, as was the case in Cambodia.

In most post-conflict countries, therefore, recruiting and training national staff needs to start at the earliest stage of the intervention. The time it takes to recruit and train national staff is often underestimated. In recruiting new civil servants, the transitional authority should avoid seeming to favor any one group and upset the balance of power and should ensure careful vetting to keep criminals and human rights abusers out of the government. Training should focus on basic skills such as literacy, accounting, record keeping, computers, and standard operating procedures and manuals for civil administration, although training staff to carry out critical immediate functions may be necessary at the same time. Training programs should aim to train a cadre of national trainers and to expand the government's internal training capacity.

For higher-level recruits, the transitional authority should provide more advanced training along with mentoring, which entails placing sufficient advisors in state ministries. Embedding mentors in government institutions is a valuable way to build capacity while also helping to meet immediate needs. In East Timor, for example, USAID supported an advisor in the president's office to work closely with the newly elected president and train the newly appointed staff, providing hands-on, practical assistance in the development of procedures and policies for the executive offices; technical assistance on various issues of governance, such as drafting legislation; and strategic advice on the political aspects of governance, such as putting together coalitions and using effective communications methods to build support for a new policy. Similarly in Liberia, USAID supported a consultant team to work for two months with the Ministry of State for Presidential Affairs as well as the Ministry of Justice and Ministry of Labor to improve performance.

Alongside these staffing efforts, the transitional authority should aim to promote a transparent, merit-based civil service through development of a civil service commission and civil service law. The Tatweer project provides a good illustration of such assistance. Through this project, USAID is helping the government of Iraq rebuild its civil service through advising the Iraqi Federal Civil Service Commission, drafting a new civil service law, and expanding training opportunities (see Figure 8.2 for more on this work).

*Draw upon international personnel as needed for an interim period.* Although the transitional government should appoint nationals where possible, it may need to supplement the domestic pool of candidates with expatriate staff for an interim period. Transitional governments have drawn on a diaspora of professionals to occupy key positions in Cambodia, Haiti, and Lebanon, for example, even serving in the position of finance minister in Afghanistan, Iraq, and Liberia. In Liberia, the government went further and established a senior executive program that recruited about 150 professionals from the diaspora. Although these individuals are often able to communicate effectively with host country nationals and the international community, they may elicit charges of carpet bagging or be seen as out of touch with their country. In addition to a diaspora, international personnel can also come from reserve rosters of civilians who receive regular training with their military counterparts, such as the newly established USG civilian response corps.

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<sup>55</sup> Harry Blair and Katarina Ammitzboell, "First Steps in Post-Conflict Statebuilding: A UNDP-USAID Study" (UNDP and USAID, February 2007), 33.

## Equipment and supplies

*Provide adequate equipment and supplies.* To operate effectively, transitional administrations must make provisions for adequate equipment and supplies. In response to the destruction or absence of government institutions, the UN in Afghanistan and USAID in Iraq created a standardized package of materials to get a post office, police station, mayor's office, or other government office up and running. This "ministry-in-a-box" concept provides paint, furniture, office supplies, books, computer equipment, and software training packages to help resurrect these government institutions. Beyond the immediate provision of equipment and supplies, the administration must identify adequate funds to sustain the facilities of government institutions.

## Revenue generation and expenditure management

*Support initiatives to boost government revenues and improve expenditure management.* In the post-conflict period, the administration must also focus on revenue generation and expenditure management. Although there is often a surge in donor funding following settlement to a conflict, establishing viable avenues of revenue generation is critical for creating the foundation of stable government. Improving tax and customs operations, increasing competition and oversight in natural resource concessions, and instituting bill collection for utility fees are some ways of increasing revenue collection. At the same time, the administration must improve expenditure management. Effective accounting practices, professional auditing, competitive procurement, public disclosure of receipts and budgets, and support to watchdog and advocacy groups are some of the measures that can curb corruption in revenue generation and expenditure management. Please see USAID's "A Guide to Economic Growth in Post-Conflict Countries" for a more detailed discussion of this issue.

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## 8. STRENGTHENING THE EXECUTIVE BRANCH

A major share of the responsibility for providing such public goods as national security, economic stabilization, health and education services, physical infrastructure, and food security is borne by the state's executive branch. Indeed, the executive is given the mandate and authority to implement policies and marshal resources to achieve sustainable levels of public goods. However, in many post-conflict countries, the ability to carry out this responsibility is hindered because the inherited state apparatus lacks a credible governance infrastructure and immediate conflict recovery needs loom large. Whether governance problems occurred through neglect, poverty, corruption, or blatant past disregard for rules or procedures, it is imperative that the executive strive to improve governance and help bring about the country's reconstruction and stabilization.

### Framing Issues

#### History and capacity

The type of governance a population has experienced in terms of political liberalization, checks and balances, bureaucratic capacity, level of decentralization, and the role of NGOs and citizens in decision making and service delivery all influence what citizens expect from their government's executive branch and what government officials and employees believe are their responsibilities. Bureaucratic history and the most recent forms of governance are particularly relevant. Countries such as Iraq and Vietnam have rich bureaucratic histories; others, such as Afghanistan and Southern Sudan, have limited experience in administering an effective national bureaucracy. These contextual differences have large consequences for the optimal strategy to strengthen ministries and executive branch agencies in post-conflict settings.

#### Nature of transitional government or occupying authority

Occupation and transitional governments are inherently distorting to underlying systems of public management. Decision-making authority, reporting arrangements, resource allocation, service provision, and accountability frameworks of transitional governments can supplant or conflict with those of the former government, and aspects of the two systems often operate in tandem. Planning in such contexts must take into account the unique features of the transitional bureaucratic arrangements and make explicit provision for an orderly process to transfer administrative responsibility to national ministries and agencies.

#### Level of violence

The residual level of violence, or the threat of renewed violence, has considerable implications for the distribution, substance, and form of assistance provided for strengthening central ministries. High levels of residual violence often place practical limits on the ways in which foreign experts can be deployed as advisors and trainers requiring innovative use of surrogates and third-party programming. Especially where violence levels remain high, reform and modernization of the ministries responsible for internal security should enjoy priority.

#### Level of trust

In post-conflict settings, trust is typically in short supply and efforts to build trust and help new governments gain their footing are especially important. To be legitimate, a government needs to gain the trust of its citizens. For donors to be effective, implementers need to accentuate, not dilute, international best practices in capacity building by adopting approaches such as:

- Taking the time needed to build relationships.
- Being resolutely demand driven and client centered.
- Focusing on public administration and remaining content-neutral.

- Conducting most or all business in the local language.
- Resisting the temptation for more analysis.
- Continuously seeking short-term results while concurrently laying the groundwork for longer-term results.
- Intensifying the use of process consulting (i.e., advising on processes to effectively bring about change).
- Accelerating the transfer of professional and budgetary responsibility from system reformers to line managers.
- Attending to capacity building at three levels: individual, organization, and system

### **Financial prospects of host government**

Medium-term fiscal prospects have major implications for the sustainability of civil service reform and other public management strengthening efforts. Although most post-conflict countries are characterized by economies in distress, some are resource-rich and likely to emerge as middle income and fiscally stable. Iraq serves as a case in point of a country able to sustain continued improvement in government performance. In fiscally challenged environments such as Sierra Leone, solutions must be fashioned with this constraint firmly in mind since it is exceedingly difficult to roll back increases in civil service staffing and pay.

### **Key Tradeoffs**

#### **Meeting needs versus building capacity**

Given the high citizen expectations and urgent needs usually associated with the period following the cessation of conflict, new governments and the international community are under intense pressure to deliver services. This frequently results in ad hoc solutions where donors, the military, NGOs, and/or make-shift organizations deliver services normally provided by government agencies. Such approaches do not address the urgent need for capacity building, however, and frequently have the unintended result of weakening citizen confidence in government and government legitimacy. It is important to consider ways to involve and build the capacity of government agencies in these ad hoc solutions.

#### **Government effectiveness versus policy reform**

The window of opportunity for substantive change is often open wide in the immediate aftermath of conflict. In places such as Bosnia, Georgia, and Iraq, new governments came to power with relatively large mandates for change. Although these circumstances present genuine opportunities, there is a danger of overreaching by well-meaning political leaders and donors promoting a range of substantive policy changes. The capacity of fragile systems to implement these reforms is limited, and improving service delivery is central to the new government's legitimacy. For these reasons, it is sometimes preferable for the international community to focus initially on interventions to improve government effectiveness and transparency and on policy reforms that do not require a great deal of administrative capacity to implement, such as eliminating unnecessary procedures and correcting exclusionary policies. Donor and host country officials may need to subordinate, at least initially, the impulse to push for substantive reforms that entail significant time and effort to implement.

#### **Emphasis on central government versus on decentralization**

Strengthening local and regional government has been widely used as a mechanism for brokering peace accords, enhancing citizen participation, improving service delivery, and increasing government legitimacy (e.g., in Afghanistan, Iraq, Liberia, and Sierra Leone). This strategy also has been used to support stabilization in conflict-affected regions of otherwise stable countries such as Colombia. It is essential that any such effort

include an associated investment in building the administrative capacity of these subnational governments and in ensuring, prior to implementing any such decentralization, that the relevant elements of the central government can perform their allotted roles in the new structure. Post-war experience in Iraq clearly illustrates the consequences of neglecting these preparatory steps as early efforts to promote decentralization, citizen participation, and local government ran headlong into highly centralized national budget and planning systems. It is also essential that planners recognize the potential of such decentralization interventions to weaken rather than strengthen the central government's authority.

### **Loose versus tight probity standards**

Efforts to prevent corruption should become part of assistance across sectors to ensure that resource flows intended to go into the country's coffers and serve citizens actually do so and to promote an ethic of public service. When effectively instituted, probity standards can decrease unaccountable behavior, but as was the case in Liberia, they can also slow down the ability to dispense funds because government personnel and citizens are unfamiliar with the new procedures. Efforts to combat corruption typically enjoy prominence during post-conflict consolidation. Yet, given the uncertainty around new procedures and the temptation to use accusations of corruption to attack political opponents, tight probity standards sometimes have a chilling effect on bureaucratic initiative.

### **Political appointments versus meritocracy**

The post-conflict reconciliation process sometimes includes incorporating key supporters and opponents of the new government into official positions. Alternatively, some governments seek to promote reconciliation and legitimacy by emphasizing the principle of meritocracy. At issue are the number, nature, and process for identifying political appointees, the ability to ensure probity, and the relationship between political appointees and the permanent civil service.

### **Embedded technical assistance versus arms-length support**

Where post-conflict public sector ministries and agencies are particularly weak, there may be a case for embedding technical assistance personnel as mentors or as temporary occupants of line positions. Unless carefully done, however, such embedding can delay or detract from the sustainable development of institutional capacity. Too often because of pressures for quick results, embedded personnel have little time for mentoring or training. Additionally, typically personnel who have the skills to perform a technical job are not trainers.

## **Programming Options**

Programming options for enhancing the management and performance of central ministries and executive branch agencies in these settings can be broadly categorized as top-down or middle-out. Top-down programming works primarily with policy, leadership, and structural changes, whereas middle-out programming focuses on building the skills and implementing the systems needed to improve government performance and service delivery by officials in the ministries and executive agencies. The following paragraphs describe these options, which can be carried out individually or combined into a more comprehensive package.

### **Top-down leadership**

*Chief executive office support.* In most post-conflict situations, the office of the chief executive faces dramatic challenges. Those at the helm and immediate advisors seldom have served in a national office and yet the press for rapid action begins even before they officially take office. Assistance with establishing the office and putting systems and procedures in place can be of immense help, leaving leadership more time to engage in the matters of state rather than the administration of their offices. USAID has a strong track record of supporting executive offices. In Georgia, assistance to senior staff in the offices of the president and prime minister included support for effective and accountable office management, policy formulation and

implementation capacity, intragovernment consultation and information flow, improved interaction with citizens, and upgrading office equipment and information technology. In Liberia, USAID initially advised on time and information management, including media relations and citizen engagement, and then targeted performance improvements across the president's office and in other ministries to achieve the president's 150-day plan. In Kosovo, assistance focused on developing procedures, building skills, improving policy planning and implementation, and strengthening internal management of the prime minister's office.

*Leadership development.* The cadre of senior bureaucrats that takes power following conflict is often inexperienced in leadership and management of government. In countries as diverse as Albania and Sierra Leone, new governments have evidenced interest in establishing, selecting, and training a senior executive service in the immediate post-conflict period. Among several benefits of this strategy is the fact that the numbers involved are relatively small (approximately 120 in Sierra Leone) and the costs are therefore relatively manageable. A trained senior executive corps will be more effective at leading and managing, able to model behavior they seek from their subordinates, and equipped with knowledge and skills they can provide to others.

### **FIGURE 8.1 PERFORMANCE-BASED MANAGEMENT IN LIBERIA**

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In 2006, the new administration of President Ellen Johnson Sirleaf of Liberia undertook a performance-based strategy. The national bureaucracy had decayed through three decades of questionable management and civil war but had grown to more than 30,000 civil service workers (including nearly 1,800 on the executive mansion staff) and was the largest employer in Liberia. President Sirleaf sought to address unsustainable payroll costs, which constituted a significant percentage of the national budget, by removing "ghost" workers and unnecessary positions from the payroll and to motivate the remaining staff to work toward a common purpose.

Beginning with a 150-day plan and then implementing a Poverty Reduction Strategy, President Sirleaf established performance management techniques for her senior managers and new ministers as her administration's standard operating mode. This required a thorough assessment of operating procedures, chains of command, internal communication and reporting procedures, and the realignment of personnel and resources to achieve specific outcomes. This transparent process identified many of the internal gaps within the bureaucracy between aspiration and ability and helped locate real targets of opportunity, as well as members of the new administration who were most capable and motivated to implement the president's agenda. In a little more than three years, she attained a remarkable record of quick wins that brought Liberia back from political and economic insolvency. The president's performance management program was replicated in other ministries and rebuilt confidence and predictability in key government operations without waiting for wholesale public sector reform.

Beyond increasing efficiency and achieving quick wins, the president's performance-based management increased transparency and accountability in governance. By engaging responsible actors, publicly communicating intent, and reporting actions to the rest of the bureaucracy and to the public, the president modeled the new democratic norms she sought to achieve in government and vividly demonstrated a break from the past.

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*Coordination of reconstruction.* Reconstruction following calamity raises vexing challenges. In post-conflict settings this difficulty is compounded by the large number of external actors and the weakness of government coordination mechanisms. Helping to create high-level reconstruction councils and policy coordination



mechanisms during this phase can produce immediate benefits, provide donors with a single point of liaison, and lay a foundation for longer-term mechanisms for coordinating the government's apparatus for policy formulation and implementation across the executive branch and also with the legislature and judiciary. Additionally, strengthening of the executive branch can go too far—at a cost to checks and balances if all government branches and levels cannot effectively interact and play a role in decision making and oversight.

*Comprehensive civil service reform.* Where countries lack a modern civil service law and regulatory framework, the establishment of such a framework should normally be an important early action in post-conflict state building. Whereas crony-based organizational relationships can often impede civil service reform in steady-state environments, new governments in the aftermath of conflict often have a window of opportunity to effect such change. The adoption of merit-based civil service systems can sometimes channel pro-reform sentiments in a way that locks in a foundation for long-term improvement.

### **Middle-out management**

*Performance-based management.* One strategy for gaining control of moribund bureaucracies involves focusing key members of the bureaucracy on their individual performance on time-sensitive, strategically necessary, and measurable targets of opportunity that will achieve quick wins for a new administration. The quick wins—over time and with each success—build confidence, experience, and legitimacy for key government actors within the bureaucracy and provide time for broad-based programs of institutional change to take root. Figure 8.1 above describes the successful use of performance-based management in the administration of Liberia's President Sirleaf.

*Accountability mechanisms.* Donor leverage and local receptivity are typically high in post-conflict settings for instituting various good governance procedures such as citizen report cards and press oversight. Often these opportunities are not taken for fear of undermining the credibility of the new government, but evidence suggests they can have precisely the opposite effect. Transparent procedures for investigating and adjudicating alleged misconduct by civil servants and tribunals for contractors alleging abuse of power by government officials can also play important roles in enhancing government standards, effectiveness, and legitimacy.

*Training a critical mass of public servants.* Countries typically emerge from conflict with their public sector capabilities in tatters. In countries such as Afghanistan, Iraq, and Sudan, new governments were populated with personnel with little or no experience working in government. Training a critical mass of public servants can complement other public administration reforms. In Iraq, for example, the capacity-building program estimated that to effect near-term results, a critical mass of 15 percent of supervisory-level personnel in each ministry, executive agency, and province needed training in key public management areas. This strategy ensured that most units with 10 or more supervisory-level persons (which were most units) would have at least one person trained and that larger units would have more than one person trained, thereby reinforcing learning and encouraging change. The capacity-building program in Iraq trained trainers from the outset so that the government would be able to sustain training and reach all personnel over time (Figure 8.2).

## FIGURE 8.2 COMPREHENSIVE PUBLIC MANAGEMENT REFORM IN IRAQ

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USAID/Iraq's Tatweer program is the Agency's most ambitious effort to date to enhance national capacity in public management by training a critical mass of civil servants and reforming the central government's core public management systems and policies. The program assists the country's efforts to develop and implement civil service reform and streamline procedures for developing, funding, and implementing key reconstruction projects and supports the modernization of management systems in 11 key ministries and five executive agencies. The program's training component is premised on the view that to effect near-term results and sustainable change, a critical mass of 15 percent of supervisory-level personnel in each ministry, executive agency, and province need training in key public management areas such as planning, budgeting, procurement, project management, human resource management, and IT. This has resulted in the training of more than 80,000 Iraqis to date. To maximize sustainability, responsibility for providing and funding this training has fully transferred from the USG to Iraqi institutions and trainers during the four-year life of the project. The project has also provided up to 180 international postgraduate scholarships in public administration programs to further deepen the knowledge base of public administration managers.

Improvement of government performance is a slow and multifaceted process. USAID's proxy indicator for improving Iraqi government performance is the "budget execution rate" – i.e., the extent which the government can successfully obligate and spend its own development budget. This rate has improved from 28 percent when Tatweer began in 2006 to 68 percent in 2008 and is predicted to exceed 75 percent in 2009.

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*Management systems reform.* In the immediate post-conflict period, host country systems are normally in a high state of dysfunction and discredit. Although the temptation is strong to work around rather than reform host government systems, this represents an important missed opportunity for process reengineering. Streamlining and reforming procedures for planning, project design, hiring, budgeting, procurement, and oversight are especially relevant and promising areas for investment (see Figure 8.2). It is essential, however, that any such improvements be mandated by local authorities and fully consistent with national law. To the extent feasible, such reforms should build on systems, procedures, and capabilities already in place. Unfortunately, in post-conflict situations, many skilled personnel flee their countries. In these cases, acceptance of diaspora citizens who bring needed skills back to the country varies.

Although reforms, like the critical mass training described above, can be focused on a single ministry or sector, they are most effective when undertaken as part of a cross-sectoral effort to enhance government effectiveness. If systems improvement programs do not reach out to sector programs, the sector programs should reach out to them. In the middle and long term, systems for budgeting, allocating, and reporting on resources will be the life blood of the sector programs. Coordinated policies and information exchanges across ministries will increase the likelihood of better-informed decision making and decrease the likelihood of counterproductive programs. Moreover, policy formation and system design are always more successful if those who will be implementing the policies and systems are engaged in the design process, as they can evaluate feasibility of achieving desired results from a perspective that policymakers and system designers usually lack.

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## 9. LEGISLATIVE STRENGTHENING

### Framing Issues

Strengthening democratic legislative institutions can contribute to conflict prevention and to post-conflict peace-building and reconstruction efforts by providing a forum whereby diverse segments of society can peacefully resolve contentious issues while at the same time laying the foundation of representative democracy. In conflict and post-conflict situations, parliaments and legislatures<sup>56</sup> can play a key role in peace-building efforts through dialogue and reconciliation processes; by pursuing negotiation and compromise on contentious issues of national policy and resource management; and by fulfilling its central functions of representing constituents, law-making, and oversight of government actions (Figure 9.1).

**FIGURE 9.1 MITIGATING CONFLICT IN UKRAINE**

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A recent example of a legislative institution playing a key role in mitigating violent conflict is the Ukrainian Parliament, which in 2004 helped to resolve the controversy over the outcome of the presidential election that threatened to destabilize Ukraine's political system. Prior to the elections, the Speaker of the Parliament created an ad hoc special commission to monitor the observance of the Election Law. After the main opposition candidate won the first round of voting, the second round of voting resulted in the majority party candidate winning the official vote. However, most domestic and international election observers reported high levels of election violations. The opposition parties refused to accept the election results and took to the streets in protest in what became known as the "Orange Revolution." The Parliament, led by the Speaker, played a central role in ensuring a peaceful resolution of the crisis. The Parliament remained the only legitimate body in power and became the locus of political discussions on the situation. In a special session, the Parliament issued a vote of no confidence in the Central Election Commission, called on the parties to negotiate a political agreement, outlawed the use of force against peaceful demonstrations, and called for the formation of an interim government. Thereafter, the Parliament approved amendments to the Election Law designed to reduce opportunities for fraud, appoint new members to the Election Commission, and pave the way for a revote of the second round. The opposition candidate prevailed on the revote and subsequent legal challenges were dismissed by the Supreme Court.

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Source: Drawn from "Ukraine: The Role of the Parliament in Peacefully Resolving the Orange Revolution," *UNDP Initiative on Parliaments, Crisis Prevention and Recovery*, 2006.

Even if parliaments are not at the center of peace-making efforts, they can still play an important role in ratifying and legitimizing peace or power-sharing agreements or arrangements made by others. In addition, parliaments can enact supporting legislation and monitor implementation and compliance. Furthermore, parliaments can play a critical role in ensuring that excessive power is not concentrated in the executive or dominant political party—a situation that can often exacerbate conflict among and between different groups. Parliaments, as the main participatory mechanism for the opposition, serve as a forum for alternative political views and platforms. When governmental policies fail, parliaments can provide new, viable political solutions and new actors who could carry them through. If parliaments are weak or the opposition is completely marginalized, the articulation of political alternatives is stalled, and problems will continue to fester. In many cases, governmental failures and the lack of political alternatives will contribute to conflict and violence.

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<sup>56</sup> The terms "legislature" and "parliament" may be used interchangeably unless specifically noted.

However, it should not be automatically assumed that legislatures are the most ideal forums for conflict resolution and reconciliation processes. In many instances, legislatures are not particularly well suited for negotiating peace agreements or settlements. Legislatures reflect the divisions inherent in a society and often contribute to those divisions. In countries in which there are no established traditions of tolerance of minorities and protection of individual rights, legislatures can be used as an instrument of majoritarian oppression of groups and individuals. Often, the political opposition is systematically marginalized by the ruling parties. In addition, parliamentarians may or may not have the necessary skills to be effective conflict managers. The type of skill sets needed for mediation, dialogue, and compromise are not acquired through rank or position but rather are often learned and practiced skills.

In post-conflict situations, strengthening legislatures and parliaments is a difficult and complex task. New legislatures face a range of demanding tasks in the immediate aftermath of conflict and emergency situations, beyond the normal demands placed on legislative institutions. These demands often create higher levels of political complexity and constraints. For example, political rivalries that existed during civil conflicts will often manifest themselves through political conflict in the legislative context. Factionalism among different political groups and rivals that previously engaged in violent civil conflict with each other will often lead to infighting, distrust, non-cooperation, extreme partisanship, and “winner-take-all” politics within the parliament. Parliaments themselves can be part of the problem in conflict and post-conflict situations through majoritarian oppression of minority parties that solidifies societal conflicts and aggravates tensions between different segments of society

To compound these difficulties, legislative institutions in post-conflict environments often remain weak in relation to the executive, military, armed groups, or other nonstate actors such as interim or transitional international governing authorities. There is often a lack of talented, skilled, and experienced people to create effective institutions. This lack of human resources is especially critical not only in terms of skilled legislators but also in educated and experienced legislative staff. This problem is exacerbated by the lack of physical and financial resources such as adequate facilities, equipment, and technology.

In addition, public expectations of the performance of new or reemerging legislative institutions in post-conflict situations are often unrealistically high, fostered in part by the political inexperience of the voting public; the unrealistic promises of the candidates for, and members of, the legislative institutions themselves; and by the support and rhetoric of the international community. As a result, the public can become critical toward and disillusioned with the legislature’s work, which diminishes the legislature’s influence and effectiveness. This situation may be worsened by the lack of a vibrant legislative community beyond the parliament itself. NGOs and civil society groups, think tanks, academic and research institutions, and journalists can often generate public support for and strengthen the image and authority of legislative institutions. The lack of an active and engaged civil society in legislative affairs can reflect the lack of standing and importance of the legislature itself.

## **Key Tradeoffs**

### **Early elections versus institutional planning**

In many post-conflict situations, an executive authority is created or reestablished long before legislative elections are held and the legislature convenes. In some situations, the delay in standing up the legislature results in significant advantages to the executive branch in terms of powers, authorities, donor attention, resources, personnel, and experience. By the time the legislature begins operation, it is at a severe political and institutional disadvantage vis-à-vis the executive. In addition, it is likely that the executive has done substantial legislating in the interim period, often without broad societal input, which weakens the legislature’s role in representing and mediating conflicting interests within the country. Early legislative elections could help mitigate the disparities in the power relationship between the executive and legislative branches in post-conflict situations. However, if elections are held too early, and insufficient time is provided for proper planning and preparations for the new parliamentary institution, the results can be detrimental. Without experienced parliamentarians, sufficiently trained staff, adequate facilities, thoughtful development of internal

rules of process and procedure, and support from the wider legislative community, new legislatures often become either a rubber-stamp institution or completely nonfunctional, resulting in public dissatisfaction and disillusionment with the legislature.

Strategies to address this situation include creating broadly representative interim legislative assemblies or institutions; beginning legislative strengthening efforts as soon as possible, even before the end of the conflict when possible; and planning for long-term support and engagement.

### **Proportional versus majoritarian electoral systems**

The type of electoral system in place can have important implications for the design and character of legislative institutions. Electoral systems determine party systems, the composition of the legislature, and the manner of representation. As a result, some electoral systems can contribute to more diversity and broader representation of different groups within the legislature. Proportional representation systems in which parties and/or candidates are selected in proportion to their share of the vote can sometimes have a moderating effect on political dynamics within a legislative institution by ensuring broader representation of diverse groups. Majoritarian, or first-past-the-post systems, can reward dominant political parties and/or particular groups with overwhelming majorities, thus stifling dissent, weakening opposition, and undermining the legislature's ability to broadly represent the people.

Conversely, proportional representation, especially in parliamentary systems in which many different political parties are represented, can sometimes be unstable as the ruling government is often based on shaky parliamentary coalitions. Frequent dissolution of parliaments and multiple elections can themselves have a negative impact on the parliament's ability to fulfill its democratic functions as well as contribute to continuous political crises and potential conflict. Regardless of the type of system, ensuring that different groups are represented in parliament can be an important conflict management or mitigation strategy. One approach is to allocate parliamentary seats to specific groups or facilitate representation from those regions in which minority groups reside. For example, in accordance with UN Security Council Resolution 1325, which mandates inclusion of women in peace-building activities, election mechanisms can be created to advance women's representation, including quotas for female candidates. These types of approaches, however, should be used sparingly and with great thought, as the composition of minority groups changes as new alliances are created or demographic shifts alter the size, make-up, and distribution of certain populations.

### **Programming Options**

Building effective democratic legislatures and parliaments is critical to both reconciliation and recovery processes by ensuring that opposition or minority groups are represented in the political process and by creating a system of checks and balances that monitors and holds the executive and military accountable.

Timely support for legislative development should begin as soon as the security situation permits and should not wait until after elections are held or the transitional period is completed. This includes assisting interim assemblies, rebuilding facilities, hiring and training staff, and developing legislative processes and procedures. In addition, in conflict and post-conflict situations, attention should also be paid to developing the external legislative community. A strong and active civil society, academic think tanks, and independent and responsible media are crucial to a legislative institution's long-term development and success.

One factor to consider when designing an assistance program for legislatures in post-conflict situations is the nature of the conflict. The type or nature of the conflict may have implications for the legislature's role within the society and for the assistance program's priorities. Internal conflicts such as civil wars, ethnic divisions, and politically related violence may require the parliament to play a unifying and stabilizing role within society and to serve as an agent for conflict resolution and reconciliation. In this case, it may be more important for the parliament to emphasize its representational functions and to work in a manner that promotes cooperation and consensus rather than conflict. In instances where the conflict was externally

related, such as a post-colonial or post-independence situation, the parliament may be better suited to moving ahead with its more traditional legislative roles such as legislating and executive oversight.

## **Institutional design**

*Provide technical assistance on design and structure of the parliamentary institution.* Decisions need to be made beforehand, either through constitutional processes, development of a basic law, or some other type of inclusive consensus agreement, as to the type of institution (parliamentary, presidential, or hybrid), the parliamentary structure (unicameral or bicameral), the number of elected members, the type of electoral system, the parliament's functions and powers, the relationship between the parliament and government, and the administrative and management structure, among others. Especially important are the creation and development of legislative substructures such as committees and caucuses that can act as forums for developing relationships and building compromises among different parties and groups within parliament. Committees also provide the arena where specialized knowledge on policies can be developed, such as health, education, security, economic issues, to name a few.

*Support preparations for commencement of the legislature.* Ideally, a representative commission or committee is created sufficiently ahead of time to help plan and prepare for the institution's establishment. A development plan should be prepared with short-, medium-, and long-term activities and priorities. Initial staff of the parliament should be hired as far ahead of time as possible to allow sufficient time for training and preparations for the new legislature. Outside donors need to be very sensitive to internal political conflicts within emerging legislatures in conflict and post-conflict countries. Assistance projects must be designed with as much input and participation from as many different segments of the legislature as possible. Relying solely on the leadership or on English-speaking members or on members of political factions sympathetic to the international donor to help design and implement the assistance project will result in tension, non-cooperation, and opposition from other factions or groups within the parliament.

## **Capacity building**

*Assist with infrastructure, facilities, equipment, and material needs.* A new parliamentary institution needs a place to meet and conduct its business. A sufficiently large plenary hall will be required for legislative sessions and must be configured to include all members with room for staff, visitors, and media. Rooms for committee meetings and hearings; administrative staff; and member business, meetings, and discussions will be ideally located in the same building or in another building nearby. Necessary equipment will include computer equipment, printers, and copying machines. Care must be taken to ensure the installation of the proper wiring and technology for computers, networks, sound systems, voting technology, and other legislative systems. Although equipment and infrastructure needs do not need to be addressed all at once, these concerns should be prioritized and included in an overall parliamentary development plan.

*Develop the administrative organization.* An effective and efficient administrative organization is essential to support legislators' work and help conduct legislative business. The administrative organization's structure should include a specialized division of labor among different offices or departments. These might include, among others, an office of the Speaker; a secretary general, director general, chief clerk, and their offices; an internal finance department; an information technology department; a legal office; a clerk's office; a media, information, or public relations type of office; a research unit and library; committee staff; a budget unit; and a procurement office, among others. Provisions should also be put in place for merit-based hiring and personnel practices to ensure that qualified and professional staff are hired and retained.

## **Orientation/Training**

*Support orientation and training for members and staff.* Once members are elected, there is a tremendous learning curve, especially in countries with little or no previous democratic or parliamentary experience. Orientation for new members usually consists of conferences, workshops, and seminars on a range of topics, including legislative process and procedures, functions of legislatures and legislative members, constituency relations,

lawmaking, oversight, coalition building, negotiation, policymaking, and other legislative and political skills and practices. Ideally, training for staff should begin well in advance of the legislature's convening and should focus on technical skills and functions that the staff will be expected to perform, such as legislative drafting, research and analysis, budget analysis, legislative administration, and committee clerking, among others.

### **Conflict resolution / peace-building activities**

*Organize reconciliation and trust-building activities.* Where there is legislative will and public support, legislative assistance programs should emphasize conflict management, resolution, and reconciliation measures such as truth commissions and public hearings on the internal conflict. To further the healing process, constituent outreach and town hall meetings would both give the public the opportunity to voice their opinions and concerns and emphasize the legislature's representative function. Assistance can be provided in organizing field visits for multiparty and cross-regional groups of legislators to visit different parts of the country to learn about specific problems and concerns to constituencies other than their own, thus increasing awareness of diverse perspectives on key conflict issues.

*Provide technical assistance on the drafting of key legislation.* In the aftermath of a conflict, legislation can play an important part in advancing reconciliation and recovery efforts. However, post-conflict legislatures often lack the technical capacity and expertise to draft or analyze this type of legislation. Although outside experts should rarely directly prepare draft legislation themselves, they can play an important role in working closely with local drafters in the preparation of key legislation. Examples include, but are not limited to, legislation creating transitional justice mechanisms such as truth and reconciliation commissions, compensation for victims, trials and legal proceedings, and amnesty in appropriate circumstances.

*Strengthen parliamentary oversight of security forces and support DDR processes.* New parliaments, especially in post-conflict situations, have an important role to play in conducting monitoring and oversight of the military and security forces. Parliaments may also have a role to play in contributing to DDR processes through allocation of funding, enacting legislation, and authorizing implementing organizations and procedures.

### **Strengthening political governance**

For purposes of this chapter, political governance refers to the role of political parties and politicians within the political institutions of democratic governance. Political governance strengthening consists of helping to improve the ability of political parties and politicians to provide good governance once they are elected and assume office. The failure of good governance is often one precipitating factor of conflict and the presence of good governance a key to post-conflict reconciliation and recovery efforts.

*Developing caucuses.* Strengthening political governance is commonly accomplished through development of party caucuses as well as legislative strengthening assistance that improves the political skills of members of both majority and opposition parties to create, draft, analyze, negotiate, and compromise on legislative policies. Political caucuses, such as those within parties or between legislators based on a particular issue, are important tools in improving legislators' ability to drive the policy agenda in support of the measures for which their constituents elected them. They provide a forum by which legislators can share best practices, choose party leadership, coordinate legislative efforts, and hear expert testimony or citizenry concerns. Multiparty forums can also foster reconciliation or help minimize political divisions.

*Internal party democracy.* Promoting internal party democracy contributes to sustainable democracy by ensuring democratic forms of participation at all levels and for all citizens. Eliminating elite capture and gender-biased practices within political parties can lead to greater representation of the populace within the legislature and a citizenry with deep ties and investments within its democracy. Strategies to ensure greater internal party democracy include targeting the participation of youth, women, people with disabilities, and minority groups in leadership programs, special caucuses and other types of empowerment assistance. Study trips of political party representatives to other democratic countries (e.g., attendance of South Sudanese party representatives to the U.S. Democratic and Republic national conventions) can help reinforce internal party democracy principles.



## Supporting civil society

*Strengthen the legislative community.* In new or reemerging legislative institutions in conflict and post-conflict societies, as much attention should be paid to developing the external legislative community as to the internal development of the legislative institution. A strong and active civil society, advocacy groups, academic institutions and think tanks, and the media are all crucial to a legislative institution's long-term acceptance and success. This includes strengthening media coverage of legislative proceedings; developing public interest and advocacy groups; strengthening think tanks, policy institutes, and academic centers; and ensuring that political parties and political caucuses play a constructive legislative and governance role within the parliament, whether they are in the majority, minority, or opposition. In Peru, for example, USAID worked with watchdog organizations to provide training on the roles and duties of congress and strengthen citizen capacity to monitor congressional performance.

## Resources

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## 10. DECENTRALIZATION AND LOCAL GOVERNANCE

The sine qua non of post-conflict decentralization and local governance is rapid and effective provision of subnational public services to enhance the state's perceived legitimacy and effectiveness and reduce potential drivers of conflict. Especially where service provision is uneven, the absence or inadequacy of services can act as a conflict trigger or exacerbate tensions among groups. Although decentralization is not always a necessary element of efforts to improve subnational public services, it can provide groups who in the past may have resorted to unconstitutional actions with a legitimate framework for participation through which they can pursue their interests. When increments of decentralization are desired in post-conflict fragile states, they should be thoughtfully chosen and implemented due to potential destabilizing effects.

### Framing Issues

#### Dimensions of decentralization

Despite tremendous cross-national variation in how decentralization unfolds, all important decentralizing changes take place in one or more of three dimensions: political, fiscal, and administrative. **Political decentralization** is the transfer of political authority to subnational governments. This transfer takes place through constitutional amendments and electoral reforms that create new (or strengthen existing) spaces for the representation of subnational polities. Elections for important subnational offices are the hallmark of political decentralization and the shift from appointed to elected subnational officials is the most common form taken by decentralization in this dimension. **Fiscal decentralization** is the expansion of revenues and expenditures that are under the control of subnational governments and administrative units. Fiscal decentralization must address the so-called “assignment problem”—matching functional responsibilities to financial proceeds across the various levels of government. **Administrative decentralization** is the transfer of responsibility for the planning and management of one or more public functions from the national government and its centralized agencies to subnational governments and/or subnational administrative units. Administrative decentralization is concerned with the institutional architecture—structure, systems, and procedures—that supports the implementation and management of responsibilities under the formal control of subnational actors.

#### Forms of decentralization

Decentralization occurs in three forms: deconcentration, delegation, and devolution. USAID DG officers should understand the basics of these forms and be able to assess the forms and degrees of decentralization encountered in post-conflict interventions.

**Deconcentration** may be defined as the national government reassigning responsibilities to the field offices of national ministries without placing these offices under the control of subnational governments, which may not even exist in deconcentrated systems of governance. In other words, deconcentration reassigns authority among different geographic levels of the central government.

**Delegation** constitutes a greater degree of change in the distribution of power relative to deconcentration because it shifts responsibility for specifically defined functions to subnational governments, subnational administrative units of the national government, or nongovernmental actors. Delegation is essentially a contractual relationship. Delegation can be used as a means of building the capacity of subnational governments and administrative units in preparation for subsequent moves toward deconcentration or devolution.

**Devolution** requires subnational governments to hold defined spheres of autonomous action. Authority for autonomous local action is usually bestowed through subnational elections. Devolution to subnational administrative units of the national government is nonsensical because such units cannot enjoy defined autonomies vis-à-vis their hierarchical superiors. Thus, unlike deconcentration and delegation, devolution

cannot occur in the absence of political decentralization, and for that reason devolution and political decentralization are tightly linked as concepts.

It is analytically convenient to distinguish these three types of decentralization. However, real-world decentralization almost always involves a mixture of the “types.” For example, devolution will be facilitated by deconcentration of service delivery ministries and both devolution and deconcentration are often enhanced through selective delegation of service responsibilities.

### **Unitary and federal states**

Decentralization in the three dimensions discussed above can occur in countries that are organized along either federal or unitary lines. Two features are essential in determining whether a country is federal: the existence of at least two tiers of government that share governing authority over citizens and the representation of subnational governments (typically, these are intermediate levels of government and not the lower or lowest levels of government) in the national legislature. In unitary countries, subnational governments may be elected and recognized in the constitution, and many unitary countries have moved to establish or strengthen governments at the local and intermediate levels. By definition, however, these governments do not enjoy representation in the national government. A large majority of USAID recipient countries are unitary states. Federalism occurs primarily in the world’s larger countries (by area and population).

### **Common goals of decentralization**

Decentralization and/or local government strengthening is pursued by national governments and international donors for a variety of reasons. Stabilization of a national government, national democratization, and/or national economic development are among the most frequently sought goals.

Any one of these three goals, or some prioritized mix of these three goals, might be appropriate in strong, capable post-conflict states, but stabilization is very likely to be the highest priority goal in weak or failed post-conflict states. Characteristic forms and dimensions of decentralization and the sequences in which the forms and dimensions are applied are likely to vary according to the goal of a decentralization effort.

### **History of public service provision**

Any effort to rapidly and substantially improve subnational public services should be fully cognizant of past and current arrangements for service provision. If local public services have heretofore been entrusted to deconcentrated offices of the service provision ministries of the central government, initial attempts to improve subnational services should focus on ways to improve the performance of these ministries. Any effort to simultaneously improve services and reallocate responsibilities for such services is likely to be quite difficult. USAID’s efforts to improve local public services in Iraq have not lived up to expectations (both U.S. and Iraqi) partly because USAID sought to promote roles in service delivery for subnational “governments” created by U.S. forces and agencies, roles that were not in accord with pre-invasion Iraqi practices and expectations.

### **History and nature of conflict**

The nature and causes of previous and potential future conflicts should be carefully considered in deliberations concerning decentralization and/or local governance strengthening in post-conflict countries. Though still a subject of considerable debate, decentralization may be more appropriate in addressing ethnic and sectarian conflicts than, for example, natural resource conflicts. Decentralization’s potential to ameliorate conflict is conditioned upon the fit between ethnic/sectarian settlement patterns and the geographic boundaries of subnational government jurisdictions. Where the boundaries between ethnic/sectarian groups coincide with the boundaries of current or future subnational jurisdictions, decentralization of governmental functions and responsibilities may confer specific, limited autonomies on subnational officials, thus enabling them to respond to ethnic/sectarian needs and preferences. However, devolving substantial governmental

authority to mono-ethnic subnational governments may also encourage additional demands from ethnic communities, demands—possibly including secession—that might not have materialized in the absence of ethnically based subnational governments.

### **Traditional authorities**

Most developing countries exhibit a degree of tension between representatives of formal local governments and traditional leaders of ethnic and sectarian communities. This tension may be especially important and strong in post-conflict states, many of which are fragile states. Past or current failure of central and subnational governments to provide needed services may have undermined the legitimacy of formal governments and invited or forced traditional leaders to provide badly needed services to their communities. Traditional leaders may have a variety of sources of economic and political influence. In addition to the legitimacy conferred through traditional structures and past efforts to provide local services, they are likely to be wealthy individuals and may be important conduits of the benefits of strong patronage networks. Such individuals often influence who may hold key positions in the local government. In isolated, rural areas of fragile, post-conflict states, traditional leaders may be indispensable to effective local governance.

### **Choice of host-country partners**

The success, failure, and predictability of outcomes of international efforts to improve local governance and delivery of local public services is greatly influenced by the choice of host country local partners, including choices regarding inclusion or exclusion of traditional authorities in program activities. In post-conflict societies, traditional authorities are seldom dependent, like-minded ideal partners. In the *ex post* donor-partner relationship, dependence of the donor on the partner is likely to be higher than dependence of the partner on the donor. The use of the term “partner” may be somewhat misleading as it obscures the fact that traditional authorities and other partners are likely to have multiple motivations and agendas, some of them contrary to USAID’s interests.

### **Continuing conflict or disorder**

Decisions concerning decentralization and its dominant goal(s) must take into account the presence of and potential for violent conflict. Unfortunately, “post-conflict” is often a euphemism or misnomer. True post-conflict countries are characterized by an absence of armed resistance to the national government’s presumed monopoly on the legitimate use of force. In many so-called post-conflict countries, a degree of low-level violence persists that can greatly hinder the efforts of development agencies. Decentralization is also sensitive to the government’s capacity to extend the rule of law throughout the national territory and enforce the law equally against all groups, including subnational government officials. In particular, the government must be able to protect citizens’ human, civil, and political rights against the attempts of local elites to capture local governments and use them for elite ends. Political decentralization is notably perilous under these circumstances. The potentials for national and local economic development are greatly influenced by government capacities and willingness to impartially enforce property rights.

To the degree that a post-conflict central government is in control of events and persons in its national territory, it is unlikely to engage in major decentralization initiatives. Post-conflict central governments often seek to consolidate their tenuous hold on power and can be reluctant to transfer power and resources to the periphery. Post-conflict central governments not in control of events and persons in the national territory (i.e., fragile states), however, may be forced (by the terms of peace agreements, international diplomatic pressures, and/or a deteriorating national political situation) to consider significant decentralization initiatives.

### **Key Tradeoffs**

The tradeoffs discussed here are largely short-term tradeoffs. Over the long term, many of these tradeoffs may begin to work as complements rather than tradeoffs.

## Capacity building versus rapid service improvement

In the short term, capacity-building activities may be neglected in the push to bring about more rapid service improvements, especially when services are provided directly by NGOs. These tradeoffs will be driven by the degree and extent of humanitarian crises in the country and the domestic political situation. Capacity building will suffer most when humanitarian demands are high and the political situation is potentially violent.

## Perceived legitimacy of the government versus rapid service improvement

Where service provision is contracted to nongovernmental actors because they are believed to be capable of more rapidly improving services than the potentially responsible government agencies, there is a danger that governments, both central and subnational, will be perceived as having failed to provide services. This is possible when donors contract directly with nongovernmental actors for service provision but also occurs when central and local governments contract with nongovernmental providers. For example, contracted health services in Afghanistan are widely perceived by citizens as not coming from the Ministry of Health, as most of them are delivered by NGOs. A particularly egregious example of the ill effects on government legitimacy occurs in southern Sudan, where NGOs have been providing subnational public services for decades. NGOs were enfranchised as the dominant service providers during the extended civil war, during which there was very little government presence in southern Sudan. However, the war has been over for several years and NGOs continue to provide most public services, which has created tensions between the NGOs and local governments.

## Goals of decentralization

There are tradeoffs among the potential goals of decentralization—democracy, development, and stability. In post-conflict fragile states, stability is likely to be a first-order goal. Where stability is not in question, either democracy or development (or some mix of the two) may come to the fore. These tradeoffs are driven in part by a scarcity of resources but more importantly by risks and uncertainties associated with the forms and dimensions of decentralization more closely associated with one goal or another. For example, political decentralization, closely associated with democratization, may pose unnecessary or unacceptable risks for national stability.

## Programming options

### First-order goal: improved public services

Post-conflict central governments may be motivated to strengthen the capacities of subnational governments or subnational administrative units of the central government (e.g., subnational offices of service ministries, such as health and education) to deliver needed (or expected) public services. New or improved local public services are an important element of the anticipated “peace dividend” in post-conflict situations. Improvement of subnational public services is likely to require capacity-building and resource inputs to existing subnational governance structures but may not require further decentralization. Rapid and substantial improvements to local public services in post-conflict countries are believed to be important to avert or ameliorate humanitarian disasters and may give disenfranchised groups reason to engage in politics rather than violence.

### Overall strategy and sequencing

Very roughly speaking, in a fragile post-conflict state, where (1) stabilization is the paramount goal, (2) rapid improvements in subnational public services are seen as important, and (3) public services have traditionally been delivered by ministries of the national government, decentralization might initially emphasize deconcentration of service responsibilities and decision-making authorities in the relevant ministries. Donor inputs are likely to be in the form of material resources and technical assistance to build ministerial service delivery capacities. If the responsible ministries have not historically provided reliable services and show little inclination to respond to post-conflict service needs, donor inputs may, in the short term, be directed to

capable and willing “communities” of various kinds who agree to provide local services to agreed standards, as described in a following section.

Where conditions (1) and (2) are present but public services have traditionally been the responsibility of multiservice subnational governments (municipalities, districts, counties, etc.), material resources and technical assistance for capacity development should be directed to these subnational governments. Here again, capable and willing communities of various kinds represent a potential alternative if subnational governments prove incapable or unmotivated to provide services.

When national stability is in doubt, decentralization of political authority (i.e., subnational elections) is a hazardous undertaking, with low predictability of outcomes. However, even under the restricted circumstances and demanding time frames of post-conflict interventions, donor local governance technical assistance may foreshadow democratic governance through requirements for active citizen or beneficiary participation in decision making, transparent and accountable processes in project implementation, and free and fair elections to determine community representatives on project-sponsored representative bodies. Even where democracy is not an immediate goal, good governance may be feasible and is almost certainly desirable.

Participation, transparency, and accountability mechanisms will vary with the structure of formal governance. Where ministries bear responsibility for services, single-service forums are the likely arenas for participation, transparency, and accountability, typically at the points of service delivery (e.g., school advisory committees). Where multiservice local governments are responsible for services, participation, transparency, and accountability will be sought in multiservice forums (e.g., municipal budget hearings, annual planning meetings). Appropriate project design and implementation can improve governance through either of these structures and foreshadow certain aspects of democracy.

The need for effective local public services is unlikely to diminish over time, but as national stability is enhanced, the importance of democracy and/or economic development may increase due to popular demand and government policy choices.

### **Asymmetric decentralization**

Where critical conditions vary among units of a single type of subnational government (e.g., districts or municipalities), USAID (and host central governments) may support a criteria-based, non-uniform decentralization program. Such programs are “asymmetric” in that they treat similar entities differently, based on identified measures of variables viewed as critical to national government success—for example, higher or lower monthly measures of violent conflict among districts could result in differential allotments of resources or oversight. If subnational officials and citizens desire increased decentralization (e.g., increases in transferred funds or in own source revenue authority), asymmetric approaches offer subnational governments incentives for improved performance (e.g., lower levels of intradistrict conflict or greater transparency in district/municipal affairs) on dimensions defined by central authorities. Where violent conflict persists in some parts of a country or where the central state is unable to evenly enforce the rule of law throughout the national territory, asymmetric approaches to decentralization may be necessary. As a general rule, asymmetric decentralization would offer administrative decentralization and associated capacity building first, then fiscal decentralization with expenditure authorities preceding revenue-raising authorities, and, finally, political decentralization for jurisdictions that complete and maintain prior stages.

### **Community empowerment**

Where past systems for local public service delivery are widely perceived (by host country publics and donor representatives) as having failed and there are strong pressures for rapid improvement of services, both subnational governments and subnational offices of service delivery ministries are sometimes effectively bypassed through direct donor contracts with civil society groups and community-based organizations to deliver desired services. Though the long-term effects of such arrangements are not well known, these arrangements have been found to be relatively effective in producing immediate improvements in services. Civil society groups are perceived as being more willing and more capable in soliciting beneficiary

participation in service delivery and more knowledgeable of service needs than subnational governments. Long-term governmental capacities to provide services and popular perceptions of government (both subnational and national) legitimacy may or may not improve when services are provided through CSOs and community-based organizations. Efforts of this kind are said to involve community empowerment as a central tenet.

### **Delegation of service responsibilities**

Delegation is based on contractual relationships between a unit of government that is responsible for the provision of a public good or service and any organizational unit willing and able to produce the service to specified standards. Because it is based on specific contractual relationships, decentralization through delegation may be more rapidly implemented or modified than deconcentration or devolution. Contractual relationships are relatively easy to modify and contracts normally include a “date certain” on which they will expire. Delegation is, therefore, relatively flexible and may be implemented more rapidly than alternative forms of decentralization, but it may also be viewed as relatively unstable and impermanent. Delegation requires that the delegating agency have the capacity to monitor the performance of the agency performing the service.

Efforts to restore or enhance public service delivery in post-conflict fragile states are frequently based on widespread delegation of service responsibilities. Community empowerment, discussed above, is a particular kind of delegation, frequently used in post-conflict fragile states. The effectiveness of delegation as a strategy for decentralization is greatly influenced by the political, social, and economic context in which it is utilized. The upward accountability implied in contracts, even where delegating agencies can monitor results, is not sufficient over the long term to enable evolutionary improvements to services and appropriate local variations in services. The horizontal and downward accountabilities provided through favorable political, social, and economic circumstances facilitate all forms of decentralization.

### **Deconcentration of national government**

Deconcentration, the decentralization of service responsibilities and defined decision-making authorities among geographic levels of central government, may be undertaken homogeneously across all central government ministries or may vary from one ministry to another. In post-conflict fragile states, where the immediate objective is to stabilize national governance through restoration or improvement of public services and where service delivery responsibilities have historically been assigned to ministries of the national government, it may be best to prioritize the deconcentration of the ministries responsible for the most needed services. Technical assistance, resources, and training can thus be focused where they will contribute to the immediate goals of intervention.

Such efforts are likely to be most possible and successful where the responsible ministries have a pre-conflict history of significant effort and a degree of success in service provision. Often, however, the responsible ministries made little pre-conflict effort to provide services and the lower levels of such ministries, the levels responsible for delivery of services, exist in concept only, with staff positions unfilled or filled with unskilled individuals, and facilities for service delivery (health clinics, schools, local administrative offices, etc.) absent. Where this is the case, delegation of service delivery responsibilities to other capable and motivated actors must be considered as an interim measure.

Deconcentration is generally regarded as inferior to devolution in its likely contributions to democratization. Deconcentration is, no doubt, more easily controlled by national authorities through time and more easily reversed should expected service delivery performance not materialize or subnational political developments threaten national stability. However, decentralization with substantial control from the top may be a virtue in post-conflict fragile states, particularly where nationalist or sectarian groups threaten stability.

In countries that have little or no previous experience with democracy (where democratic culture is weak or absent), deconcentration may be a better “school” in which to learn participatory democratic practices than devolution. This possibility assumes that participants in the single-service forums (e.g., health post advisory

committees or school management committees) provided in deconcentrated contexts will understand their self-interests and preferences better than participants in the multiservice forums (e.g., municipal budget hearings) characteristic of devolution. Participants in multiservice forums have to understand their self-interest in the potentially complex tradeoffs among the various services “on offer.” Of course, deconcentration does not offer citizens experience with electoral democracy.

### **Devolution of political authority**

As a general rule, governments and donors should be very careful about increments to devolution of political authority when there is continuing violent resistance to central authority in any part of the national territory. Additionally, central governments should be able to enforce the rule of law throughout the national territory before incremental devolution of political authority. Where the central state is subject to violent resistance or cannot enforce the rule of law throughout its national territory, stability of the central government is a primary concern. However, there are circumstances in which central authorities are compelled to devolve political authority in the presence of the adverse circumstances identified here. For example, peace accords may require devolutionary political change, or politically powerful ethnic or sectarian groups may require such concessions.

Asymmetric decentralization (as discussed previously) and careful sequencing of administrative, fiscal, and political decentralization may improve the predictability of outcomes in these difficult circumstances.

The likely effects of devolution of political authority in fragile post-conflict states are widely and inconclusively debated. Among the variables that might be taken into account in estimating the impacts of devolution under these difficult circumstances are (1) the stability, legitimacy, and effectiveness of the national government; (2) the degree of coincidence of the settlement patterns of contesting groups with the boundaries of subnational government jurisdictions; (3) the details of expected electoral and political party systems; and (4) the expected structure of devolved authorities and responsibilities, particularly, the details of anticipated intergovernmental fiscal relations. The many elements of these four complex variables (and others) can be structured in ways that will tend to facilitate or impede national cohesion, though precise predictions of effects in any given context are quite difficult. A great deal of this debate occurs in the literature on federalism, but it is useful for those interested in decentralization in post-conflict states. The literature on “sticking together” federalism is particularly relevant. A thorough discussion of this subject is beyond the scope of this brief chapter.

### **Building subnational government support for conflict mitigation and management**

Post-conflict countries are often at risk of renewed conflict. Triggers for renewed violence can sometimes originate from the local level, such as conflict over access to water, land, or natural resources. Subnational governments, particularly those located in or consisting of isolated rural communities, are (or can be) influential local actors on a variety of public issues, including issues that do not fall within their direct legal mandates and responsibilities. In countries with a history of reliable and widespread rule of law, subnational governments may not be tasked with or involved in conflict mitigation and management. However, in fragile post-conflict states that do not have an established tradition of reliable subnational law enforcement or that rely heavily on traditional institutions for adjudication of disputes, subnational governments may be able to support the mitigation and management of local conflicts by traditional institutions and/or may create conflict mitigation mechanisms of their own. Support might, for example, be extended by allowing traditional authorities to use subnational government facilities, frequently the only substantial public facilities in rural communities, for dispute resolution hearings. Subnational governments, with USAID project assistance, might also sponsor assessment and discussion of conflict potentials and mitigating measures in their respective communities.

It seems prudent, however, to suggest that USAID and participating local governments be very careful to not lend their support to dispute adjudication processes that frequently render decisions that contradict national laws. For example, forums in which women’s rights are habitually ignored, in contravention of national laws,



should probably be addressed by “benign neglect.” In pursuit of democratization, it may also be prudent to channel USAID dispute resolution support to the representative councils of subnational governments, rather than executive organs. To do otherwise is likely to worsen executive dominance of local government, an already prevalent weakness of post-conflict fragile states.

USAID/Mali’s local governance program has trained local government officials in conflict mitigation with some success. Available evidence suggests that local officials have been able to diminish violent conflict between farmers and herders, a widespread source of conflict in large parts of rural Mali, as a result of USAID’s support. Afghanistan’s elected provincial councils have conflict mitigation responsibilities and have been supported by USAID in exercising them.

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## 11. ANTICORRUPTION

### Framing Issues

Corruption is a major political and economic problem in countries emerging from conflict. Corruption can undermine government legitimacy if leaders are seen as self-serving and venal, and it compromises government effectiveness by depriving the state of needed resources and directing public resources to unproductive uses. Corruption thereby increases the risks of instability, return to conflict, and long-term underperformance of the state. It also creates an unwelcoming environment for constructive private investment, instead encouraging investment only in high-return activities (such as natural resource extraction) that do not necessarily expand local economic opportunities and may create additional opportunities for corruption.

Addressing corruption requires understanding its many manifestations and their impact. USAID defines corruption as “the abuse of entrusted authority for private gain.”<sup>57</sup> Corrupt behaviors can range from “petty”—a police officer extracting bribes in place of legal sanctions for breaking a traffic law, a public official hiring a relative without properly observing civil service rules, or a teacher demanding payments or favors in return for a good exam score—to “grand”—a governor turning a blind eye to illegal miners in return for payments and gifts, a minister directing government contracts to a company owned by a relative, or a judge swaying a legal decision in exchange for rewards. Low-level corruption can be highly visible and undermine the legitimacy and effectiveness of government, while high-level corruption can be less immediately visible but often more devastating to stability and development. Corruption can also be predictable or arbitrary, which is tremendously important to firms. It is essential to identify dominant corruption patterns and their relative impact in order to devise effective anticorruption strategies.

Addressing corruption also requires understanding its causes. Corruption is the product of opportunity and incentives. Officials have the opportunity to abuse entrusted authority when they have discretion over a wide range of activities. They have the incentive to do so when there is little chance of detection and punishment; the salaries, rewards for performance, security, and professionalism in public service are low; and general attitudes and conditions encourage allegiance to personal loyalties over objective rules. Responses to corruption, therefore, include reforms to limit opportunities and change incentive structures.

Anticorruption work can aim to prevent corruption before it occurs and enforce sanctions after the fact. Programs focused on prevention work to reduce opportunities for corruption by rationalizing regulation and streamlining bureaucratic processes. They also work to alter incentives by increasing transparency, oversight, and professionalism. Programs focused on enforcement emphasize criminal or administrative punishments that can create disincentives for corruption. USAID anticorruption programs are weighted toward preventive approaches, but USAID also implements programs to strengthen judicial processes and skills, enhance judicial independence, and help improve the capacity of investigators and prosecutors. Table 11.1 provides an incomplete—but already long—list of programming tools for both preventive and enforcement approaches. In all cases, it is important to recognize both preventive and enforcement-based approaches in order to establish realistic expectations about what any particular initiative can achieve.

The post-conflict environment poses serious challenges to anticorruption work. These challenges include low government capacity and commitment, social and economic conditions, and the massive influx of resources. They are discussed in more detail below.

*Political commitment.* Assistance programs cannot substitute for real leadership and commitment to reform and are less likely to be effective in their absence. Factors affecting political commitment in rebuilding environments may include the presence of corrupt leaders in the post-conflict government, as well as the fact that corrupt allocation of public resources and employment opportunities may be the main tool elites have

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<sup>57</sup> USAID Anticorruption Strategy, January 2005. The definition is taken from Transparency International.

for holding together a fractious coalition government or securing their own leadership positions. When these conditions prevail, leaders may oppose or undermine anticorruption efforts because of the risk such initiatives pose to their own positions, to the stability of the government coalition, or to the stability of the peace. At the same time, corrupt access to resources can strengthen spoilers or losing factions by providing funds for insurgency or by undermining already weak government institutions, making anticorruption efforts more important but even riskier.

**TABLE 11.1 SELECTED ANTICORRUPTION PROGRAMMING TOOLS**

	<b>Prevention</b>	<b>Enforcement</b>
<b>Government</b>	Access to information laws and implementation Tax and customs reform; procurement reform Budget transparency and financial management Parliamentary oversight Judicial reform Supreme Audit Institutions and line ministry auditors, Inspectors General Deregulation and privatization Electoral and political finance reform Asset declaration regimes Extractive Industries Revenue Transparency Civil service reform/professionalization Adoption of international standards (UNCAC, regional conventions)	Investigation and prosecution Special courts Special investigator/prosecutor units Some anticorruption agencies Judicial reform Auditors Legal reform (making corruption a crime, establishing sanctions, etc.) Administrative sanctions in civil service
<b>Non-government</b>	Community report cards/oversight Civil society advocacy and oversight Media - public information/investigative journalism Private sector - corporate governance, advocacy, self-monitoring, oversight of government Information, surveys, awareness raising Extractive Industries Revenue Transparency monitoring	Civil society advocacy Whistle blowing

*Capacity.* Even when commitment and leadership are genuine and deep, the extremely limited capacity of most rebuilding governments creates an additional challenge for anticorruption reform. Fighting corruption requires clear procedures, the means to implement those procedures, and ways of overseeing implementation and overall government performance. Where government employees are few, undereducated, untrained in new procedures, and lacking basic tools of communications, record keeping, and information management, implementing any policy is difficult. Where those policies must reverse practices (such as bribe-taking) that are also reinforced by incentives such as poor service conditions, social custom, or the example set by corrupt leaders, the challenge is even greater. Nonfunctioning or corrupt law enforcement and judicial systems mean that legal disincentives for corruption cannot be brought to bear.

*Social conditions.* Insecurity, factionalization, poor examples set by corrupt leaders, and the breakdown of social norms and the rule of law all make it less likely that citizens will see value in standing up against individual acts of corruption or avoiding participation in it, let alone demanding change from leaders. Civil society and the media—typically the actors who organize to monitor government and highlight misuse of authority—are often small, inexperienced, and underresourced, and they may be in danger if they challenge powerful interests. Organizations that do speak out may have very limited ties to broader constituencies, which can limit their effectiveness as advocates for change.

*Economic conditions.* Rebuilding economies are often chaotic and may be dominated by black markets and illicit trade (often linked to other kinds of criminality) that feed corruption at worst and at best offer few legitimate economic alternatives. Poverty puts priority on meeting immediate needs by any means rather than on longer-term objectives of lawfulness, order, and the economic growth they may encourage. In addition, when there are few economic opportunities, pressure to maintain or expand government employment (and the opportunity for corrupt gain that it represents) is even greater, feeding corruption and nepotism in the public sector. In many countries, conflict is initially spurred or perpetuated by the presence of high-value natural resources (oil, minerals, gems) that create enormous incentives for corrupt trade and for return to conflict if legitimate control over those resources is asserted.

*Massive influx of resources.* Finally, the massive influx of resources that post-conflict reconstruction involves poses significant challenges for anticorruption work.<sup>58</sup> Even governments that have not experienced the disruptions attendant with conflict find it difficult to manage large inflows of humanitarian and development assistance. Assistance in these settings can all too easily be misdirected and feed corrupt power structures.

## **Key Tradeoffs**

### **Short-term stability versus long-term impunity**

One of the key tradeoffs when considering anticorruption programs in R&S environments is between the short-term peace and stability that may be gained through “dividing up the pie” among corrupt leaders of warring factions and the risk of entrenching long-term accountability problems (including impunity) and a corrupt elite. Although the membership of a brokered government is often determined by the conflict’s severity and the degree of pressure to bring it to an end, the long-term costs of short-term decisions should be clearly considered in that process. If it is impossible to exclude corrupt leaders from post-conflict governments, specific time limits for transitional governments, as established in Liberia, might reduce the negative impact.

### **Executive power versus checks and balances**

This tradeoff is particularly relevant to anticorruption efforts. Although checks and balances may slow down rebuilding efforts, legislative oversight of budgets and the judicial role in controlling impunity are critical elements of a strong anticorruption regime. An important consideration in this regard may be the degree of corruption within these institutions. A legislature that is itself filled with unaccountable members or a judiciary that is not independent and is beholden to an unaccountable Minister of Justice may not merit support, and the risk of executive predominance may, on balance, be a lesser evil.

### **Political competition versus money in politics**

A variation on the tradeoff between executive power and checks and balances, this problem arises because electoral processes—which may be critical for identifying minimally legitimate leaders and avoiding concentration of power—usually also increase the importance of money in politics. Political competitors

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<sup>58</sup> U4 Anticorruption Resource Center, “Corruption in Emergencies: What Role for the Media?” *U4 Brief No. 2* (October 2006) <http://www.U4.no>; and “Corruption in Aid-Funded Emergency Procurement,” *U4 Brief No. 5* (November 2006). <http://www.U4.no>.

always need money to campaign, and in countries where public policy has less relevance than immediate daily needs, money may be the only, or at least the most relevant, means for attracting voters. Incentives for corruption—either by repaying supporters with public sector jobs or by using public office to replenish and maintain political coffers—are thus heightened. Public declaration of assets by officials, campaign finance disclosure regimes, and civil society and media monitoring are relevant approaches to addressing this problem, but they require significant capacity on the part of monitors as well as commitment to honesty in disclosure, neither of which are regularly available in post-conflict settings. At minimum, this tradeoff should be factored into considerations about the appropriate timing for post-conflict elections.

### Emergency assistance versus absorptive capacity

As noted above, massive inflows of aid in the post-conflict period can actually create and exacerbate conditions for corruption. The pressure and chaos of emergency situations can lead to ignoring or deemphasizing record-keeping and competitive procurement rules meant to promote transparency and avoid misuse of resources. In the longer term, these same problems can occur if weak government institutions are overwhelmed with funds and technical assistance that they cannot manage. Providing in-kind assistance is one valuable programming tool in helping to meet urgent needs while avoiding the potential for corruption or limited absorptive capacity by local partners. Donors can, for example, take the lead in procuring particular goods and services but work with local grantees to establish sound financial management and transparent public tender processes to enhance their capacity to undertake these functions in the future.

## Programming Options

### Address corruption in peace agreements

Addressing corruption in post-conflict settings should begin when post-conflict governments are being formed through peace negotiations. Although the immediate tasks of saving lives and bringing an end to conflict dominate peacemaking activities, there is evidence that early attention to corruption leads to better governance outcomes over time. Most important in this regard, though not always workable depending on the array of negotiating parties and their relative power, is to *avoid including corrupt or criminal individuals in post-conflict governments*. Not only do corrupt leaders undermine reforms that damage their interests once they are in power, but also placing them in power establishes a precedent of impunity that can delegitimize the post-conflict government and is difficult to reverse after rulers establish control over judiciaries and other parts of government and society. In addition, USAID and other assistance providers risk undermining the legitimacy of their own efforts if they are seen to be assisting tainted leaders.

A second important step is to *include specific provisions in the peace agreement that address corruption risks*. In a recent study of six countries where negotiated peace agreements included anticorruption provisions and seven countries in which the negotiated agreements did not include such provisions, the countries where corruption was expressly addressed were shown to have better records at reducing corruption index scores during the first five years after the agreement was signed. Those countries also received, on average, greater levels of development assistance.<sup>59</sup> The study also concluded that quick implementation of anticorruption provisions is important, as political commitment can fade rapidly, and that specific, practical negotiated provisions are much more successful than broad statements of principle. For assistance providers, the priority should then be to *act quickly and in a coordinated way* to respond to the cues provided by the peace agreement, either to implement specific provisions or to support negotiation of specific actions if the agreement has included only vague principles.

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<sup>59</sup> Bertram Spector, “Negotiating Peace with Integrity: Anticorruption Strategies in Post-Conflict Societies,” Center for Negotiation Analysis, 2008, <http://www.negotiations.org>; Summarized in USAID, “Fighting Corruption in Countries Rebuilding After Conflict,” *Anticorruption Program Brief*, forthcoming. The countries with negotiated anticorruption elements in their peace agreements were Burundi, El Salvador, Guatemala, Liberia, Papua New Guinea, and Sierra Leone. Those without specific integrity provisions were Angola, Cambodia, Croatia, Mexico, Mozambique, Nicaragua, and Tajikistan.

The same study concluded that a few additional steps may be needed to maximize the positive impact of negotiated anticorruption provisions in peace agreements. First, it is important to reach beyond the elites who negotiated the agreement with initiatives to build commitment and participation among their followers back home. At the same time, although civil society activism and oversight can be essential for real transparency and sustained reform, a too-stringent requirement for widespread consultation on all aspects of reform has sometimes resulted in delayed or failed implementation and resurgence of factional disputes. Finally, specific anticorruption provisions can be aided and supplemented by careful inclusion of transparency and oversight controls across the range of programs (both governance and other sectors) to rebuild institutions and services.

### Develop anticorruption programs in the post-conflict period

USAID guidance is to focus programming on the institutions and processes where there is the highest convergence of seriousness of corruption problems, proximity to core causes of corruption, political commitment to action and thus likelihood of impact, and ability of USAID to program in that area and/or build on other programming investments.<sup>60</sup> Therefore, the first step in developing anticorruption programs is to *determine the most critical problems*. Although they will depend on the context, several issues are common in post-conflict environments.<sup>61</sup>

- Often the biggest fraud, in monetary terms, lies in the area of *public procurement*. Not only does transparent procurement reduce opportunities for corruption, but it protects critical public resources from being wasted.<sup>62</sup> USAID/Iraq's TAWEER project, for example, aimed at building procedures and capacity for transparency in some of the biggest procurements managed by the post-Hussein government.<sup>63</sup>
- For the investment climate, corruption in *contract enforcement and property rights* is of particular concern.
- From the perspective of political legitimacy, the reputation and trustworthiness of the *head of state* matters as well as corruption in the agency most visible to the public—the *police* (especially the traffic police).
- For building public trust, it is imperative to tackle corruption in the institutions where people interact with the state most closely and are at their most vulnerable—the *health, education, and justice* sectors.
- Corruption in *border agencies* (border police, customs, immigration) is often a threat for international security and trade and undercuts public revenues.
- For reducing conflict and generating vast funds for rebuilding, a special focus on high-value resources such as *oil, gas, and minerals* may be necessary. Special arrangements for public monitoring of payments received for oil, gas, and mineral exploitation and how the funds are spent, such as the

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<sup>60</sup> The USAID Anticorruption Assessment Handbook provides a framework for conducting this kind of analysis.

<sup>61</sup> Many of the items in this list come from Madalene O'Donnell, "Post-Conflict Corruption: A Rule of Law Agenda?" summarized in Harald Mathisen, "Addressing Corruption in Fragile States: What Role for Donors?" *U4 Issue No. 1*, (2007), <http://www.u4.no>.

<sup>62</sup> Basic principles of transparent procurement include competition; publication of tenders and the resulting awards; mechanisms to avoid conflict of interest by those developing the tender and evaluating proposals (usually requiring asset declaration); and a degree of separation of decision making among those developing tenders, evaluating proposals, and overseeing contract implementation, among others. See procurement guidelines at <http://www.transparency.org>, and OECD, "Enhancing Integrity in Public Procurement: A checklist," 2008, <http://www.oecd.org>.

<sup>63</sup> Information on the *Tatweer* project is available on the MSI website at: [http://www.msiworldwide.com/index.cfm?msiweb=project&p\\_id=12](http://www.msiworldwide.com/index.cfm?msiweb=project&p_id=12).

Extractive Industries Transparency Initiative, should be implemented.<sup>64</sup> In some cases, local communities in the areas where these resources are found can be important partners in improving management of the resources and the land, as well as finding creative ways to avoid conflict (Figure 11.1).

- For improving the legitimacy of state-building assistance within donor countries, *monitoring the use of donor-provided resources* is a priority, but it also represents an opportunity to institute appropriate record-keeping and oversight procedures in the host country.

#### FIGURE 11.1 CURTAILING CONFLICT DIAMONDS IN SIERRA LEONE

In 1999, Sierra Leone's official diamond exports were approximately \$1.5 million, compared with a diamond industry estimate of \$70 million. The balance was lost to smuggling, which sustained the rebel group the Revolutionary United Front. In December 1999, USAID's OTI began providing technical assistance to the Government of Sierra Leone to develop new diamond policies and establish new mining and exporting operations that would address the link between diamonds and the war. This included helping to facilitate strategic planning workshops with participation by Government of Sierra Leone cabinet members, representatives of civil society and the Revolutionary United Front, and international diamond industry leaders to advance private sector cooperation in reducing diamond smuggling. The end of the war in 2002 enabled USAID's assistance to develop into a more integrated diamond management program at both the policy and grassroots artisanal mining levels.

Recognizing that the best information on who is smuggling diamonds is held by the producing communities themselves, USAID helped to provide training for mine monitoring officers on search procedures, ethics, record keeping, communications protocols, and performance criteria. Support also included technical assistance to develop procedures for estimating, tracking, reporting, and auditing the fiscal receipts from mining licenses, monitoring fees, and export taxes; technical assistance to help the Government of Sierra Leone design a system for allocating the 0.75 percent export tax earmarked to producing communities; and support for the dissemination of information on the new regime through workshops and radio. USAID assistance, in conjunction with the country's participation in the Kimberley Process, helped reduce the corrupt flow of conflict diamonds out of the country.

Source: USAID, "Sierra Leone: Conflict Diamonds," Progress Report on Diamond Policy and Development Program, March 2001; and USAID, USAID/Sierra Leone Diamond Sector Program Evaluation, July 2007.

As suggested by this list, programming in post-conflict settings should aim to *reduce drivers of conflict*—for example, addressing perceptions of unequal treatment of certain groups, improving security, or reducing access to weapons. In some cases, it may make sense to focus anticorruption support on a few government functions or institutions that appear critical to stability—such as security forces or border protection—but such choices should be weighed against a hard-headed assessment of the likelihood of real change in those institutions.

Programming in post-conflict settings should also aim to *increase the government's legitimacy and effectiveness*. Surveys to determine what issues most affect public views of state legitimacy and effectiveness may be useful tools. Is corrupt leadership a central concern? If so, programming to limit low-level corruption may not address the public's core grievances and may not be successful. On the other hand, if daily corruption in the

<sup>64</sup> USAID, "Corruption and Extractive Industries," *Anticorruption Program Brief*, forthcoming. <http://www.eitransparency.org>.

delivery of public services is what people complain most about, programs focused on restructuring and monitoring certain public services may be an appropriate approach.

Another consideration that should guide anticorruption programming in post-conflict settings is to *do no harm*. Programs should avoid entrenching already corrupt players whenever possible and avoid obvious and easy moves that do not really change the situation.<sup>65</sup> Anticorruption commissions, for example, may seem like an attractive and obvious target for support, but if they are not well staffed and resourced or lack the support of law enforcement and judicial authorities, among other conditions, they are likely to be ineffective and may result in public disillusionment or divert attention from reforms that need to be made elsewhere in government.<sup>66</sup> The same may be said for elaborate national anticorruption strategies. Although having a locally owned blueprint to support is very helpful for assistance providers, developing the strategy should not become the goal in itself, consuming so much time and energy that no progress is made on real reforms. At the same time, plans that are written *for* host governments rather than *by* them and with public input may never be implemented due to lack of ownership.<sup>67</sup> Finally, any plan or strategy that is developed needs to include realistic, phased implementation plans.

It is difficult, but essential, to *evaluate the level of political commitment* for reform. Although there are no guaranteed signals of political commitment, a government that does not include tainted officials from past regimes or personnel that are already associated with criminal or corrupt networks may be more likely to follow through on reform. Even when an official seems committed, another factor to evaluate is the degree to which she or he has built a constituency or support coalition within the agency or affected sector.<sup>68</sup> In the absence of political commitment, it may be better to work around government than with it to meet basic needs, while at the same time helping build constituencies for change both internally and externally. However, some reform might be feasible even without government commitment to reduce corruption, such as reducing regulations to improve the environment for investment or reducing tariffs to attract trade.

Programs geared to *secure early wins* are often cited as necessary for signaling government commitment to end “business as usual.” Prosecutions of a few key individuals may send a positive signal, but this approach must be weighed carefully against the (un)likelihood of success if law enforcement or judicial authorities are weak, or themselves corrupt, and the possibility of destabilization. The latter risk is especially problematic if those being prosecuted still have strong constituencies, particularly if those supporters participated in the conflict and are still armed or could easily rearm. Technical assistance may be an effective approach if the main problem is capacity shortfalls in the judiciary, whereas international tribunals that take especially problematic cases out of the country might help address stability issues as well as capacity gaps. If prosecution and punishment are unlikely, a lesser step may be removing some officials from office or seizing illegally gained assets, particularly if they are seen as emblematic of the country’s corruption problems. In some cases, diplomatic support for these actions may be helpful—depending, of course, on the popularity of the United States and other external actors in that country.

An alternative version of early wins might involve a government reversing certain practices or decisions associated with an earlier, corrupt regime, such as Liberia’s review of contracts led by the transitional government, or implementing a policy that is a major new departure in transparency or accountability, such as a decision to publicize government budget, revenue, and expenditure information for the first time. In some

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<sup>65</sup> Many of the ideas in this paragraph are drawn from O’Donnell, “Post-Conflict Corruption: A Rule of Law Agenda?” summarized in Mathisen, “Addressing Corruption in Fragile States: What Role for Donors?”

<sup>66</sup> USAID, “Anticorruption Agencies,” *Anticorruption Program Brief* (June 2006), [http://www.usaid.gov/our\\_work/democracy\\_and\\_governance/technical\\_areas/governance/index.html](http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/governance/index.html).

<sup>67</sup> See Afghanistan case study in OECD Development Assistance Committee Network on Governance, “Towards More Effective Collective Donor Responses to Corruption” synthesis report, forthcoming.

<sup>68</sup> Derrick Brinkerhoff and Nicolas Kulibaba, “Identifying and Assessing Political Will for Anti-Corruption Efforts,” USAID Implementing Policy Change Project Working Paper (January 1999), [http://www.usaid.gov/our\\_work/democracy\\_and\\_governance/publications/ipc/wp-13-ms.pdf](http://www.usaid.gov/our_work/democracy_and_governance/publications/ipc/wp-13-ms.pdf).



cases, supporting champions of reform or “islands of integrity” in a certain office or ministry, even if they are not likely to have widespread impact, may be a useful way for donors and host governments to promote some early wins, though major investments in offices or agencies that are patently controlled by higher-level corrupt officials or that require action or approvals from less committed officials and agencies should be evaluated carefully for their likely impact.

Though there is not extensive research on program approaches that are more or less effective for reducing corruption in post-conflict settings, a study recently commissioned by USAID produced the following findings:

### **Incorporate anticorruption elements in capacity-building programs**

Regardless of the specific focus of state-building efforts, several anticorruption elements can and should be part of any post-conflict capacity building program. Transparency is a core characteristic of good governance that is also the foundation of any effort to reduce opportunities for and improve the chance of detection of corruption. Programs that build government capacity should plan for transparency mechanisms from the beginning. For instance, when supporting public financial management systems, assistance programs should include objectives or results related to how this information will be made available to the public and other branches of government. Policy reform programs such as tax reforms or changes to business registration laws should also build in planning and results articulating how new policies will be made known to the public and how the public will be informed about implementation progress. A freedom of information law is a foundation for transparency, but even without one, governments can take proactive steps to make certain types of information (e.g., public tenders, local budget allocations) available.<sup>69</sup>

**TABLE 11.2 EFFECTIVENESS OF ANTICORRUPTION INITIATIVES IN SIX POST-CONFLICT CASES**

<b>Examples of Anticorruption Programs Implemented in Post-Conflict Settings</b>	<b>Typical Outcomes in Post-Conflict Settings</b>
<b>Relative Successes</b>	
Audit and control: strengthening capacity through training and improved systems and infrastructure	Greater accountability, identification of ineffective expenditures, and expedited audits, but problems persist in audit follow-up
Financial management: capacity building through training and technical assistance in budget monitoring, cash and debt management, and FMIS systems	More effective reporting and budgetary controls and increased revenue collection
Civil society: training, grants and assistance to provide public education, awareness of legal and human rights, and advocacy mobilization	Greater participation in policymaking and mobilization of advocacy campaigns
Media support: training to educate the public on their rights, investigate human rights and corruption abuses, and establish community radio networks	Media effectively mobilized to generate awareness of government abuses and citizen rights and to advocate for speech and press freedoms, but legal threats usually persist against media

<sup>69</sup> USAID, “Access to Information,” *Anticorruption Program Brief*, forthcoming.

<b>Moderate Successes</b>	
Local governance: capacity building in service delivery, citizen participation, professionalism and training in codes of conduct, streamlining, and improved administration	Community cohesion and capacity, reduced ethnic and political barriers, and improved service delivery, but corrupt practices (especially patronage) persist
Judicial reforms: training for prosecutors, judges, and court staff; restoration of the judicial system; and building court infrastructure	More cases adjudicated impartially, but delays in developing qualified staff, high court costs, and improper influence by political and criminal sources hinder progress
Law enforcement: training and resources	Continued political influence on appointments and lack of citizen complaint mechanisms
<b>Disappointing Results</b>	
Anticorruption institutions: anticorruption commissions, ombudsman, codes of ethics	Political interference in work of commission, little power to execute mandates, and insufficient budget
Electoral support: electoral commissions, citizen involvement, voter education, legal drafting	Political independence of commission questioned, electoral irregularities, and insufficient staffing; generates raised expectations among the public that are difficult to satisfy
Parliamentary support: capacity building and professionalism	Lack of political will and coordination to implement reforms

Source: USAID, "Fighting Corruption in Countries Rebuilding After Conflict."

Similarly, accountability mechanisms—both internal to government and outside of it—should be planned from the beginning of any capacity-building program. Building audit capacity within individual agencies and/or a centralized audit office is a long process, but steps can be taken in a phased way, perhaps initially focusing on some departments with very large budgets or that are performing priority public services. Assistance programs often fail to include plans for ensuring follow-up to negative audit findings, so this should also be part of initial planning.

Equally important but often overlooked in governance capacity building is accountability to citizens. No anticorruption effort can succeed if it does not provide for public access to information or fails to build the capacity of citizens, civil society groups, and the media to seek, evaluate, and report on government performance in the use of public resources. Like transparency, this is a foundational value without which accountability in governance is meaningless. Depending on the capacity levels and the priority issues, this kind of capacity building may range from the most basic civic education and public empowerment efforts at the local level (for instance, programs to build basic trust and citizenship skills for both men and women through community decision making about reconstruction projects in Liberia) to detailed training on budget analysis for NGOs or investigative journalism techniques.

Finally, all reforms require consensus building and implementation planning, but this is especially important for changes that are controversial, that affect stakeholders' financial or legal status directly, or that may anger powerful interests. Reforms aimed at reducing possibilities for corruption and/or punishing corrupt behavior typically meet all of these conditions. Building constituencies among service users (e.g., business groups,

school parents' associations, community associations) as well as careful pacing to explain and implement new procedures within government agencies is essential.<sup>70</sup>

## Resources

Afghanistan case study in OECD Development Assistance Committee Network on Governance, "Towards More Effective Collective Donor Responses to Corruption" synthesis report, forthcoming.

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<sup>70</sup> Derick Brinkerhoff, "Implementing Policy Change: A Summary of Lessons Learned," Implementing Policy Change Research Note 4 (USAID, March 1996).

## 12. ELECTIONS

### Framing Issues

Although credible elections are a vital indicator of good governance practice, they do not represent an end in and of themselves. Elections are often the most prominent moment in which governance attracts the attention of the international community, but the electoral process is a subset of a much more complex set of factors. Even in circumstances where states are thought to have consolidated democratic gains, elections can still serve as a flashpoint and reignite salient but dormant conflict. In other cases, elections provide an opportunity for less than democratic regimes to claim legitimacy, cloaking more nefarious aims in electoral respectability. At the same time, successful elections often signal an important milestone in transitions from conflict and instability toward peace and stabilization.

USAID experience in post-conflict elections shows that there may be multiple goals for an election: electing governments that enjoy domestic popular support and international legitimacy, initiating a process of reconciliation and inclusiveness of opposition parties and marginalized groups, and promoting and consolidating democracy and good governance. However, these objectives may not always be mutually compatible or follow in a sequential manner.

Peace, security, a sound legal framework, and political trust are essential elements to conduct a credible post-conflict election. If combatants have not fully disarmed and demobilized; if election staff do not have freedom of movement throughout the country; if the legal framework for the elections does not emphasize inclusiveness and sound regulations; and if the election management body is not seen as competent, neutral, and politically independent, the success of post-conflict elections could be in jeopardy.

Pressures are high during the negotiations of peace accords to set an election timeline, but experience has proven that these timelines are rarely achieved. The objective of post-conflict elections may be different from the objective of elections in stable democracies. Establishing a political process in which all stakeholders and potential spoilers are represented and peace is maintained can take precedence over building the foundation that may be needed down the road to consolidate democracy. Although elections may serve as one of the first steps toward further democratization, they should not be viewed in and of themselves as the solution to conflict or be mistaken as a sign for the international community to reduce support and attention to a still fledgling process. Expectations in post-conflict situations are often tremendously high, but it is important to measure each country against its own past and within a regional context.

### Key Tradeoffs

#### Early election versus allowing time for political processes to mature

The international community has historically pushed for early or numerous sequential elections to involve democratically elected leadership in the rebuilding process as early as possible. Former combatants may perceive not pushing for early elections as a lack of interest in moving the political process forward. More dangerously, they may see it as support for the incumbent government, which in many cases ruled autocratically or emerged from civil warfare unable to establish legitimacy. In these post-conflict environments, elections are often seen as indicative of a full return to peace and democracy and a signal for the international community to move on. However, this is a misperception, as elections, particularly in transition environments, are only one step in the movement toward a much fuller democratic process. Pushing for an election too early, before institutions are ready, security conditions are met, and all stakeholders and potential spoilers are brought into the political process, runs the risk of reigniting conflict. Elections themselves can be trigger events for conflict, as they often draw out divisive issues in society and may heighten certain ethnic or socioeconomic tensions. It is important not to think of elections as an event that must happen by a particular date. It is better to lay out key benchmarks or preconditions that must be met to be able to hold credible democratic elections and base the timetable and sequencing for donor

assistance around the achievement of those benchmarks. Early elections also run the risk of cementing negative power relationships and affiliated authorities into the formal political system rather than ensuring that elected leaders represent genuine political constituencies. This is particularly the case in countries with a history of local strong men, warlords, or other informal power networks, as early elections may legitimize these players' interests over the interests of the wider population. Early elections failed in Angola in 1992, Cambodia in 1993, and Liberia in 1997.

### **Meeting immediate needs versus building local capacity**

When there is pressure for early elections or when the political settlement between parties is tenuous, the international community, often under the auspices of the United Nations or a regional organization, plays a role in administering elections. In some cases, it might be the overall administrator for the elections, in other cases it may house international staff in the election management body and co-administer, and in yet other instances it may simply provide financial and technical resources. Although the international community may have the capacity and resources (both financial and personnel) to better administer the election, USAID experience in post-conflict election environments suggests that wherever possible it is best to try to build local capacity and sustainability. Local ownership of the process, developing local experience, using resources that are available locally to print ballots and procure other election-related materials all go toward building realistic and sustainable cost and technical expectations. When it is feasible, the majority of the administration process should be turned over to local authorities, and strengthening the capacity of an independent and effective election management body should be a key priority for the international community.

### **Consensus building versus accommodating narrower interests**

Electoral systems are designed or revised by local actors in post-conflict countries as part of the constitutional design or drafting of electoral laws. Donors often play a role in providing assistance and technical advice as decisions by local actors about the electoral system are made. These decisions will have both logistical and political implications. The choice of electoral system in any context influences a number of factors, such as the nature of competition and relationship between parties, the elected leaders and constituents, citizen participation, and election cost and complexity. In a post-conflict context, decisions about the electoral system are especially critical because of the impact that electoral systems have on representation and competition in what may still be a volatile political environment. Systems can be manipulated in a number of different ways, resulting in party systems that often either shape political competition along the lines of existing social cleavages or lead to establishment of dominant, moderate political parties that cut across societal segments.

Plurality/majority systems tend to result in fewer dominant parties and encourage aggregation of interests across societal lines of division, which may help foster reconciliation. Parties under these systems are more likely to transcend rather than reinforce the fault lines that may have contributed to the conflict. The key is to make political moderation the winning strategy for politicians of all ethnic groups and to encourage parties to broaden their appeal beyond a single ethnic, religious, or geographic group. Doing so can promote reconciliation. In contrast, proportional systems accommodate more political parties, structured around the narrower interests of individual groups within society. This provides the advantage of ensuring specific representation of minorities and other groups in political processes. It is particularly important in certain post-conflict societies for populations to see their specific interests represented clearly by their own leaders in the formal political system.

Finally, regardless of which electoral system is ultimately selected, donors should remain attentive to the issue of who is likely to be included and who is likely to be excluded as a result of the incentives and requirements embedded in the system. Excluded groups will have little incentive to work through formal political processes and may become election spoilers or seek to undermine the broader peace process.

## Electoral dispute resolution versus negotiated political transition

There has been a recent trend in a number of post-conflict countries, especially in Africa, to forgo the electoral dispute resolution or transitional justice mechanisms that typically would determine who competes in an election and replace it with an agreement by which the competing candidates share power (Kenya and Zimbabwe being the most recent examples). In other cases, although an election takes place, the system is designed to solidify representation along ethnic lines (Bosnia in 1997 and 1998). More research needs to be done on the effectiveness of these types of power-sharing agreements, whether enshrined in peace agreements or negotiated in the post-electoral period. However, once they are implemented, it is of concern that this practice ultimately circumvents the democratic will of the people and fails to use the existing legal system (or in some cases the legal system designed inherently favors divisions along party or ethnic lines) to resolve disputes. In some instances, the international community has been the major advocate for these types of negotiated political transitions to avoid a return to conflict or bring about a cessation of hostilities, prioritizing peace over the democratic process. Although this can be a temporary solution, this type of agreement can also encourage “bad losers” or spoilers who may be unwilling in future elections to accept the results (especially losing incumbents) if they think there might be a possibility to instead negotiate their own agreement among the elite. Furthermore, as in any power relationship, there is usually one partner stronger than the other, and a nascent opposition could easily be undermined or co-opted if attempting to share power with an authoritarian incumbent.

In certain cases where individual candidates have been accused of war crimes, the international community has sometimes shied away from addressing transitional justice issues in favor of conducting elections within a strict timetable. Although the international community’s human rights concerns are valid and transitional justice issues ideally should be dealt with ahead of time, getting the buy-in of specific candidates with possible war crime records is sometimes necessary to make the peace process progress and elections happen. Alternative timelines for addressing transitional justice issues may need to be considered. In some cases, programs have supported public dialogue about the transitional justice process or in other cases have promoted the collection of data that can be used should a transitional justice process be held at a future date. Eventually, transitional justice issues should be addressed, or we fail to address long-term underlying causes of conflict.

## Programming Options

Most electoral irregularities typically take place during the pre-election period. This is also when the stage is set for many electoral processes, including designing the electoral framework, sequencing elections, and monitoring the overall electoral climate. However, elections should be thought of as a holistic process, not just a single event. It is important that programming be sensitive to issues of sovereignty and seek to avoid situations where the international community may be accused of manipulating an electoral outcome. International assistance must be seen as fair and balanced in political party support, civic education, election administration, and so forth. Assistance through grant mechanisms and international organizations, which have more programming autonomy, may be preferable to the use of contracts, particularly when there is sensitivity to outside interventions. This section discusses issues and programmatic solutions that span the key phases of the electoral cycle: pre-election, campaign period and Election Day, and post-election.

### Phase I—Pre-electoral period

*Planning considerations.* Planning should begin early, at least 18 to 24 months before an election, with initial discussions focused on the timeline, programmatic support, and the budget. Often delays occur because adequate planning is not undertaken early in the electoral cycle, particularly in the following areas:

- Election planning staff may need to be provided at the outset of any R&S operation.
- Election commission frameworks (independence, size and make-up of commission, secretariat staffing, etc.) are one example of an area that will need to be addressed early on.

- Adequate funding and staff for the election management body are necessary to prevent vulnerability to manipulation and ensure adequate management of finances.
- Contingency planning (both human and financial) for delays, security issues, and other unexpected problems is essential.
- Encourage electoral timelines that allow for sufficient campaigning and public outreach. Ideally, this would be at least five months or more.

*Coordination.* Begin coordinating early, ideally 12–18 months before an election occurs, and gradually gain intensity in the lead-up to the actual election. Coordination should be done at five levels: inside the U.S. Embassy/USAID Mission, with USAID/Washington and other USG agencies, among international donors, with the host country, and with U.S. government implementing partners. This coordination effort will help to prioritize needs and avoid duplication, ensuring that the USG speaks with one voice and that its efforts are complementary to those of other international donors and local partners. Factors for consideration include the following:

- U.S. Embassy and USAID field Missions should set up an interagency team at post six months to one year before the registration or election process begins. The typical configuration for an interagency team includes Embassy political officer for diplomacy, USAID DG officer for donor assistance, USAID OTI Country Representative (if present), Embassy Public Diplomacy office for domestic and international outreach, and military liaison officer for matters related to election security.
- The designated Washington representatives from the country and technical offices should be kept apprised of all key actions and decisions made by the field-based election working group. This is critical due to key funding and policy decisions that will need to be made along the way, in addition to information requests from the executive authority.
- To facilitate the coordination of communication between Washington and the field-based election working group, a parallel country-specific election working group should be formed in Washington that would consist of State and USAID desks: the State Department’s Bureau of Democracy, Human Rights, and Labor and USAID’s Bureau of Democracy, Conflict, and Humanitarian Assistance Offices of Democracy and Governance, Conflict Management and Mitigation, and Transition Initiatives, as well as others as appropriate. A chair or Washington liaison should be appointed to be the point person responsible for disseminating information such as electoral timelines, funding issues, and planning-related documents with the field-based election working group team.
- International donors should form a coordination group to avoid duplication and ensure that gaps are covered. Identify a lead for this up front. The agency with the technical capacity and experience should generally be the chair or co-chair along with international election implementing partners.
- Coordinate early and often with host country officials, particularly the election management body, political party leaders, and CSOs. Use the role of the international community to encourage all key stakeholders to participate in the process.
- Coordinate with U.S. government implementing partners. Institutionalize a regular meeting schedule with U.S. grantees and contractors to coordinate U.S. support at the implementation level.

*Legal framework for elections.* The legal framework consists of the rules that govern the process of holding elections and the institutions and stakeholders associated with them. These legal tools include the constitution, election laws, security laws, political party laws, and human rights laws. Factors for consideration include the following:

- The legal framework should be examined or developed as early as possible, and consensus around the rules and the processes should be sought among all stakeholders.
- Inclusion of previously marginalized groups is particularly critical to gaining buy-in and mitigating potential spoilers.
- Assistance can be provided to facilitate the stakeholders' understanding of the impact that the selection of different electoral and constitutional system will have.
- Many peace agreements and constitutions lay out the broad political framework for the election, including criteria for becoming a candidate, systems of representation, and election timing. However, most post-conflict environments are fluid and strict deadlines dictated in these agreements are likely to be unmet. According to a USAID review of 14 post-conflict elections, all but three were delayed. It is better to set out benchmarks that should be met to hold credible democratic elections.
- When possible, place an elections expert at the negotiating table to advise on benchmarks and/or potential timelines.

*Sequencing of elections.* Holding simultaneous elections (presidential, legislative, local) versus staggered elections is only one element of planning for an election. In most post-conflict scenarios, general elections (presidential and/or legislative) are held before local elections. Kosovo was one of the few exceptions, where local elections were seen as allowing the population and state to gain critical democratic experience. Tradeoffs and preconditions for sequencing of elections, such as election logistics, practicality, administrative capacity, cost, and complexity, must be taken into consideration. Factors for consideration include the following:

- Any decision on the types of elections to be held will affect the system of identification to be selected or vice-versa.
- The choice of electoral system will also impact the number of potential rounds that must be considered in planning—for example, if there is a possibility for a second presidential run-off, this needs to be factored into planning and budgeting processes.
- The decision of whether to harmonize elections or hold different levels of elections separately may also be impacted post-conflict by unresolved boundary issues. For example, it may be easier to hold presidential elections first before moving to legislative or local elections.
- Political elites may see local elections as more sensitive than national elections, especially if they upset the status quo and put at risk their local hold on power.

*Technical assistance to election administration.* Particularly in post-conflict environments, a newly created or under-capacitated election management body may need to be provided with in-depth technical expertise in the areas of structure and logistics. Factors for consideration include the following:

- Local capacity should be used and strengthened wherever possible, even if an international institution (such as the UN) is conducting the elections.
- Provide technical training to staff of election management body—help to delineate roles and responsibilities and provide technical assistance on logistics of distributing and collecting election materials.
- Develop the election management body's ability to communicate with political parties, civil society, media, and the security sector by providing technical assistance on developing communication strategies and public outreach plans.



- Fund election management body exchanges within the region to build democratic experience.

*Systems of identification.* R&S environments hold their own particular challenges for identifying citizens. For instance, census or other citizen data may not be available, identification documents may have been lost or destroyed, populations may have moved during the conflict, and nascent institutions may not yet have the strength to function at full capacity. Factors for consideration include the following:

- Requirements must be established that strike a locally appropriate balance between the need for strict documentation (to ensure that only those who meet the agreed criteria can register) and encouraging wide participation through an accessible system.
- Plan for an initial voter registry that can be reused and updated in future elections and use existing data where possible. Civil and voter registry tradeoffs must be examined. A civil registry or population registry is a database maintained by a state listing vital statistics about all of its citizens and residents. A voter registry is a central registry specifically for the purpose of registering citizens to vote in an election. A civil voter registry fills both of the above functions.
- Issues to address include timing, funding, technology, sequencing considerations, and pros and cons of different registry models. In particular, care should be taken with information that could be misused, particularly in areas where there are large demographic divisions. For example, in Rwanda national identity cards that noted ethnicity were used as a tool to execute the genocide.
- Accurate demographic data are generally lacking post-conflict, so often there are calls for a census before an election, particularly to determine districting. However, a census or boundary delimitation exercise can be divisive and manipulated to further the political interests of a particular party or candidate. In a still tenuous environment this has the potential to lead to greater conflict and should be undertaken only after careful consideration. In some cases, single-district proportional representation can prevent the need for districting.

*Security preconditions.* Security sector actors will either contribute to a secure and credible electoral process or undermine it through lack of capacity or partisan involvement. Understanding security sector actors, the role they can be expected to play, and engaging them in planning, when appropriate, is important in planning for election security. Security sector programming should not be considered in isolation from other key aspects of the overall development of rule of law. Ideally, election security program components should be woven into existing programs to build security sector capacity, coordinated with election administration assistance, and linked to longer-term rule of law initiatives beyond the traditional security sector actors.

USAID can also support the election management body in planning for security around the electoral process and can play an advocacy role with the international community to ensure that security issues are discussed, incorporated into international plans for assistance, and coordinated with other aspects of electoral preparations. USAID can also build on existing programs in democratic policing that seek to strengthen the connection between the police and the communities they serve by including specific election security-related components in the training and technical assistance. In addition to training the election management body and the security sector actors, it is also critical that civic and voter education include information about the security sector's role and plans for security around election-related events, such as voter registration, candidate forums, and rallies, and voting on election day. Factors for consideration include the following:

- Security sector training and access to areas previously under conflict should be examined, as well as consideration of how access and any potential biases of the security forces may affect the election's outcome.
- Freedom from intimidation and protection of vote secrecy is important for a transparent electoral process.

- Assess whether the military and police clearly understand their role and the level of communication and coordination between security actors and the election management body.
- A comprehensive electoral security strategy should be thought through well in advance and adapted as circumstances evolve.
- In environments where security is a major issue and operations are complex, it may be beneficial to place civilians in the military command structure to ensure safety and communications.
- In situations where the military is engaged in civil affairs, coordination with civilian efforts is particularly important.
- If disarmament and demobilization of armed groups have not been fully completed, assess how this could impact the elections should the loser be unhappy with the result. Be prepared with solutions for mitigating and managing potential electoral violence.
- Support programs that build prosecutorial and judicial capacity.

*Disarmament, demobilization and reintegration.* Progress in DDR should be considered in any electoral context. Factors for consideration include the following:

- Transforming a combative force into a political party—one that seeks power through the ballot box instead of through force—is one of the primary steps.
- Existing parties may also be armed and a DDR program can help ensure their disarmament.
- If delaying the election will result in a better security environment and not derail the entire peace process or invite constitutional debate, delay may be prudent.

*Transitional justice.* These types of efforts, though important for reconciliation and societal healing, can sometimes disrupt the electoral process and must be carefully considered in relation to the electoral timetable. Factors for consideration include the following:

- Determine existence and content of laws, regulations, and enforcement mechanisms to deal with transitional justice if potential candidates are accused of war crimes before or during the campaign or after they have been elected.
- Support a human rights commission or a special commission as another tool to address transitional justice issues.

*Civil and political rights.* Operations and logistics may be running smoothly, but particular attention should be given to civil and political rights such as freedom of association and press. Contextual factors that will contribute to the legitimacy and transparency of the elections need to be considered early on so that accompanying legislation is put in place. Essential considerations that should be asked include the following:

- Are there restrictions on who can form a political party or run for office?
- Are there restrictions on how many people can gather for a public meeting?
- Have there been unwarranted arrests on key opposition leaders by the ruling government?
- Can previously marginalized groups access unbiased media or is it entirely state or party controlled?
- Is the population being threatened or rewarded for supporting a particular party? Is there an environment of fear and intimidation?

- Are there legal or physical barriers that may limit voting access for groups such as women or people with disabilities?
- Are there “unofficial” party militias involved in campaigning through intimidation or committing human rights abuses?

## Phase II—Campaign period and Election Day

*Appropriate campaign environment.* As any election campaign period begins, monitoring of political and civil rights specific to the campaign period such as freedom to hold political rallies and openly campaign should be considered. Factors for consideration include:

- Training of journalists on neutral election coverage.
- Media monitoring to see if all parties/candidates are being given equitable access to media (especially if media tends to be state dominated or controlled).
- Promoting appropriate regulations concerning hate speech and equitable media access.
- Encouraging candidates to call for peaceful campaigns and agree to peaceful dispute mechanisms if a party(s) wants to contest an electoral outcome.
- Monitoring if the state or ruling party is using legislation to crack down on political opponents to limit their ability to campaign (e.g., cancelling rallies, refusing to let large groups gather, demanding outrageous fees to register as a candidate or political party, arresting the main opposition candidate on trumped up charges).

*Electoral oversight.* Integrity of the overall election process can be strengthened with vigorous oversight throughout the entire pre-election, campaign period, Election Day, and post-election phases. USAID’s experience has shown that domestic long-term observation missions are often more effective than international Election Day observation. Observation of any citizen processes, such as registration or constitutional processes, is important to gain buy-in from key stakeholders up front. It is important to have domestic monitors engaged in the immediate post-election period so they can provide a moderating influence and help validate electoral results in the face of claims of fraud or monitor electoral dispute resolution processes. In addition, given that the numbers of monitors/observers are usually insufficient to address in-depth national coverage, it is important to analyze the geographic areas with the greatest potential for violence or fraud so that observers can best target their efforts. Options to monitor the integrity of the electoral process include:

- Political party monitoring of voter registration.
- Long-term and short-term international and domestic monitors.
- Voter registration audits.
- Parallel vote tabulations or quick counts (though useful as an oversight mechanism, may not be appropriate under all circumstances and can be extremely sensitive).
- Exit polls (though useful as an oversight mechanism, may not be appropriate under all circumstances and can be extremely sensitive).
- Opinion surveys.
- Media monitoring.
- Electoral violence monitoring.

- Campaign finance monitoring.
- Codes of conduct for all stakeholders (can be useful in holding participants in the electoral process accountable, including candidates, parties, observer groups, and media).
- Voter education monitoring—whether it is conducted in all regions, has uniform coverage, and is conducted in multiple languages.

CSOs play a critical role in monitoring the entire election process and pushing for reform from initial planning all the way through post-election. It takes a long time to build this capability and for the civil society groups to gain credibility as neutral entities. Focusing on building up this capacity is crucial, realizing that in post-conflict situations it may take more than just the initial election for these groups to become fully operational and gain the experience and reputation that they need.

*Political finance.* Funding issues, such as whether illegal funds are being used to support political campaigns, may be challenging to identify in any post-conflict environment that lacks appropriate monitoring and financial institutions. This may be one of the most difficult areas of oversight in an R&S environment as the economy is often transitioning from an illicit war economy and some groups that had been parties to the conflict may have been relying on illicit goods (such as narcotics or illegal mining or logging) to fund their activities. Factors for consideration include the following:

- In post-conflict environments, it may be realistic only to monitor the use of public funds, but it is important to work toward developing and implementing transparent and regulated political finance laws that will eventually require public disclosures.
- It is also important to work with CSOs and independent media to investigate the funds and understand public disclosures.

*Voter/civic education.* Support long- and short-term programs covering the entire range of pre-, post-, and interim-voter and civic education (see Figure 12.1 for an example of voter education in Bolivia). Factors for consideration include the following:

- Consider methods of voter and civic education as well as funding, timing, and quality of materials.
- Take into account literacy levels, alternative formats for persons with disabilities, and local traditions of communication and levels of trust in organizations and entities delivering messages.
- Support a diversity of materials to reach individuals at different socioeconomic and educational levels and in rural versus urban areas (e.g., mix of printed material, radio spots, roving theater groups, discussion forums).
- Ensure messages (particularly those being funded by USG partners) are politically sensitive and neutral.
- Sequence messages according to the election timeline—initial information should focus on the new constitutional/electoral systems, building to voter registration, peaceful campaigning and how to cast an informed vote, accepting the results and supporting the new national government.
- Special efforts may need to be undertaken to reach previously marginalized groups (such as women, youth, racial, ethnic, and religious minorities, persons with disabilities, the aging, or internally displaced persons).

*Managing U.S. official observation missions.* Since USAID staff is often asked to help manage U.S. official observation missions, listed below are some factors to consider reviewing in R&S environments given the

inherent highly charged political nature of any electoral competition. Essential questions to ask include the following:

- How extensively should the United States monitor?
- How closely should the USG coordinate its deployments with other Embassies?
- Should a public statement be released? If so, when?
- What will be the security of USG personnel in post-conflict regions?
- What is the perception of USG involvement in the observation process?

#### **FIGURE 12.1 VOTER EDUCATION IN BOLIVIA**

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In March 2004, USAID/OTI launched a program in Bolivia to help reduce tensions in areas prone to social conflict and to assist the country in preparing for key elections. At the time, Bolivia was experiencing heightened political unrest following the resignation of President Gonzales Sánchez de Lozada, in addition to increasing demands for regional autonomy from several departments (i.e., administrative divisions). For the first time, the general elections in December 2005 included the popular election of prefects (i.e., governors) and an opportunity to address decentralization directly. To support peaceful political participation by indigenous communities, USAID/OTI worked through local partners (LAICO Solidarity Movement and Association of Indigenous Youths of Kollasuyo) to facilitate more than 700 information workshops and civic education fairs in rural municipalities throughout conflict-ridden communities in El Alto and the Altiplano. Youth leaders from each organization educated citizens and distributed informational booklets to more than 80,000 citizens that had traditionally felt isolated from the democratic process.

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### **Phase III—Post-election period**

*Managing post-electoral violence.* Post-electoral violence may be provoked by either those who have lost or those who have won the election, especially if the incumbent refuses to give up power. Managing this post-electoral violence is often a reality for R&S transitions. The following preventative factors can be taken to address potential post-electoral violence:

- Utilize civic and voter information as tools to help prevent and/or address disputes.
- Support national dialogue efforts by civil society.
- Encourage political party leaders to call for calm and to agree to post-election dispute mechanisms in advance of elections.
- Provide support to victims of political violence (medical, legal, psychosocial).
- Draw on international diplomatic pressure (especially important if the political parties are armed and instigating/encouraging the violence).

*Adjudication of disputed elections.* Linking electoral support programs with rule of law programs in a country early on can help to identify appropriate methods to address and establish dispute resolution methods. Factors for consideration include the following:

- Support stand-alone special courts with sufficient independence to adjudicate cases on time.

- Alternatively, strengthen special commissions attached to the existing election commissions.

*Negotiated political transitions.* Power-sharing agreements between incumbent rulers and opposition have become a recent trend, and in many cases these agreements have been promoted by the international community as a solution to avoid a return to conflict. USAID has supported a number of initiatives to support power-sharing agreements in the wake of a disputed election, such as in Kenya and Zimbabwe. Factors for consideration include:

- Assisting in setting up new government offices.
- Helping to define the roles and responsibilities of the different players within the power-sharing agreement, including informing the public about the agreement.
- Assisting new government officials in the transition from campaigning to governing.
- Encouraging sunset clauses for power-sharing arrangements, or drawing on other means for achieving political accommodation, to avoid creating incentives for political leaders to violently contest election results in an attempt to maintain/share power through nonelectoral means.

*Capacity building and promoting reform in the post-election period.* Continued work on capacity building after an election is critical to build on lessons learned and to keep staff engaged. To sustain the election management body and build local capacity, three dimensions—technical, financial, and political—must be addressed. Post-election can also be a critical time to promote more general reform of the electoral or legal framework and can be used to create a more sustainable system when reforms will be easier to implement. In contrast to the very operational pre-election period, election staff may have more time to focus on reforms in the post-election period. Unfortunately, once Election Day has passed, reforms are often dropped and forgotten. The following considerations should be included:

- Fund an independent assessment of election conduct and the electoral body’s capacities.
- Encourage election management body staff to participate as international election observers through regional organizations.
- Support electoral reforms that will help to create a permanent, professional staff—including pushing for the inclusion of electoral administration staff within the civil service legislation and systems.
- Support electoral reforms that create a more independent election management body, with a stand-alone own budget (not tied to the executive).
- Provide needed infrastructure updates to prepare for future elections. When selecting election technology (such as voter identification cards or voting machines), appropriate technology should be chosen so that it is not overly complicated, expensive, or unsustainable once the country moves beyond the post-conflict stage and has less international donor support to rely on.
- Document and archive all financial information related to international funding and host country expenditures, as this information will be invaluable for future elections.

*Maintaining voter registry.* Post-election can be a critical time to continue investing in updating and maintaining the voter registry. In many post-conflict environments, the voter registration effort is often more than half of a total post-conflict election budget. Factors for consideration include the following:

- Continue to build upon and improve the existing system.
- Continue to work to identify and register refugees, displaced persons, or diaspora that may have returned home after the elections.

*Transition to governance.* Liaising early on with colleagues to prepare the groundwork for programming that will help new legislators govern is often a missed opportunity. Putting programming options in place in advance of an election can provide for a smoother transition for a governing body. It is valuable to take advantage of the momentum of civic engagement generated during elections by continuing to work with civil society, including media, in their oversight and advocacy roles to promote good governance in the post-election period. There are many examples of domestic election monitoring groups converting into watchdog/advocacy organizations after elections. Factors for consideration include the following:

- Support programs to train newly elected officials (at the local or national level) in their roles and responsibilities (for example in Nigeria and Sierra Leone).
- Support programs to train parliamentarians how to improve constituency outreach.
- Support programs that encourage coalition building and cooperation within the legislature around common issues (such as the development of caucuses).
- Assist in developing professional staff with legislative research and drafting capability.
- Assist in developing procedures and operations that will enhance checks and balances between different parts of the government.
- Support civil society groups to enhance their capacity to monitor the newly elected government's implementation of campaign promises.

### **Crosscutting issues**

*Marginalized groups.* Strengthening the capacity of historically marginalized groups to participate in and influence decision-making bodies within political parties and government is an important issue that should not be overlooked. Factors for consideration include the following:

- Promote programs that remove barriers to participation (such as restrictions on forming political parties or registering as candidates and physical barriers that prevent persons with disabilities from accessing voting sites).
- Improve political participation and representation through training, skills development, and effective voter education that is targeted specifically at marginalized groups (which may include developing materials in local languages, sponsoring alternative methods of message delivery, supporting civil society groups that focus on the political inclusion of marginalized groups such as internally displaced persons, persons with disabilities, and ethnic minorities).
- Support nondiscriminatory and nonexclusionary electoral laws, administration, and oversight.
- Promote the protection of civil and politically marginalized groups through the implementation and enforcement of newly adopted regulations that promote inclusiveness.

*Diaspora and Refugees.* Although out-of-country voting is often very expensive, options should be considered to ensure enfranchisement of refugees and/or eligible voters residing outside the country if the legal framework allows for it. This ensures greater buy-in to the political system from the population that will likely return as the country moves toward a full transition out of the post-conflict period.

### **Resources**

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## 13. CIVIL SOCIETY

### Framing Issues

The focus of the guidebook thus far has been on building state institutions in the aftermath of conflict. Although civil society has been mentioned as a potential contributor to these efforts, its role has not been explored in depth. Civil society, however, is one of the primary means for channeling citizens' interests and concerns to the state with the goal of affecting policy. Although institutions are critical to democracy, democracy is ultimately about people. These institutions will be mere façades without the constructive engagement and buy-in of citizens and civil society. The present chapter focuses on the ways these critical constituents are or can be engaged in peace-building and democratization efforts in post-conflict environments.

For the purpose of this handbook, the term “civil society” refers to the range of informal and formal nonstate, not-for-profit actors that represent and advocate for citizens' interests in the public realm or serve as general advocates for change. Civil society operates within the space between the state, market, and family. Unlike earlier conceptualizations that focused primarily on formal organizations such as NGOs and tended to imbue those organizations with civic values, this handbook adopts a broader understanding, giving attention to informal actors and indigenous forms of civil society such as tribal and ethnic associations. This broader conceptualization includes NGOs, religious organizations, labor unions, professional associations, formal and informal networks, media organizations, and youth groups, among others. It also recognizes the potential existence of “uncivil actors” such as gangs or militia groups, who, if ignored, could counter peace and democratic reform efforts. This more inclusive conceptualization is particularly relevant in conflict and post-conflict environments where indigenous forms of civil society as well as uncivil actors are likely to be predominant. The challenges presented by these types of actors will be addressed in more depth later in the chapter.

### Contextual Considerations

To effectively engage civil society in post-conflict environments, it is important to understand the sociopolitical environment in which civil society operates. This requires not looking at civil society as an isolated sector but exploring how it relates to other critical sectors and actors such as the state and market. A recent study commissioned by the World Bank advocated for such a relational approach, focusing on the public sphere, the critical space where the state, media, and civil society meet to communicate with and influence one another.<sup>71</sup> This approach is particularly relevant for post-conflict environments where the public sphere has been damaged due to conflict. According to the study, building the capacity of the different actors to “engage effectively and constructively in the public sphere is the most effective way of dealing with voices interested in disrupting the peace process.”<sup>72</sup> By opening and strengthening positive lines of communication among the state, media, and citizens (usually through civil society), citizens eventually will develop trust in the state as a provider of credible information, thereby weakening the voices of nonstate actors who aim to discredit and overthrow the state.<sup>73</sup> Unfortunately, however, the opportunity to develop such participatory dialogue is often missed as donors and development practitioners opt for sectoral analyses and interventions, treating each sector as isolated and failing to note the dynamic interrelationships that exist and shape the broader post-conflict environment.

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<sup>71</sup> Henriette von Kaltenborn-Stachau, “The Missing Link: Fostering Positive Citizen-State Relations in Post-Conflict Environments,” *Brief for Policymakers, Communication for Governance and Accountability Program* (Washington, DC: The International Bank for Reconstruction and Development/World Bank, September 2008), 9.

<sup>72</sup> *Ibid.*, 13.

<sup>73</sup> *Ibid.*

In addition to exploring the relationships among civil society, the state, and the media, it is also important to examine interactions with other critical actors such as the military, be they international or domestic; market forces; and external actors such as donors and international nongovernmental organizations (INGOs). The power dynamics among these actors play a critical role in shaping the space in which civil society operates.

### **Relationship between civil society and conflict**

Numerous analysts have written about the impact of conflict on civil society, noting that it usually has an adverse effect and results in the weakening of the sector.<sup>74</sup> Although that is often the case, there is a growing recognition that despite the challenges facing civil society, civil society is resilient and certain formations persist through conflict while still others arise in its aftermath. Those that tend to survive are often indigenous or linked to primary groupings in society (e.g., ethnic, tribe, race), largely because these groups frequently serve as coping mechanisms for communities in conflict.<sup>75</sup> There is also an emerging consensus that civil society vibrancy is not necessarily linked to an increase in peace and democratic development, as demonstrated by cases such as Rwanda in 1994 when a dense civil society played a considerable role in fueling genocide.

Although each conflict environment has its own complexities, some generalizations concerning the relationship between civil society and conflict can be made. Below is a summary of research findings on the impact of conflict on civil society. These are important as they can significantly impact programming opportunities.

### **Impact of conflict on civil society<sup>76</sup>**

*Restricted enabling environment.* One of the ramifications of conflict on civil society is an increasingly restricted enabling environment. Physical and communication infrastructure is often destroyed, limiting mobility as well as opportunities for organizations to network; human rights abuses are prevalent; insecurity and lawlessness are pervasive; and government structures are nonexistent, compromised, or barely functioning, making it difficult for civil society to know whom to engage.<sup>77</sup>

*Alterations in community structures, groups, and individual actors.*<sup>78</sup> Conflicts frequently result in alterations in community structures, groups, and individual actors, as alliances are destroyed or newly formed and individuals and groups shift their identities and world views based on their perceptions and experiences. Such changes may be either an impediment to or an opportunity for positive social change. For example, traditional hierarchical structures may be destroyed or shaken during conflict, providing opportunities for marginalized groups to find voice. In this process, power relations shift as new groups emerge and rise to power.<sup>79</sup>

*Competition for space by conflict entrepreneurs and/or government authorities.*<sup>80</sup> Another ramification of conflict is that conflict entrepreneurs and/or government authorities vie for power and influence, constricting the public space in which civil society operates. Opportunities to remain neutral diminish or disappear and civil society

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<sup>74</sup> Thania Paffenholz and Christoph Spurk, “Civil Society, Civic Engagement, and Peace-Building,” World Bank Social Development Paper No. 36, 2006 (Washington, DC: World Bank, 2006), 11; and Kristian Berg Harpviken and Khell Erling Kjellman, “Beyond Blueprints: Civil Society and Peace-Building,” Concept Paper commissioned by the Norwegian Agency for Development Cooperation (Oslo: International Peace Research Institute, 2004).

<sup>75</sup> Paul Harvey, “Rehabilitation in Complex Political Emergencies: Is Rebuilding Civil Society the Answer,” 206–207.

<sup>76</sup> This summary draws heavily on Paffenholz and Spurk, “Civil Society, Civic Engagement, and Peacebuilding.”

<sup>77</sup> Ibid., 11.

<sup>78</sup> Ibid., 12, and B. Pouligny, “Civil Society and Post-Conflict Peace-Building: Ambiguities of International Programs Aimed at Building ‘New’ Societies,” *Security Dialogue* 36, no. 4 (2005): 495–510.

<sup>79</sup> Ibid.

<sup>80</sup> Strand et al., “Community-Driven Development in Contexts of Conflict,” 20.

actors risk becoming instruments to serve the interests of the political elite. There is also an increase in the number of uncivil actors competing for the public space.

*“Alteration in opportunity structure in which civil society operates.”*<sup>81</sup> As alterations within community structures take place and public space becomes increasingly contested, the opportunity structure in which civil society operates begins to shift. CSOs compete for roles and funding, particularly as external donors flood the country with money. CSOs and government negotiate and renegotiate their relationships. This may happen at multiple levels of government since governmental structures are likely to remain fragmented. Tension also arises between civil society and government actors due to competition over roles and responsibilities, usually exacerbated by external donors as they redirect funding among the actors.<sup>82</sup> There can also be an increased risk of government trying to co-opt civil society by forming their own NGOs, not only to attract funding but to counter what may be perceived as opposition by civil society in light of their autonomous role. The government may issue decrees or other regulations to stifle civil society as well (e.g., strict registration procedures, financial disclosure requirements).

In addition to heightening competition among actors who need to work together to address post-conflict challenges, the excessive influx of external funding risks fueling corruption and opportunistic behaviors; strengthens patterns of accountability focused on donors rather than constituencies; and risks weakening if not destroying any spirit of volunteerism, should one exist. Furthermore, CSOs are likely to be operating in grey market economies and may be forced to pay or, even worse, collude with criminal elements profiting from the fluid, unregulated environment.

*Diminished social trust.* One of the most challenging results of conflict is the damage inflicted on social trust, a critical component for reweaving society’s social fabric. Groups and individuals lose trust in one another, in the very concept of civil society, and in the social contract itself.<sup>83</sup>

*Weakened capacity.* Another impact of conflict is weakened capacity. As noted earlier, the enabling environment suffers from conflict and thereby weakens civil society. NGOs often fold or are forced to operate at very basic levels, losing valuable personnel as people flee or are tempted by more lucrative positions in INGOs and organizations. CSOs’ weakened capacity is compounded by the fact that in the post-conflict phase they are required to develop new capacities to respond to emerging needs (i.e., shifting from service delivery to engaging in peace-building and democratization initiatives).<sup>84</sup> This capacity deficit further complicates donor efforts in that weak financial systems make it difficult for CSOs to properly manage funding. It also often results in poor performance, which tarnishes these organizations’ public image. Finally, even if a CSO has capacity, its success is likely to be limited if other key actors, such as government, lack the capacity to respond to its representation and advocacy demands.

### **Impact of civil society on conflict and peace building**

Many development practitioners adopt a normative conception of civil society, emphasizing its potential contribution to peace-building and democratic processes and failing to note the “uncivil” elements that are or can become spoilers of such processes. Civil society, like other actors, can play a very negative role in conflict. This potential does not diminish in post-conflict environments. Civil society programs in these contexts must not only focus on reformers but also take into account and consider options for addressing potential spoilers. Unfortunately, however, this rarely happens. Assessment frameworks that focus on identifying reform partners are partly responsible for this blind spot, as are inflexible donor policies and funding mechanisms that do not permit engagement with spoilers should a responsible and potentially effective course of action be identified.

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<sup>81</sup> N. Tocci, “EU Neighbourhood Policies and Peaceful Transformation of Conflicts” (Eldis, 2008).[Please confirm reference.]

<sup>82</sup> World Bank, “Engaging Civil Society Organizations in Conflict-Affected and Fragile States.”

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

Donors and development practitioners have fewer problems identifying ways in which civil society contributes to peace building. In a study commissioned by the World Bank, Paffenholz and Spurk present an analytical framework focused on civil society functions in peace building, drawing on Merkel and Lauth's model of five functions of civil society as they relate to democracy.<sup>85</sup> Paffenholz and Spurk note that the only function in the model that does not directly relate to peace building is service delivery, though it may serve as an entry point for other civil society functions such as advocacy. Although the latter is true, service delivery can also be perceived as a peace dividend in reconstruction and recovery efforts, which makes it an important function for peace building.

Below is a summary of the functions identified in the Paffenholz and Spurk model for building both democracy and peace.<sup>86</sup> Reflecting on these functions may help development practitioners identify potential civil society interventions for post-conflict environments as well as the local partners best placed to implement them.

- Protection – Against attacks from the state on freedom, life, and property, as well as attacks from armed actors.
- Monitoring – State activities and citizens' rights, as well as conflict early warning monitoring.
- Advocacy/Public Communication – Articulating interests and bringing relevant issues to the public agenda (especially those of marginalized groups),<sup>87</sup> plus participation in the peace process.
- Socialization and Culture of Peace – Forming democratic attitudes and habits, tolerance, and trust, as well as attitude change for inculcating culture of peace and reconciliation.
- Social Cohesion and Conflict-Sensitive Social Cohesion – Building social capital, bridging societal cleavages, contributing to social cohesion; and building bridging ties across adversary groups.
- Intermediation and Facilitation – Balancing interests with the state, plus facilitating among all kinds of different actors, not only citizen–state.
- Service Delivery – Providing basic needs-oriented services and serving as an entry point to other functions for peace building (note: may also serve as a peace dividend).

## Key Tradeoffs

### Meeting needs versus building capacity

A critical tradeoff that impacts the civil society sector is that of meeting needs versus building capacity. In the early stages of post-conflict reconstruction, the international community is concerned primarily with meeting immediate needs and implementing high-visibility, quick-impact programs to demonstrate gains from peace. In emergency efforts, generally, CSOs are few in number and are turned to as key partners to absorb large amounts of donor resources, for which they lack systems or management experience. In addition, they are called on to provide an array of services, often beyond their mission and realm of experience. Donors tend to work with local CSOs as subcontractors or grantees under INGOs. Grants can be in the form of funds or in-kind assistance. Providing in-kind assistance enables the primary implementer, which often is an INGO, to undertake procurements on behalf of the CSO, obviating the need for the local organization to directly manage money. This avenue allows organizations with weak administrative and financial capacities quickly to meet immediate service needs.

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<sup>85</sup> See Paffenholz and Spurk, 7, 12–13.

<sup>86</sup> See Paffenholz and Spurk chart on page 43.

<sup>87</sup> Words in parentheses added.

Their engagement is often piecemeal rather than systematic, which may not allow them to invest in vehicles or office space that would be a start on building toward sustainability. This is also evidenced in later phases, even once international donors have worked with the government to outline a harmonized and aligned aid framework.<sup>88</sup> Such engagements weaken CSOs rather than strengthen them. However, over time, USAID program or grant managers can spend significant time with the local grantee building the organization's capacity while assisting with preparation of additional grant proposals, building monitoring and evaluation plans and capability, and initiating sustainable flows of funding. Donors can gradually hand over more resources for CSO direct management. The donor priority of meeting immediate needs can contribute to tensions between government institutions and local civil society. Because civil society can operate flexibly and quickly mobilize, the government, which is in disarray and cumbersome, can become sidelined. The international community needs to engage both government and civil society. Programs can foster appropriate roles for both, operating both separately and together. For example, if government institutions do not yet have the capacity to deliver the services, donor programs can include government actors as advisors or on assessment teams to design programs initially to be delivered by CSOs. Another option is for donors to support the government to contract organizations to implement service projects. CSOs can support processes that bring citizens and government officials together to discuss issues and plan and can engage with government as they provide services.

In the mid- to late phases of post-conflict reconstruction, donors frequently redirect funding to state institutions to “build the state.” Although some funds remain for civil society, the bulk of the funding tends to shift to budget support.<sup>89</sup> This is understandable because state institutions need to be strengthened; however, civil society should not be left out of the process. An engaged civil society is a critical part of state building. Civil society must be capable of effectively engaging the state both in cooperative projects, such as service delivery and policy development, and in autonomous monitoring to hold the state accountable.

### **Deliberative processes versus expedited political agreements**

A second tradeoff is that deliberative processes are often sidelined in favor of expedited political agreements. During the early phases of post-conflict reconstruction, primary emphasis is placed on establishing security and solidifying peace. Constitution revision and/or writing processes frequently take place during these early phases as many of the post-conflict efforts rely on revised legal frameworks. Frequently, international community and local political actors push for expedited political agreements or rewritten legal frameworks to move the peace process forward and avoid potential challenges. Though expedient, this approach is detrimental to citizen participation and to the citizen-state relationship in that it does not encourage ownership outside the limited number of political elites engaged and potentially sets negative precedents for future relationships among the state, civil society, and citizens. Absent local buy-in and legitimacy in the public's eyes, implementation of such agreements will be limited and potentially counterproductive to long-term democracy efforts.<sup>90</sup> Where diplomatic efforts and short-term expediency may not coincide with the optimal timeframe for true participatory processes, interventions can help mitigate this disconnect through rapid information dissemination and forums to bring citizens together to learn about and discuss the political agreements.

Another version of this tradeoff concerns the domination of the executive branch. In some cases, due to expediency, limited funding, and convenience, the international community opts to engage the executive rather than other components of the checks and balance system (e.g., legislature, judiciary, civil society). This can be seen in the civil society sector where many of the programs, particularly those focused at the local level, identify entry points for civil society engagement with executive offices and line ministries rather than

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<sup>88</sup> DFID, “Approaches to Improving the Delivery of Social Services in Difficult Environments.”

<sup>89</sup> USAID and a few other bilateral donors, such as the Norwegian Agency for Development Cooperation, are exceptions.

<sup>90</sup> For information on the challenges and opportunities of engaging the public in constituting processes, see chapter 6 on page 40.

elected bodies (e.g., subnational legislatures). This potentially threatens democracy by creating an overly powerful executive branch.

Finally, the broader tradeoff of expediency versus deliberative processes comes into play when international donors drive aid efforts for quick results rather than encourage participatory approaches. In post-conflict environments donors are extremely prescriptive due to political sensitivities and the need to align their assistance with their country's foreign policy interests. Although this is understandable, it does not encourage local participation and ownership—both critical factors for successful longer-term development.

## **Programming Options**

In considering programmatic options for engaging civil society in post-conflict environments, taking some general principles into account, which are outlined below, may help donors and development practitioners address some of the challenges outlined earlier.

### **Ground decisions in solid contextual analysis**

Due to the complex nature of post-conflict environments, a solid contextual analysis must be conducted prior to making any decisions, be they strategic or programmatic. The analysis should examine the civil society landscape and the relationships among actors. It should be regularly updated, as the context is constantly shifting, and participatory, reflecting local actors' self-reflections and perceptions rather than simply outlining the donor's perspective. The analysis, together with an understanding of the broader policy and development goals, should help identify appropriate programmatic options. Given inevitable ambiguities with the context, however, a degree of risk taking is critical. Examples of areas that should be covered in the analysis are included in Annex 13.

### **Adopt a conflict-sensitive approach**

Use of a conflict-sensitive approach by both donors and development practitioners is particularly important for the civil society sector, where the mobilization of CSOs may be viewed as a threat by government and other actors. Some points to consider are: 1) Who the “dividers” and “connectors” within the society are;<sup>91</sup> 2) Who the actors represent and what their relationships are to the conflict; 3) Likely impact of the intervention on state–civil society relationships, relationships among CSOs, and the population (e.g., engaging external donors can jeopardize an organization or individual's legitimacy); 4) How the intervention may impact the security of partners as well as measures that can be taken to strengthen their security; and, 5) Impact of program management issues on broader conflict (e.g., choice of personnel). In addition to trying to not exacerbate the conflict, donors should consider opportunities for strengthening peace.

### **Expand civil society functions and actors to engage**

Donors and development practitioners need to look beyond traditional DG functions that civil society perform (e.g., advocacy) to broader peace-building functions. Examples of the latter include but are not limited to establishing conflict early warning mechanisms, serving as facilitators and mediators among different parties in conflict, and promoting a culture of peace through citizen awareness campaigns. Such peace-building functions can help create an enabling environment for democratic and other sectors' reform.

The expansion of functions requires engaging a broader range of actors. This may include supporting CSOs that cross ethnic, economic, or political fault lines, or reaching out to indigenous forms of civil society, such as groups of elders that enjoy legitimacy within their communities. In some cases, opportunities may exist to work with individuals or “unlikely pairs” (e.g., leaders of different religious groups) to advocate for peace. Capitalizing on such opportunities is not easy for donors as these types of partners are not reflective of the traditional donor recipient. This presents challenges as well as opportunities. For example, although

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<sup>91</sup> This refers to wording used in the Do No Harm, also known as the Local Capacities for Peace framework. See Mary B. Anderson, “Do No Harm: How Aid Can Support Peace Or War.”

indigenous actors such as groups of elders may be considered legitimate by their communities, they may not share the same values as the donors funding them or may not have adequate financial systems in place to receive funding. The risks and gains from engaging untraditional actors should be carefully weighed prior to engagement.

Peace building involves reaching beyond major power brokers and even potential reformers to engage a range of actors. In many cases, this is likely to include “uncivil actors,” or potential spoilers. Vulnerable and marginalized populations such as women, youth, persons with disabilities, and minority groups also need to be taken into consideration. They are often the most adversely affected by conflict, not represented by other civil society actors, and require special assistance. They can, however, play a major role in peace processes, as has been seen with women and youth. Youth deserve special attention due to their rising numbers and to their potential for being both positive and negative forces for change. In conflicts around the world, youth and even children are forced to join militias. Many DDR programs are now designed to ensure they address the needs of these population groups.

### **Foster local participation and ownership**

Interventions should foster local participation and ownership. Although participatory approaches can be challenging and time consuming, they are critical for increasing legitimacy, establishing buy-in, and strengthening the likelihood that the initiative will be sustainable. Unless an examination indicates that a participatory process in the given context may exacerbate conflict, local actors ideally should be engaged in every phase of the effort, from planning to implementation to monitoring and evaluation.<sup>92</sup> Careful monitoring of participatory processes is necessary to ensure that local elites do not capture programs, as has been the case for some community infrastructure programs, and that marginalized populations are included. It is also important to balance expectations with what is realistically achievable.

One example of a way in which participatory processes were encouraged while delivering aid in a rapid manner is the use of community improvement councils in Kosovo. These councils comprised 15 citizens democratically selected to represent a community; they rapidly engaged the community by identifying and prioritizing the needs most important for community improvement and helped citizens feel that they had a voice in assistance.

### **Strengthen enabling environments**

The enabling environment is one of the most critical factors impacting civil society effectiveness. Therefore, attention must be given very early to strengthening the enabling environment through the development and proper implementation of relevant laws and regulations and the creation of institutionalized mechanisms for citizen engagement.

### **Build long-term capacity and support institutions**

The ultimate goal of reconstruction efforts is to eventually transfer power and responsibility to local actors. To ensure the success of this transfer and indeed to expedite it, donors and development practitioners need to focus on long-term capacity building and institutional strengthening from the beginning of the process.<sup>93</sup> However, such support should be carefully targeted as not every intervention needs to be sustained. In some cases, the focus may be on the sustainability of a particular organization, whereas in others the issue may be the sustainability of the civil society function.

### **Apply integrated, cross-sectoral approaches**

Integrated, cross-sectoral approaches are essential in post-conflict environments where entire systems may have been destroyed and where success in one sector is likely to depend on success in another (e.g.,

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<sup>92</sup> See Harpviken and Kjellman, *Beyond Blueprints: Civil Society and Peace-Building*, 9.

<sup>93</sup> World Bank, vi. [Identify reference and provide shortened citation.]

educational reforms are often dependent on larger governance reforms). Civil society provides a link among development sectors as all sectors work with CSOs. A first step to strengthening collaboration is to map which CSOs are active in which sectors and how they are engaged. This should reveal opportunities for collaboration, such as creating coalitions and expanding CSO functions (e.g., engaging sector-specific CSOs in peace-building and democracy functions).

One cross-sectoral linkage that may be highly beneficial for civil society development in post-conflict environments is a collaborative relationship with the media. The context will indicate the extent to which this is feasible or even desirable. As a principal channel of information, media plays an important role in shaping public perception. By collaborating with media organizations, CSOs can broaden their reach, clarify and intensify their message, and potentially improve public perception of the civil society sector by revealing and explaining the work they do.<sup>94</sup> The media also enables an oversight role for civil society by providing access to information.

### **Strategically consider geographical focus**

The choice of geographical focus of post-conflict initiatives is important. If the conflict is localized, the focus may be on the region in conflict; however, donors need to be aware of how this decision may impact the surrounding communities as well as communities in other parts of the country. Another approach may be to focus on geographical locations with vulnerable, high-risk populations, assuming these do not coincide with the conflict zones. In any case, it is important that donors are transparent about their decision-making process.

One specific consideration for civil society programs is to try to link community-level initiatives to initiatives at the national level. This is important for identifying and linking critical information, such as community priorities and needs, with information at the national level that is needed to advocate for change. Local-level initiatives can also generate the public support needed to demonstrate buy-in for reform efforts.<sup>95</sup>

### **Ensure coordination as well as flexibility and innovation**

Donor coordination takes on particular importance for the civil society sector in post-conflict environments due to the volume of funding that is injected into countries and targeted, at least initially, for civil society. If left uncoordinated and unmonitored, it can result in a ballooning of the sector and a proliferation of “suitcase NGOs” motivated by private interest. It can also result in considerable duplication of effort.

Donor coordination should not be so orchestrated that it does not leave room for flexibility and innovation, which are essential in post-conflict environments. Flexibility is needed in planning, monitoring and evaluation, and funding modalities. Strategies will have to be revised to address local dynamics. Monitoring and evaluation systems must be adaptable and realistic and include new types of indicators that measure increased peace and reduction of violence. It is useful to have monitoring mechanisms and indicators that can provide immediate feedback to program managers so program adjustments can be made in highly fluid environments (e.g., quick polls to assess citizen perceptions; capturing the timeframe for delivery of a given service/peace dividend). Finally, a choice of funding modalities is required to meet the variety of needs, including the need for different sources of support to ensure CSOs’ independence and to strengthen their institutional capacity.

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<sup>94</sup> For more information on the role of media in post-conflict environments, see a forthcoming chapter of this guidance.

<sup>95</sup> In peace-building terms, this would be linking top-down peace initiatives, or Track 1, with bottom-up initiatives, Tracks 2 and 3. See J. P. Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: United States Institute of Peace Press, 1997).



## Potential programmatic interventions

Below are examples of programmatic interventions in which civil society actors are engaged or could be engaged in post-conflict environments. This list should not be viewed as a checklist but rather as examples of interventions that can be implemented at various phases of the reconstruction process.

- **Quick-impact/high-visibility programs** (e.g., community infrastructure and development projects) – This type of program has a primary goal of engaging local actors early in the reconstruction process to gain legitimacy for peace and democratization programs. The latter phases of post-conflict reconstruction are likely to include the consolidation of earlier initiatives as well as a bringing to scale of successful programs.
- **Basic service delivery** – Local CSOs are frequently contracted by INGOs to perform immediate service delivery activities, particularly in the emergency and early phases of reconstruction. These initiatives can serve as entry points for peace-building and democratization efforts and demonstrate peace dividends. To the extent possible, government, civil society, and citizens should collaborate in implementing these initiatives. With time, there needs to be a transition in roles and responsibilities from CSOs, which are normally engaged early in the recovery process, to government as the latter gains the capacity to take on more responsibilities. However, civil society should stay engaged in the monitoring and oversight of service delivery efforts.
- **Peace-building and citizen engagement initiatives** – These initiatives may include national dialogue, reconciliation, and constitution-building processes aimed at reestablishing social inclusion and consensus, dialogue forums aimed at rebuilding social capital (e.g., local-level initiatives), and transitional justice efforts, among others. These types of initiatives provide opportunities to reach out to and engage potential spoilers as well as marginalized groups. During the latter phases of post-conflict reconstruction, peace-building initiatives may transition into broader citizen engagement efforts. They are also likely to address democratization issues more directly.
- **Creating and strengthening a positive enabling environment** – Although INGOs tend to lead efforts in this area in the early phases of reconstruction, there are ways to more actively engage local civil society. Examples include: 1) Opening channels of communication that can be used to gauge public opinion of the peace process, channel reliable information about peace and democratization processes, and create space for dialogue; 2) Human rights protection and monitoring, including accompaniment programs; 3) Participation in early security and justice sector initiatives, such as reintegration and transitional justice programs; 4) Creation of conflict resolution and mitigation mechanisms, such as early warning mechanisms, peace commissions, and other indigenous mechanisms; 5) Building a culture of peace through public awareness campaigns to mobilize people for peace and to inform the public about the role of government and civil society; and 6) Analyzing existing legal frameworks and contributing to the development or revision of key enabling legislation.
- **Accountability and transparency Initiatives** – In the initial phases of the reconstruction process, it is important to establish mechanisms to ensure accountability and transparency of actors engaged in the effort. This is relevant for the civil society sector as well as for government considering frequent accusations of corruption within the sector. If not addressed, the image of the sector may be tarnished, which could have negative ramifications (e.g., lack of citizen trust and engagement in civil society initiatives, government backlash).
- **Advocacy, monitoring, and oversight initiatives** – Traditional DG initiatives such as advocacy, government monitoring, and oversight tend to increase as attention turns from (re)establishment of the state toward effectiveness and efficiency of state performance. However, basic human rights monitoring and other protection activities must take place in all phases of reconstruction.

- **Civic education programs targeting institutions and the broader community** – Early interventions are likely to focus on broad public awareness campaigns on the status of recovery and future plans and on peace education more generally, whereas efforts in the latter phases of reconstruction are likely to shift to institutions (e.g., civic education in schools) and to more specific democratization issues. However, peace education should remain an integral component of these efforts as societal divisions remain.
- **Civil society capacity building** – In the early phases of reconstruction, capacity building tends to be the domain of INGOs as local civil society capacity is likely to be weakened. There are urgent capacity needs, however, as local CSOs must be able to effectively deliver services and manage finances. It is also critical to develop negotiation and conflict resolution skills. Early capacity development of indigenous actors is essential as external partners may need to withdraw due to security concerns or in the case of renewed conflict. Capacity building in later phases is likely to be more intensified and focused (e.g., institutional and financial sustainability). There will also be a shift in capacity needs as the transition process evolves and CSOs take on new roles (e.g., traditional DG functions such as advocacy and government monitoring, more specialized technical functions in other development sectors).
- **Development and strengthening of civil society networks and coalitions** – Although networks and coalitions can be built and strengthened throughout the reconstruction process, this type of effort is usually more effective in the latter phases of reconstruction. At that point, some of the earlier obstacles may have been addressed (e.g., basic infrastructure restored to ease communication; gradual rebuilding of social trust, which is essential for developing networks). One useful way of facilitating networking among CSOs is to conduct trainings on a topic in which multiple organizations, among different sectors, have an interest (e.g., strategic communications, institutional development).

## Resources

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## 14. JUSTICE AND RECONCILIATION

### Framing Issues

#### Why justice and reconciliation post-conflict?

Establishment of the rule of law is a critical underpinning of post-conflict reconstruction. Rules that are applied equally to the state and the governed form a critical basis for the provision of public goods, maintenance of public security, promotion of economic growth, and the democratic legitimacy of the state. The institutions that make, adjudicate, enforce, and disseminate the law are in turn critical for establishing and maintaining the rule of law.

Guaranteeing security is not simply a military or police objective but a political one that promotes the state as the guarantor of that security. The law sets the parameters for the legitimate use of force by governmental institutions that are accountable to the people. Police, prosecutors, courts, lawyers, corrections, and other institutions that apply these laws and are bound by ethics and human rights standards help improve public security while supporting the restoration of human rights that may have been denied to segments of the population during the conflict. By providing a legitimate forum for resolving disputes before they escalate, a well-functioning justice system can further reduce the likelihood of continued conflict.

The rule of law provides the basis for democratic governance. The law defines the functions and roles of government through the constitution or organic laws, setting out the process for public participation in government. Laws arrived at through democratic representation embody popular will and should enjoy popular legitimacy and support. Effective justice institutions that apply and enforce these laws for all citizens regardless of rank or affiliation bolster the government's legitimacy by showing that political participation translates into action on the ground.

The rule of law is critical for economic development in post-conflict states. Private sector investment and business development rely on investor confidence that contracts will be enforced, real and intellectual property protected, and business and government protected from state capture. A justice system that enforces contracts and protects legal claims regardless of the party involved is essential for the predictability that broad-based economic development requires.

Yet rule of law does not depend only on justice sector institutions. The supremacy of the law requires respect for the law by citizens, politicians, and officials alike, along with a commitment to its enforcement. In post-conflict states, the law has often been trampled upon or is associated with repression or abuse by one group over another. Promoting accountability for past abuses through tribunals or truth commissions and fostering reconciliation among conflicting groups are critical for the establishment of public respect for the law and for creating the expectation that the law will be upheld. Rebuilding the rule of law, thus, does not mean reconstituting institutions alone but creating a rule of law culture that can nourish them.

#### Features of the post-conflict environment

In many post-conflict states, the institutions meant to uphold the law are profoundly discredited and the cultural commitment to the rule of law is absent. Post-conflict environments present distinctive characteristics that create challenges for the rule of law and affect the potential impact of international assistance efforts. The key features of the post-conflict environment include the following:

- *The legacy of conflict* often includes a culture of impunity fueled by corrupt or abusive government elites and weak or dysfunctional institutions that themselves may have served as instruments of repression.

#### Rule of Law

A principle of governance in which all persons, institutions, and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated and which are consistent with international human rights norms and standards. (*United Nations Security Council: The Rule of Law and Transitional Justice in Conflict and Post Conflict Societies, Report of the Secretary General 3 August 2004*).

Elites may have used laws to enforce barriers and discrimination on the basis of geographical, linguistic, or ethnic affiliation. Weak, poorly managed, and underresourced public institutions with insufficiently trained personnel may have deterred citizens from using formal justice systems to protect their rights. In their place, informal justice mechanisms resolve disputes and provide security for much of the population, especially in remote, rural areas. Accustomed to this reality, citizens may have little trust in public institutions and be unaware of their rights and responsibilities in a democratic society. The physical and psychological trauma of war crimes, gender-based violence, child soldiering, displacement of persons, and killing of noncombatants may have left citizens exhausted and demoralized and unable or unwilling to participate in reconstruction efforts. Such a legacy requires elites and international partners to signal a clear break from the past by transforming laws and institutions and fostering public accountability while also addressing reconciliation and responsibility for past abuses.

- *External intervention* characterized by nonsovereign state structures administered by international organizations or actors, the presence of foreign military forces, and the probability of high levels of insecurity and chaos may create both opportunities and challenges for promoting the rule of law. International assistance can help transform weak or dysfunctional institutions, yet it can also fuel corruption and abuse. International assistance actors must pay special attention to defining the applicable law and to ensuring the legitimacy of that law and the participation of local populations in identifying and selecting the appropriate legal framework. External actors must also pay immediate attention to the potential for rioting, looting, abductions, ransom seeking, retaliation, and other types of citizen-on-citizen violence that may occur immediately after a conflict has ceased. In addition, the presence of foreign military, police, and civilian actors creates the potential for chaos, harmful duplication of activities, and abuse that must be carefully regulated. The behavior of these actors and their perceived respect for the rule of law can have a significant impact on the society's respect and commitment to the rule of law in the post-conflict period.
- *Political obstacles* to fostering the rule of law, such as resistance to reform and incentives for corruption may create significant challenges for assistance effort. Elites and officials within the system who benefit from the status quo inevitably seek opportunities to sabotage reforms. Although passive resistance to reform from within bureaucracies may impede organizational change in any setting, in conflict-ridden environments, resistance can be direct, active, and violent. Warring parties, ex-combatants who feel left out of the process, or officials who have been responsible for abuse may actively seek to prevent progress that will bolster accountability to the law. Provisions for integrating former combatants and addressing past abuses can defuse what might otherwise be a zero-sum game. The rapid infusion of funds by outside actors may create further opportunities for corruption and misuse of funds, undermining assistance efforts and weakening public confidence in government institutions. Transparency and accountability mechanisms for the use of public funds are a priority.

## **Key Tradeoffs**

These features of post-conflict environments lead to specific tradeoffs for the design and implementation of efforts to promote the rule of law and assist justice and reconciliation processes. Although these tradeoffs apply to all areas of post-conflict reconstructions, there are specific implications for assistance in the justice sector.

### **Meeting needs versus building capacity**

The urgency of addressing immediate needs is especially pronounced in the area of public order and security. More effective police, courts, and corrections could make a tangible impact on addressing such urgent challenges as high levels of looting, rape, revenge killings, or petty crime in the absence of effective law enforcement; widespread gender-based violence, and other forms of violence committed against civilians;

high numbers of detainees languishing in unsafe conditions; or disputes that flare up around property claims, reintegration of ex-combatants or displaced people, or other issues.

Although foreign troops and police forces may minimize some of this violence, experience has shown that is rarely possible to fully contain these threats without a justice system that can apply legal remedies and end a sense of impunity for offenses. In some cases with international sovereign structures, such as Kosovo and Timor-Leste, international judges and prosecutors served in interim justice systems. In other places, such as eastern DRC, donors provided funding and equipment to domestic courts for a limited time. Yet such interventions have not always translated into increased capacity for domestic institutions and have in some cases undermined domestic accountability. External intervention in the justice system can also raise sensitivities over sovereignty, as well as legal questions regarding appropriate jurisdiction for external actors, as was the case in Liberia, where the National Transitional Government rejected such interventions, citing sovereignty issues. Nonetheless, certain approaches have been helpful in resolving these tensions:

- *Support consultative dialogues and inclusive strategic planning processes* that clarify broad-based priorities and develop strategies to realize them. Facilitating citizen participation in these processes fosters local ownership and ensures that international assistance is targeted to areas that most need it.
- *Focus external justice actors on high-profile areas* such as war crimes, organized crime, counter-narcotics, and gender-based violence, where a government may feel pressure to act but lack the necessary capacity. International judges and prosecutors can serve or mentor personnel in international or hybrid courts while building domestic capacity.
- *Support citizen advocacy, awareness, and legal empowerment* to build capacity within society for promoting the rule of law. The sustainability of the rule of law depends on the involvement of citizen groups in advocating for the rule of law and holding leaders accountable.

### **Executive power versus checks and balances**

Where the imperative is on achieving stability, or where state capacity to deliver basic services is weak, there is often a focus on strengthening the executive's capacity. Although this focus is often justified, it can also facilitate continued corruption, abuse, and exclusion by actors within the executive who act with impunity. A strong judiciary can act as a check on unfettered executive power, in hearing challenges to unlawful and abusive executive actions, protecting the rights of citizens, holding corrupt and abusive officials accountable, and in some cases adjudicating election disputes. To play this role, the judiciary must achieve sufficient independence from the executive to free it from pressure or manipulation. Control over judicial budgets and appointment of judges and personnel can provide opportunities for the executive to exert pressure on the judiciary. To ensure impartial justice, judicial independence should be balanced with accountability for the judiciary. Donor assistance can help address this tension through approaches that seek to:

- *Promote an independent judiciary* by supporting efforts to revise the legal framework to increase the organizational independence of the judiciary, drawing from different models around the world. Enhancing judicial capacity to manage funds, personnel, and resources transparently and effectively can further reduce opportunities for corruption and pressure from the executive.
- *Address judicial security* to alleviate independence problems, as often a big problem that judges face is fear.
- *Foster judicial accountability* through mechanisms that strengthen internal oversight such as ethical guidelines, evaluation, inspection, and discipline, as well as external oversight by NGOs, the media, and citizen groups.

## Political appointments versus meritocracy

The need to ensure that qualified personnel occupy the ranks and leadership of justice sector institutions is particularly acute. Police officers, prosecutors, judges, and corrections officers who are associated with previous human rights abuses or discrimination can undermine public confidence in the rule of law and impede reconciliation while perpetrating continued abuses. Yet such individuals may be integrated into the police and other justice institutions as part of demobilization programs for former combatants, or they may be the only ones in the society with the experience necessary to take on these roles. Programs to train new officials can last anywhere from months for police officers to years for lawyers, prosecutors, and judges. In the meantime, the continued presence of abusive police officers and corrupt judges can undermine training and institution-building efforts. A number of post-conflict missions have sought to resolve this tension through the following approaches:

- *Conduct comprehensive and careful vetting* to remove corrupt or abusive officials in the police and judiciary. Vetting should be based on transparent processes that enable honest and qualified officials to serve while removing those who are associated with abuse. The participation of both international and domestic experts can enhance the integrity of the process while remaining sensitive to local realities. Include probationary periods and periodic reviews.
- *Look to provide interim solutions* while professional recruiting and training can take place.
- *Strengthen accountability mechanisms for justice sector personnel*, including first-line supervision for officers, internal evaluation and disciplinary bodies, and external oversight by governmental institutions and civil society. These mechanisms should ensure officials are held accountable for past abuses and deterred from committing crimes in the future.

## Early elections versus allowing time for political processes to mature

One of the dangers in the post-conflict transition period is the possibility that elections will fuel further tension and lead to a return to violence. The justice system often plays a critical role in determining the success of the elections through its role in adjudicating electoral disputes and providing security for the elections. In some countries, the judiciary resolves electoral disputes and challenges. A strong and impartial judiciary can play a critical role in resolving tensions by providing a trusted forum for resolving the most contentious political disputes while bolstering its own credibility and independence. Yet in many post-conflict countries, the judiciary remains weak and subject to political pressure and judges may not be familiar with electoral law. Similarly, although the police may have a critical role in protecting citizens and establishing election security, they may not have the capacity or will to play this role effectively. These challenges highlight the need for prioritizing the development of effective judicial and police institutions. Where these institutions are still weak, however, some measures may enhance the chances for credible and peaceful elections:

- *Provide targeted training on election law and dispute resolution.* Intensive training to judges, electoral officials, and lawyers who will be involved in adjudicating, administering, or observing election disputes can bolster their confidence and ability to fairly and impartially resolve disputes, enhancing the overall credibility of the elections.
- *Support election dispute resolution by independent electoral bodies.* Where the judiciary is not capable or independent enough to credibly adjudicate electoral challenges, it may make more sense to support the role of a specialized electoral commission in adjudicating disputes.
- *Involve police in election security planning.* Developing plans for election security that involve the police, along with other security sector actors, can both improve the security during elections and build public confidence in the police.
- Hire and train interim or temporary election security.

## Justice versus stability

One of the thorniest dilemmas involves the tradeoff between holding leaders accountable for past abuses and accommodating these leaders to ensure a smooth and stable transition to a new post-conflict government. The inclusion in government of elites who are associated with war crimes and human rights abuses can erode public confidence in the government and create a sense of impunity as citizens perceive that there is no consequence for committing the most massive crimes. Such an environment may also impede reconciliation, as citizens fear future abuse by the same leaders who perpetrated it in the past. At the same time, a focus on holding only top leaders accountable may face backlash from citizens who feel that inordinate resources are devoted to high-level perpetrators while their daily disputes and crime go unresolved.

There is no simple answer to this dilemma. Each society must develop a response that strikes a balance based on its own circumstances. Responses have ranged from holding low- and high-level officials accountable immediately after the conflict to waiting years before seeking to uncover the truth. Some of the key approaches include the following:

- *Support accountability through retributive justice mechanisms* such as special tribunals for war crimes. Tribunals may be international, domestic, or hybrid.
- *Support reconciliation through restorative justice mechanisms.* Many societies choose to focus on achieving reconciliation and restoration of social balance through truth and reconciliation commissions or community-level reconciliation mechanisms.

## Programming Options

Three priorities form a rough blueprint for assistance efforts in post-conflict environments: building justice sector institutions, promoting access to justice and legal empowerment, and dealing with past abuses. Addressing these priorities ensures a balanced approach that builds the legal and institutional framework for the rule of law while also addressing its political and social underpinnings. The activities and the sequencing among them vary according to the political and social context in each country. Responses to tradeoffs must be formulated in response to the political realities and opportunities. For example, where there is limited political commitment to the rule of law, it may make sense to delay support to justice sector institutions and focus on supporting legal education, literacy, and/or civil society advocacy. In other countries it is essential to jumpstart institutions to address immediate needs. Whenever possible, justice sector assistance should be defined in a strategic plan developed through an inclusive process that donors can support. More fundamentally, support for justice and reconciliation must be deeply rooted in the legal traditions and political transformation to the rule of law and include interventions specifically designed to support that transformation.

The following section lays out programming options and lessons learned in each of these areas.

### Building justice sector institutions

In most post-conflict environments, the operations of justice sector institutions, including police, courts, prosecutors, lawyers, and corrections, have been disrupted. Buildings may have been destroyed, files may be lost, and personnel may have fled. Laws and institutions may be tainted by their association with a corrupt or repressive regime or with one side of the conflict. Many citizens and outsiders may prefer building new laws and institutions from scratch to signal a clean break from the past by adopting a new constitution with appropriate institutional roles, revising substantive and procedural laws, setting up new organizational structures, and training personnel in this new framework. Yet such an ideal sequence is rarely possible where there are urgent needs to restore order, bring criminals to justice, protect human rights, and resolve ongoing disputes. The priorities for both immediate and longer-term assistance should be determined through an inclusive planning process that engages all relevant local stakeholders, yet even such a process can take time.

In the meantime, focusing on a few key priorities can help address some of the most common tradeoffs and build the foundation for sustained justice sector reform.

*Focus on building core functions within justice sector institutions.* As the legal framework is often subject to change during the post-conflict period, rather than beginning extensive training in complex legal and procedural topics it usually makes more sense to begin focusing on topics such as management and administration of core organizational functions. Improving the administration of courts and prosecutors' offices, police, ministries of justice, judicial councils, prisons, and other justice sector institutions can build valuable skills while rapidly improving the efficiency, accessibility, and transparency of operations to build public confidence. This approach also puts local institutions firmly in the lead and avoids replacing core functions while improving response to immediate needs. Activities may include the following:

- Conducting diagnostics on systems, skills, and capacities to identify gaps.
- Setting up new procedures and providing training in selection, recruitment, and management of personnel, budgeting and finance, record keeping, and case management.
- Supporting international mentors to assist in these areas, thereby minimizing the risk that these mentors will cause confusion through the imposition of different legal systems.
- Assisting training academies to institutionalize training in these areas.
- Rehabilitating key buildings and upgrading security arrangements for courts and other facilities while building personnel capacity, systems, and procedures to manage construction, maintenance, and equipment.

*Support locally driven efforts to define, reform, and implement constitutional and legal frameworks.* In the immediate aftermath of conflict, it is essential to define the applicable legal framework for domestic and international actors. If the country's existing legal framework is deemed inappropriate, it may be necessary to adopt international "model" codes such as those developed by the U.S. Institute of Peace. The next priority is to support efforts to define the more permanent constitutional and legal framework. It is essential to harmonize new laws with existing laws to avoid confusion or conflicts and ensure that they are acceptable to the citizens and appropriate to the cultural and political context. Donors can assist in a variety of areas to facilitate this process, including the following:

- Support participatory consultations and civic education on draft constitutions or laws.
- Provide technical assistance for legislative and constitutional drafting.
- Support training academies and programs to train justice officials in new laws.
- Support civil society efforts to monitor implementation of new laws.

*Build strong internal and external oversight mechanisms.* Overcoming the legacy of conflict and the incentives for corruption inherent in the post-conflict reconstruction process requires the development of effective transparency and oversight mechanisms throughout government. In the justice system, such mechanisms are essential to restoring public confidence and fostering fair and impartial justice. An important first step may be to conduct comprehensive vetting for police, judges, prosecutors, and other officials to ensure that corrupt or abusive officials are removed. At the same time, it is necessary to strengthen internal accountability and disciplinary mechanisms, as well as oversight mechanisms by the legislature and civil society to ensure continued progress. The more these institutions are insulated from interference by interests inside and outside their organizations, the more credible and effective they are likely to be. Donor assistance may include the following:

- Support comprehensive vetting processes for justice sector officials.



- Support measures that increase transparency of justice sector operations, such as finance, personnel management, judicial appointments and promotions, court administration, legal decisions, and assignment of cases, as well as communications and outreach.
- Strengthen internal accountability and discipline mechanisms such as judicial councils, personnel evaluation; ethics and codes of conduct, internal review boards, and internal investigation.
- Support external oversight by independent ombudsmen, NGOs, citizen review boards, community groups, and the media.
- Support pay and rank reform.

*Address immediate flashpoints and high-priority issues.* In the immediate aftermath of conflict, the priority may be restoring order, protecting civilians from violence or human rights abuses, or addressing other flashpoints that could spiral into violence. Although institutions may not be fully functional, providing targeted training, equipment, and technical solutions based on other experiences may be a priority for the local population. Success in dealing with these issues may not only mitigate further conflict but also build the credibility of justice sector institutions and signal an end to impunity and an increased focus on protection of rights. Examples may include the following:

- Protect vulnerable civilians from violence and rape by armed groups.
- Support local dispute resolution processes to deal with “hot” issues, using existing processes such as customary or traditional justice.
- Set up mechanisms to register and resolve property claims.
- Protect government files from looting.
- Help re-equip offices so basic functions can resume.
- Rapidly reduce unlawful pre-trial detention to reduce overcrowding in prisons.
- Ensure that high-priority prisoners do not escape from jail or detention.

### **Promoting access to justice and legal empowerment**

Establishing the rule of law requires building the societal basis for justice sector institutions to function by bolstering their legitimacy, linking them to citizens, and developing a culture of respect for the law. Strengthening access to justice involves not only expanding the capacity of institutions to reach citizens but educating citizens and creating mechanisms that facilitate their use of these institutions. Legal empowerment enables citizens to use the legal channels to protect their rights and advocate for increased rights. Especially where institutions are corrupt or dysfunctional, strengthening the justice sector requires strong advocacy by citizen groups and ongoing monitoring and oversight to ensure a sustained commitment to justice and reconciliation. All of these efforts require working with actors outside the state, ranging from formal NGOs to citizen and community groups and politicians and other civic leaders. Expanding access to justice may also require engaging with traditional, customary, or religious authorities, which may play an important role in resolving disputes and promoting reconciliation in a legitimate and accessible manner. However, it is important to find ways to ensure the adherence of these actors to international human rights standards. The following priorities are particularly relevant for programming in the post-conflict period.

*Support strong public oversight, advocacy, and legal empowerment.* When political will for justice sector reform is weak or institutions are corrupt, it may be necessary to first focus donor resources on supporting grassroots awareness and advocacy to create a demand for justice services that can increase pressure on political leaders to prioritize justice sector reforms. Even where there is strong political support, civil society monitoring and

ongoing advocacy is essential to ensure reforms are implemented and sustained over time as political leadership changes. An important task, particularly in the immediate post-conflict phase, is to reach out to groups who may have been excluded or vulnerable and channel their voices to advocate for and achieve increased protection of rights. Legal empowerment further requires educating citizen about their rights and supporting legal aid and other mechanisms that enable vulnerable groups to access the justice system. Activities may include the following:

- Stimulate public advocacy, constituency-building, and civil society networking to advocate for legal and justice sector reform. A priority in the post-conflict period may be to advocate for increased protection of the rights of vulnerable groups.
- Assist civil society and citizen groups to participate in strategic planning processes for justice sector reform.
- Support legal aid and public defender services to link vulnerable citizens with services that can help protect their rights.
- Promote legal literacy through awareness-raising programs that teach citizens about their rights, roles, and responsibilities and how to access the justice system.
- Support citizen oversight efforts over the courts, police, and prisons through court-watch, citizen review boards, and other mechanisms.
- Empower judges and bar associations to take an active role in advocating for transparency, judicial independence, and rule of law.

*Build citizen commitment to the rule of law.* Justice sector institutions cannot function without a strong citizen commitment to upholding the law and supporting those institutions. Especially where citizen confidence in the state is low, it is important to build expectations of the state in fulfilling its role, as well as a commitment to respecting and following the law. Such a commitment entails knowledge of the law and legal services, as well as experience in enacting it. Assistance may include the following:

- Disseminate information about citizen rights and responsibilities, as well as the role of domestic and international institutions.
- Establish referral services for legal, mediation, and protection services in accessible locations.
- Raise public awareness and respect for the rule of law through the media.
- Improve legal education for lawyers, as well as legal literacy for citizens.
- Survey citizens regarding needed justice and security services.

*Expand the reach of the justice sector.* Building public support for the rule of law also requires demonstrating the benefits of adhering to the rule of law. In many post-conflict countries, the justice sector is simply not accessible to much of the population. Creating mechanisms that allow previously excluded groups to access the justice system and hold criminals accountable for crimes can end an expectation for impunity and bolster the legitimacy of democratic authorities. Such mechanisms can focus specifically on the most vulnerable populations or respond to emergency situations. Expanding the reach of the justice sector often requires jumpstarting local institutions by supplementing them with international capacity, technical assistance, funding, or equipment. In many countries it is also possible to build on existing traditional or customary mechanisms and link them to the state justice system with formal oversight and accountability. Activities may include the following:

- Establish help centers or services for victims of crime and abuse in remote areas to receive treatment, care, and legal advice and services.
- Establish community justice centers that resolve disputes and provide broader referral services to the population.
- Support mobile courts that bring judges, prosecutors, and police to underserved areas.
- Expand Alternative Dispute Resolution mechanisms, including both formal, state-annexed mediation and other informal mechanisms.
- Work with nonstate, customary, tribal or religious justice mechanisms to resolve disputes and dispense justice while harmonizing these mechanisms with the state legal system and enhancing their adherence to international human rights standards.

### Dealing with past abuses

In many post-conflict environments, there is a need to provide accountability for past crimes, atrocities, and other human rights abuses. Holding high-level officials accountable provides a powerful signal that crime will not be tolerated and that even the most prominent elites are not above the law, thus building legitimacy for new institutions. However, such efforts may pose challenges for the process of reconciliation among warring parties by spurring mutual recriminations and accusations of bias or by disrupting efforts to bring armed groups to the negotiating table. Moreover, at lower levels, it is often impossible to deal with all perpetrators of war crimes and other abuses, many of whom may be former child soldiers or victims themselves. Societies must therefore balance the need for accountability through *retributive* justice mechanisms with the need to restore relations between victims and offenders through *restorative* justice mechanisms and promote *reconciliation* between opposing groups. Many countries pursue some combination of all three or defer accountability to a later time once society has moved beyond the conflict. Donor assistance can help countries choose among various alternatives by providing comparative models and by supporting consultative processes to define priorities.

*Support retributive justice through international, hybrid, or domestic tribunals.* Various models exist for holding officials accountable, ranging from the ad hoc International Criminal Tribunals created under the UN for the former Yugoslavia and Rwanda to hybrid tribunals involving both national and international personnel in Sierra Leone and to setting up specialized war crimes and international crime chambers within domestic justice systems. The recently created International Criminal Court is likely to replace the creation of ad hoc international tribunals and has already begun prosecuting alleged high-level perpetrators of war crimes. Each approach has its own set of benefits and disadvantages. For instance, although international tribunals may be perceived to be more credible, they are also far more costly and can rarely deal with more than a few of the top perpetrators of abuse. Domestic or hybrid tribunals are more accessible and transparent to the population and have the potential to build domestic capacity if sufficient attention and resources are focused in that direction. Donors can provide support to:

- Provide personnel, technical assistance, equipment, and funding to tribunals.
- Send personnel to serve as mentors and trainers for officials working in tribunals.
- Help collect and secure evidence and testimony, including by shoring up the safety of witnesses and victims.
- Support civil society efforts to monitor trials and raise public awareness on key legal issues.

*Establish truth and reconciliation commissions (TRCs).* These mechanisms can provide some measure of accountability while emphasizing the need to restore balance in society. TRCs can give voice to victims while establishing an official historical account of the conflict and of abuses committed. Many commissions have

highlighted specific recommendations needed to address injustices and restore state legitimacy. Some TRCs have included provisions that provide amnesty for perpetrators or allow prosecution for certain offense, thus creating a link to retributive justice mechanisms. Donors can:

- Advise on comparative models of TRCs and other mechanisms.
- Provide personnel, technical assistance, equipment, and funding to set up TRCs.
- Support civil society awareness raising and participation in the process.
- Support the implementation of specific recommendations.

*Support community-based reconciliation.* Although national-level mechanisms can help a country move on and build state legitimacy, there are often residual tensions in individual communities. Resettlement of displaced populations and reintegration of ex-combatants can ignite tensions among groups. Although reconciliation is a long and slow process, support can help ease the transition of communities struggling to reintegrate both victims and perpetrators (who may also be victims). In many societies, informal justice mechanisms may be especially appropriate for promoting reconciliation. Donors can provide assistance to:

- Strengthen community mediation, drawing from external or local traditional models to resolve tension and disputes.
- Support women's and youth groups and disabled persons organizations that promote dialogue, understanding, and awareness of rights.
- Fund projects that require cooperation from opposing groups on issues of practical concern such as economic development and infrastructure.
- Support integration of ex-combatants and displaced people into communities through economic and social assistance to individuals and the community.
- Expand public outreach and education through public awareness campaigns, using radio, TV, and other media.
- Provide psychosocial counseling to deal with past crimes such as rape.

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## 15. SECURITY SECTOR REFORM

### Framing Issues

Security sector reform (SSR) is the set of policies, plans, programs, and activities that a government undertakes to improve the way it provides safety, security, and justice. From a donor perspective, SSR is a multidisciplinary endeavor conducted in support of a partner nation that may include activities in support of military, police, and intelligence reform; justice sector reform; civilian oversight and management; community security; and DDR. Although development actors generally do not support operational training or equipping of forces, their efforts to establish appropriate institutional structures and governance frameworks serve as a critical complement to security assistance efforts. USAID's primary role is to support governance, conflict mitigation and response, reintegration and reconciliation, and rule of law programs aimed at building civilian capacity to manage, oversee, and provide security and justice.

Practitioners supporting SSR in a transitional or post-conflict environment face the added challenge of having to manage enduring legacies of war, such as the presence of former fighters, growth of criminal elements and opportunistic illicit power structures, prevalence of weapons, ongoing insecurity, a traumatized population, and a culture of violence. These environments are also characterized by the presence of armed nonstate actors, some of which may be co-opted to help provide safety, security, and justice; others may constitute a continuing threat. The nature of the conflict and the pre-war period are therefore formative factors in the design of appropriate SSR stabilization scenarios. Countries that had poorly functioning governments likely will need to develop entirely new security systems in the post-conflict period. Conversely, countries with stronger central governments may require only modernization and de-politicization and/or downsizing of existing cadres and staff. Likewise, extended conflicts that pit multiple groups against each other will require the integration of formerly warring parties into the security sector as well as overall rightsizing through DDR programs. As complex as these challenges are, there may be greater scope for reform following the collapse of a regime than might be possible otherwise.

Post-conflict SSR missions commonly take place against the backdrop of an international peacekeeping or stabilization mission. The presence of foreign security forces may help create the space for development of the security sector. At the same time, the post-conflict security vacuum generally demands immediate action and may distract international personnel from longer-term development needs. A key challenge SSR implementers will likely face is that of the appropriate use of military forces for missions dealing with community safety and criminal activity that the corrupt or nascent police forces are unable to address. This could result in either the inappropriate use of host nation military forces or the development of paramilitary police, which does not serve the long-term interest of improved governance and stability.

The lag in the (re)establishment of institutional infrastructure has also been proven to undermine long-term operational efficiency. If, for example, there are no banking systems in place to ensure that newly trained police operating in a country's hinterlands can receive their pay, as occurred in Afghanistan, they are likely to desert their posts or accept off-budget payment for services rendered. Experience demonstrates that force size and capability decisions developed without regard to the fiscal and economic environment may prove to be financially untenable, that police assistance undertaken absent efforts to strengthen other parts of the justice system may lead to paralysis in the courts or prison overcrowding, or that the creation of forces absent appropriate oversight and accountability mechanisms leads to an erosion of public trust in the newly constituted security sector. To be successful, then, SSR practitioners must be aware of the multidisciplinary nature of their endeavor from the start.

## **Tradeoffs**

### **Meeting needs versus building capacity**

This tradeoff is felt most acutely in the security sector as the provision of immediate security is a *sine qua non* for stabilization and development. Often, a country's most pressing stabilization needs are the safety of its population and the security of its territory. This generally necessitates a large international security presence and an emphasis on building partner nation operational capabilities for immediate deployment. However, short-term force generation requirements must be balanced against adherence to longer-term security sector reform principles to avoid creating a militarized society or generating future conflict. Complex challenges, such as terrorism and insurgency, may result in forces that are ultimately too large to be maintained but may be required to address short-term security threats. Counterinsurgency missions demand particularly high force-to-population ratios that may not be sustainable over the long term.

### **Executive power versus checks and balances**

SSR is fundamentally about effective governance of the security sector both within the executive branch and through legislative and judicial oversight and engagement. In many countries, the population tends to view the security sector as the praetorian guardian of the regime rather than the protector of the people. Appropriate checks and balances can help mitigate executive dominance through fear. Accountability and oversight mechanisms, including legislative oversight of the security sector, are critical to prevent abuses of power and corruption and to build public confidence.

### **Power sharing versus power dividing**

Power sharing versus power dividing is particularly salient with regard to security since the new government must demonstrate a monopoly on the appropriate and measured use of force within its territories. The security sector, especially the national army, represents a central organ of the new state and is critical to restoring legitimacy. To the extent possible, the reconstituted security forces and services should be apolitical, ethnically diverse, gender balanced, and firmly under the control and management of the newly established civilian government. Usually, the same power-sharing agreements that result in an end to hostilities dictate the terms for the establishment of the security sector. These agreements often specify the exact balance of power among formerly warring factions in the newly integrated security establishment. In addition, they often establish the terms for DDR. Agreements that split management or oversight responsibility between rivals are not only unsustainable but likely to fuel more conflict. Increasingly, international stabilization operations incorporate arrangements that allow traditional or tribal leaders to maintain their own security personnel at the local level. Although these decisions offer the promise of short-term stability, they must take into account potential long-term implications and plan for their eventual demobilization and integration.

### **Political appointments versus meritocracy**

The tradeoff between political appointments and meritocracy presents some interesting challenges vis-à-vis the security sector. In some post-conflict countries, particularly in Africa, the skill sets required to manage and oversee the sector effectively are not readily found among either former fighters or civil servants. The lack of qualified civilian leaders remains an oft-quoted justification for military coups d'état worldwide. In other cases, capable civilian staff may exist but require reorientation to ensure they support the offices of the state rather than the individuals who occupy them. The appointment of local power brokers could help keep the peace and reduce post-war crime; yet, allowing the perpetrators of violence to retain power over the instruments of war could easily undermine the legitimacy of the reconstituted security institutions.

## **Programming Options**

Promoting effective and responsible governance of the security sector is a critical element of any program designed to help societies evolve in more secure, democratic, and prosperous ways. At no point is this more important than in a post-conflict transition. In early 2009, USAID, the Department of State, and the

Department of Defense jointly endorsed six SSR principles: Support Host Nation Ownership, Incorporate Principles of Good Governance and Respect for Human Rights, Balance Operational Support with Institutional Reform, Link Security and Justice, Foster Transparency, and Do No Harm.<sup>96</sup> These principles reflect international best practice and should inform the design of all post-conflict SSR programs.

The following sequence assumes a significant international—either multilateral (UN, NATO, AU) or bilateral (U.S., UK, etc.)—presence. Responsibility for rightsizing, restructuring, and/or reestablishing a functioning, well-governed security sector must be shared among many contributing parties and the host nation. Increasingly, the international community must simultaneously provide security and public safety and enable the host nation security sector to assume this role. From the mission’s onset, there will be pressure to deploy partner nation security forces and services alongside internationals. Transforming the security sector, however, takes considerable time and requires review and reform not only of the forces themselves but of the institutions and frameworks that support and sustain them. These reforms, often considered afterthoughts, should ideally be conducted sequentially: laws inform policies and values; policies inform strategies and budgets; strategies determine security force missions, mandates, and training requirements; training and equipping enables deployments, which in turn lead to policy and strategy revisions. This feedback loop is fundamental to effective and legitimate SSR. The fluidity and complexity of many post-conflict environments may not allow for strict adherence to this sequencing. At a minimum, SSR practitioners should aim to move forward on multiple fronts simultaneously.

At its core, SSR is about change management. In many states, the security sector may have been the strongest pre-conflict institution, making SSR a dangerous and highly political endeavor. Sustainable technical solutions must take into account potential winners, losers, and opportunists. Most often, the losers from proposed or new reforms have benefited from the status quo and will resist change. This is particularly challenging as critical power brokers outside the formal chain of command may exercise undue influence over security decisions. Attempts at reform can result in reprisals against reformers and possibly rekindle violence. As a result, it is imperative that SSR practitioners conduct an assessment of the sector prior to engagement. Multiple tools are available to support such analyses, including the U.S. Interagency SSR Assessment Framework, the U.S. Interagency Conflict Assessment Framework, or the OECD Handbook on Security System Reform, among others.

The programming options outlined below include areas that may fall outside the purview of development actors in general and USAID in particular. USAID’s SSR efforts target mainly the civilian actors engaged in, or affected by, the security sector according to appropriations law and specific provisions in the Foreign Assistance Act of 1961 (FAA) and other relevant statutes. By law, economic assistance funds appropriated to USAID may not be used for military purposes. Agency policy on funding military equipment (see ADS 312.5.4a) stipulates that USAID funds cannot be used to finance goods (including equipment) or services where the primary purpose of such assistance is to meet military requirements of the cooperating country. There is no exception to this policy. Funding civil-military activities nonetheless is permissible when the primary beneficiaries are civilians. Although a general restriction on USAID police assistance remains in the FAA, the statutory restrictions on USAID police assistance have been relaxed. Congress has enacted a number of exemptions to the FAA for specific (mostly) post-conflict environments. In 2005, Congress granted USAID wider authority to fund activities that help bridge the gap between police and the communities they are meant to protect. This authority has been granted annually through subsequent Appropriations Acts since then. USAID staff should contact relevant legal counsel for guidance prior to undertaking an SSR program.

### **Informing peace agreements and negotiations**

An important entry point for SSR occurs during initial peace accord negotiations. Peace agreements set the terms for SSR and many other post-conflict reconstruction plans. Rarely, however, is SSR enshrined in the

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<sup>96</sup> USAID, Department of State, and Department of Defense, “Security Sector Reform Policy Statement,” January 2009.



accords as a comprehensive concept. Instead the focus is usually on operational issues, such as military and police composition and size. Incorporating the goals for holistic SSR into peace accords can help set the tone for the reform process and establish a shared vision for reform. Strategic planning for SSR can actually start prior to the peace agreement so that local stakeholders can establish priorities, identify lead roles and actors, and develop required competences. Doing so requires that SSR practitioners take a more active role in the negotiations process, typically the purview of diplomats and policymakers. The presence of SSR technical advisors can help ensure that timelines are realistic, new constructs achievable, and system-wide approaches are institutionalized. Equally as important, their efforts help ensure that the public is aware of and supports the SSR roadmap outlined in the accords. This support is an important source of pressure on the new government to advance required reforms and ensure that the new security sector serves the people as well as the government. The early incorporation of expert advice—particularly on issues as contentious as the constitution of the new security sector—is considered best practice in the international state-building community.

### **Establishing legal and legislative frameworks**

Legal and legislative reform may be a critical precursor for sustainable SSR. The legal framework should 1) ensure the legality of the proposed reforms; 2) explicitly authorize the roles, missions, and functions of the new security forces and services; 3) update the legal code to ensure clarity and address modern threats; and 4) be reviewed regularly through legislative oversight. This process is critical to inculcating appropriate roles for civilian bodies during and after the reform process. The legal framework must also provide clear authorities for the international actors supporting SSR.

The legal framework includes founding documents, such as a constitution, that define the nature of the state and the laws, codes, statutes, policies, authorities, and regulations necessary to implement founding laws. Whether rationalizing existing laws or establishing new ones, the updated legal framework must effectively regulate security sector performance. A country's laws, and even its constitution, may need to be amended to ensure that the proposed reform and resulting institutions are legally recognized. For example, a country's constitution may authorize a force that will be eliminated; conversely, the creation of a new force may need to be authorized.

Similarly, the revised legal framework and supporting penal codes must clearly delineate lawful and unlawful behavior. Many post-conflict countries possess overlapping and at times contradictory legal frameworks. The Palestinian Territories, for example, are governed by an amalgamation of Palestinian, Israeli, Egyptian, Jordanian, Shari'a, and Ottoman laws. Criminal codes and procedures may need to be drafted anew during the post-war period. Countries emerging from conflict are particularly susceptible to criminal activity. In some cases, these crimes, and those committed during the conflict, may not have been considered crimes when the countries' criminal codes were originally drafted (piracy, rape as a tool of war, kidnapping, certain financial crimes, etc.). Adherence to international legal standards, including international humanitarian law and human rights law, helps to establish universal norms that are critical to every stage of SSR.

The legislative review process for the security sector is also likely to be outdated or even moribund in post-conflict countries. Generally, the executive branch, in consultation with the uniformed services, proposes laws that are interpreted by the judiciary and adopted by the legislature. Legislative committees responsible for defense, security, customs, and intelligence oversight ensure that the proposed laws are implemented, relevant to the needs of their constituencies, constitutional, and supported by adequate funding. Appropriate committees or parliamentary working groups may need to be established to review existing law and practice concerning ministerial structure and authorities, oversight responsibilities, and rules and regulations governing security sector forces. Development practitioners are ideally suited to support this area of SSR, particularly if they are supporting legislative reform in other areas. Activities must be coordinated with military and police planners to ensure the legal reform and legislative frameworks support not only the transition period but also long-term public safety security and justice goals.

Political and legislative reform processes are necessarily lengthy endeavors that may delay the overall SSR effort. Although every operating environment is different, international rule of law and SSR practitioners, including the UN and the U.S. Institute of Peace, have developed illustrative penal and criminal codes that could be adapted as an interim body of law. Given the need for local ownership and the length of time legal reform may take, it is imperative that it is undertaken early in the SSR mission and constitutes part of a feedback loop that continues to inform the SSR process.

### Supporting policy and strategy design

Policy formulation must occur at two levels. At the national level, national security policy sets the agenda for the reform. At the institutional level, policy establishes the agency vision, priorities, organization, and responsibilities. National policy and strategy formulation are ongoing processes that require significant public buy-in and are decidedly time-intensive. Although these discussions should determine how security forces are designed, organized, and trained, the pressure to develop host nation operational capacity immediately may force parallel, rather than sequential, progress. Stricter adherence to sequencing is nonetheless required at the institutional level, described below. Given USAID's deep experience implementing policy change, it is ideally suited to support the development of national and agency-specific policies as allowable by law.

**National security policy and strategy.** National policies and strategies should drive security sector restructuring and reformation. A national security policy, strategy, or white paper is a nonpartisan statement of a government's security posture vis-à-vis its specific domestic and geopolitical circumstances. Some governments will choose to establish national coordinating units. These may vary from a national security council, as in Afghanistan, to an Office of National Security, as in Sierra Leone. Establishing policy and planning units in relevant line ministries, such as the Ministries of Defense, Interior, Foreign Affairs, Justice, or Planning, may facilitate the implementation process. Offices such as these can help enhance civilian leadership and management by institutionalizing civilian control.

National-level policies should inform subsector (e.g., military, police, intelligence, justice) approaches and specific threat-based (counterterrorism, organized crime) strategies. Given the prevalence of private security companies in post-conflict countries, governments may wish to establish policy on the role of nonstate security and justice providers. The policy formulation process should be designed to bring citizens, government, and security forces face to face on security and defense policies, roles, and missions. USAID advocates a six-step approach for implementing policy change: legitimization, building constituencies, accumulating resources, modifying organizational structure, mobilizing actions, and monitoring impact.<sup>97</sup> The sequential tasks are designed to appreciate the political, organizational, and governance factors that drive decision making and enable local ownership.

National policies inform national security and defense strategies. Sector-wide strategic plans or white papers establish relationships among security sector actors, civilian governance institutions, and civil society; identify national interests; and map an approach to achieving them. The South Africa Defense White Paper has served as a model for many transforming nations. The government elected in 1994 confronted the task of integrating seven armed forces into a new Defense Force, redefining a defense and security strategy appropriate to the new nation, and preparing legislation to replace that of the outgoing regime. In laying out the goals, objectives, activities, milestones, and a monitoring plan, a comprehensive strategy is less likely to fail for having ignored important stakeholders, overlooked obvious pitfalls, or underestimated resistance.

**Agency policy.** Each security and justice institution will also need to develop internal policy guidance. In many ways, police policy is the equivalent of military doctrine. It should drive decisions about every aspect of the organization from personnel to operations. Policy guides day-to-day operations and decision making. Based on the law and values of the organization, policy—and the procedures that are contained within it—establishes not only what police do but how they do it. For example, police organizations generally have policies on appropriate use of force. To ensure officers have sufficient guidance, procedural details explain

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<sup>97</sup> See Implementing Policy Change.

specific tactics and techniques. In addition, procedures for reporting, investigating, reviewing, or evaluating use-of-force incidents will be necessary. Each unit within the organization may require its own policy as well. Unit manuals cover operations unique to that unit but not critical for inclusion in agency-wide publications.

The pressure to begin training and equipping before police policies are established may lead to the creation or transformation of forces that are no longer appropriate to the operating environment. Although existing policy documents could be amended as interim guidance, the process of formulating new policy—as it relates to post-conflict reality—should drive all subsequent institutional development plans.

### **Setting standards for vetting, recruiting, and hiring**

National policies and strategies determine the functionality required to promote security, safety, and justice in the post-conflict environment. They articulate a vision for the security sector that promotes and respects the rule of law. This vision helps determine the human rights standards against which all recruits—whether military, police, judges, prosecutors, defense attorneys, or other agents of the state—should be held. Agency-level policies (and military doctrine) determine specific requirements (organizational capacity, individual capabilities) and personnel qualifications. Timing for vetting and recruiting should be coordinated closely with the DDR plan; qualifications and pay scales should be aligned with larger civil service reform initiatives.

Vetting is particularly challenging in post-conflict environments because paper records verifying past employment, education, or criminal behavior may have been destroyed or may never have existed. Development actors, particularly USAID, are unlikely to be directly involved with the vetting process of military or even law enforcement; however, they can help ensure that international human rights standards are applied, that the standards are equitable across all government functions; and that civilian officials in the security and justice sectors not only meet these standards themselves but are equipped to ensure that the uniformed personnel they oversee continue to meet those standards.

### **Training, equipping, and deploying**

Training and equipping often form the bulk of an SSR activity in a post-conflict country. In some cases, such as in Liberia, the SSR plan required the reconstitution of the entire security force from the bottom up. In other cases, such as in Burundi, the training and equipping effort focused on creating a professional force that integrated rival militias and government forces. Decisions about what and whom to train emerge directly from policy and/or doctrine. The roles, functions, and missions of individual security forces and services must be predetermined prior to training so that intended postures, such as police primacy, have been instilled in all uniformed personnel. In addition to creating cadres capable of fulfilling the missions identified in national strategies and agency policies/doctrine, the training effort should establish an indigenous training cohort. Training should be appropriate to the force being established, ensuring a clear distinction between military and policing functions that may have blurred during the conflict. Accountability, transparency, public participation, respect for human rights, and legitimacy must be mainstreamed in security force development. This is particularly important in post-conflict countries where the legacy of abuse by security personnel may have eroded public confidence in the sector overall. Development actors are unlikely to be involved in all aspects of security force training but may provide training on these principles. In East Timor, for example, USAID provided training on human rights and conflict management for virtually all active duty police officers through the UN's Human Rights Center. The training was seen as a valuable start to overall police reform, reorienting officers and administrators away from a culture of abuse of authority under the Indonesian regime toward protecting the citizenry.

Development actors may also help influence decisions about deployment. In particular, development and security practitioners should work together to ensure that deployment patterns enable economic, social, and political activity in key geographic regions and reinforce the host nation's long-term goals for good governance and security. Although it is unlikely that all institutions responsible for rule of law will develop apace in post-conflict environments, it is important that security forces be deployed where there are procedures in place to link policing to courts and corrections facilities. Equally important, because post-

conflict environments create fertile ground for criminal activity and enterprises, police and other security force deployments should be designed to address the increase in criminal activity.

As formal security forces proceed through equipping and training to deployment, reliance on international forces should recede. The international force can begin to disengage through a phased exit strategy transitioning from direct security provision to host nation support to performance monitoring. Nonstate actors, such as militia groups operating on behalf of the government, should also be phased out. Careful planning and coordination will be required to transition these actors to nonsecurity roles in their communities.

### **Developing leadership, management, and supervision**

Establishing credible and legitimate leadership at all levels of government is one of the most challenging R&S goals. It is all the more challenging in the security sector as few civilians possess the background or experience to exercise control over uniformed personnel. Security forces are normally managed through a combination of executive branch (ministries of defense, interior, justice, foreign affairs, and executive offices) and security force command structures that have both shared and separate responsibilities. The security force executes the Ministry's policies and plans through its own command structure. As a result, security sector management must focus not only on control (rules and regulations) and oversight but also on leadership and professionalism. Assistance should target all levels of management through mentoring and advising and on-the-job training. Emphasis should be placed on mid-level supervisors who will lead the next generation.

At the most basic level, security sector managers should be proficient in the use of generic strategic planning tools, such as “stakeholder analysis... political mapping, institutional mapping, SWOT analysis (strengths, weaknesses, opportunities, and threats), priority setting, mission clarification, advocacy, constituency mobilization, and values clarification.”<sup>98</sup> In addition, civilian staff must demonstrate subject matter expertise, particularly if they oversee specialized programs such as the regulation of private security firms, implementation of weapons control programs, demobilization, or preparation for peace operations. They must be able to engage security force planners in dialogue and conduct independent assessments of security force plans and budgets. Building a capable civilian cadre likely will require both long-term professional education programs and short-term technical training. Mentoring and advising are useful practices to develop host nation leaders. Ideally, international advisors share similar backgrounds with their counterparts; uniformed personnel—be they military or police—are better positioned to model appropriate behavior. Development actors and USAID personnel would be better suited to advise civilian personnel working in the police bureaucracy or in civilian ministries.

The vetting process described above is particularly important for leaders who will set the tone for the transformed organization.

### **Building viable institutions**

Most research on post-conflict reconstruction identifies service delivery as a critical marker of government legitimacy and effectiveness. Service delivery, however, is wholly dependent upon the government's performance, which is, in turn, determined by the functionality of public administration systems and procedures and the competency of the civil servants who manage them.

Historically, security sector engagement emphasized civil-military relations and civilian control of the military. Practitioners now prefer to focus on security sector governance rather than on civilian control of the military, changing the emphasis from control to administration, management, policy formulation, financing, and service delivery—tasks that require functioning institutions. There is no quick fix to address the cultural and

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<sup>98</sup> Derick W. Brinkerhoff, “Implementing Policy Change: A Summary of Lessons Learned,” USAID, March 1996, No. 4, 1.

organizational complexities of government institutions or the time horizons necessary for achieving sustainable institutional change.

Bringing to bear decades of related experience, development actors are well equipped to support public administrative reform of security, public safety, and justice institutions. Legal restrictions prevent USAID from working with ministries of defense, but it can support reform in other ministries and government institutions, including national security councils, executive offices at the national or local level, judiciaries, and legislatures. The required reform may be comprehensive (to include process changes in organizational structure, personnel management, public finance, regulations, training, etc.) or targeted, such as the revision of a particular statute. Incentives, processes, resources, and structures must be put in place so that externally supported reforms and capacities are sustained after assistance ends. Given the need to respond to immediate security threats, this principle is likely the hardest to implement in a post-conflict environment—even more so if there are few standing institutional structures still in place in the aftermath of the war. Extensive consultation and assessment will be required to prioritize needs and identify stakeholders.

Public sector management reform places high value on monitoring and audit procedures. Oversight and accountability must be mainstreamed into the security sector reform process as a means of overcoming a history of security force abuse and impunity. Internal oversight mechanisms include inspectors general, internal affairs bureaus, ombudsmen, complaints boards, or codes of conduct. Effective internal systems, such as personnel management and promotion, asset management, or case file management systems, also offer intrinsic oversight functions. External oversight can be pursued through interagency bodies, legislatures, the judiciary, quasi-independent organs such as auditors general, and civil society. An auditor general may be the indicated venue for tackling difficult issues in the security sector, especially those that are prone to lack of transparency and corruption such as management of pension systems; the investment of pension funds in the markets; and security organizations' involvement in industry, the private sector, or the acquisition of equipment, goods, and services.

Public financial management is also critical for sustainable SSR. Public financial management includes all phases of the budget cycle, including the preparation of the budget, internal control and audit, procurement, monitoring and reporting arrangements, and external audits. Too often, SSR and public financial management are treated as independent lines of effort in a reconstruction mission. The result is that the host government cannot make appropriate tradeoffs between security and development. Equally problematic, life-cycle costs—in terms of equipment acquisition, facilities construction, or number of security personnel—are not factored into the decision-making process. Effective public financial management is particularly important as a means of enforcing transparency in the new security sector. In many post-conflict environments, the uniformed services may have been closely allied with the ruling party and have benefited from public resources diverted from other sources and non-defense budget lines. Threats to power—external military incursions or internal national elections—were likely met with increased off-budget spending. Bringing the formulation, approval, and oversight of the security sector budget into the legislature should be a critical post-conflict priority.

*Special considerations for police reform.* One of the major challenges with respect to police reform is the fundamental reshaping of the police from a force to a service. Depending on the environment, the demilitarization of civilian police may be a central focus of the restructuring effort. Unlike the military, police need to be proactive and decentralized to be most effective; yet police practice and management in much of the developing world tends to be hierarchical. Moreover, they need to rebuild relationships and trust with the community. Changing performance on the street requires changed performance in headquarters and field offices. Core elements of the police bureaucracy include Organization Structure; Policies and Procedures; Recruitment, Selection, and Promotion Practices; Patrol and Investigative Practices; Records and Communications; Performance Measurement; Facilities and Equipment; and Community Relations. Recognizing that police are an integral part of the justice system, institutional reform should consider the interrelatedness of the police service with the other justice sector actors.

*Special considerations for military reform.* Ministries of defense and military forces are generally organized into defined areas with roots in classical doctrine. These include Personnel, Intelligence, Operations, Logistics and Maintenance, Planning, Communications, Training and Education, and Acquisition. Legal Affairs, Financial Management, Strategic Planning, and Legislative Liaison are considered specialized staff functions. Successful SSR “depends not only on creating reliable tactical units and achieving tactical objectives, but also on developing the operational and strategic infrastructure to sustain those units and achieve the desired end state.”<sup>99</sup> Although legislative limitations restrict USAID from providing direct technical assistance to militaries, civilians serving on national security councils or in parliament need to understand these functional areas and how they are related to the performance.

### **Critical linkages**

The security sector is fundamentally a system of systems.<sup>100</sup> Effective SSR programs require multidisciplinary approaches that connect multiple lines of effort and establish relationships among diverse actors and processes.

*Link defense, development, and diplomacy.* Because most post-conflict environments will require comprehensive security sector reform/transformation, development and security donors should begin collaborating from the mission’s outset. The identification, up front, of combined objectives is critical to mission success. Post-mission evaluations/metrics should be directly correlated to the combined objectives. Joint assessment and planning that brings together a diverse group of both supply- and demand-side participants should inform every SSR mission. Given the different mandates and authorities of contributing USG departments and agencies, program alignment, rather than integration, may be more likely to achieve these collective objectives.

*Link short-term deliverables to long-term results.* Post-war stability is imperative for the resumption of productive economic, political, and social life. It also demonstrates to the population at large, and to potential spoilers, that the new government possesses a monopoly on the use of force in its territory. In particular, the ability of the local police to safeguard the community, or even to simply enforce traffic rules, establishes a clear break with the wartime past and is both physically and psychologically important for post-conflict recovery. Quick wins guard against community fatigue and help build momentum for reform. Successful post-conflict SSR programs marry short-term objectives with long-term reforms. For example, corruption, particularly among traffic police, is a common symptom of police dysfunction. Addressing police corruption requires wholesale reform of internal governance processes and procedures. In the interim, smaller efforts, such as a program to improve traffic safety that incorporates audits, close supervision, or spot checks, will demonstrate progress to the community at large while long-term reform takes root.

*Link security and justice.* Security and justice must be treated as interlinked from the start of the stabilization effort. Effective criminal justice depends not only upon the capacity of individual actors within the system, such as prosecutors, defense attorneys, magistrates, or police, but also on their ability to interact collectively with security forces and with one another at every stage of the service delivery cycle. Individual actor failure at any point in the justice continuum leads inevitably to failure of the system as a whole. Fair, impartial adjudication requires competent advocacy by both prosecutors and defense; impartial judges and juries that are accountable for their performance; and, regardless of branch of service, police and investigators who know how to collect and handle evidence and conduct investigations.

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<sup>99</sup> The Joint Center for International Security Force Assistance (JCISFA), Security Force Assistance Planner's Guide (Working Draft), Ft. Leavenworth, 2007.

<sup>100</sup> These include, for example, criminal justice systems (police, judiciary, prosecutions, lawyers, probation workers, oversight institutions, community justice providers), intelligence systems (police, intelligence [strategic intelligence, analysis], military), state security systems (police, military, border guards, immigrations, gendarmerie, nonstate security), and accountability systems (internal, external, and parliamentary systems).

*Link state and nonstate actors.* The state has an irreducible role in the delivery and accountability of justice and security. However, in post-conflict environments, central or local government may not be prepared to govern immediately, leaving a security vacuum. In many developing countries, nonstate actors provide day-to-day security and justice service delivery. Most estimates suggest that up to 80 percent of justice provision in sub-Saharan Africa, for example, comes from nonstate purveyors. SSR programs need to target state and nonstate justice and security actors simultaneously at multiple points where security is delivered on a day-to-day basis. In particular, efforts should link the role and activities of nonstate providers to wider national political objectives by establishing oversight and accountability mechanisms, such as regulations governing the use of private security firms. At the very least, this role includes setting minimum standards, formulating policy and legal frameworks, developing varying types of accountability mechanisms, upholding the principles of human rights, and establishing networks and partnerships among service providers. An effective multilayered approach targets assistance at both state and nonstate actors simultaneously.

*Link SSR and DDR.* DDR is the process of demilitarizing and demobilizing official and unofficial armed groups, reducing the size of state security services, and reintegrating former combatants into civilian life. DDR must be seen as part of the political process of consolidating peace and should be embedded in a comprehensive approach to SSR and economic recovery. Often construed as two separate processes, DDR and SSR programs are interrelated and interdependent. Generally, provisions for both processes emerge from highly negotiated peace agreements that set overall political, security, and economic conditions. Despite this, linkages between SSR and DDR often are made too late and sometimes not at all.

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## 16. DISARMAMENT, DEMOBILIZATION, AND REINTEGRATION

### Framing Issues

The objective of disarmament, demobilization, and reintegration (DDR) is to increase security, stability, and state authority in post-conflict environments so that recovery and development can begin. The DDR process provides a way to separate combatants from their weapons and command structures and facilitate their return to civilian life. DDR can also begin to build trust among former combatants and the population in general and contribute to national reconciliation. A successful DDR program can pave the way to sustainable peace, whereas a failed DDR effort can stall security sector reform, destabilize communities, and disrupt the peace process (Figure 16.1).

FIGURE 16.1 DEFINITIONS OF DDR

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**Disarmament** is the collection, documentation, control, and disposal of small arms, ammunition, explosives, and light and heavy weapons of combatants and often also of civilian populations. Disarmament also includes the development of responsible arms management programs.

**Demobilization** is the formal and controlled discharge of active combatants from armed forces or other armed groups. The first stage of demobilization may extend from the processing of individual combatants in temporary centers to the massing of troops in camps designated for this purpose (cantonment sites, encampments, assembly areas, or barracks). The second stage of demobilization encompasses the support package provided to the demobilized, which is called reinsertion.

**Reinsertion** is the assistance offered to ex-combatants during demobilization but prior to the longer-term process of reintegration. Reinsertion is a form of transitional assistance to help cover the basic needs of ex-combatants and their families and can include transitional safety allowances, food, clothes, shelter, medical services, short-term education, training, employment, and tools. Whereas reintegration is a long-term, continuous social and economic process of development, reinsertion is short-term material and/or financial assistance to meet immediate needs and can last up to one year.

**Reintegration** is the process by which ex-combatants acquire civilian status and gain sustainable employment and income. Reintegration is essentially a social and economic process with an open timeframe, taking place primarily in communities at the local level. Part of the general development of a country and a national responsibility, it often necessitates long-term external assistance.

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Source: United Nations, "Integrated Disarmament, Demobilization, and Reintegration Standards."

DDR is part of a wider strategy of peace building that includes agreements over security sector reform, justice, political change, improved governance, and economic development. DDR programs succeed only when coordinated with reforms in these other sectors. For example, if SSR does not progress sufficiently to provide law and order, disarmed and demobilized ex-combatants may seek to defend their communities and take up arms again. Similarly, if economic development does not progress sufficiently to provide jobs, ex-combatants may seek to earn money through a return to violence.



In 2007, there were DDR programs in 19 countries: two in Latin America, three in Asia, and 14 in Africa.<sup>101</sup> Over one million ex-combatants participated in some phase of a DDR program in that year, with 38 percent coming from the armed forces and the rest from armed opposition groups. The cost of the 19 programs totaled \$1.6 billion, with an average cost of \$1,434 per demobilized person. Disarmament and demobilization account for 5 to 10 percent of this cost, reinsertion and reintegration account for 60 to 80 percent of DDR expenditures, and other expenses account for the remainder of the budget.<sup>102</sup>

The UN and the World Bank play an important role in financing and implementing DDR programs. They often establish and manage DDR trust funds to which donors contribute. Trust funds provide central financial management and oversight of funds, ensure a more continuous funding stream, and reduce the burden on host governments to report against different donor requirements. The U.S. engagement in DDR most often takes the form of support to a UN peacekeeping mission. U.S. participation in multidonor trust funds run by the World Bank is more difficult as they often do not allow donors to earmark contributions for specific activities. This poses a legal problem because USAID funds cannot be used for military purposes, which include disarmament and some demobilization activities. The United States can, however, participate in “parallel trust fund” mechanisms managed by the World Bank, as was done successfully in Sierra Leone’s DDR program. The parallel funding structure provides the separation of funds needed for USAID spending authorities but creates additional work for fund managers.

The United States rarely takes the lead in DDR programs but often provides strategic and operational support to DDR programs. The U.S. role in any DDR program depends on U.S. national interests and available capacities to respond to the magnitude of the task. The United States is well positioned to influence DDR processes politically through diplomatic engagement in peace negotiations and assistance to international organizations and national-level planning efforts. Operational support comes primarily in the form of USAID-funded reinsertion and reintegration programs that benefit ex-combatants who are fully discharged and dissociated from the military. Yet USAID’s legal prohibition on supporting disarmament and demobilization poses programmatic challenges for ensuring continuity of effort across the DDR continuum, and there is discussion about granting USAID expanded authority to support operations in these other areas. Even if the restrictions persist, however, it is important for USAID and the development community more broadly to think beyond reintegration and engage early and high in the DDR process. For this reason, this chapter focuses on all aspects of DDR.

To succeed, DDR strategies must respond to the case’s level of difficulty. Notable challenges for DDR programs—and peace agreements more generally—include a lack of buy-in from parties to the conflict and weak international commitment to the peace process. As confirmed by research on 16 peace agreements that were concluded between 1980 and 1997, the existence of a spoiler; the presence of disposable natural resources such as gems, minerals, or timber; the presence of a neighboring state that is hostile to the peace agreement; and the absence of major power interests make peace agreements more likely to fail.<sup>103</sup> Such difficult implementation environments require more resources, greater international involvement, and more coercive strategies.

Figure 16.2 portrays the elements of a classical DDR process. However, the progression from disarmament to demobilization and reintegration assumes supportive conditions that are rarely found on the ground. More

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<sup>101</sup> The countries with DDR programs in 2007 included Aceh, Afghanistan, Angola, Burundi, the Central African Republic, Chad, Colombia, Cote d’Ivoire, the Democratic Republic of the Congo, Eritrea, Haiti, Indonesia, Nepal, Liberia, Niger, Rwanda, Somalia, Sudan, and Uganda.

<sup>102</sup> These data come from Escola de Cultura de Pau, “DDR 2008: Analysis of Disarmament, Demobilization, and Reintegration (DDR) Programmes in the World during 2007” (Escola de Cultura de Pau, February 2008).

<sup>103</sup> These four variables explain about 65 percent of the variance in the outcomes of peace agreements. See Stephen John Stedman, “Implementing Peace Agreements in Civil Wars: Lessons and Recommendations for Policymakers” (International Peace Academy and Center for International Security and Cooperation, Stanford University, May 2001), 12.

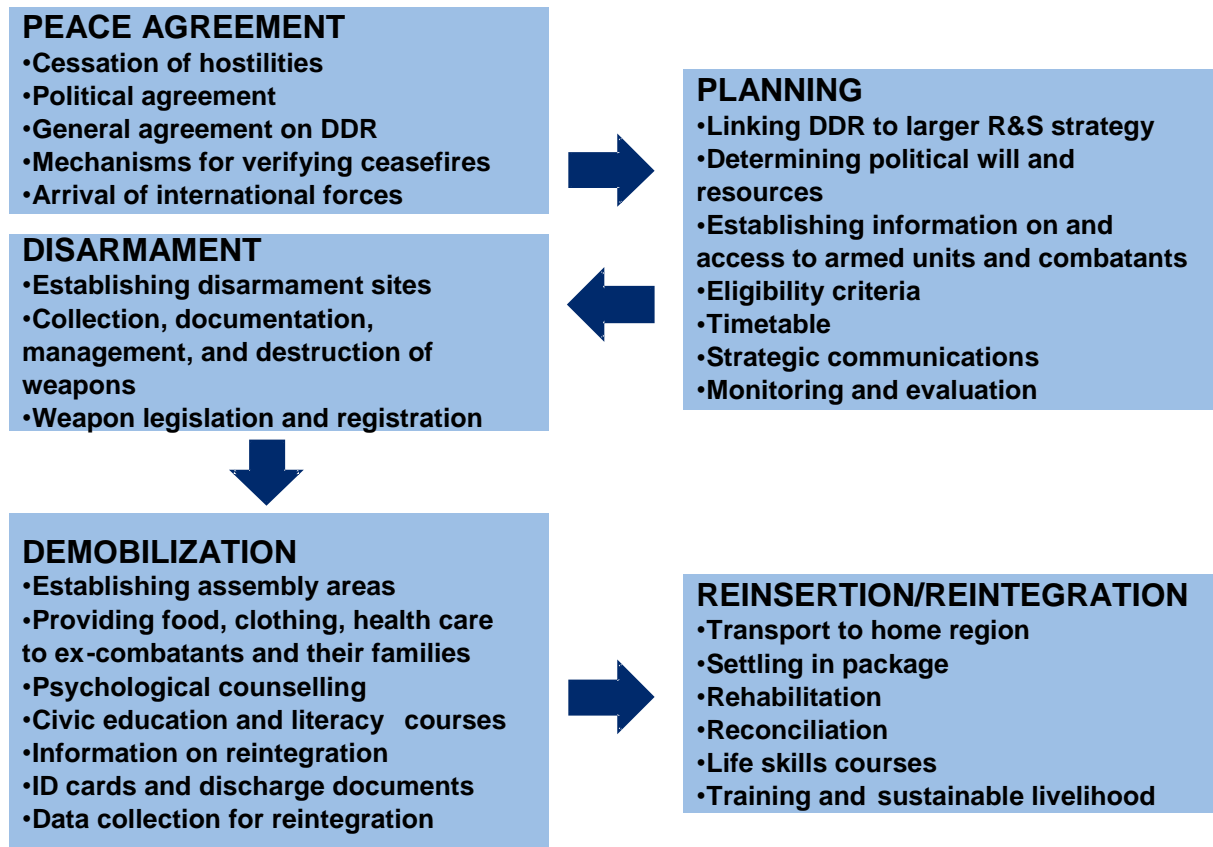
often, DDR moves in a less linear fashion. In fact, the research cited above reports that disarmament, when it occurred in these 16 cases, followed rather than preceded demobilization. In some cases, such as Mozambique, demobilization occurred but disarmament did not as the warring sides cached hundreds of thousands of weapons. Combatants can also demobilize but not participate in reintegration programs, as happened with the Maoists in Nepal. Further, in particularly difficult settings, DDR programs may need to focus on ways to pull combatants away from militias and reintegrate them into civilian life, with disarmament and demobilization coming later, if at all, through a formal process.

## Key Tradeoffs

### Justice versus stability

The reintegration packages in DDR programs involve a tradeoff between justice and stability. Where reintegration benefits extend only to ex-combatants, other citizens may perceive the program as unjustly rewarding those who fought in the conflict and often abused local communities. In the context of limited resources, however, offering reintegration benefits to all citizens risks shrinking the benefits package to such an extent that ex-combatants may not reintegrate into their civilian life and instead remain armed and mobilized, posing a threat to stability. One approach to addressing this tension is to offer benefits both to former combatants and to receiving communities, as discussed more fully in the reintegration section below.

**FIGURE 16.2 A CLASSICAL DDR PROCESS**



## Planning

*Begin DDR planning early.* Peace agreements often establish the basic parameters for DDR programs, but detailed planning is necessary for successful program implementation. Host country and opposition leadership should participate in the planning process to ensure that their views are reflected in program design. Planning should begin early and integrate DDR goals and timetables with other key reconstruction and stabilization tasks such as security sector, justice, economic, and political reforms (Figure 16.3). DDR goals and timetables will reflect the political will on all sides of the conflict as well as the financial, human, and technical resources available to support DDR implementation. U.S. planners will need to identify funding sources and any legal constraints for U.S. involvement for all stages of the DDR process. The risk of insufficient resources can jeopardize the entire peace process.

### FIGURE 16.3 LINKING DDR AND SSR

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The linkages between DDR and SSR can vary in accordance with the broader political objectives of the transition. SSR basically entails reform of the military, downsizing formal state military structures and related elements and submitting them to civilian control. SSR also means reform of the civilian police, the extension of state authority to reestablish law and order. It is difficult to identify candidates for DDR without a clear understanding of the size and profile of future security forces. Information collected from DDR while vetting combatants can also inform the SSR process. Ideally, a peace agreement would explicitly link DDR and SSR program timelines and goals.

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*Match benefits to beneficiaries.* Plans must define the groups to participate in DDR programs, including combatants, their dependents, and affected communities. The reinsertion/reintegration plans also must specify the benefits for each group of beneficiaries, addressing the specific needs of commanders, mid-level commanders, and rank and file as well as child soldiers, women, and wounded. DDR plans must take into account cultural biases or stigmas that can disadvantage victimized populations—such as children, women, and the disabled—in reintegration programs.

*Include plans for monitoring and evaluation and strategic communication.* Indicators for DDR program monitoring and evaluation should be developed during the planning process. Funding and a timetable for data collection on program progress should also be included. DDR planning should also include a plan for strategic communications. The terms of the peace plan and distribution of benefits should be communicated as soon as possible to government officials, local populations, and combatants to manage expectations and promote awareness of the process.

*Support a national DDR body.* A national coordinating body with the capacities and mandate to bring all relevant actors together in one DDR process should be responsible for the program's overall design and implementation. This ensures national ownership of the DDR process and facilitates coordination across different phases of the program, between the national and regional levels, and among the many implementers and donor programs. This institution should contain personnel from both civilian and military backgrounds and should include regional and branch offices. Local committees, which may include ex-combatants, government officials, NGOs, and community representatives, can support the branch offices in DDR implementation. In Ethiopia, for example, local committees working alongside all 36 branch offices of the Commission for the Rehabilitation of Former Members of the Army and Disabled War Veterans fostered

communication and coordination among different actors and are credited with contributing to the successful demobilization and reintegration of more than 400,000 soldiers.<sup>104</sup>

## Disarmament

The overarching aim of disarmament is to reduce or control the number of weapons held by combatants so as to build confidence in the peace process and increase security. Depending on the context, disarmament initiatives may target standing armed forces, paramilitary forces, militias, rebel groups, and civilians. A peace agreement often contains provisions for disarmament, specifying the timing and scope of disarmament. To prevent unevenly matched forces from taking advantage of a sudden change in the balance of military power, it is important to orchestrate a proportionate disarmament of forces. Disarmament programs generally involve four stages: operational planning, weapons collection, stockpile management, and destruction.

*Plan disarmament programs.* Planning for disarmament represents the first stage of implementing DDR. Operational planning includes information gathering on the type, number, and location of weapons; an assessment of risks involved in disarmament; a discussion of awareness raising efforts; and specification of timelines and sequencing.

*Establish secure disarmament sites and procedures.* The weapons collection stage includes establishing static or mobile disarmament sites that have general amenities, storage facilities, and communications infrastructure. This stage also entails establishing procedures for collecting weapons that maintain transparency and accountability. Experts in ammunitions should be present from the outset of the disarmament process. In addition to the infrastructure for collecting weapons, an information campaign to clarify the procedures, inducements, and end date for arms collection is a critical piece of the disarmament program.

Typically, when ex-combatants enter disarmament sites, they hand over their weapons and are searched. Then disarmament officials separate any ammunition from weapons, register weapons, and give ex-combatants an official receipt. The number of weapons surrendered in disarmament programs can vary from as few as 18 weapons per 100 demobilized persons in Nepal (2007) to as many as 77 weapons in Afghanistan (2003–2005).<sup>105</sup> Among other factors, the variation reflects the fact that some members of an armed group do not carry a weapon and that some armed groups keep a supply of arms hidden and surrender only arms that are in poor condition. Some disarmament programs have offered cash in exchange for weapons, but experience has shown that this approach may draw more weapons to the region and is not advisable. For example, Liberia and Cote D'Ivoire both introduced weapons buy-back schemes in 2004. Cote D'Ivoire offered three times more money per gun as Liberia, which caused a large inflow of weapons into Cote D'Ivoire from Liberia.

*Maintain security in stockpile management.* Disarmament programs often entail temporary storage of weapons and ammunition because weapon destruction is delayed or weapons are slated for use by the military or police. In this case, security becomes a critical aspect of stockpile management. Dual key procedures offer one approach to secure storage: they require two keys to open a weapons container, which are held by leaders of different organizations, such as the onsite faction commander and a UN observer.

*Implement safe weapon destruction.* Weapon destruction is the final stage of disarmament. The procedures chosen for weapon destruction must take into account safety, cost, effectiveness, and verification of destruction. Current destruction techniques include burning, cement casting, crushing by armored fighting vehicles, cutting, deep sea dumping, detonating, dismantling, shredding, and smelting. In recent years, Burundi, Code d'Ivoire, and the Central African Republic have opted to destroy weapons publicly as a symbolic act.

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<sup>104</sup> Sarah Michael, "Reintegration Assistance for Ex-Combatants: Good Practices and Lessons for the MDRP," *MDRP Working Paper No. 1* (September 2006), 43.

<sup>105</sup> Escola de Cultura de Pau, "DDR 2008," 26.

*Improve weapons management.* In addition to these four stages of disarmament, countries must strengthen their legislative framework pertaining to the possession of and trade in weapons. Where cultural norms support widespread gun ownership, legislation can still require registration of small arms and proscribe ownership of light weapons. Additional measures to buttress this legislation include the development of a registration system for small arms, an information campaign on the problem of light-weapon proliferation, and effective enforcement of legislation. At the same time, efforts to improve security can reduce the demand for weapons in the civilian population.

Recent experience with DDR has shown that disarmament of ex-combatants has often failed even where substantial demobilization has succeeded. In part, the failure reflects a lack of specific provisions in peace agreements, which leaves room for interpretation in disarmament implementation. It also reflects an insecure environment, which encourages ex-combatants to hold onto their weapons for protection. The failure of disarmament, however, has not translated into a failure of peace agreements: for the 16 cases examined in the 1980s and 1990s, the accomplishment of large-scale disarmament was not crucial to successful peace agreement implementation.<sup>106</sup>

## **Demobilization**

Demobilization is a formal process of discharging combatants from a fighting force, whether or not they have carried a gun. The main objective is to break armed leaders' command and control over their subordinates and allow them to return to civilian life.

*Establish assembly areas.* Encampment is usually the first step in the demobilization process. Assembly area location and accessibility are stipulated in an agreement with all parties to the war. When the number of combatants is high, demobilization programs occur in phases across the country as in Burundi, Eritrea, and Rwanda. Demobilization programs direct enemy forces into separate assembly areas and sometimes separate different groups within the same demobilizing force, such as women and children. Many combatants, particularly guerrilla soldiers, have their families with them. An international force may provide security to ensure their safety, such as NATO in Bosnia and ECOWAS (on occasion) in Liberia and Sierra Leone. It is important for a third party or central authority to ensure that the main forces are demobilized at roughly the same rate to avoid creating an incentive for one side to attack the other. Monitors should also oversee conditions in the assembly areas.

*Provide services.* It is common for demobilization programs to offer a variety of services, including provision of basic food and clothing; a medical examination; psychological counseling; HIV/AIDS education; literacy training; civic education; preparing ex-combatants to engage in reconciliation measures; information on reintegration; and assessing the labor profile of each ex-combatant, including eligibility for military or police service. The range of services offered in demobilization programs influences the number of days a combatant resides in a camp. Stays range from one day, as in Afghanistan, to 15 days, as in Rwanda.<sup>107</sup> All services and information sessions should be available equally to all groups of combatants and their dependents.

*Issue discharge documents.* After demobilization, ex-combatants receive ID cards and discharge documents that entitle them to participate in reinsertion and reintegration programs as well as elections. A discharge document has a high symbolic value for many ex-combatants as it provides recognition of their military service. To avoid discrimination, discharge documents usually do not identify the combatant's group or faction.

*Recognize self-demobilization.* Alongside these formal demobilization processes, combatants can demobilize through informal means. They do this by moving outside their commander's control and influence and signing a statement vowing their intention to remain a civilian. This happens most often when an armed unit

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<sup>106</sup> Stedman, "Implementing Peace Agreements in Civil Wars: Lessons and Recommendations for Policymakers," 16.

<sup>107</sup> Escola de Cultura de Pau, "DDR 2008," 26.

disbands in a disorderly fashion after a defeat. Vulnerable groups such as women and children are especially likely to demobilize in this way because they fear the stigma of being found in the ranks of armed groups. Others may wish to rejoin their family as quickly as possible and do not wait for official demobilization. Informal demobilization can also occur in the absence of a formal demobilization process. In Sri Lanka, for example, there has been no formal demobilization process, but combatants have voluntarily left the Tamil Tiger rebel group and participated in reintegration programs.

### **Reinsertion/reintegration**

*Provide immediate assistance.* The reinsertion phase encompasses the months following combatants' discharge from active service. During this phase, ex-combatants receive transportation to their home region and transitional assistance in the form of food, clothing, medical care, household goods, building materials, seeds, tools, access to land, or severance pay. The reinsertion packages should enable ex-combatants to take care of their own survival needs on a par with the standard of living of the rest of the population. In recent years, the average cash payment has ranged from a low of \$140 in Uganda to a high of \$990 in Afghanistan.<sup>108</sup> The reinsertion program should maintain uniformity in the products distributed to avoid disputes among recipients. It should also be harmonized with other development programs, which address the root causes of instability and motivations of ex-combatants.

*Focus on sustainable livelihoods.* Reintegration programs help ex-combatants with the challenge of securing skills for sustainable employment. Because securing employment is an open-ended process and donor funding typically dwindles after two years, it is important that ex-combatants develop the skills necessary to sustain employment despite changes in the market and community needs. Most commonly, reintegration programs provide benefits directly to ex-combatants, although some programs, such as in Aceh, the Central African Republic, Chad, the Democratic Republic of Congo, and Niger, have provided reintegration benefits to communities (Figure 16.4). It is critical to communicate to the local population why assistance targeted to ex-combatants is important; what combatants and their dependents will receive and will not receive; and, where applicable, what benefits communities will receive.

*Work with individuals.* Reintegration programs can offer benefits focused directly on supporting ex-combatants' livelihoods, including cash payments, tools, vocational skills training, apprenticeships, temporary employment in public works projects, job placement services, referrals to other relief programs, and access to micro-finance. More extensive reintegration programs can offer life skills training, literacy and numeracy programs, civic education, psychological counseling, and rehabilitation for disabled veterans. It is important to offer services that reflect ex-combatants' skills and livelihood preferences, yet job creation also needs to focus on sectors that will give ex-combatants long-term opportunities for income generation. Programs may need to tailor benefits for different groups of ex-combatants based on their health, gender, age, education, work experience, rank, or settlement location (urban/rural). Where there are notable resource constraints, programs may target resources to groups most essential to keeping the peace and those particularly vulnerable, such as children and the disabled.

In El Salvador, for example, the initial focus of reintegration was on the 600 or so leaders of the guerilla movement with the premise that once they were satisfied, their followers would be, too.<sup>109</sup>

To the extent possible, these programs should build on existing local capacities and institutions rather than creating new structures. Programs should strive to direct programs through local government offices, training institutes, schools, clinics, farmers associations, labor groups, credit institutions, and NGOs to strengthen their capacity. Where they do not exist, reintegration programs can also support the formation of veterans' associations to generate active involvement of the ex-combatants in the reintegration process.

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<sup>108</sup> Ibid., 29.

<sup>109</sup> Ian Douglas et al., "Disarmament, Demobilisation, and Reintegration: A Practical Field and Classroom Guide" (German Technical Co-operation, Norwegian Defence International Centre, Pearson Peacekeeping Centre, and Swedish National Defence College, 2004), 72.

Establishing veterans' groups for women may be important to help combat the discrimination faced by women who participated in fighting groups.

#### **FIGURE 16.4 COMMUNITY-FOCUSED REINTEGRATION IN THE DRC**

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In December 2002, after seven years of war and several failed peace attempts, the parties to the conflict in the DRC signed a peace agreement in Pretoria, South Africa. The Pretoria agreement called for establishment of a transitional government incorporating all rival factions, integration of all military forces, and a DDR program for around 150,000 to 200,000 armed combatants not selected for employment in the unified armed forces. Logistical challenges and disputes over the size of the new army and distribution of leadership roles delayed the DDR process, but it began to gain momentum with the opening of assembly centers in 2004.

USAID OTI launched a community-focused reintegration (CFR) program in 2004 in eastern DRC, where the fighting had centered. OTI identified reintegration as a critical issue, especially as the formal DDR process would miss a large number of people involved in combat but lacking formal military identification, such as local militia, child soldiers, and women. The program aimed to create support for the peace process by helping the war-torn communities in the east and improving the security environment. Implemented by Chemonics International, the CFR program had a central office in the capital, Kinshasa; three field offices; and seven sub-offices, located as far as 300 kilometers from the field offices.

The program provided a six-month training course in five areas: (1) health and well-being; (2) reaffirmation of values (including gender and rape sensitization and psychosocial assistance for war trauma); (3) conflict management and leadership; (4) agricultural skills, income generation, and project management; and (5) democracy and governance. It relied on 14 master trainers who visited and sensitized target communities, helped organize Community Management Committees, trained and supervised the learning facilitators, and assisted in identifying and implementing community projects funded by small grants. A team of master trainers covered 20 communities per six-month cycle, with 60 participants in each community. Community Management Committees comprised six members: two adult women, two adult men, and two youth. Of these six committee members, one was often a local government official and two more were learning facilitators.

The program aimed to have 80 percent youth participation, with youth defined as people between 18 and 35 years of age, and 50 percent female participation. Actual ratios generally favored males, due in part to the local traditional roles of women. The remaining 20 percent of participants were interested adults in the community. Most participants were literate, reflecting the community view that those who were literate could more easily re-teach the modules to other community members.

The CFR program also had a small-grants component. The Community Management Committees, together with master trainers, identified and organized the projects. The projects were intended to benefit the whole community and foster reconciliation among different elements. The program funded a total of 130 projects, totaling approximately \$2.7 million. Projects varied greatly in size and scope.

In addition to the training and small-grants components, the CFR program supported media programs at the local, regional, and national levels. This work created a network of learning facilitators, community committees, radio listening clubs, and regional community centers. USAID's Democracy and Governance office committed funding to continue this network.

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Source: Adapted from USAID, "Community-Focused Reintegration" (Washington, DC, 2005).

*Support communities.* Community-focused reintegration provides benefits to war-affected populations as well as ex-combatants. Community-based programs allow communities to prioritize their needs and then train and employ ex-combatants and civilians to carry out projects such as rebuilding roads and schools or creating youth and sports clubs. This approach creates structured environments in which divided communities interact and fosters reconciliation. Alongside such projects, community-focused reintegration emphasizes efforts to sensitize receiving communities to the challenges of reintegration and to establish reconciliation and conflict management services. In Liberia, for example, community-focused reintegration projects employed counselors as full-time behavior-management mediators to work with mixed groups of ex-combatants and war-affected returnees at the worksite.

## Resources

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## APPENDIX A: PROGRAMMATIC TOOLS

USAID has in place many programmatic tools and resources to facilitate DG programming. A number of these pertain to DG programming in any context; a few apply more specifically to conflict-affected countries. Tools in this appendix include contract and grant mechanisms that can be accessed for assistance and services; resource materials that include conceptual frameworks, assessment tools, and manuals; and management tools, such as stakeholder analysis and implementation task frameworks.

### Contract and Grant Mechanisms Available through USAID's Democracy, Conflict, and Humanitarian Assistance Bureau

This chart includes an array of USAID procurement mechanisms that can provide assistance and services responsive to democracy, governance, and conflict-related R&S needs. If "IQC" is in the mechanism name, the mechanism is an indefinite quantity contract used to obtain services. If "IQC" is not in the name, the mechanism is a grant or cooperative agreement through which desired assistance will meet USAID objectives as well as those of the grantee organization. Regular updates on availability of the Democracy and Governance Office-led grants and contracts, DG Office staff, and implementing partner contact information can be found in the web-based User's Guide accessible on the USAID's Intranet at [http://inside.usaid.gov/DCHA/DG/Pub/User\\_Guide.cfm](http://inside.usaid.gov/DCHA/DG/Pub/User_Guide.cfm) or under the "DCHA/DG Activities" link on the USAID/DG public website ([http://www.usaid.gov/our\\_work/democracy\\_and\\_governance/](http://www.usaid.gov/our_work/democracy_and_governance/)).

#### If you need an assessment...

Mechanism	Purpose
<p><i>Consortium for Elections and Political Processes Strengthening (CEPPS) III</i>            COTR/AOTR: Shally Prasad            Expiration: 9/30/2013</p>	<p>To strengthen and support democratic electoral and political processes by providing access to a full array of activities in the field of elections and political processes. The emphasis is on long-term planning and sustainable development of electoral and political processes rather than event-driven, crisis-oriented activities centered on a single election. The award was designed to allow for the initiation and implementation of short- and long-term activities without requiring a time-consuming competitive application process.</p>
<p><i>IQCs for DG Analytical Services</i>            COTR/AOTR: Josh Kaufman            Expiration: 3/27/2010<sup>110</sup></p>	<p>Missions and USAID/Washington units can use this contract for high-quality DG sector, sub-sector, and cross-sectoral assessment; program design; and evaluations. In addition, the contract can be used to provide research, public opinion surveys, and conference support.</p>
<p><i>IQCs for Rule of Law</i>            COTR/AOTR: Susan Pologruto            Expiration: 9/30/2010</p>	<p>To support transition to and consolidation of the rule of law and the promotion and protection of human rights throughout the world. Activities under these IQCs will improve and enhance the Agency's performance in facilitating the growth and stability of legal and judicial systems that promote a rule of law consistent with respect for human rights and market-based</p>

<sup>110</sup> Period of Performance for these IQCs ends on September 27, 2010.

	economies, commitment to legal equity, and democratic principles.
<i>IQCs for Elections and Political Processes</i> COTR/AOTR: Carrie Gruenloh Expiration: 9/11/2010	To support the transition to, and consolidation of, democratic governments through which citizens choose their leaders and participate in all levels of political decision making, particularly in transition and sustainable development countries.
<i>IQCs for Deliberative Bodies</i> COTR/AOTR: Keith Schulz Expiration: 9/30/2010	To improve the capacity and performance of legislatures, their members, and staff in realizing their representative, lawmaking, and oversight functions. This activity establishes a mechanism for Missions to assist host country legislatures to improve their deliberative processes so that they are more democratic, transparent, and accountable; better represent the public interest; and result in better monitoring of governmental performance.
<i>IQCs for Democratic Local Governance and Decentralization</i> COTR/AOTR: Ed Connerley Expiration: 6/30/2010	To provide decentralization/local governance-strengthening technical assistance services. These contracts will provide decentralization, subnational government strengthening, and public administration services. Two functional activities are included under these contracts: a) decentralization and participatory government and b) public management and administration.
<i>IQCs for Building Recovery and Reform Through Democratic Governance (BRDG)</i> COTR/AOTR: Nils Mueller Expiration: 9/12/2010	To provide services for governance and state building; provide government, civil society, and private sector group support for policy reform and implementation; respond to fragile states as well as transformational state needs; and support possible demands by Millennium Challenge Account threshold countries. These contracts will provide direct support to ministries and executive offices, with particular attention to transition settings. BRDG IQCs will provide services to promote democratic governance across all sectors and include security sector reform assistance. All work under these IQCs will promote principles of accountability, transparency, and responsiveness in the way services are designed and delivered.

### If you need to support Rule of Law programming...

<b>Mechanism</b>	<b>Purpose</b>
<i>Human Rights and Rule of Law Cooperative Agreement</i> COTR/AOTR: Keith Crawford Expiration: 1/11/2014	To promote respect for human rights and the rule of law by providing access to NGOs with extensive human rights and rule of law expertise. Activities may aim to reform legal frameworks and/or strengthen actors and institutions within and beyond the justice sector, including but not limited to the judiciary, prosecutors, legal defense, investigators, civilian police, traditional authorities, civil society, and citizens.
<i>Regional Democracy</i>	To help USAID/Egypt and regional missions implement

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<i>Initiatives (REDI) IQC</i> COTR/AOTR: Jim Wright (USAID/Egypt) Expiration: 4/2011 <sup>111</sup>	their strategic objectives in the areas of civil society, governance, and justice. The geographic scope of the IQCs is currently being limited to use in Middle East Missions only.
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<sup>111</sup> Task orders can go three years beyond the end of the IQC to 2014.

### If you need support for vulnerable populations...

<b>Mechanism</b>	<b>Purpose</b>
Disability Policy Funds COTR/AOTR: Lloyd Feinberg Expiration: 9/27/2010	USAID's policy on disability is to avoid discrimination against persons with disabilities in programs that USAID funds and to stimulate an engagement of host country counterparts, governments, implementing organizations, and other donors in promoting a climate of nondiscrimination against and equal opportunity for persons with disabilities. The USAID policy ensures that persons with disabilities are included at every level as administrators, partners, and beneficiaries. USAID's disability funds are used to support programs and activities that address the needs of persons with disabilities, including protecting the rights and increasing the independence and full participation in programs related to health, education, economic growth, political participation, and humanitarian aid.
Displaced Children and Orphans Fund COTR/AOTR: Lloyd Feinberg Expiration: 9/27/2010	To provide care, support, and protection for the special needs of children at risk, including orphans, unaccompanied minors, children affected by armed conflict, and children with disabilities.
Victims of Torture Fund COTR/AOTR: Lloyd Feinberg Expiration: 9/27/2010	To help heal the psychological and physical trauma caused by torture, recognizing that communities, along with survivors, need to heal and recover.
War Victims Fund COTR/AOTR: Lloyd Feinberg Expiration: 9/27/2010	To provide essential orthopedic services and related medical, surgical, and rehabilitation assistance to include programs that work to enable amputees and other persons with disabilities to regain accessibility to mainstream educational, recreational, and economic opportunities.
Wheelchair Initiative COTR/AOTR: Lloyd Feinberg Expiration: 9/27/2010	To improve the mobility of people with mobility-related disabilities, which can lead to advances in overall health, grantees currently work in many facets of wheelchair provision: researching better, more durable chairs; appropriate cushions and seating; training to prescribe and fit wheelchairs; and testing and developing international standards.

### If you need to support activities to enhance civic participation or strengthen independent media...

<b>Mechanism</b>	<b>Purpose</b>
<i>Global Civil Society Strengthening (GCSS) Cooperative Agreement</i> COTR/AOTR: Asta Zinbo Expiration: 5/7/2014	To provide technical assistance, design, implementation, and evaluation services in support of civil society programming in presence and non-presence countries as identified by USAID Missions and USAID/Washington.
<i>Communication for Change (C-CHANGE)</i> COTR/AOTR: Gloria Coe	The mechanism supports activities at two levels: a) media-as-an-end: developing independent media/communications capacities generally as a DG objective to provide societies with more independent, pluralistic, and professional news and information;

(Global Health) Expiration: 9/24/2012	and b) media/communications-as-a-means: using media and other communications channels to disseminate development-related materials.
<i>Regional Democracy Initiatives (REDI) IQC</i> COTR/AOTR: Jim Wright (USAID/Egypt) Expiration: 4/2011 <sup>112</sup>	See description above under Rule of Law programming.

**If you need assistance in supporting the legal enabling environment...**

<b>Mechanism</b>	<b>Purpose</b>
<i>NGO Legal Enabling Environment Cooperative Agreement</i> COTR/AOTR: Eric Picard Expiration: 9/29/2013	To support the enabling legal and regulatory environment that protects and promotes civil society and civic participation.

**If you need to develop an anticorruption program...**

<b>Mechanism</b>	<b>Purpose</b>
<i>IQCs for Encouraging Global Anticorruption and Good Governance (ENGAGE)</i> COTR/AOTR: Tina del Castillo Expiration: 3/13/2013	To provide USAID and its partner countries with a broad range of technical assistance, assessments, and other resources necessary to develop and implement appropriate and meaningful strategies to curb corruption in economic, political, and social service sectors. USAID defines corruption as "the abuse of entrusted authority for private gain." Thus, the activities under ENGAGE address unilateral abuses by government officials such as embezzlement and nepotism, as well as abuses linking public and private actors such as bribery, extortion, influence peddling, and fraud at both lower and higher levels of government and the public sector (i.e., "administrative" and "grand" corruption).
<i>Regional Democracy Initiatives (REDI) IQC</i> COTR/AOTR: Jim Wright (USAID/Egypt) Expiration: 4/2011 <sup>3</sup>	See description above under Rule of Law programming.

**If you need to develop a local governance program....**

<b>Mechanism</b>	<b>Purpose</b>
<i>IQCs for Democratic Local Governance and Decentralization</i> COTR/AOTR: Ed Connerley	See description above under assessments.

<sup>112</sup> Task orders can go three years beyond the end of the IQC to 2014.

Expiration: 6/30/2010	
<i>Sustainable Urban Management (SUM) II</i> COTR/AOTR: Mike Keshishian Expiration: 3/30/2011	To provide field-driven short-, medium-, and long-term advisory and technical assistance services to Missions and bureaus in four functional areas: 1) expanded and equitable delivery of urban services; 2) more effective, responsive, and accountable local governance; 3) urban environmental management; and 4) improved finance and credit systems.

## **Sustainable Urban Management II (SUM II)**

### **Purpose**

Sustainable Urban Management II (SUM II) provides field-driven short-, medium-, and long-term advisory and technical assistance services to Missions and bureaus in four functional areas: 1) expanded and equitable delivery of urban services; 2) more effective, responsive, and accountable local governance; 3) urban environmental management; and 4) improved finance and credit systems.

### **Possible Work Areas**

SUM II activities are represented within the following five functional areas:

Expanded and Equitable Delivery of Urban Services and Shelter.

Enhanced Effectiveness, Responsibility, and Accountability of Local Government Organizations.

Enhanced Environmental Management Practices, Pollution Control Systems, and Tools.

Improved Disaster Preparedness, Response, and Recovery through Mitigation, Strategic Planning, Training, Hazard Identification, and Awareness.

Improved Finance and Credit Systems through Program Design and Technical Support.

For more information, contact Mike Keshishian at (202) 712-4725 or at [mkeshishian@usaid.gov](mailto:mkeshishian@usaid.gov).

## Useful Resources

DG and Stability Resources	Description
USAID/DG, Conducting a DG Assessment – A Framework for Strategic Development	This document provides a framework for constructing USAID DG strategies. The framework guides a political analysis of the country, leads to program choices, and incorporates what researchers and practitioners have learned from comparative experience.
USAID/DG, DG User’s Guide	This reference tool outlines the structure of the DG Office and the breadth of its technical expertise, as well as funding and implementing mechanisms that may be accessed through the DG Office.
Center for Advanced Operational Culture Learning (CAOCL), Afghanistan: Operational Culture for Deploying Personnel	This guidebook was designed specifically to provide basic cultural information to Marines deployed to Afghanistan. This guide provides a basic understanding of a rich culture, a dynamic and living history, and a complicated insurgency.
DOD, Military Support for Stability, Security, Transition, and Reconstruction (SSTR) Operations	This DOD directive provides guidance on stability operations and establishes DOD policy and assigns responsibilities within DOD for planning, training, and preparing to conduct stability operations.
Department of the Army, Stability Operations Field Manual	This Army field manual provides an overarching guidance and direction for conducting stability operations (including transitional military authority and security sector reform) and setting the foundation for development.
USAID/OMA, Civilian-Military Program Operations Guide	This civ-mil operations guide was developed to help field officers (mainly in USAID) enhance their understanding of military counterparts. The guide lays out how the different parts of the U.S. military plan for operations in the field, discusses different collaboration models, and identifies potential fertile areas of overlap for further exploration and development.

Rule of Law Resources	Description
USAID/DG, Guide to Rule of Law Country Analysis: ROL Strategic Assessment Framework	It provides a conceptual framework for analyzing challenges to the rule of law, as well as guidelines for conducting a justice sector assessment and for designing and prioritizing program interventions.
M. Shapiro, Comparing Legal Systems	This chart shows four ways that common and civil law systems differ.
USAID/DG, Chart on Similarities and Differences Between Civil / Common Law	This chart shows similarities and differences between that common and civil law systems.
USAID/DG, Assistance for Civilian Policy: USAID Policy	The guidance elaborates key points and provides the legislative background, along with program

Guidance	goals, policy and notification guidance, program guidelines, advice on implementation, and illustrative activities.
USAID/EGAT, Legal Empowerment of the Poor: from Concepts to Assessment	This document defines legal empowerment of the poor; describes the economic, social, and political dimensions of legal empowerment; and explains initiatives to legally empower the poor through rights enhancement, rights awareness, rights enablement, and rights enforcement.
Hurst Hannum, edited by Richard Bilder, Guide to International Human Rights Practice; in An Overview of International Human Rights Law	This chapter provides an overview and history of international human rights law, including who is bound by these laws and how obligations can be enforced.

<b>Governance Resources</b>	<b>Description</b>
USAID/DG, Anticorruption Strategy	This strategy document describes actions that will assist USAID to better address the development challenges posed by corruption, including confronting the dual challenges of grand and administrative corruption; deploying resources strategically to fight corruption; incorporating anticorruption goals and activities across Agency work; and building USAID's anticorruption knowledge.
USAID/DG, Democratic Decentralization Programming Handbook	This handbook offers guidance to help DG officers decide if, when, and how to initiate or enhance programs in decentralization and democratic local governance.
USAID/DG, Handbook on Legislative Strengthening	This handbook can help USAID field staff make informed decisions on legislative strengthening strategies. It outlines a framework for assessing the needs of legislative bodies and designing appropriate responses to those needs and describes legislative strengthening work carried out by USAID and others.
USAID/DOS/DOD - Security Sector Reform Guidance	This paper is designed to guide practitioners in DOS, DOD, and USAID in their implementation of current foreign assistance approaches to security and development. SSR refers to reform efforts directed at the institutions, processes, and forces that provide security and promote the rule of law.

<b>Elections and Political Processes Resources</b>	<b>Description</b>
USAID/DG, Political Party Assistance Policy	The goals of USAID's political party assistance are to develop and consolidate representative democracies, develop transparent political environments, establish viable democratic parties, and ensure conduct of free and fair elections. Two principles govern USAID's



	political party assistance policy: 1) USAID programs support representative, multiparty systems and 2) USAID programs do not seek to determine election outcomes.
USAID/DG, Transition Elections and Political Processes in Reconstruction and Stabilization Operations: Lessons Learned	This guide is targeted toward policymakers, strategic planners, and implementers. Best practices for implementers include reaching agreement on the laws and systems that will govern elections and assisting with election administration by supporting domestic administrators.

Civil Society Resources	Description
USAID/PACT, A Mobile Voice: The Use of Mobile Phones in Citizen Media, An Exploration of Mobile Citizen Media Tools and Projects	This report describes the role of mobile phones in enhancing access to and creating information and citizen-produced media. In addition to discussing mobile phone trends, the document provides potential ways to use mobile phones to promote citizen media and freedom of information.
USAID/DG, Constituencies for Reform: Strategic Approaches for Donor-Supported Civic Advocacy Programs	This report contains the findings of field studies that assessed donor investments in civil society as they relate to promotion of democracy. The case studies indicate that the opportunity for civil society to organize and press for reform is conditioned by where a country is positioned in the transition to democracy. This report describes in detail the studies and this concept.
World Movement for Democracy/ICNL/NED, Defending Civil Society Report	The report describes international principles protecting civil society already embedded in international law, including norms and conventions that regulate and protect civil society from government intrusion. These principles include the right of individuals to form and join NGOs, the right of NGOs to operate without state interference, the rights to free expression and to communication with domestic and international partners, the right to seek and secure resources, and the state's positive obligation to protect NGO rights.
World Development Report, Chapter 10: The Media, Building Institutions for Markets	This chapter describes the role of media as a tool for reach development goals. The chapter also discusses the main factors that make the media effective in producing better social, economic, and political outcomes: independence (including accountability), quality, and reach.
USAID/DG, Labor Sector Program Handbook	This handbook describes elements of a well-functioning labor sector as well as programs to address specific labor sector deficits. The handbook also discusses an integrated approach and M&E related to labor programming.

Civil Society Resources	Description
NGO Sustainability Index, Dimensions of NGO Sustainability	Seven different dimensions of the NGO sector are analyzed in the NGO Sustainability Index: legal environment, organizational capacity, financial viability, advocacy, service provision, NGO infrastructure and public image. In the Index, these dimensions are examined with a focus on: What has been accomplished? / What remains a problem? / Do local actors recognize the nature of outstanding challenges? / Do local actors have a strategy and the capacity to address these challenges?
USAID/DG, Lessons Learned: Global Civil Society Strengthening Leader with Associates Awards (GCSS LWAs)	This paper highlights lessons learned from the Global Civil Society Strengthening Leader with Associate Awards. The paper describes how to work in restrictive environments, create sustained change, incorporate a multisector approach, utilize information/communication technology tools, and mobilize key populations.
USAID/DG, Approaches to Civic Education: Lessons Learned	A series of studies were conducted to help DG officers design, implement, and evaluate civic education programs in a range of country contexts. The paper describes the role that civic education plays in democratic transitions and outlines two broad types of programs: adult and school-based. The document discusses the findings of the studies, including that course design and quality of instruction are critical to the success of programs (sessions should be frequent and methods should be participatory).

## Management Tools

A range of tools are available that will assist USAID personnel and host country partners manage R&S programs. The following tools are briefly described in this section:

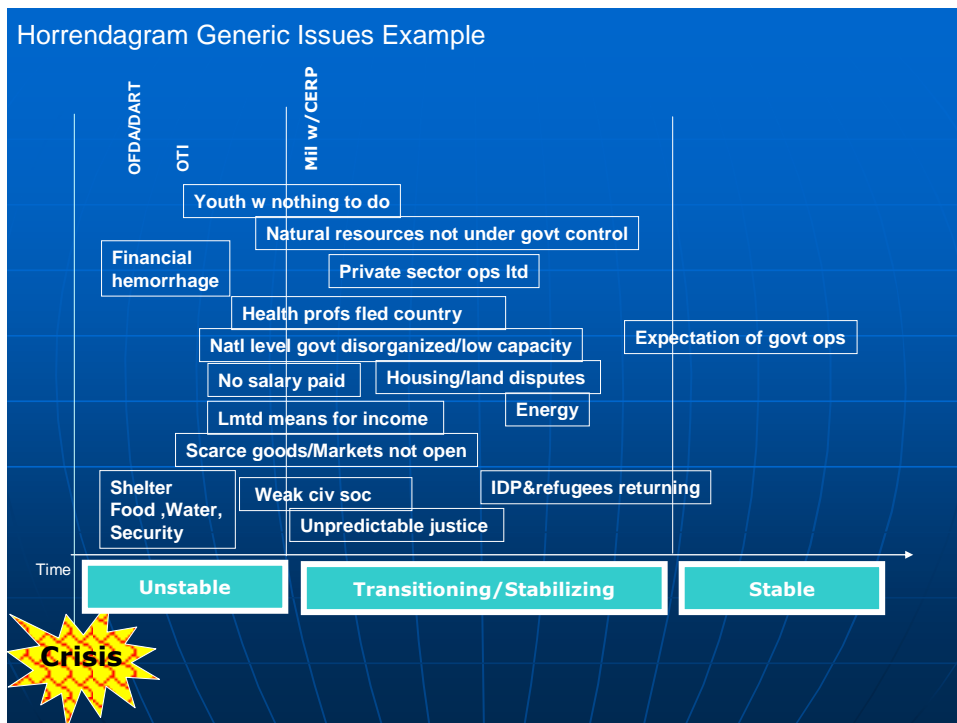
- Horrendagram
- Maturity Model
- Implementation Task Framework
- Tools and Processes Table
- Strategic Workshops
- Political Mapping
- Policy Network Maps and Force Field Analysis
- Stakeholder Analysis
- Institutional Inventory
- Institutional Development Framework

- Organizational Responsibility Charts

## Horrendagram

The horrendagram is an adaptable management tool that supports holistic thinking in reconstruction and stabilization (R&S) environments. It is a flexible template that can be used to display potential and/or actual programming, by one agency or many, for one or many sectors, over four stages of an R&S environment: crisis, unstable, transitioning, and stable. Some recommended uses are to display issues from a conflict assessment (Chart 1); to display programming options that emerge from assessments to aid prioritization and sequencing of activities (Chart 2); to identify programming interdependencies, complementarities or synergies, and gaps (Chart 3); to plot timing for periodic strategy reviews (Chart 4); and to plan and manage resource flows (Chart 5). Chart 6 displays how different thickness of lines can indicate level of engagement in an activity over time. The area before the crisis stage can be used to show programming in place prior to the crisis that might still be applicable or re-programmable to respond to the changed circumstances due to the crisis. This tool has a myriad of uses; the basic template can be enhanced by different overlays that provide details on different aspects of program management. The crossing arrows in the upper corner of the second chart are meant to highlight the importance, in R&S environments, of decreasing drivers of conflict and of increasing local capacity.

CHART 1



## Implementation Task Framework

To respond to challenges as complex as changing and strengthening institutions, it helps to break the work down into manageable pieces or tasks. The Implementation Task Framework divides the overall process of policy change into six distinct tasks, each to be managed systematically and strategically. These tasks serve as an organizing framework for leaders, managers, and change activists to integrate the political, behavioral, organizational, and technical aspects of a policy change effort. The six tasks are described below. A table that displays the tasks, strategies for carrying out those tasks, and applicable management tools and processes follows the descriptions of the six implementation tasks.

**Task 1: Policy Legitimation:** Before change will occur, a proposed policy reform must be perceived as legitimate and important even though it may present serious cost and sacrifice. The path to legitimacy is facilitated when influential people and opinion leaders believe in the change and publicly assert this belief.

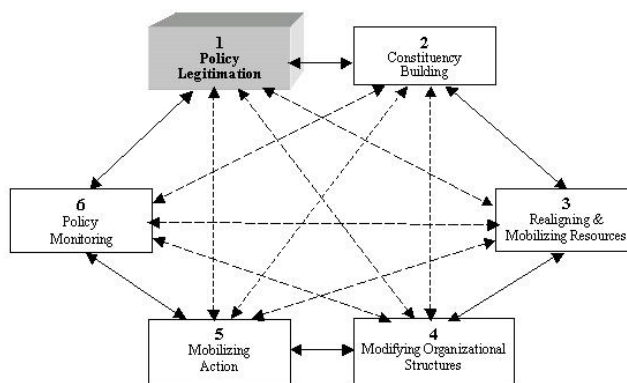
**Task 2: Constituency Building:** Constituencies for reforms must be developed and mobilized; constituency building complements and amplifies the legitimation process. Constituency building aims not only to gain passive acceptance of the need for policy change but also to mobilize action in favor of the new policy.

**Task 3: Realigning and Mobilizing Resources:** Implementing any new policy requires political, human, technical, and financial resources. The best approach is to mobilize and realign resources in a strategic and coherent way that secures initial funding (public and private, international and domestic) and ensures the policy a place in the government's budget allocation process.

**Task 4: Modifying Organizational Structures:** Because policy affects what organizations are to do and how they are to do it, new organizational structures may be warranted or existing units may be augmented, redirected, or ended.

**Task 5: Mobilizing Action:** Moving beyond a reform on paper to a reform in action requires concrete plans about how, when, where, and by whom resources are to be utilized. New incentives may be required to induce an organization to adopt new modes and practices. Frequently, joint planning and coordination across organizational boundaries will be required.

**Task 6: Policy Monitoring:** It is important to track the effects of policy change and to correct or adjust the policy if it is not producing the intended results. Monitoring should begin early and be done in a credible, public, and transparent manner. Although a given agency can monitor the impact of its own actions, it is less obvious who is responsible for tracking cumulative impact over multiple agencies.



### Tools and public processes

Over time, tools and public processes have been developed for strategically managing each of the six key tasks in the Implementation Task Framework. Some of the most important of these public processes and tools are summarized in the following table. Most of the tools listed below are included in this appendix.

### Strategic workshops

Because implementation of any major reform or policy generally crosscuts the nominal authority and statutory responsibility of any individual or agency, management to make the reform a reality requires processes that bring the relevant parties together in ways that reduce the potential for conflict and increase the possibilities for coordination. Strategic Workshops can serve such a purpose. They are nonhierarchical and participatory, their objectives explicitly target consensus and agreement, and their emphasis on practicality helps to assure that participants address issues concretely. The use of these workshops over the life of a change process creates periodic venues for taking stock of progress, comparing targets with accomplishments, revising plans, addressing conflicts, establishing and renegotiating agreements, and reinforcing and sustaining new behaviors among participants.

Strategic Workshops integrate the technical and the process side of managing by helping groups work more effectively together on common tasks. They are frequently designed and facilitated by external resource

persons, thereby freeing participants to devote themselves fully to the substantive and organizational tasks at hand. All should be designed with the principles of simplicity, flexibility, and action firmly in mind.

Implementation Task	Strategies for Task Implementation	Selected	
		Tools	Public Processes
Policy Legitimation	Raising awareness, questioning the status quo Identifying policy reform champions Creating new forums for policy discussion Developing convening authority	Political Mapping	Blue Ribbon Commissions International Conventions Benchmarking Public/Private Roundtables and Forums, Strategic Workshops Policy Debates Public Education Campaigns
Building Constituencies	Supporting policy champions Identifying and mobilizing key stakeholders Marketing, bargaining, and building coalitions Dealing with realities of opposition Mobilization of under-organized stakeholders or beneficiaries	Stakeholder Analysis Advocacy Strategy Profile	Policy Networks and Coalitions Political Party Platforms Parliamentary Committees Negotiated Rulemaking Procedures NGO Development
Realigning and Mobilizing Resources	Identifying and obtaining seed and bridge financing from internal/external sources Negotiating with Finance and Budget authorities for a larger share of resources Development of partnerships/exchange with other Ministers Creations and installation of new capacities Upgrading human resources	Institutional Inventory Comparative Budget Analysis Resource Allocation Model	Donor Roundtables Public Expenditure Reviews PSRPs and HIPC Reviews Transparent Budget Processes Accelerated Training Programs
Modifying Organizational Structures	Fitting new missions to old organizations or creating new organizations Building implementation	Institutional Development Framework Advocacy Network Training Manual	Policy Management Units and Commissions Public/Private Partnerships

Implementation Task	Strategies for Task Implementation	Selected	
		Tools	Public Processes
	capacity Developing boundary spanning links Fostering networks and partnerships Enhancing cooperation and coordination among implementing agencies		Inter-Agency Task Forces Campaigns Re-Engineering Scaling Up
Mobilizing Action	Developing concrete plans, performance expectations, and accountability. Creating and carrying out do-able activities Identifying, creating, and/or altering incentives Dealing with resistance and conflict Governing the coalition and achieving compliance Recognizing the importance of and mobilizing action for early success Communicating success stories	Organizational Responsibility Charts Logic Models	Joint Problem-Solving Workshops Participatory Planning Multi-Party Action Plans Alternative Dispute Resolution Techniques Innovative Incentive Schemes
Policy Monitoring	Positioning monitoring in the policy and political arenas Creating and positioning analytic capacity Linking learning and operations Establishing realistic performance standards and milestones Establishing managerial mechanisms for application of lessons learned.	Policy Monitoring Guidelines Program Effort Index (API)	Citizen Oversight Panels Parliamentary Review Committees Comparative Scorecards International Monitoring Groups Annual Reviews and Public Hearings Systematic Media Oversight

They should be tailored to respond to the level of familiarity among participants and whether they share a common view of the problem(s) faced and what needs to be done. When a workshop facilitates developing a plan of action, the participants should consider whether there is legitimacy for the issues being discussed among those who will be affected and, if not, how it might be created. Other important topics to be addressed include which constituencies support the issue or policy, what resources are available and how they can be mobilized, and whether the workshop group is composed of the right people and is structured to facilitate achieving the objective(s).

Identifying likely sources of conflict and opposition and how best to overcome them should be part of workshop discussion. For this purpose, the following list of conflict questions is instructive.

### Political mapping

The purpose of the political map is to organize information about politics so that it relates to issues a decision maker is facing. The map organizes and identifies the most important political actors and spatially illustrates their relationships to one another.

The political map, like a geographical map, has two dimensions: a horizontal (latitudinal) dimension and a vertical (longitudinal) dimension. Along the vertical axis, the different types of political actors are organized into four sectors: external actors, social groups, political parties, and pressure groups. The purpose of the horizontal axis is to assess the degree to which each group supports the government overall or with respect to a particular policy. Support for the government varies from core or central support to ideological or mild support, whereas opposition is differentiated as either legal or anti-system opposition.

Categories	Conflict Questions
About Issues	What are the contentious issues? Do these issues deal with basic needs or concrete interests? What priority do these issues have with the parties? What is the extent of differences between stakeholders on these issues? For how long have these issues been in contention?
About Actors	Do the major stakeholders perceive that they are participating effectively in policy implementation activities? Do these stakeholders hold extreme goals or positions on the major issues? How flexible are the positions of these stakeholders? Are they intent on "winning" or open to compromise? Do these stakeholders have historical enmities for each other? Are there major differences in power or resources available to the stakeholders? Have there been changes in the leadership among any of the stakeholders that may produce a change in position or flexibility?
About Process	Are the policy formulation and implementation processes under way perceived as fair and just by all participants? Are the dialogue and debate among stakeholders carried out in an open and free manner? Are all parties

Categories	Conflict Questions
About Strategies	<p>given equal access to the debate?</p> <p>Are the strategies and tactics being used by any of the stakeholders overly aggressive, threatening, or provocative?</p> <p>Are any of the stakeholders being evasive or deceptive or failing to participate openly in the policy implementation process?</p>
About Situation	<p>Are external parties influencing the situation in a way that might destabilize the process?</p> <p>Is there heightened public awareness of the issues that could influence or clash with any of the stakeholders' positions?</p>

Mapping can serve several purposes:

- Provide a graphic representation of the health of a regime or government.
- Tell us something about the vulnerabilities of the regime.
- Detect the existence of opposing alliances and potential support coalitions.
- Give a rather clear indication of the level of authority possessed by the regime, which is important for staking out the parameters of policy making.
- Help to indicate implementation capacity by noting the position of instrumental actors such as the bureaucracy.
- Detect new directions in policy.



## Political map

	Opposition Sectors		Support Sectors			Opposition Sectors	
External Actors							
Sector Position	Anti-System	Legal Opposition	Ideological Support	Core Support	Ideological Support	Legal Opposition	Anti-System
Social Sectors							
Political Parties							
Pressure Groups							

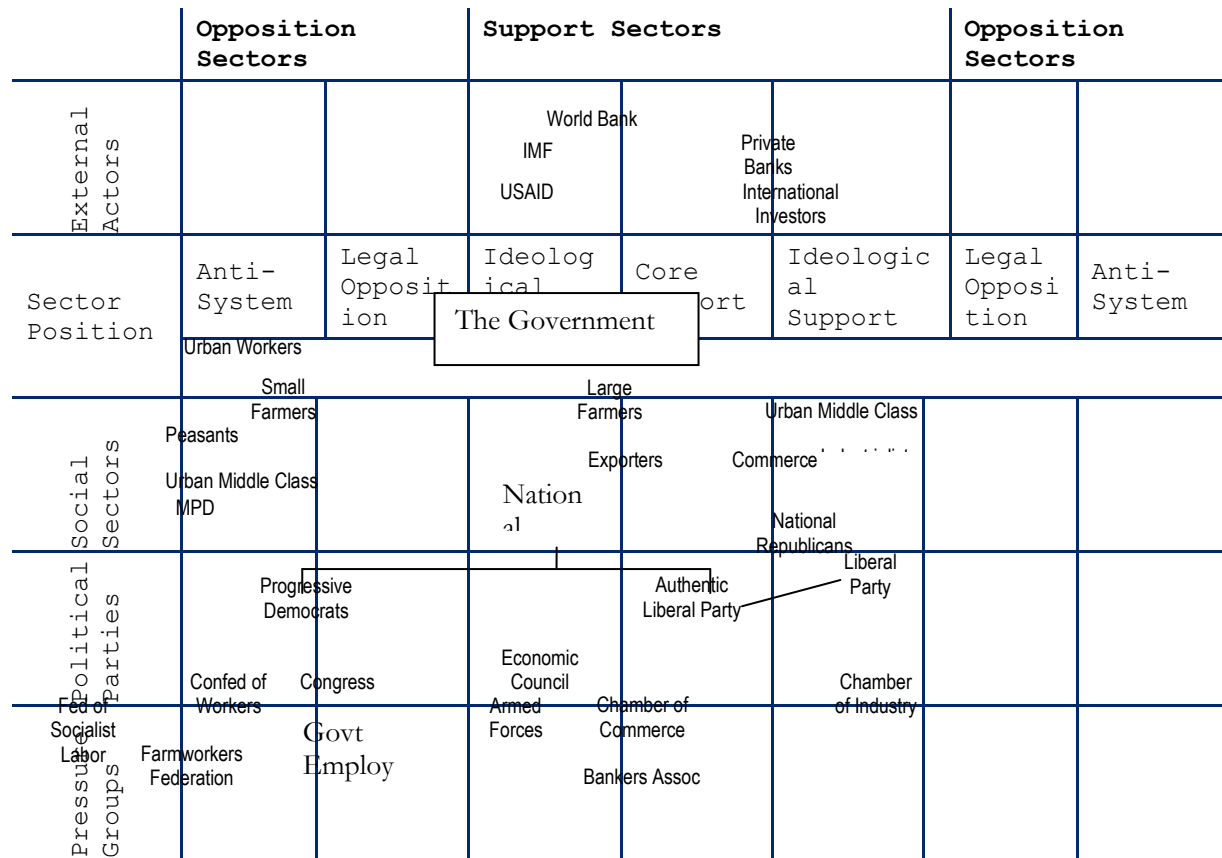
*Location of Actors on the Map.* In locating a group on the map, there are two dimensions to be considered: first, the location of the group in terms of its support or opposition to the government and second, the position of the group to the left or the right of the regime on the map.

The placement of a group to the left or the right of the regime is often a subjective decision. The reason for dichotomizing the map is to distance those that have little in common or who differ substantially on general policy orientation, ideology, or values. Such actors will rarely form coalitions or otherwise politically participate together. When there are two powerful, but opposite, actors in opposition, they tend to cancel each other out and present only a very diminished threat to the government.

Judgments of whether one group is more progressive or conservative than the government or more or less interventionist will be situational and depend on the context in which one is making the judgment. Regardless of which criteria are chosen for making such decisions, the criteria ought to be clear and consistent. It might also be noted that in certain cases, the distribution of right and left can change overnight.

*Reading the Map.* Reading the political map is really answering a series of questions about the map. Beginning with the center and moving out toward the extreme, consider first how the map displays the degree of support for the regime. How much support is there, and how intense or committed is that support? What is the actual number of groups in support? Are critical actors in the center or are several off to one side or another, indicating only lukewarm support? Is the support balanced, or is it over-reliant on one particular type of group, such as labor unions or the military? Then turn to the purposes the map can serve, listed above, and consider what other interpretations of the map will inform decisions on strategy. Better understanding of the political context will help those seeking change to gauge the configuration and strengths of allies and opponents to a reform.

## An illustrative political map



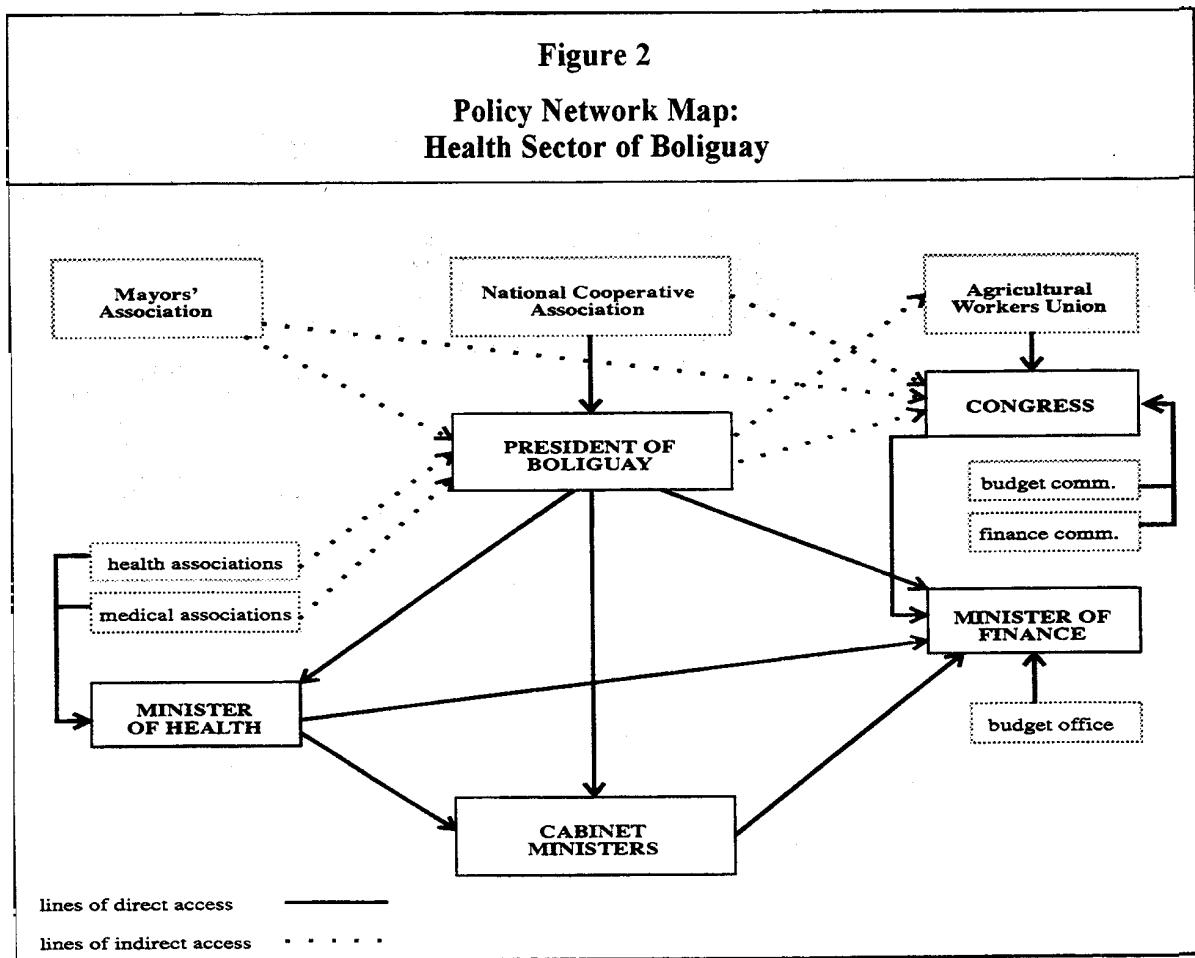
## Policy network maps

This tool is useful for political mapping at a more “micro” level with regard to specific policies or sub-policies. It charts decision-making processes and the people and groups who can influence each of these processes. The construction of a policy idea network map can be extremely helpful in creating maps for specific policies. There are several steps to develop a policy network map: first, what are the different points through which a project or policy passes to become approved and implemented? Second, who are the actor(s) in charge of each step? Third, how can officials gain access to these actors? Are there other actors, though not officially part of the process, who have substantial influence over those who decide? Finally, in which ways can officials exercise influence over this process? Do they have any particular skills or contracts that might help in this process? An illustration of how this process works can be seen in Figure 2 below.

Let us assume that the Health Minister wishes to increase budget allocations to establish better service in rural areas. The key actors in policy decision processes are the Health Minister, the Minister of Finance, the President, and the Congress. Within that process there are several others who can and do influence decisions. The Minister of Finance’s budget staff is charged with preparation of the budget and shapes most of the process and inter alia, many decisions about which projects will be initiated, maintained, and curtailed. Who then are the members of this staff and might there be some way to gain access to and influence them?

Among the more important constituents of the President’s political party are the health workers’ union and the medical association. Each of these might be brought into alliance with the Minister, and then bring pressure to bear on the President. Within the Congress, it is actually the committees on budget and finance that are in charge of approving the budget submitted by the President. Might there be some mechanism to influence directly the committee or the committee staff charged with the actual preparation of legislative

authorization bills for the budget? Does a certain member of the committee have a keen interest in the problems of rural health? Perhaps the Minister could bolster the member's interest with pertinent and timely information that could be used to defend the policy in committee debates or hearings.



Finally, the pressure of rather diverse groups such as the Mayors' Association, the National Cooperative Association, and the Agricultural Workers Union, might also be brought to bear. Although these groups are not direct players in the policy process, in contrast to the member of Congress or the Minister, they are the eventual recipients of the policy and can be important sources of influence on elected officials such as the President or the members of the Congress.

Although these points of access are possible, to be useful, they must be mobilized. This will require initiative, time, and energy on the part of the Minister or some credible representative or delegate. If the Minister does not make the effort, it is likely that no one else will. But mere effort won't be enough. Each point of access will have to be examined for its potential for collaboration and for how much it can add to the objective of improving budget allocations for rural health.

### Force-Field Analysis

Force-Field Analysis is a technique for arraying and assessing the forces (i.e., the field of forces) supporting or opposing a given change or policy. The technique for applying the analysis is simple and straightforward: groups are placed on a continuum of "strongly in favor," or supportive, to "strongly opposed" to "x" issue or policy. The middle of the continuum is a neutral position. The product is a "map" of who supports and

who opposes a policy. It is particularly useful as a “first-cut” mechanism for sorting out positions of different stakeholders and for giving the manager a quick impression of where major opposition and support lie. As a note, experience generally has shown that investing in those who support a reform is more successful than investing in overcoming opposition.

### Stakeholder analysis

The purpose of stakeholder analysis is to inform the process of constituency building by identifying and examining potential sources of support and opposition for a reform or policy change. It is a graphic presentation of key stakeholders along with their interests, positions, and resources relevant to that policy. It can be carried out by either independent analysts or host country managers and often benefits by combining these two groups into a single stakeholder analysis team.

Stakeholder analysis is useful both when reforms or policies are being formulated and when they are being implemented. At the formulation stage, the analysis helps to ensure that policies are shaped in ways that improve their prospects for adoption and implementation. And during the implementation stage, the tool helps build an appreciation of the relative importance of different groups and the role each might play in the implementation process.

*Use of Stakeholder Analysis.* The stakeholder analysis is presented in a tabular format with five columns and as many rows as there are relevant stakeholders.

Group	Group's Interest in Issue	Resources	Resource Mobilization Capacity	Position on Issue

The first column (Group) presents a list of relevant stakeholders. Although a full listing of stakeholders would include any person or group affected by, or able to affect, a given policy, for purposes of this analysis, stakeholders are considered relevant if and only if the group or actor has significant resources that can be mobilized and applied for or against the implementation of the reform/policy. The best way to develop a first draft of this list is usually in a brainstorming session with 6–10 knowledgeable practitioners. It is not unusual for such brainstorming sessions to identify 20 or 30 significant stakeholders. This preliminary list is usually edited by the study team and used as a point of departure for the analysis.

The second column (Group's Interest in Issue) lists, for each stakeholder, the interests that will be affected by the policy or decision to be taken. What are the group's specific interests in the policy? The analyst should be careful to select only the two or three most important interests and/or expectations.

The third column (Resources) identifies the resources that the group possesses that could be brought to bear in the decision making or implementation of the policy. Can the group offer some special knowledge or information? Would the group's status and presence on one side of the issue be key to its implementation or blockage?

Column 4 (Resource Mobilization Capacity) describes the ease and speed with which the group can mobilize and deploy its resources. Resources that can be mobilized quickly are advantageous if the issue has immediacy, but less so if the impact of the issue is further out into the future. If the group cannot mobilize or make effective use of its resources, they are not really resources in any meaningful sense of the word. The analysts' judgment regarding mobilization capacity should be noted.

Finally, in column 5 (Position on Issue) the group's position on the issue should be examined and noted. Judgment should be more discrete than a simple for or against. It should give an indication of the strength of the group's opposition or support (using, for example, a -3 to +3 scale). If a group is barely in favor of an issue, a convincing argument could be enough to change its position.

The information needed to complete a stakeholder analysis may be collected in various ways. The most common approach is a series of key informant interviews with journalists, religious leaders, business leaders, heads of political parties, university professors, labor leaders, military officials, government leaders, local think tanks, community activists, other opinion leaders, and donor officials. Other information collection techniques can also be used, particularly focus groups and workshops.

Although stakeholder analysis is certainly helpful to gain a better understanding of the interests and resources of the important players for policy decision making and implementation, it is even more valuable when used in conjunction with other strategic management tools such as political mapping or Force Field Analysis (see above). With political mapping, stakeholder analysis can help to refine the placement of political groups on the map. In the case of Force Field Analysis, it helps clarify a group's position as well as the comparative importance or salience of the group.

### **Institutional Inventory**

The purpose of the Institutional Inventory is to identify critical gaps in the array of institutions available to formulate, debate, adopt, and implement important reforms or policy changes. Because these reforms call for complex intervention by more than a single department or organization, the natural tendency to use the principle of hierarchy to structure multi-organizational relationships does not typically work well in these situations. What are needed are effective arrangements for airing issues, making decisions, resolving disputes, and taking action. By systematically arraying the institutions available to perform these functions, the Inventory focuses host country officials' and donors' attention on those structures most in need of strengthening or reform.

*Use of the Institutional Inventory.* The Inventory distinguishes four types of institutions: Forums, Arenas, Courts, and Agencies.

**Forums** are events, meetings, or settings designed to exchange information and opinion, promote dialogue, and identify issues requiring action. They are typically broadly participatory, assembling government officials, politicians, and members of civil society to air views on the impact of current policies or the desired shape of new policies. Examples include town meetings, parliamentary hearings, workshops, and seminars. They do not necessarily have to be face to face; electronic networks, radio, and television debates and print exchanges also qualify.

**Arenas** are the places where policy decisions occur. They can include discussion and debate, but they differ from forums in that binding decisions are made. Policy arenas can include cabinet meetings, legislatures, parliamentary committees, regional or local governing commissions, governing bodies of NGOs or community-based organizations, and inter-organizational or multinational councils.

**Courts** are venues where disputes over policy interpretation or implementation can be adjudicated or resolved. These disputes include, but are not limited to, formal legal cases. In this sense, "courts" contain judicial structures and other dispute resolution mechanisms (e.g., traditional leaders). In democratic societies, it is also relevant to consider the court of public opinion (i.e., points of view of members of the public voiced through the media or other venues).

**Agencies** are the entities charged with taking policy implementation actions. They can include federal, state, and local government agencies; international organizations; nongovernmental and community-based organizations; private firms; coalitions; and ad hoc citizen groups.

Besides their obvious relevance to democratic governance, why should people concerned with policy change care about these structures and venues and the differences among them? The reason is that each of these four types of institutions is directly related to one or more of the six tasks involved in policy change (see Implementation Task Framework), and weaknesses in any of the four areas will seriously undermine the ability to make the necessary changes.

In general, forums are the principal venues for policy legitimation and constituency building. Arenas contribute to constituency building and are central to resource mobilization and realignment. Agencies play the predominant role in organization design, mobilizing actions, and carrying them out. And courts play their most important role in monitoring policy implementation and policy effectiveness and in responding to the demands of those negatively affected by policy changes.

A useful format for the inventory is a table divided into quadrants representing the four categories of institutions described above. In each quadrant list the existing institutions (formal or informal) or venues that perform the designated function with regard to the policy area under review. It is useful at this stage to list as many institutions as possible in each quadrant.

### Institutional Inventory

Forums (discussion)	Arenas (decisions)
Courts (adjudication)	Agencies (implementation)

The Institutional Protocol following this chart is useful to analyze each of the four categories of institutions. The Protocol includes questions on the nature and adequacy of the currently available institutions in each category. Answering the questions provides information to determine the strength and relevance of institutions in each category and among the four categories.

Although the Inventory can be completed by professional analysts, the tool's primary utility is to promote dialogue among key actors on the adequacy of institutions and the steps needed to strengthen or reform them.

**Institutional Protocol** (filled out separately for Forums, Arenas, Courts, and Agencies):

- Do these institutions enjoy the respect of policymakers?
- Are these institutions seen by society as credible and legitimate?
- Do these institutions have a clear and adequate mandate to deal with the policy issue in question?
- Do these institutions have the technical capability to deal with the policy issue in question?
- Are these institutions motivated to deal with the policy issue in question?
- Are these institutions accessible, accountable, and transparent?

- If the answer to any of the above questions is “no,” what actions can be taken to improve the situation?

### Institutional Development Framework

The purpose of this framework and its associated tools is to help an organization scale up its operations, improve its alignment with new policy directions, increase its efficiency, and chart its own path to institutional development. It does this by helping an organization: (1) consider what it will take to make it successful; (2) assess its own strengths and weaknesses in light of those factors; (3) map a prioritized plan for improvement; and (4) measure progress against the goals it sets.

*Use of the Institutional Development Framework (IDF).* The IDF is organized in a matrix format. In the first column are listed the institutional resources critical to an organization’s health and effectiveness. The generic version of the framework includes five such resources, each of which includes several components (see table below). Across the top of the matrix are listed the four stages through which organizations mature.

	Criteria for Each Progressive Stage			
	Start up 1	Development 2	Expansion/ Consolidation 3	Sustainability 4
Oversight/Vision board mission autonomy constituent relations				
Management Resources leadership style participatory management management systems planning, monitoring & evaluation service delivery, etc.				
Human Resources staff skills staff development organizational diversity				
Financial Resources financial management financial vulnerability financial viability				
External Resources public relations ability to work with local communities & governments, etc.				

The IDF process has four steps that are described below.

**Step 1. Adapt Generic IDF:** The organization reviews the generic framework (with or without a facilitator) first to modify the categories and components to reflect their particular circumstances, and second to identify, for each cell of the matrix, one or more performance criteria. A sample truncated IDF is presented below:

	Criteria for Each Progressive Stage			
	Start up 1	Development 2	Expansion/ Consolidation 3	Sustainability 4
<b>Resources</b>				
<b>Management Resources</b>				
Leadership Style	Leadership emanates from the founder	Leadership comes from founder and one or two Board members	Vision increasingly comes from Board as Board members improve involvement	All Board members contribute to leadership and development of the organization
	Staff provide technical input only	1-2 staff provide organizational impetus, in addition to Director	Staff increasingly provide vital drive to organization	Organization would survive without current Director
Management Systems	No formal file system exists	Files are maintained but are not comprehensive or systematic	Files are systematic and accessible, but significant gaps remain	Files are comprehensive, systematic, and accessible
	Few administrative procedures formalized	Administrative procedures increasingly formalized but no operating manual	Administrative manual in place, although not up to date or considered "the Bible"	Administrative manual updated, as needed. Considered the arbiter of procedures.

**Step 2. Plot the Organization on the IDF:** The next step is for the organization to examine the IDF, row by row, and determine where along the continuum it is situated. The simplest approach is to mark an "x" in the spot that describes the organization at a given moment (see matrix below).

	Start up 1				Development 2				Expansion/ Consolidation 3				Sustainability 4			
	.0 0	.2 5	.5 0	.7 5	.0 0	.2 5	.5 0	.7 5	.0 0	.2 5	.5 0	.7 5	.0 0	.2 5	.5 0	.7 5
<b>Leadership Style</b>																



Decision Flow						X										
Participation				X												
<b>Management Systems</b>																
Records								X								
Administrative Procedures											X					

**Step 3. Generate an Institutional Development Profile:** One of the most appealing features of the IDF is its ability to track progress over time and illustrate graphically to all concerned how effectively the organization is implementing new policy directions.

**Step 4. Set Institutional Development Priorities, Goals and Improvement Strategy:** The next step is for the organization to determine which components are most important to its future. Having identified the areas that need improvement, the organization can set goals for six months, a year, and two years in the future (e.g., moving from a “1” to a “3” in its financial management systems). In most cases, organizations will select only a few rows on which to concentrate their efforts.

#### Organizational Responsibility Charts

The purpose of the Organizational Responsibility Chart (ORC) is to disentangle the respective roles of the individuals and groups responsible for implementing complex policies and programs. It is particularly useful when activities depend on a number of different organizations or organizational units (e.g., different departments/divisions, global/national, federal/state/local). In a simple matrix, the ORC displays the responsibilities of each major actor with regard to each significant task. It can and should be used not only to describe current practice but also to guide streamlining and other organizational improvements.

*Use of the ORC.* The rows of the matrix correspond to the major activities needed to implement a reform or policy change. These activities should be listed in the first column of the matrix, grouped by major output or category of activity. Normally, a participatory planning workshop is the best way to develop this list and to ensure that all key actors agree on it. In some cases, it is also appropriate to use this same list as a starting point for developing a bar chart, PERT chart, or schedule of deliverables.<sup>113</sup>

The other columns of the matrix correspond to the full range of actors (individuals, organizations, and/or organizational units) involved in implementing the policy. By excluding minor players, it is usually possible to limit this list to somewhere between 10 and 20 major actors.

For each of the listed activities, four questions are asked:

1. Who (if anyone) must agree to or approve this activity?
2. Who is responsible for executing this activity?
3. Who should be providing tangible support for this activity?
4. Who needs to be kept informed about this activity?

If someone or some group has approval authority for a given activity, the letter “A” should be written in the corresponding box in the matrix. For those responsible for executing the activity (i.e., the one that can be held responsible for its successful completion), write an “R.” Those providing support receive an “S” and those to be informed receive an “I.”

<sup>113</sup> A PERT chart is a project management tool used to schedule, organize, and coordinate tasks within a project. PERT stands for Program Evaluation Review Technique. A similar methodology, the Critical Path Method (CPM), has become synonymous with PERT, so that the technique is known by any variation on the names: PERT, CPM, or PERT/CPM. For additional information search for PERT on <http://www.whatis.com>.

Although an ORC may be completed by one or more analysts, it is most effective when used interactively by the parties directly affected to clarify and streamline their working relationships. One very useful technique is to have the key actors complete the chart separately and then compare their versions of the chart as a starting point for negotiating an agreed version. The following questions and guidelines can be used to inform that discussion:

- Are there major disagreements or differences of opinion about the list of key activities or allocation of responsibilities?
- Are there important activities with too many people in charge? With nobody in charge?
- Are there apparent bottlenecks (i.e., do the same people have too many things to do)?
- Do agreed procedures exist for making decisions when there is more than one decision maker, for supervising activities that cross organizational lines, and for sharing information with those who need it?

The first rule of coordination should be to eliminate the need for it wherever possible and, where it is needed, to opt for the simplest approaches possible. For this purpose, it is worth noting that sharing information is normally easier than sharing resources, and sharing resources is normally easier than joint action. Seen in the context of the ORC, this suggests that it is usually more efficient for cells of the matrix to be empty than to be filled. This needs to be balanced, however, by the dictates of the particular task and by the requirements for transparency and democratic decision making.

*Illustrative ORC.* The following ORC presents an increase in transparency of legislative decision making.

Activity	Actors					
	Legislative leaders	Legis comms & staff	Legis public relations	Legislature's print/internet shop	Media	Citizen groups
Advocate for transparency	I	I			S	R
Establish parameters for system	A	S	R	S	S	S
Implement system	I	A	R	S	I	
Monitor compliance	R	I	I	I	S	R
Advocate compliance and publicize performance	I	I			S	R

A=Approves R=Responsible S=Supports I=To be Informed

## APPENDIX B: MONITORING AND EVALUATION

### Measuring and Reporting on Results

DG programs usually produce outputs, such as elections, independent media, and trained judges, that link to the broader political goals of restoring order and enhancing government legitimacy and effectiveness. Monitoring DG program implementation tends to focus on outputs that track short-term progress toward establishing legitimate and effective governance. Monitoring plans track such elements as:

- Changes in public attitudes through periodic surveys.
- Benchmarks of constitutional progress.
- Expansion and development of CSOs.
- Introduction of local self-government and community action.
- Building of national and regional public administration capacities.

Within the USG, a new tool provides a useful reference for the development of monitoring and evaluation (M&E) plans in post-conflict settings. This tool, Measuring Progress in Conflict Environments (MPICE), was developed by the U.S. Institute of Peace, Department of Defense, USAID, and Department of State. MPICE seeks to measure drivers of conflict against the ability of indigenous institutions to resolve conflict peacefully in five sectors: stable governance, safe and secure environment, rule of law, sustainable economy, and social well-being. MPICE measures output trends for conflict drivers and institutional performance and lays out the indicator and measure for each goal. The indicator states the concept to be measured, and the measure describes the exact data to be collected. The collection methodology to use for each measure is also suggested—quantitative data (QD) and/or content analysis (CA). The example below from the MPICE Framework is illustrative:

**Sector:** Stable governance

**Subsector:** Drivers of conflict

**Goal:** Political grievances diminished

**Indicator:** Atrocities committed against opposition groups

**Measures:**

1. Number of incidents of political violence, including extrajudicial killings, disappearances, massacres, vandalism, or “ethnic cleansing” (by identity group) (QD) (CA)
2. Prosecution rates for these crimes (by identity group) (QD)

MPICE is available at: [www.usip.org/peaceops/mpice.pdf](http://www.usip.org/peaceops/mpice.pdf)

USAID’s Asia and Middle East Bureaus are developing another resource for M&E in post-conflict settings. The Monitoring and Evaluation Best Practices Portal provides guidance for USAID staff who need to conduct M&E in high-threat environments. The portal is one course offered on the Learning Portal for High-Threat Environments, which is a collection of courses and learning resources for USAID staff taking assignments in a high-threat environment. For access to this USAID website, please visit <http://apps.develebridge.net/cms/>.

## Improving M&E in Post-Conflict Settings<sup>114</sup>

USAID and its partners face a number of constraints in upholding sound M&E standards in post-conflict societies. The main constraints are:

- Preeminence of political and military considerations.
- Confused or conflated objectives.
- Foreshortened timeframes.
- Weak or missing baselines.
- Different assumptions about change.
- Need for spatial precision.
- Institutional complexity.

Understanding these constraints can help generate more effective approaches to this important work. Recent experience suggests that the following approaches strengthen M&E in post-conflict settings:

### **1. A strategy and results framework clarifies how specific projects contribute to a larger, long-term plan.**

*Clarity.* The strategy and results framework provides a clear view of longer-term development intentions that might otherwise be obscured by intense short-term pressures. The framework can help personnel of many implementing partners and newly hired USAID staff (including local staff) to understand the connection between the larger picture and the specific projects within their ambit.

*Phases.* The strategy and results framework can also indicate that the monitoring will shift to outcomes at a later stage, even if monitoring now involves output-level indicators. This forestalls criticism (such as from the Government Accountability Office in Afghanistan) that USAID is interested in measuring only the number of hectares irrigated, not the effects of these changes on agricultural productivity and incomes.

### **2. Output indicators (rather than outcome indicators) are often effective and legitimate monitoring measures during early efforts at stabilization.**

Output indicators are relatively easy to track and count: they change frequently enough to show progress (or the lack thereof) over short time spans, and they demonstrate necessary ingredients (if not always sufficient ingredients) to contribute to the goal of increasing stability and reducing fragility. They also lend themselves to geographic analysis and incorporation into multidonor databases. However, the direct causal link between outputs and outcomes is often not plausible in dynamic, shifting, and dangerous post-conflict situations.

### **3. Assessing the quality of outputs is important.**

*Track interrelated outputs.* One cannot win hearts and minds with schools or clinics that are perceived as substandard. The monitoring of quality takes place several ways. One simple way is to identify a collection of outputs that, taken together, indicate quality. Tracking the number (or percentage) of schools fixed and furnished, the numbers of textbooks printed and delivered, student learning kits distributed, teacher kits provided, and other similar outputs indicates that the education process has passed a critical threshold. Add data on number of students enrolled and number of teachers and a portrait of a return to educational normalcy may emerge.

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<sup>114</sup> This section draws from a 2006 study by Larry Cooley and Richard Huntington and others of Management Systems International for USAID on “Monitoring and Evaluation in Post-Conflict Settings.”

*Independent verification.* Quick visits to samples of schools, clinics, town councils, and water projects provide valuable impressions on whether facilities or programs are meeting basic quality standards. There are many low-cost ways of doing this, even under a strained security situation, including random site selection and use of uniform checklists.

*Independent oversight arrangements.* Independent oversight of capital projects is a high priority. In some cases, this function can be effectively contracted out, either locally or internationally. The U.S. Army Corps of Engineers' responsibility to oversee and monitor capital construction programs shows how quality of outputs can be enhanced under the pressures of rapid reconstruction.

#### **4. Systematic tracking of opinions and perceptions adds an important dimension.**

Given the emphasis in post-conflict settings on stabilization, recovery, and government legitimacy, the public's perceptions and interpretations of what is happening are at least as important as more conventional performance measures. There is considerable and growing experience on how to maximize the rigor and utility of such opinion surveys in post-conflict settings. Nevertheless, opinion data are subject to dramatic change; such changes may be based on current events unrelated to specific donor interventions.

#### **5. Establishing effective multisector (and, ideally, multiagency) databases is critical.**

Well-designed databases can provide close to a real-time monitoring of program expenditures and outputs. They can track the activities and investments of multiple implementing partners through web-based communication. OTP's grants database could provide a useful template for DG interventions, depending on implementation requirements. The database has fields that track—for each of the country programs—every sub-grant, including financial flows, outputs from the grant, final evaluations of individual projects, and implementation notes. The grants also capture objectives at the project, program, and strategic level and include Geographic Information Systems coordinates to help map interventions and overlay the programming with broader stabilization efforts. It is best to establish comprehensive information systems early so that binding and consistent data requirements can be applied to the many contractors, NGOs, UN agencies, and other entities implementing USAID-funded programs.

#### **6. Highly political and insecure situations constrain conventional evaluation practices.**

*Timing.* A one-time mega-evaluation is subject to extreme pressures and faces constraints (lack of access to citizens and locations) that impede an in-depth investigation in post-conflict settings. Evaluation should instead be ongoing from the early days of a program. Recognizing the fluid nature of these environments, quarterly rolling assessments that bring together different stakeholders to evaluate strategic assumptions and determine whether program adjustments are necessary have proven useful. Other continuous feedback mechanisms on performance include weekly meetings between program managers and program implementers, project site visits at different stages of implementation, and peer performance reviews to obtain independent perspectives on a program's progress in achieving strategic objectives.

*Multiple sources of information.* Evaluations should utilize multiple and redundant sources of information that provide insights from a variety of perspectives. This includes utilizing surveys and reporting of USAID, its implementing partners, independent watchdog organizations, media, and local civil society institutions. This can be particularly important when accessibility to different communities can change over time due to security considerations.

#### **7. High-level leadership is indispensable to effective M&E in post-conflict settings.**

Given the competing priorities and technical complications outlined, mid-level officials in donor agencies and the implementing organizations they fund will not prioritize M&E unless they are certain that their bosses demand it.

## APPENDIX C: CIVIL SOCIETY CONTEXTUAL ANALYSIS: AREAS FOR CONSIDERATION

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- History of civil society and civil society development in the country/region.
  - Existing forms of civil society/forms of civil society that will remain after conflict.
  - Types of actors that are most active and why. Who is not included?
  - Nature and depth of activity (e.g., advocacy, service delivery). Examples of success? Failure?
  - Relationships among civil society actors, the state, citizens, and other key actors.
  - How does civil society relate to the state? Are there institutionalized mechanisms for engagement?
  - Which civil society actors does government engage? What is the government's perception of civil society?
  - Which civil society actors do citizens consider legitimate? How do citizens generally perceive civil society?
  - What is the relationship between civil society and the market? Relationship with other actors (e.g., local and foreign media, domestic and foreign militaries, external donors)?
  - Utilizing a Do No Harm approach,<sup>115</sup> examine who the dividers and connectors are; who the actors represent; what their relationships are to the conflict; how different interventions may impact broader political and conflict dynamics, as well as the peace process; what the security issues are that impact the sector and that may arise due to potential interventions (e.g., security of the select CSO).
  - Enabling environment for civil society.
  - How can civil society support the creation or strengthening of an enabling environment for peace (e.g., encourage a change in mindsets, culture of peace initiatives)?
  - How secure is the environment for civil society engagement?
  - What are the legal and regulatory issues and opportunities for civil society engagement (e.g., registration laws, financial disclosure laws)?
  - What infrastructure is in place for civil society (e.g., technical and capacity support)?
  - Role civil society is playing or could play in advancing reforms and promoting peace and stability. When have civil society actors been successful in advocating for reforms and/or peace? Why were they successful?
  - Who are the spoilers/potential spoilers and why? Can/should they be engaged? How?
  - Understanding of civil society networks and coalitions.
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<sup>115</sup> For more information on the Do No Harm approach, see Mary B. Anderson, "Do No Harm: How Aid Can Support Peace - Or War."

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- What exists and is functioning?
  - Are the coalitions/networks effective? Why?
  - Who do they represent?
  - Who considers them legitimate?
  - What issues could help bring CSOs together?
  - Specific civil society actors (e.g., individual organizations) that can be engaged, taking into consideration the analysis and the goal/s of intervention. What organizations are already receiving (significant) donor support?
  - Organizational and institutional capacity of selected CSOs/ absorptive capacity. What nascent organizations have demonstrated capacity and opportunities for growth?
  - Sustainability (financial and institutional) of sector and/or selected CSOs.
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