



Reforming the Afghan National Police



A joint report of the Royal United Services Institute for Defence and Security Studies (London) and the Foreign Policy Research Institute (Philadelphia)

REFORMING THE ANP

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Executive Summary

Afghanistan represents one of the largest attempts by the international community at state-building since the end of the Cold War. Nobody doubts the good intentions of the Afghan authorities or the international community in aiming to ensure the stability and long-term sustainability of Afghanistan. Large resources have been devoted to the rehabilitation of the country and progress has undoubtedly been achieved. Afghanistan is unrecognisable from the Taliban-run state at the beginning of this decade. Nevertheless, even by the Afghan government's own admission, much work remains to be done.

This monograph explores one aspect of the massive reconstruction effort; reform of the Afghan National Police (ANP). Much progress has been accomplished, from infrastructure built to the numbers of officers trained. But even by the Afghan government's own admission, problems remain. Institutional and individual competence to tackle crime remains low, while corruption, police criminality and abuses of power are pervasive. Failing to provide sufficient civil security, the police are unable to fulfil their potential role as a key appendage to the reconstruction effort. Moreover, the acute security and justice deficit confronting Afghan communities presents an existential threat to the current post-Taliban system. Lawlessness is frequently cited as a primary reason for citizen disillusionment with the central government and growing sympathy for insurgent forces.

Nothing in this report is meant to diminish the well-intentioned efforts of actors currently working hard to ensure Afghanistan's stability and progress. Rather, the sole purpose is to take stock of the current situation, identify areas of police reform where further progress is required, and suggest recommendations which can further speed the reform effort. There exists a wealth of experience gleaned from over thirty years of police reform and development which has not been sufficiently acknowledged in Afghanistan. Reform missions in El Salvador, Iraq, Timor-Leste, Sierra Leone and

Kosovo provide a number of important lessons which need to be digested for ANP transformation. Yet each mission remains *sui generis*. Afghanistan's social, cultural, security and political idiosyncrasies belie any hope that measures can be blindly transplanted from one context to the next – not least the context of acute conflict which imposes a number of specific dynamics determining the shape of effective reform policies and programs. Based on these lessons, RUSI and FPRI strongly recommend the following:

Reform the international effort, not just the police:

Commit to long-term ANP transformation

International actors should enter into a ten-to-fifteen year police-focused memorandum of understanding with the Government of Afghanistan. Over-optimistic programme timetables must be re-configured, set instead by the Afghan clock – and measured against benchmarks of qualitative outcomes, as opposed to donor metrics of quantitative outputs.

Expand financial, human and logistical resources

Donors must dedicate increased funds for reform, particularly allocated through the Law and Order Trust Fund Afghanistan. Addressing personnel shortages of 1,500 trainers is key, either through diverting military personnel or on the open market. The EU Police Mission in Afghanistan in particular should renew efforts to secure additional funds and personnel, exerting pressure on allies such as France and Portugal and increasing its salaries as an incentive.

Utilise the right institutional and individual actors

The domination of reform by the Combined Security Transition Command – Afghanistan, while not ideal, must be accepted as a necessity. Mitigating the negative impact requires clearer divisions of labour between strategic and policy direction and implementation. Responsibility for Ministry of the Interior reform should fall to

the EU. Increased co-ordination of the chaotic reform effort requires donor commitment to the International Police Monitoring Board which must then clarify chains of command, reduce areas of overlap and duplication starting with the merger of EU Police Mission and the EC Rule of Law mission.

Private contractors, such as Dyncorp, should be carefully assessed and if necessary removed.

Also needed is recruitment of personnel with wider skills sets (for example, institution building and change management), experience of conflict reform, and higher ranks. Cultural, linguistic and area expertise is imperative.

Afghan ownership, where possible, must be broadened – from reform design to implementation. Most important is the development of a comprehensive Afghan, rather than US or German, vision of reform.

Relay the foundations of policing: technical capacity building

Abandon the obsession with ANP numbers

Security is not the product of a neat mathematical equation. *Tashkeel* (the Police Organisational Staffing Plan) increases, both unsustainable and ineffective, should be rejected. Reform should concentrate on tackling police attrition and ‘ghost policemen’ via biometric technology, regular payment of salaries and better management. A functional and geographical reorganisation of the police coupled with expanded ANP presence in urban centres and on highways and borders is highly recommended.

Focus on ANP quality

Low recruitment standards should be increased. Merit-based recruitment, to increase professionalism, requires strict enforcement of objective criteria. Political, tribal and ethnic bias must be challenged by donors and the drafting of recruitment officials from different geographical locales. Ethnic imbalances in the police promote a culture of impunity and illegitimacy among the population. Recruitment drives in regions

populated by under-represented ethnicities could therefore help. Vetting procedures, which are rarely followed, must be radically overhauled. Careful evaluation of officers must take place at a number of levels throughout the recruitment and training process.

Training must be revised to improve efficacy and respect for human rights. Course length for *satanman* (non-commissioned officers) and *satunkai* (patrolmen) must be increased. Training must go ‘back to basics’, while specialised courses on prevalent crimes – for example, domestic troubles and land disputes – would improve service delivery. Establishment of a nationwide literacy campaign would address pervasive ANP illiteracy. Also recommended is expansion of Focused District Development, and greater concentration on targeting particularly vulnerable districts.

Avoid short term force generation

Actors must avoid repeating the mistakes of hastily assembled security forces such as the National Auxiliary Police. Inimical to qualitative reform, recent decisions to sponsor expedited training and recruitment programs – for example, ‘pyramid schemes’ to train 35,000 for the election – should be abandoned.

Reforming the institutional architecture

Extensive reform of the Ministry of Interior is required Better capacity and skills of the ministry at both an individual and institutional level are needed. Officials need improved mentoring, while extensive internal reorganisation to enhance transparency, clarify branch responsibilities, and reduce duplication of effort, is needed. This will count for little if ministry control over itself and the police is not strengthened. Reorganisation to ensure clear lines of authority and internal purges aimed at reducing factionalism and mitigating bureaucratic resistance are required. Political will must be strong, necessitating donor conditioning of assistance on comprehensive ministerial reform.

Improve accountability and oversight

Internal institutional safeguards, such as the Ministry of the Interior's internal affairs department, must be expanded to tackle endemic corruption and abuses of power. Removing the need for presidential decrees to fire officers would begin strengthening unit capabilities.

Meanwhile, the government should make an example of corrupt middle and upper management, signalling the end of police impunity, and improving managerial oversight and influence over the rank and file.

Police cannot police themselves. Accountability and oversight must be democratised for multiple audiences. Establishment of an external and independent police complaints authority to receive and investigate improper and illegal conduct is a necessity of the first order.

Reform the police into a civilian force

Actors must develop a comprehensive reform strategy to create a law enforcement police force, not a military auxiliary. Demilitarisation must begin with the rhetorical, conceptual and operational separation of the police from the army. Training and equipment, whilst reflecting this difference, must be suitable for a conflict context. Refocusing the majority of units towards law enforcement must be complemented by an expansion of Afghanistan National Civil Order Police, most units of which are merely used as support for Focused District Development.

Reform must gear the police towards wellsprings of insecurity. A comprehensive public survey, alongside community consultations, would prove fruitful. National and provincial criminal databases should be established. Institutionalising this civilian focus through formalised local police-community committees, used to great effect in past missions, should be established immediately at the district and provincial levels to develop local policing.

Police officers should be unshackled from non-core duties of administration and road maintenance. Illiterate, ineffective or unethical officers could be relegated to this duty.

Comprehensive reform*Reform the criminal justice sector*

Effective policing requires an effective criminal justice sector. It is essential to launch a criminal justice 'surge', reversing years of poor funding and personnel, to ensure adequate capacity and improved efficiency in the provision of justice. Infrastructure and personnel capacity-building, from new courthouses to new judges, must be complemented by the sector's decentralisation. Reform must focus on providing geographical coverage and institutional depth, particularly at the provincial and district levels.

Reform must actively promote a justice sector. Unequal development (primarily focused on the judiciary) must be addressed with emphasis on expanding resources and capacity for both the prison sector and the Attorney General's Office. Institutionalised links between justice sector institutions must be developed through sector-wide training programs. Weak and dysfunctional relationships must be replaced with interagency co-operation and capabilities via confidence-building measures and forums for justice sector professionals to meet. Although the Afghanistan National Development Strategy includes a sector-wide strategy for justice reform that will undoubtedly assist in the balanced development of justice institutions, the links between justice and police must be a prime focus.

Address the non-state security and justice sector

Actors must incorporate and utilise Afghanistan's robust informal justice systems by creating a hybridised justice system. Long-standing jurisdiction of the informal sector over non-criminal community disputes and minor crimes should be institutionalised, with serious crimes left to the formal system. Moreover, recognition of non-state judgements should be registered/recognised by state institutions. Lastly, informal mechanisms should be co-opted to help enforce state mechanism decisions. Nevertheless, reform must target the informal system, enhancing their positive features while eliminating undesirable elements that conflict with the Afghan Constitution

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or international law, through training courses, formalised links with the government, and funding.

Conversely, recent strategy aiming to utilise non-state actors must be reversed. The Afghan Public Protection Force should be disbanded, or at the

very least, carefully assessed before plans for expansion are acted upon; problems with training, loyalty and command and control do not bode well, neither does Afghan history which is littered with the debris of failed non-state security experiments.

Adopting the above recommendations would greatly assist the transformation of the Afghan National Police. Expectations must be managed however. Afghanistan has been ravaged by war for over three decades. Reform will not be quick or easy. And undoubtedly problems will persist for many years.

However, the best should not be the enemy of the good. Police reform is a process, with each step forward to be welcomed. A change in reform strategy incorporating these policies and recommendations would place the reform effort on the firm footing necessary to progress.

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Part One

Introduction

1.1 Introduction

The Importance of Policing and Police Reform

Until the beginning of the 1990s, reform of security sector institutions in (post)conflict, post-authoritarian and fragile state contexts was largely confined to military forces, defined by international reform actors as capacity-building to buttress client regimes. The peace dividend offered by the end of the Cold War allowed a radical expansion of security sector reform breadth and depth. Over the last two decades, international efforts to reform and reconstruct security sectors from East Timor to El Salvador, Namibia to Northern Ireland have targeted the police alongside the military and intelligence agencies.

Despite police reform's rise up the international political agenda and its inclusion in state-building interventions, the focus on military forces continues to dominate security sector reform (SSR) practice. Frequently conceived as an adjunct to SSR, police reform is still not prioritised sufficiently, reflecting the lack of understanding concerning its importance for nation-building. Unfortunately therefore, Tonita Murray suggests that 'the range of solutions and capabilities that police can bring to peacebuilding is not fully appreciated'.

Achieving a minimum level of stability in any (post-)conflict society is an absolute prerequisite for effective and durable reconciliation and reconstruction; without at least a modicum of internal security, economic, political and social development, which together constitutes the process of state-building, cannot be achieved. Well managed, competent and impartial police services operating within an institutional framework defined by law are the fundamental foundation upon which the architecture of development, peace and civil security is built. A professional, disciplined and democratic police force provides security and justice to the population, facilitates the transition from military to civilian life and serves as a potent symbol of national unity. In short, a successfully reformed police force is a pre-requisite for successful peace-building.

Failure to create such an institution prevents not only the formation of a security context within which reconstruction and peace-building can flourish. History also teaches that policing is a fundamental factor contributing to both the problem and solution of insurgency. In contrast to blunt military force, successful counterinsurgency campaigns have been the major force employed by the government. Not by their utilisation as auxiliary military forces, but as civilian law enforcement agents rooted in the local community and with relationships to the populace. Their importance is frequently and bloodily highlighted by the number of attacks insurgents launch against police targets.

Just as importantly, lack of effective policing not only hinders the tackling of insurgency, but actively contributes towards it. Complex insurgencies can be powered by widespread crime, insecurity and predatory, corrupt and unaccountable police forces which are often the face of the government to the general public. Insurgency is waged across the virtual terrain of governance and legitimacy just as much as the urban and rural geographies of a country. The classical counterinsurgency theorist Bernard Fall wrote, in 1965, that a government which is losing to an insurgency isn't being out-fought, it's being out-governed.

The importance of policing for Afghanistan should be clear. Yet it has not been sufficiently understood. As part of the nation-building effort which followed the toppling of the Taliban regime in late 2001, the international coalition set about the formidable task of building an effective police force almost from scratch.

Police reform has consistently been the neglected brother of the more favoured ANA. While attention and resources were lavished on the latter, complementary efforts to build and reform the Afghan National Police suffered from weak and disorganised efforts. Recognition of policing and its centrality for civil peace-building, development and counterinsurgency was largely ignored. Increasing

awareness of the ANP's importance by the United States and broader international community in 2005-2006 led to a welcome surge of resources. Evidence continued however that the main police reform players misunderstood the nature of policing and its utility in combating importance for development and counterinsurgency. Inadequate efforts were thus further compounded by Coalition policy failures.

Whilst important strides in the development of the ANP, from the infrastructure built to the numbers of police officers trained must be recognised, reform to date has been beset by a number of shortcomings and mistakes. Nearly a decade after reform began, evidence strongly suggests that the Afghan National Police has not achieved a minimum acceptable standard expected of a police force from either international or Afghan perspectives. Weak and ineffectual, institutional and individual competence to tackle crime is low. Perversely, many officers are actively involved in criminality. Corruption is rife. Abuses too. Reports detailing the predatory nature of the ANP are increasingly frequent, with almost daily fixtures within the western media. Failing to provide civil security, the ANP are a harmful appendage to the reconstruction effort. Moreover the acute security and justice deficit confronting many Afghans is becoming an existential threat to Afghanistan's post-Taliban system. Reports of villagers rejoicing when Taliban insurgents arrive driving out local ANP are a disturbing indicator of the depth of mistrust and hatred many feel towards the ANP which has created a negative dynamic between policing and the insurgency.¹ Lawlessness is frequently cited by Afghans as a primary reason for their disillusionment with the Afghan government and their growing sympathy for the Taliban.

Afghans will only view their government as legitimate if it provides rule of law and security. Development prospects will remain low until the police provide civil security and the space for reconstruction to progress. Building a professional and competent Afghan National Police force is key to the war against the Taliban. Unlike international

1 Peter Graff, 'Afghans turn to Taliban in fear of own police', Reuters, 12 July 2009.

coalition troops, and to a lesser extent members of the ANA, Afghan police know the communities and the population - who is an insurgent, and who is not.²

A radical change in strategy is urgently needed. Without this, the ANP will continue to be incapable of maintaining law and order in Afghanistan or of becoming an institution capable of underpinning and protecting Afghanistan's fledgling democracy. Indeed without urgent and significant reform, elements of the police service will likely become even more ensnared in the Taliban led insurgency and/or the criminal underworld. As Dutch Prime Minister Jan Peter Balkenende has argued in 'Without highly motivated police officers, there can be no bright future for Afghanistan'.

Concept

In late 2008, a British-American research team from the Royal United Services Institute in London and the Foreign Policy Research Institute in Philadelphia commenced a study of Afghan police reform. This study was considered particularly timely and valuable considering the growing importance throughout 2008 and 2009 allocated to reform of the Afghan National Police, most evident in the surge of resources committed to the ANP. Furthermore, statements by coalition officials have increasingly demonstrated they recognise that reform has failed and new approaches are needed.³ Depressingly, the release of Obama's 'new' *Af-Pak* strategy combined with recent policy suggestions such as the possible doubling of ANP numbers, indicates a repetition of past mistakes which have blighted the reform effort

2 Similarly and to some extent relatedly in Afghanistan where complex insurgency is mixed with terrorism, recent RAND analysis has also underscored that police force rather than military force, is most useful in tackling terrorist groups. Analysts studied the forces that determined the fate of hundreds of terrorist group which operated over the last forty years to establish how these groups ended. 40 percent were defeated by police action in contrast to just seven per cent defeated militarily. RAND Report (MG-741-1-RC), 'How Terrorist Groups End: Lessons for Countering al Qa'ida', 2008.

3 Transcript of DoD News Briefing with Major General Cone, 12 November 2008, <<http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=4314>>, accessed 18 August 2009.

and a continued misunderstanding of policing and successful police reform. Leading academic Otwin Marenin has identified a 'knowledge gap' between the large and exciting corpus of police reform knowledge drawn from over three decades of change within developed, emerging and developing countries, and ignorance of the lesson learned by each new reform mission. For Tonita Murray, there is thus a 'considerable knowledge and experience available to adapt to police organisations in post-conflict societies' but in general 'such accumulated knowledge and experience is not being tapped in Afghanistan.'⁴

In 2009 resources for police reform are likely to exceed those provided in any previous year. It is timely to forge a new reform path. The aim of this study was therefore to explore past police reform efforts in order to try and bridge this 'knowledge gap', understanding why progress of the ANP has been so poor, and suggesting practices and lessons which might prove fruitful in successfully transforming the Afghan police. Based on best international practice, it will be very difficult for either the international community or the Afghan Government to repudiate the team's findings or recommendations. By developing a pragmatic plan, tailored to the challenges likely to be faced in Afghanistan, it is also more likely that the Afghan Government will be able to secure the resources it will need to implement such a plan.

Methodology

This study comprised three concurrent phases. Firstly, to identify lessons learned an extensive literature review was conducted of the different models of local and national police force introduced into conflict, post-conflict and fragile state contexts. Based on consultation with a number of police reform experts, five case studies of reform were chosen. Field research in El Salvador, Iraq, Kosovo, East Timor and Sierra Leone was conducted to examine and identify in detail the approaches,

tactics and strategies that either succeeded or failed in reforming these countries police forces. Lastly, field research in Afghanistan was conducted to review the current situation, determine the exact shortcomings of the police service, highlight likely obstacles to reform and to determine how likely reforms will be received. In addition to the field research, a number of workshops drawing together academic experts, policymakers and practitioners were held concentrating on various aspects of police reform. Numerous in-depth interviews were conducted with those who could not attend these events.

Adaptation to local circumstances is always required. Lessons from one reform mission may not be appropriate for another. Developing a new approach must take due account of the realities of policing in a still-divided country, embroiled in a major complex insurgency, plagued by warlordism, and destabilised by increasing criminality based primarily on the illicit drugs trade. This approach must also take account of the limits of America and the international community's influence and resources, and must be recognised as legitimate by the majority of the Afghan police and population. This new approach must also take account of the historical, societal and cultural factors that have typically inhibited the international communities and the Afghan Governments attempts to reform and rebuild Afghanistan since 2001. As such the final chapter explores the reform efforts to date and whether the lessons and recommendations learnt from the case studies have applicability to the unique case offered by Afghanistan.

This project was undertaken by two teams from the UK and US. The UK team consisted of Professor Michael Clarke, Andrew Legon, Dr Lisa Aronsson and Michael Rose. Andrew Legon was project manager and chief researcher. Thanks go to Dr Jonathan Eyal for his extensive input. The US team consisted of Andrew Garfield and Alan Luxenberg. The study benefited from the country case studies conducted by Eric Scheye, Rens Lee, Peter Alexander Albrecht, Frank Harris, and Bryan Watters. Afghanistan field research was conducted by Matt Reynolds and Taj Millitmal. Special mention should go to Kate

4 Tonita Murray, 'Police-Building in Afghanistan: A Case Study of Civil Security Reform', *International Peacekeeping* (Vol.14, No.1, February 2007), <<http://www.saint-claire.org/resources/Police%20Building%20in%20Afghanistan.pdf>> accessed 2 August 2009.

Clouston without whom the project would not have been possible and Andrew Scott-Houston who provided additional research assistance. The authors are especially grateful for the financial support of the Smith Richardson Foundation.

Chapter outline

The monograph starts with a brief exploration of the problems of the ANP. Drawing on research, depth interviews with a cross-section of Afghan society, and informal discussions with international reform actors involved in efforts to transform the ANP, the chapter outlines the main problems with the ANP. The influence of the poor state of the police and the dissonance between Afghan expectations and the current state of the police is explored.

After laying out the problem posed by a predatory, corrupt and ineffectual ANP, the monograph is divided into three parts. The first explores the importance of policing and police reform, the failings of the ANP, the problems facing the reform

efforts and an extensive literature review (Appendix A). The literature review covers areas of consensus between the Global Policing Policy Community (GPPC), the dominant fissures dividing opinion and the key lacunae within existing studies. The second part of the study identifies the lessons provided by five past examples of police and security sector reform in El Salvador, East Timor, Kosovo, Iraq and Sierra Leone. Divided thematically, it explores the principles, strategies and tactics that have succeeded or failed in these contexts. Starting with an exploration of the reform missions themselves and the domestic context, analysis moves on to the solid basis of police reform; technical capacity building. Institutional strengthening and comprehensive reform provide the two final chapters in this section. Combined these sections provide a conceptual framework within which the reform effort in Afghanistan to date can be assessed, and recommendations drawn from past experiences can be analysed within the unique context of reform Afghanistan presents.

1.2 Failings of the ANP

There are some parts of Afghanistan where the last thing people want to see is the police showing up...The police (in some areas) are corrupt. They are part of the problem. They do not provide security for the people – they are the robbers of the people.

(Brigadier General Gary O'Brien)¹

Creating a professional, rights respecting and effective police force is difficult under the best of circumstances. The task confronting ANP reformers after the fall of the Taliban was daunting. Afghanistan has little historical tradition of effectual civilian policing. Any progress towards the development of such a force by Muhammad Zahir Shah in cooperation with Germany during the 1960s and 70s, was subsequently ravaged by more than two decades of destructive conflict that followed. By the spring of 2002, efforts to rebuild and reform the police faced a ramshackle and quasi-military tool of state oppression manned primarily by poorly trained, ill-equipped and often unpaid warlords and their militias.

Security Sector Reform in Afghanistan was divided in 2002 into five 'pillars', each with a 'lead nation'. In light of the historical links between Germany and the Afghan police, it was designated the lead for ANP reform. Other actors, primarily the United States and the EU have since become involved, attempting to mould and shape the police into an effective force. Undoubtedly there have been a number of tangible successes. To name just a few, from a standing start the ANP has grown into a national police force of many thousands, divided into the main bulk of the force which constitutes the Afghan Uniformed Police (AUP) and five specialised units; the Afghan Border police (ABP), Afghan National Civil Order Police (ANCOP), the Counter Narcotics Police of Afghanistan (CNPA), the Criminal Investigation Division, and the Counter Terrorism

1 Former Deputy Commander of CSTC-A quoted in John Cotter, 'Corrupt cops slow Afghan reform', *Edmonton Sun*, 4 March 2007

Police.² ANP 'hardware', including equipment and infrastructure has visibly improved in many urban centres. A Police Academy built in Kabul has been operational since 2002, succeeded by the establishment of seven regional training centres.³ Impressive though these and other achievements are, even the most cursory glance at official reports, media commentary or Afghan public opinion surveys paints a grim picture of failed reform and a police force plagued by weaknesses and defects.

Before criticising the ANP, the efforts of many honest and effective Afghan police should not be ignored. One cannot overstate the bravery of those Afghans who choose to don the uniform of an ANP officer in an environment of acute and ever-present danger. The job of a policeman/policewoman in Afghanistan ranks as one of the most dangerous in the world. Nevertheless, despite seven years of international assistance, billions of dollars investment, and numerous reform programs, dividends have been little more than negligible. The ANP remain ineffectual, corrupt and more of a danger to the security of Afghan citizens, the government and the stability of Afghanistan itself, than a solution to its many pressing problems.

Problems with the ANP

Unrepresentative and disloyal

Questions over the quality of human material constituting the ANP have long been present, even from the start of the reform process. Immediately after the fall of the Taliban, local warlords moved swiftly to occupy the upper echelons of the newly created ANP, unilaterally seizing titles of police commander, general or colonel that was later formalised by the central government. Rank and file of local police forces were subsequently packed

2 Afghan National Security Forces Order of Battle, *The Long War Journal* <<http://www.longwarjournal.org/multimedia/ANSF%20OOBpage%206-ANP.pdf>> accessed 23rd July 2009

3 Fact Sheet Afghan National Police <http://www.cstc-a.com/index.php?option=com_content&view=article&id=201&Itemid=148> accessed 4 July 2009

with fighters from private militias, 'most of whom had little or no police training or experience'.⁴ Few have been removed. Consequently, many district ANP units remain populated by rebadged mujahedeen 'who have just changed their clothes'.⁵ Bringing with them a militiamen mentality unsuited to a civilian police force, they have acted more like unrefined, blunt security forces than enforcers of law, order and justice.

Unsurprisingly, a high proportion of the ANP are known abusers of human rights. The extent, openness and level however are shocking. In early May of 2006 Human Rights Watch issued a statement calling on President Hamed Karzai to stop appointing known human rights abusers such as Jamil Jumbish - implicated in murder, torture and intimidation - as top ANP officials. Ignoring the calls from international NGO's and police reform donor organisations, Karzai 'seriously undermined the crucial process of reforming Afghanistan's police by appointing several...such as Baseer Salangi and Ghulam Mustafa as regional police chiefs, although they had failed to meet human rights standards for senior police appointments.' Later rescinded under pressure from the international community, these well-known figures represent merely the tip of the ANP's human rights iceberg. In 2008 the UN was still calling for the Afghan government to end its widespread culture of impunity and take more decisive action to bring abusive officers within the police as well as other state institutions, to justice.⁶ The presence of well known abusers and warlords who are widely perceived to have brought turmoil to the country, has dangerously undermined faith in the ANP.

4 Afghanistan Research and Evaluation Unit, 'Cops or Robbers? The Struggle to Reform the Afghan National Police', July 2007, p.3.

5 Mohammad Aalam Rahmani, a political analyst in Mazar-e-Sharif quoted in Sayed Yaqub Ibrahim, 'Afghan police part of the problem' *Institute for War and Peace Reporting*, 6 June 2006, <<http://www.rawa.org/police-3.htm>> accessed 1 August.

6 Jonathon Burch, 'Afghan govt must bring rights abusers to justice-UN', *Reuters*, 18 March 2008, <<http://www.alertnet.org/thenews/newsdesk/ISL173197.htm>>

More troubling perhaps are reports of police with extremist, anti-government views. According to an Economist report, General Nasrullah Zarifi, the senior Afghan official at the Kandahar training centre threw six men off an ANAP course for propagating Taliban ideology.⁷ Not all are weeded out. Well-founded suspicions have long been held that anti-government forces have infiltrated the police force, particularly in the south.⁸ At the time, police trainers estimated as many as one in 10 of the ANAP recruits were Taleban agents.⁹ Though the force was eventually disbanded, many were incorporated into the ANP. Meanwhile, relations with the ANA have suffered in recent years after several well-documented ANP defection to insurgent forces. In July of 2008, while police were training instructors for the border police unit, an ANP officer with nine colleagues and two police cars defected to a local Taliban leader, claimed one report from Norwegian police officers.¹⁰

Illegitimacy is further compounded by ethnic imbalances within the ANP. The vast majority of warlords who infiltrated the upper ranks of both the police and government institutions in

7 *The Economist*, 'Afghanistan's auxiliary police', 16 November 2006. In another article however, General Zarifi is reported to have said that it is a good sign that the Taleban are joining the police: 'All of us call the insurgents our unhappy brothers. We want them to come and work with us. We have no problem with them; our doors are always open for them.' Benjamin Sand, *Voice of America*, 10 January 2007, <<http://www.voanews.com/english/archive/2007-01/2007-01-10-voa27.cfm?renderforprint=1&textonly=1&&TEXTMODE=1&CFID=272793460&CFTOKEN=96961011&jsessionid=8830cb8a8c6d32f91bcf2235e324f792e305>> accessed 7 July 2009.

8 In the south in particular, unlike the ANA, the ANP here are locally recruited. The likelihood of Taliban sympathizers in the force is thus much higher given the Pashtun nature of the insurgency.

9 Benjamin Sand, *Voice of America*, 10 January 2007, <<http://www.voanews.com/english/archive/2007-01/2007-01-10-voa27.cfm?renderforprint=1&textonly=1&&TEXTMODE=1&CFID=272793460&CFTOKEN=96961011&jsessionid=8830cb8a8c6d32f91bcf2235e324f792e305>> accessed 7 July 2009.

10 Nina Berglund, 'Police face huge training challenge in Afghanistan', *Aftenposten*, 29 September 2008, <http://www.aftenposten.no/english/local/article2681857.ece> accessed 23 June 2009.

the aftermath of international intervention were ethnic Tajiks, creating tension in a country defined by a patchwork quilt of ethnicities and tribes. This diversity is still not widely reflected in the national police force. Despite the best efforts of pay and rank reforms, population ratios are still not adequately expressed in the ANP, particularly the upper echelons where Pashtuns remain underrepresented and Tajiks overrepresented. Ethnic Tajiks have been appointed as police heads in Pashtun majority areas, and units of Hazaras were, by late 2007, operating far to the south of their traditional heartland and into areas dominated by Pashtuns such as Pashmul in Kandahar.¹¹ According to a retired Afghan police general interviewed by RUSI, the central government was merely creating problems where it has sent alien presences to places 'that they had no knowledge about...even where they were carrying a lot of anger and hostility to the people of those areas.'¹²

Prevalence of militias, human rights abusers combined with deep ethnic imbalances within the ANP and between units and those communities they police, mean that many ANP units are unrepresentative of the communities they serve. Considering issues of ethnicity for example, people in Pashtun regions are likely to see the police that are sent by Kabul as illegitimate, irrespective of their effectiveness.¹³ According to those Afghans interviewed for this report, the Government of the Islamic Republic of Afghanistan has seemingly, 'sent people to the places that they had no knowledge about...even where they were carrying a lot of anger and hostility to the people of those areas.' In Dasht-I Barchi, for example, a district

which is predominantly inhabited by ethnic Hazaras, demonstrations took place against the local police who were composed almost entirely of ethnic Tajiks. Mono-ethnic units, but also those consisting of comrades from past militias have fostered a culture of impunity for uniformed misdeeds and generated tension, animosity and insecurity.

Factionalised by the inclusion of private militias and local warlords, infiltration of anti-insurgent forces, and the dominance of unrepresentative ethnicities in many ANP units, loyalty remains a pressing issue at levels throughout the force structure.¹⁴ Rank and file have proven themselves less than loyal to their units, commanders and the Ministry of Interior. As the UNHRC argues, all too often 'the police do not truly represent the interests or diversity of the community. They are drawn dominantly from the members of one tribe or the followers of one commander. For ordinary Afghans, this means that police function not as enforcers of law and order, but as promoters of the interests of a specific tribe or commander.'¹⁵ Quite frequently these interests clash with those of the ANP and the Afghan government. Attempts to validate the status of reported MOI and ANP personnel rosters for example, 'face challenges that include limited ANP cooperation' reported the GAO in a recent assessment of US police reform efforts. The existence of almost 30,000 officers could not be verified because of a lack of cooperation from ANP commanders.¹⁶ Verification and the benefits that would accrue to the effectiveness of the police and ministry of interior are deemed less important to these officials than the opportunity to pad their

11 Graeme Wood, 'Policing Afghanistan', *The New Yorker*, 8 December 2008.

12 RUSI interview – Afghan SME.

13 Recent research suggests that current western thinking on COIN strategy needs amending. A recent article by Michael Fitzsimmons argues that legitimacy is so often perceived as the product of improved governance and effective administration, however this is not necessarily the case in environments where ethnic or religious identities are politically salient. Michael Fitzsimmons, 'Hard Hearts and Open Minds? Governance, Identity and the Intellectual Foundations of counterinsurgency Strategy', *Journal of Strategic Studies* (Vol.31, No.3, June 2008).

14 Problems with ANP loyalty are mirrored throughout Afghan state institutions; affiliations to political parties, religious groups and tribes often supersede allegiance to Afghanistan or centralised Afghan bodies.

15 UNHRC Report, (A/HRC/11/2/Add.4), 'Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston', p.24.

16 United States Government Accountability Office Report (GAO-09-280), 'Afghanistan Security: U.S. Programs to Further Reform Ministry of Interior and National Police Challenged by Lack of Military Personnel and Afghan Cooperation', 2009, p.25 <<http://www.gao.gov/new.items/d09280.pdf>> accessed 17 May 2009.

books with 'ghost policemen' whose salaries can supplement their own.

Loyal and answerable to regional commanders and strongmen many units act more like local, personal militias than community law enforcement officers.¹⁷ In the case of Haji Zahir, commander of the border police in Takhar this was literally the case. Fired in 2006 due to corruption he refused to leave. A US government report stated that although 'the Ministry of Interior stopped salary payment to the officers operating under Zahir,' he continued to pay their salaries himself, funding over 1,000 additional officers 'essentially forming a private militia, reportedly from his own funds.'¹⁸

In extreme cases, the ANP are not simply apathetic to the central government but loyal to the insurgency. Christian Science Monitor recently reported that 'according to members of the Wardak Provincial Council, the ANP works out arrangements with the insurgents so that they won't be attacked, and in return they allow the militants to operate unmolested.'¹⁹ Reports suggest a few instances where the Afghan police have claimed that they are under attack in the middle of the night to draw the Americans into a Taliban ambush. Unreliable to the point where, in the worst cases, international forces are required to watch their back when leaving a station; 'watch my 6 o'clock' the Associated Press reported Capt. Drew Schoenmaker saying to his men as he pulled out of Aynak's police compound in case the police opened fire, as they had done when the marines first approached the station.²⁰

17 RUSI interview. Also see Soraya Sarhaddi Nelson, 'U.S. Launches Aggressive Training for Afghan Police', *NPR*, 17 March 2008 <<http://www.npr.org/templates/story/story.php?storyId=88415340>> accessed 19 August.

18 US Department of State Report, 'Afghanistan', *Country Reports on Human Rights Practices*, 2006. < <http://www.state.gov/g/drl/rls/hrrpt/2006/78868.htm>> accessed 19 July 2009.

19 Anand Gopal, 'Can the National Police provide security in Afghanistan', *Christian Science Monitor*, 8 July 2009 <<http://www.csmonitor.com/2009/0709/p06s02-wosc.html>>

20 Jason Straziuso, 'Crooked Afghan police challenge Marines', *Guardian*, 13 July 2009, < <http://www.guardian.co.uk/world/feedarticle/8605647>>

Corruption: Searching for a few good men

That the ANP are widely considered synonymous with graft and extortion is revealing. In 2008 Transparency International ranked Afghanistan 176 out of 180 countries for corruption, levels of which represent a cancerous epidemic unravelling the Afghan social fabric and which many American officials argue poses 'a bigger threat to a stable government than the Taliban.'²¹ By its very nature statistics on corruption within the ANP are hard to come by, but levels are such that relations between the police and other security organisations including the army have been damaged.²²

Extortion by police officers is depressingly common, greasing the wheels of day-to-day police operations. Goods are demanded from shopkeepers, 'taxes' levied on vehicles at highway checkpoints, and 'fines' imposed on the unlucky public unable to produce identification documents. Taxi drivers for example are often forced to pay traffic police in Kabul between \$0.20 and \$6 each day. Most deplorable of all, a police colonel and professor at the Police Academy claimed that bribes were extracted 'from the victims [of crime]' whom the police are meant to be defending, 'as well as from the plaintiffs'²³ demonstrating the yawning disconnect between a rights respecting, civil security police force and the current reality.

More dangerous than daily petty extortion are the payoffs extracted from criminals and insurgents in return for turning a blind eye.²⁴ Similarly, in opium poppy-growing areas, police ignore drug-traffickers for a cut of the profits. Often however, the two are no different. A border police vehicle stopped outside Kabul in 2007 was found to contain 123.5kg

21 First Sgt. John Strain, the senior noncommissioned officer on the American unit training the Ghazni police, Richard A. Opiel Jr. 'Corruption Undercuts Hopes for Afghan Police', *The New York Times*, 9 April 2009, <http://www.nytimes.com/2009/04/09/world/asia/09ghazni.html> accessed April 10 2009

22 RUSI interview – Afghan SME.

23 RUSI interview – Afghan SME.

24 UNDP Report, 'Afghanistan Human Development Report', 2007, p.84. <<http://hdr.undp.org/en/reports/nationalreports/asiathepacific/afghanistan/nhdr2007.pdf>>

of heroin, valued at nearly \$300,000. Emblematic of Afghanistan's descent into narco-statehood,²⁵ the five men inside, including an officer, three policemen and a secretary, were later found to be under the command of Haji Zahir, formerly Border Police commander of Nangarhar province.²⁶ Peer pressure from fellow, particularly senior officers, is a core challenge facing honest men who join the ANP. Almost half of the 17,800 officers screened for 'professionalism and integrity' during the pay and rank reform process since 2005 failed to pass the test. Unsurprisingly, a 2005 GAO investigation into US efforts to build Afghan security capacity discovered that 'some recently trained police... were pressured by their commanders to participate in extorting money from truck drivers and travelers.' Confirming these reports, three years later a State Department report argued that newly trained police were being assigned into an 'unreformed environment' to work with untrained or corrupt colleagues, undermining any progress made during the training process. Clean police, Afghan officers say, can only hope to stay honest for at most three months on the job.²⁷

Fraud and corruption in the ANP has institutionalised, driving the organisation's internal workings. In areas where police cannot be paid electronically into their accounts, local police administrators cream off a percentage of individual officer's already meagre salaries. Other police chiefs continue a long tradition of collecting the wages of nonexistent 'ghost policemen' - fictitious names on personnel rolls - thousands of which haunt the ANP.²⁸ In just one region where the US conducted a survey to investigate corruption, officials 'found only 1,200 officers at work in an area where Afghan

commanders claimed 3,300 officers were serving.'²⁹ Meanwhile, as one respondent from Jalabad claimed, 'admission, selection, appointment and promotion process[es] are all based on corruption rather than merit', explaining that 'the more corrupt you are, the higher the position you can get. Police are all selected, appointed and promoted based on their associations with warlords and corrupt high-level government officials, in the Ministry of Interior and in the Parliament. The more corrupt you are, the better off you are and the more you are encouraged.'³⁰ Without payment of bribes, the ability of an individual to progress up the organisational chain is virtually impossible. 'All posts are sold with a predetermined price' one senior police official claimed; some for staggering amounts of money.³¹ Corruption is such a lucrative growth industry on Afghanistan's highways that reports suggest police chief posts along major drug transit or transport routes such as Balu Beluk, have been auctioned off for as much as \$200,000 to \$300,000.³² In return, police commanders in eastern Afghanistan can hope to recoup \$400,000 a month.³³ Newspaper headlines that suggest Afghan truckers seek a return of the Taliban to end corruption may be just media hyperbole, but a 2007 strike over increased taxes and roadside extortion by those transporting goods along Afghanistan's highways is indicative of deeply troubling developments.³⁴ Recent complaints against the police are strikingly similar to those heard in the days when crushing bribes at highway tolls and militia checkpoints fomented support for the Taliban.

29 David Rohde, 'Overhaul of Afghan Police is New Priority', *The New York Times*, 18 October 2007 <<http://www.nytimes.com/2007/10/18/world/asia/18afghan.html?pagewanted=print>>

30 RUSI interview – Afghan SME.

31 RUSI interview – Afghan SME.

32 The Afghanistan Highway Police were phased out in mid-2006, in part due to corruption.

33 Anthony Loyd, 'Corruption, bribes and trafficking: a cancer that is engulfing Afghanistan' *The Times*, 24 November 2007. <<http://www.timesonline.co.uk/tol/news/world/asia/article2933472.ece>>

34 Chris Sands, 'Bring back Taliban to end police corruption, say Afghan truckers', *The Independent*, 10 May 2007.

25 Lieutenant Colonel Thomas Brewer, 'Afghanistan: Nation or Narco State', *Senior Service College Fellowship Project*, 2007. <<http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA493608&Location=U2&doc=GetTRDoc.pdf>> See also S. Baldauf and F. Bowers, 'Afghanistan riddled with drug ties' <<http://www.csmonitor.com/2005/0513/p01s04-wosc.html>>

26 Farah Stockman, 'Presidential pardons nullify victories against Afghan drug trade', *Boston Globe*, 3 July 2009.

27 RUSI interview – Afghan SME's.

28 United States Government Accountability Office Report (GAO-09-280), *op. cit.*, p.23.

Weak, ineffectual and ill-disciplined

Scathing reports on the capabilities and skills of the ANP are common. Lacking the skills necessary to conduct their duties effectively, many regularly fail to arrest suspects, or conversely capture criminals one day only to release them the next.³⁵ Undoubtedly contributing to this state of affairs, illiteracy remains a fundamental problem for the ANP. Karen Hall, the Afghanistan Police Program Manager for the State Department, estimates that the Afghan police force has a 75 percent illiteracy rate, which impacts not only on the effectiveness of training, but officers' abilities to conduct even the most basic of policing duties such as writing reports or communicating to other justice sector officials effectively.³⁶

Largely incompetent, the ANP are unable to combat crime and uphold the rule of law. Individuals and communities who tackle criminals, organised crime or insurgents cannot rely on the police. According to Amrollah Saleh, Afghanistan's intelligence chief, those who flirt with the government or government forces, 'truly get frightened as the Afghan security forces are currently incapable of providing police and protection for each village...When villagers and rural communities seek protection from police either it arrives late or arrives in a wrong way.'³⁷ This is exacerbated by a tendency for ANP

35 Governor Atta Mohammed Noor of Balhk province addressed a cross section of police officials in 2006 saying, 'The criminals who are your partners are able to operate freely. The only ones who get arrested are those who are not your associates - and even they get released after paying bribes'. Sayed Yaqub Ibrahim, 'Afghan police part of the problem' *Institute for War and Peace Reporting*, 6 June 2006, <<http://www.rawa.org/police-3.htm>> accessed 1 August.

In addition, accusations from some members of parliament have claimed that police officials have released convicted criminals who have gone on to commit further crimes, in one case kidnapping a wealthy former presidential candidate last month. Mark Sappenfield and Anand Gopal, 'Rise in crime, kidnapping, top Afghans' worries', *Christian Science Monitor*, 25 November 2008.

36 'Illiteracy epidemic in Afghan Police' 29 March 2009, <<http://odeo.com/episodes/24615061-Illiteracy-Epedemic-In-Afghan-Police>>

37 A. Saleh, National Directorate of Security report, 'Strategy of Insurgents and Terrorists in Afghanistan', May 2006, p.4.

to leave posts in remote or dangerous districts and base themselves in urban centres. Occasionally, the police have been unable to even protect themselves. In February 2006 Afghan police were attacked, captured, and disarmed by a drug cartel in Balkh Province after an armed clash.³⁸

Unprofessionalism is readily apparent, from minor issues such as failing to go out on patrol in a timely fashion and persistently using mobile phones when on guard duty,³⁹ to more serious criticisms. International forces have relayed cases where Afghan police claimed they were under attack in the middle of the night so that they can sleep while US soldiers stood guard. One US Pfc told of an instance where the ANP 'radioed to us that they are being ambushed, but when we arrived to their outpost, we didn't see any signs of fighting.'⁴⁰ Meanwhile, where attacks and insurgent activity are likely to be prevalent, police fail to adequately respond. Border police for example, who are responsible for surveilling Afghanistan's long, porous borders have reportedly been lax in their duties. The police 'don't go on patrol a lot...relying instead on feral dogs to attack people sneaking across the border via remote goat trails or forest paths.' Nor do they always check vehicles crossing back and forth from Afghanistan to Pakistan and vice versa that have proven one of the main conduits feeding the resurgence of the Afghan Taliban, and the rise of its Pakistani franchise. 'The guards barely glance at a pickup that rumbles past,' wrote one journalist, 'hauling a mound of unseen items covered by a tarp. The driver is a local, they say dismissively, just a shopkeeper who went to Pakistan for the day.' Little wonder that international forces trying to combat the insurgency conclude that they cannot be trusted.

'Lazy' and 'indolent' are two terms frequently heard in reference to the police, with more than

38 S.Jones, *Counterinsurgency in Afghanistan*, 2008, p.70. <http://www.rand.org/pubs/monographs/2008/RAND_MG595.pdf>

39 RUSI interview – Afghan SME.

40 Anand Gopal, 'Can the National Police provide security in Afghanistan', *Christian Science Monitor*, 8 July 2009 <<http://www.csmonitor.com/2009/0709/p06s02-wosc.html>>

one SME claiming it was highly unlikely ANP officers would be seen more than one kilometre from their station. Relaying one incident, an ex-police officer currently working as a media coordinator says that upon calling his local station to report an attack on his cousin's house, the officers failed to respond. 'Our duty is to protect the station, not people's houses' the ex officer was informed, 'It is not our duty to catch thieves or go to people's houses.' Reports frequently deride the poor responsiveness of the police, often with tragic outcomes. A Mazar-e-Sharif resident Mohammad Rasul recalled how the police failed in their duties when armed robbers broke into his neighbour's house in late March, 'The robbers came at one in the morning and we called the police. They didn't come for an hour, by which time the robbers had already killed a member of the family and fled.'⁴¹

More specifically, a recurring complaint concerns the ANP lack of response to the 119 emergency number; numerous respondents report that they had to call multiple times during an emergency before an officer will pick up the phone. Whether in reality this is because the officers who answer the phone are ignoring it or are otherwise engaged answering other emergencies is unclear. Perception however, is often just as important as reality; it is quite clear that the public do not believe the ANP will answer, or respond to emergency calls. Damaging in and of itself because of the effects on public support additional negative consequences were highlighted by the SME's; Afghan people are more willing to report information to the police through the 119 emergency number rather than through direct contact with officers on the street. It can be assumed therefore that continued police unresponsiveness to 119 calls will serve to choke off civilian reporting of criminal activity.

ANP are marked by persistent ill discipline. Basic tasks such as house searches are regularly conducted in an overly heavy-handed manner, with police shaking down houses like criminals. When rioting suddenly broke out in Kabul in May 2006, sparked by a fatal traffic accident involving the

US military, most in the city were taken by surprise. Less shocking, alas, was the response of the Afghan National Police, or ANP, to the unrest. Rather than dispersing the mobs and restoring order, Kabul's cops were reported fleeing their posts and, in some cases, joining the looters. 'The reaction of our police was really shameful,' acknowledged Jawed Ludin, chief of staff to President Hamid Karzai. Unfortunately, the sorry performance of the ANP was not an isolated event.

More serious examples of poor discipline have proven fatally counterproductive, with excessive use of force ending in civilian casualties. Several protesters were killed and scores more wounded in 2005 when Afghan police opened fire to control students rioting against allegations of the Qur'ans desecration at Guantanamo Bay prison.⁴² Similarly Afghan police killed three people demonstrating against caricatures of the prophet Muhammad.⁴³ In June in Jowzjan Province, police fired on protesters demanding the removal of the province's governor, killing at least 10 persons and injuring at least 40. At year's end there had been no prosecutions in the case.

In short, the Afghan National Police are ineffectual, with the UNDP concluding that their capabilities and professionalism are 'insufficient to address existing domestic law and order needs.'⁴⁴ The conclusions of a June 2008 US GAO study therefore came as little

42 Jeffery Donovan, 'Afghanistan: Protests Turn Violent', *Radio Free Europe Radio Liberty*, <<http://www.rferl.org/content/article/1058819.html>> accessed 23 July 2009.

43 Griff White and Ellen Nakashima, 'Cartoon Protests Stoke Anti-American Mood', *The Washington Post*, 7 February 2006.

44 Joint Coordination and Monitoring Board Annual Report, 'Implementation of the Afghanistan Compact', May 2007, <<http://www.ands.gov.af/ands/jcmb/site/src/Meeting%20and%20Documents/Fifth%20JCMB/JCMB%20Annual%20Report.pdf>> accessed 5 August 2009. This represented minimal change from a 2006 joint US Defense Department and State Department Inspectors' General report which concluded, 'the readiness level of the ANP to meet its internal security and conventional law enforcement and community-policing mission remains low'. Inspectors General, U.S. Department of State and U.S. Department Defense Report, 'Interagency Assessment of Afghanistan Police Training and Readiness', November 2006, p. 8.

41 Sayed Yaqub Ibrahim, *op. cit.*

surprise. It reported that not one Afghan police unit out of 433 was assessed by the Department of Defense as fully capable of performing its mission. '96 percent (296 of 308) of uniformed police districts and all border police battalions (33 of 33)' were rated at the lowest of four possible capability ratings. By November of that year 18 were at CM1, 16 at CM2, and 22 at CM3. Although progress is undoubtedly being made, it is painfully slow with a staggering 317 still languishing at CM4; too slow to arrest the decline in civil and state security which threatens to spiral out of control.

The ANP as a source of insecurity

How do you reduce crime in Afghanistan?
Get rid of the police!⁴⁵

It is clear that the police are failing in their mission to meet the security needs of Afghan citizens. Far from enforcing the rule of law, the police are often undermining it, presenting a source of *insecurity* to the general public. A senior Government official interviewed by the UNCHR special Rapporteur on extrajudicial, summary or arbitrary executions, listed the security threats in his province as emanating not only from the Taliban, but elements within government security forces as well.⁴⁶

Instead of combating and arresting criminals, police are in many cases complicitous with them. On August 18 for example, Ariana TV reported nine armed gunmen kidnapped and raped a 13-year-old girl in Takhar Province. Media reports alleged four of the men were police officers. Subsequently officials arrested six persons⁴⁷ some of whom were border guard officers.⁴⁸ Addressing police chiefs

and rank-and-file officers in the provincial capital Mazar-e-Sharif in the summer of 2006, Governor Atta Mohammad Noor berated the local ANP for partnering with 'gamblers, bandits, brothels, alcohol dealers and even pickpockets' and claimed that criminals 'who are your partners are able to operate freely.'

Little wonder that in consultations and interviews with Afghans, analysts and international officials, the ANP are often framed in mafia-like terms or as criminals in official uniform.⁴⁹ In some instances this is literally the case, with police involvement in theft, kidnapping, rape and even murder. In September, a reporter from the Washington Independent watched as Afghan police in Paktia province attempted to exploit a joint US-Afghan raid on a suspected Taliban safehouse in order to rob the inhabitants. Similarly, in a bizarre twist on the numerous reports of Taliban impersonators of the ANP, a doctor from Ghazni relayed an incident on the Ghazni Highway in August 2008, whereby a bus was robbed by men assumed to be anti-government forces. A while later, 'the real Taliban showed on the highway and stopped the bus, People told them about the previous group. The Taliban told them to wait and they went and caught the first group.' Subsequently it was discovered that 'it was the entire police of that area.' The Taliban took all the money and belongings from the erstwhile group, returning them to the bus, taking the police into Taliban 'custody'.

A lack of quality policemen often with a militiamen mentality has fostered persistent police abuse of human rights. In 2003 Amnesty International documented a widespread pattern of human rights

45 Apocryphal Afghan joke, 'Where are we with the Afghan police force?', *European Security Review*, (No.43, March 2009), <http://www.isis-europe.org/pdf/2009_artrel_251_esr43-afghanistan.pdf> accessed 29 June 2009.

46 UNHRC Report, (A/HRC/11/2/Add.4), *op. cit.*, p.25.

47 US Department of State Report, 'Afghanistan', *Country Reports on Human Rights Practices*, 2008. <<http://www.state.gov/g/drl/rls/hrrpt/2008/sca/119131.htm>> accessed 2 July 2009.

48 Farangis Najibullah, 'In Afghanistan, Rape Victims Begin to Break the Silence', *Radio Free Europe Radio Liberty*, 1 September 2008, <<http://www.rferl.org/content/>

[Afghanistan_Rape_Victims_Break_The_Silence/1195472.html](http://www.afghanistannewscenter.com/news/2007/january/jan82007.html#17)

49 RUSI interviews – both Afghan and international. Also see, for example, 'Former police chief observes hunger strike', *Pajhwok News*, 6 January 2007, <<http://www.afghanistannewscenter.com/news/2007/january/jan82007.html#17>> accessed 19 June 2009, and 'Policemen detained for involvement in robberies', *Pajhwok News*, 5 January 2007, <<http://www.afghanistannewscenter.com/news/2007/january/jan72007.html>> accessed 19 June 2009.

violations committed by members of the police.⁵⁰ Recent reports by the Afghanistan Independent Human Rights Commission highlight a depressing lack of progress. Afghan citizens suffer from the systemic and alarmingly regular practice of arbitrary arrest at the hands of police and other law enforcement officials. Many of the detentions explored by the AIHRC had no valid legal basis and were frequently intended to deny the detainee the exercise of the fundamental rights guaranteed by either Afghanistan's constitution or international law.

The ANP are never far from darker allegations, including rape, sexual abuse and *bachabazi* or sex with pre-pubescent boys are depressingly common.⁵¹ Recently, it was reported that a US unit in Garmsir was approached by a distressed shopkeeper who claimed border police had tried to abduct his adolescent son for sex.⁵² Other forms of cruel, inhumane and degrading treatment of those in its custody included physical and mental torture.⁵³ NGOs, human rights organisations and repeated individual testimonies all concur, detailing cases of excessive beating, the removal of fingernails and toenails and burning with hot oil. The report, which surveyed 92 Afghan law-enforcement officials and 398 alleged victims of torture in detention, found that torture was commonly motivated by a desire to obtain confessions and testimonies, financial gain, personal enmity, or a lack of police knowledge concerning the rights of the suspected and accused persons.

Whilst it is arguable whether one should be

50 A similar report in 2005 concentrating on women found a lack of progress.

51 US Department of State Report, 'Afghanistan', *Country Reports on Human Rights Practices, 2007*, <<http://www.state.gov/g/drl/rls/hrrpt/2007/100611.htm>> accessed 15 June 2009.

52 Tom Coghlan, 'Laying down the law: US tries to make policemen of the robbers in uniform' *The Times*, 21 July 2009.

53 Investigations by the AIHRC concluded that most cases (sixty five per cent) of such treatment in law enforcement institutions are perpetrated by the police. AIHRC report, 'Causes of torture in law enforcement institutions', April 2009, p.13.

surprised at such conduct with un-(or under-) trained rank and file, such problems permeate the upper echelons of the police. Kabul police under the command of Amanullah Guzar in July used excessive force to quell demonstrations in Paghman against illegal land grabs by Abdul Rabb al Rasul Sayyaf, a member of parliament with a notorious record of human rights abuses. Other examples include Kabul Police Chief General Abdul Jamil Junbesh who in 2005 was alleged to have tortured and killed a civilian named Hussain.

Visions of a model police officer and the perception-reality gap

Evidence strongly suggests that the Afghan National Police has not achieved even a minimum acceptable standard expected of it from the international community, let alone the model of a police force in a modern, democratic society. Considering the base with which the force started, with no force existing prior to 2002, this is clearly an unfair yardstick against which the Afghan police should be measured. Moreover, the arrogant assumption behind many international assessments of the police is that the yardstick should be a western police force. Depth interviews with a diverse array of Afghans from across the social spectrum combined with insights from polls, and numerous social, political and cultural reports from Afghanistan paint a surprisingly unified picture of the model Afghan police officer.

Predictably, calls have focused on the need for security from crime and general lawlessness. In contrast to western pre-occupation with narcotics and anti-government forces, a number of polls and on-the ground testimony suggest that everyday crime and disputes are the predominant concern of much of the Afghan population. For Piet Biesheuvel, anti-poppy activities by the ANP are widely disliked. Police officers should instead concentrate on arresting thieves, murderers and rapists. A model officer, according to those subject matter experts (SME's) interviewed, should attend court regularly and uphold and know the law in all circumstances.

Strongly emphasised in the depth interviews

conducted was the concept of a healthy relationship between the police and the population. A journalist from Farah echoed the remarks of many SME respondents by saying, ‘If the police forces achieve their duties well, the people will trust them.’ This issue of trust is important. Respondents regularly underscored the necessity for the ANP to establish good relationships with the public in ‘order to get on time, valuable information.’

SME’s, including academics, journalists and retired police officers,⁵⁴ therefore agreed that the ANP should treat people without regard to their blood relations or social status. Reinforcing this point, the UNDP’s Afghanistan Human Development Report highlighted how the equal enforcement of law regardless of social class, ethnicity, and political power ‘emerged as central to [Afghan] conceptions of the rule of law; for most Afghans, the rule of law can exist only when laws are enforced equally for the poor, the rich, the politically powerful, and the powerless.’⁵⁵ However, police should ‘respect people’s culture’, represent their communities and reflect the different confederated ethnicities and peoples which together comprise Afghanistan’s social make-up.

Without imposing a western-centric definition of human rights, it is clear from both Afghan public reaction to police abuse, torture and excessive use of force, that ANP conduct must adhere to certain standards which chime with religious and social norms. ‘We want the security officers to respect the rights of the people’ read a slogan used in an anti-police protest in west Kabul on 1 March 2003. A good police officer should be honest, resist the temptations of corruption, and not engage in violent or sexual abuse of those under its custody. According to interviews with a range of Afghan opinions, the ANP must obey and respect ‘the Islamic role and mandates of society’. Although adhering to their own interpretation of Islam, support for the Taliban is arguably based on their portrayal of themselves as adhering to Islamic law

54 These subject matter experts included a professor from Khost University, an experienced journalist from Nangarhar, and two retired senior police officers.

55 UNDP Report, *op. cit.*, p.46.

and *Sharia* combined with public disapproval of the formal state and security systems as not sufficiently Islamic.⁵⁶ Whether implicitly or explicitly therefore, it appears that Islam underpins ideas of legitimacy and legal enforcement in Afghanistan. While the Taliban impose norms and deem themselves Islamic, ANP officers too must be seen by people as behaving within accepted norms, cultural and religious, in order to be seen as legitimate governing entities.⁵⁷

Evidence suggests therefore that neither have many ANP officers attained the most basic expectations of a model police officer in the eyes of a war-ravaged Afghan population whose expectations are understandably much lower than the unrealistic expectations of the West’s policy elite. The effects of the wide gap between perception of the model Afghan police officer and the reality of much of the ANP are profound.

The importance of the ANP

Reform has failed to create an effective police force in Afghanistan that is able to meet even the most basic responsibilities of enforcing and upholding the rule of law. Not only are the police unable to provide security, they are in fact a source of insecurity. Neatly summing up the problems which plague the ANP, one interview respondent admitted that ‘unfortunately today, the police are... warriors, drug users, criminals and looters’. Such honest comments from this police officer reflect a general sentiment within Afghanistan. The effects are deeper and wider than usually assumed.

Crime, disputes and insecurity are unsurprisingly high in Afghanistan. The ANP are clearly not performing their job properly. As a 20 year media veteran from Farah emphasised, ‘[the police forces] do not perform their jobs well; therefore people do not trust them and never help them.’ This relationship between police and public is

56 This belief is widely held despite the fact that Afghan law is partly based on Shari’a.

57 Still, it is unclear from the respondents statements what constitutes cultural and Islamic norms or which norms makes a person culturally respectful or respectably pious.

fundamental for building trust and providing feedback and information which can be crucial elements in the efforts of the police to prevent, investigate and solve crimes. This has undermined faith in the police and as Ali Ahmed Jalali, former Interior Minister of Afghanistan elaborated ‘the police cannot do their job without the cooperation of the people’.

Resulting civil insecurity has broad and important implications for Afghanistan, retarding economic growth and development prospects. As the UNDP makes clear, strengthening the police and their ability to enforce the rule of law in Afghanistan ‘is critical to creating an enabling environment for progress in other key areas of human development, including economic growth, social development and political freedom.’⁵⁸ The creation of a successful police force in Afghanistan is of fundamental importance to the wider security sector and development efforts of the international community. As Deputy Assistant Secretary of Defense for Central Asia Bobby Wilkes made clear in Testimony to the House Committee on Oversight and Government Reform in 2008, ‘The long-term prospects of the broader reconstruction effort in Afghanistan are dependant, to a large extent, on progress in these areas.’⁵⁹

Six years into the fight here, American and NATO forces say they have put the Afghan National Army on a track toward success. The police remain, in the words of Richard Holbrooke, ‘the weak link in the security chain’. This is despite COIN doctrine which recognises the far more important role the ANP should be playing in taming the Afghan insurgency. Militaries can win battles against insurgents foolish enough to fight conventionally; they can provide the first element of a ‘clear, hold, build’ strategy, but it is policing and civil security that provide the latter two. Rooted in villages and towns, and with strong relationships to the

population, they can detect insurgents which slip easily in and out of communities. As a major arm of the counterinsurgency effort, the ANP is failing in its mission.

More than simply an ineffective appendage to the COIN effort, they have actually become harmful. Corrupt, abusive and predatory, public confidence in the ANP has eroded. But as a former general and professor at the Police Academy emphasised, ‘the police are the reflection mirror of the government, in which the general public judges the entire system.’ Evidence emerges from the fact that the Taliban regularly target the police ‘not just with violence but also with morale-sapping vitriol.’⁶⁰ In many districts the ANP are the only government officials who interact with the public meaning that ‘the perceived legitimacy of Government depends almost entirely on them.’⁶¹ There is thus significant worry that the failings of the ANP mean that Afghans view the central government as corrupt, ineffective and of equal threat to their security as the anti-government forces which are coming to dominate large swathes of the country. Legitimacy is the terrain over which insurgencies are fought. A core element of legitimacy according to the US COIN doctrine is ‘the ability to provide security for the populace (including protection from internal and external threats).’⁶² The counterinsurgency effort and the very stability of the fledgling post-Taliban system is at threat.

So long as the Taliban are perceived as more law abiding than the governments’ own trained law enforcers, the Afghan state will lack both legitimacy and stability. Confidence in the central government’s ability to provide fair and effective public goods of security and justice are crucial in winning Afghan hearts and minds and convincing the population that their future lies with the current system. Indeed, as Francis B. Ward, Deputy Assistant Inspector General for Inspections testified to the

58 UNDP Report, *op. cit.*, p.18.

59 Deputy Assistant Secretary of Defense for Central Asia Bobby Wilkes, ‘Testimony to the House Committee on Oversight and Government Reform Subcommittee of National Security and Foreign Affairs, June 18 2008, <<http://nationalsecurity.oversight.house.gov/documents/20080618133250.pdf>> accessed 26 April 2009.

60 International Crisis Group report, ‘Policing in Afghanistan: Still Searching for a Strategy’, *Asia Briefing No.85*, 2008, p.6.

61 UNHRC Report, (A/HRC/11/2/Add.4), *op. cit.* p.24.

62 Department of the Army/Department of Defense, *U.S. Army Counterinsurgency Handbook*, (Washington: Skyhorse Publishing Inc, 2007), p.38.

House of Representatives, in 2008, ‘The absence of a modern, functional government [of which the police are a crucial element], sustains the Taliban’.⁶³ Let it not be forgotten that the Taliban rode to power on the crest of rising fatigue and disgust at the lack of the rule of law; Mullah Omar famously began his public career by hanging a pair of local warlords and rapists from the barrel of a tank gun in Kandahar.⁶⁴ Frank Ledwidge, in a recent article for RUSI argued that ‘ideas of justice and security are at the heart of the attraction the organization has for Afghans.’

History may be repeating itself. The number of Afghans who rate their security positively has dropped from 72 percent in 2005 to 55 percent today and it goes far lower in high conflict provinces. In the country’s beleaguered southwest, only 26 percent feel safe from crime and violence. In Helmand, just 14%. The vacuum left by weak, ineffectual and often predatory state policing is increasingly filled by the Taliban. Reports of rejoicing when Taliban fighters enter villages and drive the police out are disturbing; they reveal that the ‘Taliban idea of themselves as bringers of justice and security is once again taking hold.’⁶⁵

The ANP must therefore be fixed. As the State Departments Inspector General report makes clear, ‘Confidence that the government can provide a fair and effective justice system is an important element in convincing war-battered Afghans to build their future in a democratic system rather than reverting to one dominated by terrorists, warlords and narcotics traffickers.’ For too long however the Afghan police were ignored in favour of the ANA, with both the Afghan government and international community failing to grasp the

former’s importance for the state-building effort.

Over the past year there has been a belated but still welcome awareness of the importance of the Afghan national police by international reformers. ‘This is a sector of Afghan security forces’ said President Karzai in June last year, ‘which received attention quite late.’ This trend has picked up since the inauguration of President Obama who has repeatedly stressed the centrality of the Afghan National Police to the war effort. The ANP’s rise up the policy agenda is undeniably welcome after so long in the shadow of the Afghan military. Increased resources demonstrate this renewed focus. In 2009 the ANP has received injections of funds greater than it has yet experienced. The refocusing of political, military, and diplomatic energy towards the ANP will do much to stem the downward trend and regain lost initiative.

Welcome as increased resources and attention are, they must be utilised wisely. As the above outline of the Afghan police demonstrates, the current approach is not working as well as hoped. Both international and Afghan reform actors have made a number of mistakes which have negatively impacted on the ANP’s progress. Clearly a new approach to the ANP is long overdue. As suggested in the introduction however, the current US administration, despite the promise of its ‘new’ *Af-Pak* strategy, looks set to repeat many of the mistakes of the past seven years. Previous examples of reform from over thirty years of development experience provides a rich vein of lessons to draw upon however. It is therefore timely to consider past police reform efforts to understand why reform has gone so terribly wrong and to delineate useful lessons that can be applied to Afghanistan thereby ensuring that this opportunity is not wasted before the window of opportunity for reform closes perhaps forever.

63 Testimony of Francis.B Ward Deputy Assistant Inspector General for Inspections before the House of Representatives Committee on Oversight and Government Reform Subcommittee on National Security and Foreign Affairs, 18 June 2008, <<http://nationalsecurity.oversight.house.gov/documents/20080618133043.pdf>> , accessed 4 June 2008.

64 Frank Ledwidge, ‘Justice and Counterinsurgency in Afghanistan: A Missing Link’, *The RUSI Journal*, (Vol.154, No.1, February 2009), p.7.

65 Frank Ledwidge, *op. cit.*, p.7.

Part Two

Lessons from the Case Studies

2.1 The Reform Effort

The long road of police reform

A common thread running through the case studies, from the relatively 'light' advisory mission in Sierra Leone, to the heavier executive mission in Kosovo, concerns the time it takes for police restructuring, retraining and rebuilding. Police reform is highly complex, measurable in years rather than months. Even six years after the reform effort began in East Timor, the historical record suggests the results have been largely for naught.¹ Even more dispiriting, progress since 2006 has been poor, even non-existent. According to the UN's own assessments, the current situation strongly resembles that of 2003, with the senior UN Peacekeeping official in charge of justice and security development conceding that 'tremendous institutional gaps persist [within the Timorese police], including a weak management and command and control, lack of core capabilities...., and an almost total absence of logistics and systems maintenance capacity...'²

These failings, after nine years of reform undoubtedly reflect issues that have continually plagued UN missions; and here it would be easy to trot out the usual litany of donor capacity problems. However, questioning the effectiveness of such programs is the standard response of observers when confronted by lengthy reform programs. Despite El Salvador's widespread reputation as a relatively successful example of reform, many have questioned the effectiveness of the reform effort which has been underway (in one form or another)

1 In 2006 Timor's political crisis imploded, with violence erupting between the East Timor Defense Force and the East Timor Police Service drawing on conflicts going back decades and related to tribal conflicts and personal relationships. This eruption 'tragically demonstrated that the national and international efforts over six and a half years had not succeeded in developing and nurturing effective security institutions. Judged with the benefit of hindsight, many of the institutions created by the UN and bequeathed to the new state were simply not fit for their intended purpose'. Gordon Peake, *One Problem after Another: Accepting the Chaos of Police-building in Timor-Leste*, (forthcoming, 2009), p.9.

2 DPKO Memo, 2008:2

for 25 years. Undoubtedly many of these programs have demonstrable problems, but such perspectives are naïve. The poor record of reform after so many years suggests the scale and complexity of police and broader justice sector reform, which should not be underestimated.³

In spite of the manifest challenges, international police reform efforts have largely been characterised by unrealistic expectations of progress. Experts from the Libra Advisory Group have concluded that coalition timelines for security transition in Iraq were marked by over-optimism to the point of self-delusion.⁴ The timescales within the Coalition's security plans aimed initially for transition to full Iraqi Security control within a period of 2 to 3 years.⁵ Similarly, as Adrian Freer, former Commander IMATT noted in 2007, 'We throw it [a reform programme] into Sierra Leone and expect it to be sorted in three or four years.'⁶

Timetables must be characterised by realism. During many missions however, fragile government, weak political will and the dominance of international donor resources and energy result

3 Francis Fukuyama argues that reforming or building institutions such as central banks, which perform a narrow technical function, or militaries, which are to a large degree insulated from society, can be achieved with relative ease. In contrast, institutions embedded within society are problematic for reform. Francis Fukuyama, *State-Building: Governance and World Order in the 21st Century*, (New York: Cornell University Press, 2004).

4 Libra Advisory Group briefing, 'Reforming the Iraqi Interior Ministry', 7 April 2008. <<http://www.libraadvisorygroup.com/assets/files/Rathmell%20USIP%207April08.pdf>> accessed 8 May 2009.

5 M.A. Ashraf, 'The Lessons of Policing in Iraq – a Personal Perspective', *Policing* (Vol. 1, No. 1, 2007). <<http://policing.oxfordjournals.org/cgi/content/full/1/1/102>> accessed 18 February 2009.

6 Peter Albrecht and Paul Jackson, *Security System Transformation in Sierra Leone, 1997-2007*, (2009), p.168. <<http://www.ssrnetwork.net/documents/Publications/SierraLeoneBook/Security%20System%20Transformation%20in%20Sierra%20Leone,%201997-2007.pdf>> accessed 4 March 2009.

in timetables being driven more by the planning and implementation imperatives of developmental agencies, or the exigencies of donor government politics. It is futile to try and force the timetable of reform however. Andrew Rathmell put it most succinctly when he argued that in Iraq, after four and a half years, coalition forces should have learnt ‘the futility of forcing the “Iraqi clock” to synchronise with the “Washington (or London) clock.”’⁷

Timetables should be based on a careful assessment of progress, which in turn should be judged from a domestic perspective informed by the security, economic, political and cultural context. It should be based on outcomes, not international outputs. In many missions, success has been perceived in the numbers trained or recruited, as in Iraq’s ‘year of the police’, but such a focus on outputs rather than outcomes often masks troubling realities about attempts to build the police; corruption, abuses of power, poor efficiency and so forth. Reform should be measured against where reform has progressed from and the value added, rather than against targets set in foreign capitals and unreflective of local realities, and the horizon of reform must be assessed and adjusted accordingly.

Guarding against short-termism is never more important for a mission than in states in conflict or post-conflict societies suffering the aftershocks of war, such as widespread criminality or endemic but low-level violence. *Rebuilding* the police, in contrast to *reform* is usually the most appropriate expression in such contexts. Extensive and fundamental development is required that naturally takes much time. But there is a strong temptation to conceptualise SSR as primarily an attempt to bolster immediate and short-term security concerns.⁸ Despite the more pressing

situation therefore, counter-intuitively, there is a tendency to view reform in even shorter periods of time. In Iraq for example, the coalition’s initial inclination, for sweeping reform was sidelined by the burgeoning security vacuum. Faced with a rising insurgency, institutional development and broader reform efforts to build strong, sustainable security forces was in constant tension with the immediate need to supplement coalition forces with rapidly developed police and military. This has important consequences, not least forcing reformers to make dangerous compromises on measures important in the long-term. Short time horizons ‘hampered the implementation of the capacity building, reform, and institution-building programs.’⁹ Inevitably, some of the responses to the immediate security situation, such as a reliance on tribal guards and the creation of a more centralised police command and control structure, were contrary to the coalition’s long-term political goals.¹⁰ It therefore frames the mission and the timetables in a particular debilitating way as shall be explored later.

The majority of case studies demonstrate a poor record in terms of timetables. It is welcoming to hear that the Timor-Leste Police Development Program implemented by the Australian Federal Police (AFP) ‘takes a long-term vision...[recognising] that reconstituting police is a generational endeavour.’ One innovative way in which donors and recipients can psychologically, conceptually and diplomatically prep for the length timescales that must inform international police reform, was devised for the Sierra Leone mission. A far-sighted decision was made in 2002 by the UK government to sign a ten-year Memorandum of Understanding (MoU) with the domestic government which contained key principles and planned activities of the reform effort. Binding both parties to a series of commitments until 2012 the MoU cemented a commitment on a time-scale that was ‘a novelty in

7 CSIS Report, ‘Fixing Iraq’s Internal Security Forces: Why is Reform of the Ministry of Interior so Hard?’ *PCR Project Special Briefing*, November 2007, p.3. <http://www.csis.org/media/csis/pubs/071113_fixingiraq.pdf> accessed 12 April 2009.

8 International police reform or rebuilding missions in these states demonstrates most clearly how police and security sector reform lie uneasily at the intersection of security and development that characterises police force transformation

efforts.

9 A.Rathmell *et al*, *Developing Iraq’s Security Sector: the Coalition Provisional Authority’s Experience*, (Rand Corporation, 2005) p.xi.

10 *Ibid.*, p. xvii.

development thinking at the time'¹¹ Subsequently it has been widely credited for the relative success of that mission. It was 'something that helped us enormously', one of the main CCSSP advisers noted, 'at least you knew that you had the support...If somebody is going to commit to a change process, my horizon is 15-20 years.' Similarly, in signing the document Sierra Leone demonstrated buy-in at the highest political level to a strategy. By clearly and explicitly setting out a lengthy timetable of reform, the result instilled 'confidence in the future that is all too absent in several other development environments.'¹² Short reform programmes breed uncertainty, negatively impacting on confidence of both the reform effort and the institutions being built. Even though Sierra Leone is an outlier example, it seems clear that formal mechanisms which bind donor and recipient into a long term commitment are highly beneficial.

Recognition that police reform can take many years is challenged by the short-termism of international missions and the rotation of staff. Just as officers are familiar with the complex situation reform presents, they are invariably preparing to go home.

In Kosovo, familiar problems reforming the police were compounded by an almost continual rotation of senior staff; as Eric Scheye argues, it should not be surprising that reform has been unsuccessful when 'over the course of the peace operation, there have been five, six, seven or more UNMIK Police Commissioners, Directors of UNMIK DoJ, and heads of Pillar One (and its predecessor departments), few, if any, serving for more than two years.' At senior management levels personnel turnover can also contribute to policy inconsistencies and a lack of institutional memory; each Commander IMATT for example, came in with specific sets of aims and objectives. 'Many came from radically different backgrounds within the military and brought with them a variety of personal styles....In brief getting up to speed became a real problem... How to retain and pass on institutional memory remains a real

issue.'¹³ In many police reform missions therefore, 'each organisation on the ground has had to cope with constant changes in personnel and the accompanying limitations to institutional memory.' The visible part of the TLPDP's long term vision is that advisers are required to commit for a minimum of two years.¹⁴ As the above discussion suggests however, even this may not be enough. Particularly with regard to the lead figures in reform, contracts should be extended beyond this to ensure wheels are not reinvented and a consistency of purpose is maintained.

Commitment and Resources

Reform is a long term investment; returns may not be evident for many years. Donor's must therefore prepare for the long haul; financial, logistical, diplomatic and personnel support must be provided for the duration of the mission, however long that takes. International commitment and interest can be fickle however, subject to the dictates of new crises or flagging interest from the international or domestic community. Development fatigue can soon set in, particularly after many years of reform with seemingly little results. Strong support that is subsequently rescinded can be extremely damaging. In reference to the situation in 2006 when the SLP needed to replace 100 vehicles but could only afford to replace 10, DfID's Deputy Programme Manager commented that 'the only thing worse than not having any capacity is having temporary capacity that is then taken away.'¹⁵ More seriously, according to an assessment of Sierra Leone's progress in reform, the 2005 Security Sector Review estimated that a police service of up to 9,500 may be required to adequately carry

13 Peter Albrecht and Paul Jackson, *op. cit.*, p.173.

14 *Platypus Magazine*, 'Helping Create Sustainable Police Forces in Timor-Leste', March 2009. <http://www.afp.gov.au/___data/assets/pdf_file/106719/22_TimorLeste.pdf> accessed 27 May 2009.

15 Mark White, 'The Security and Development Nexus: A Case Study of Sierra Leone 2004-2006' Working Paper Series No.4: Security System Transformation in Sierra Leone 1997-2007. <<http://www.ssrnetwork.net/documents/Publications/SierraLeoneWPs/working%20paper%204.pdf>> accessed 16 June 2009.

11 Peter Albrecht and Paul Jackson, *op. cit.*, p.85.

12 Peter Albrecht and Paul Jackson, *op. cit.*, p.168.

out the police's assigned responsibilities, factors including donor fatigue however, may make such a number unaffordable.¹⁶

The idea behind a formalised commitment such as the Memorandum of Understanding discussed above is important in this regard. The Sierra Leonean MoU presented in writing the activities planned to be undertaken by the UK government along with the financial commitments that would be necessary to conduct them. Such an approach is highly beneficial, ensuring that the long-term nature of reform is built into donor support at a financial, planning and implementation level. It must be recognised that in the long-term, repeated crisis led interventions in states where security institutions have failed is less effective and undoubtedly more expensive than consistent and preventative support; 'small amounts of investment over a longer period of time may produce a more functional and sustainable international security system than no investment, steady decline and then crisis followed by yet another intervention.'¹⁷

The costs of such a long-term approach should not be underestimated. The police reform missions under consideration were expensive. Even small elements of reform, such as training facilities are expensive in terms of funds, equipment, and manpower. Comprehensive development of the Kosovo Police Service School (KPSS), now known as the Kosovo Centre for Public Safety Education and Development for example, is believed to have cost the OSCE over DM 40 million.¹⁸ Modern infrastructure, technology, management systems and training provisions all came at a significant price in terms of finance and human resources.

16 Ylber Bajraktari *et al*, *op. cit.*, p.78.

17 Peter Albrecht and Paul Jackson, *op. cit.*, p.206.

18 The funds were used to pay for staff salaries, goods and services, and some capital expenditure on the KP buildings. The OSCE spent approximately DM 15 million in 2000, DM 14 million in 2001, and DM 13 million in 2002. Note that DM 1.4 million was contributed by the KCB to the running costs of the KP School in 2002 – the government's share of the costs gradually increased until the KP School was transferred to the Ministry of Internal Affairs in 2006. This data was provided by an anonymous source who had worked with the OSCE in 2004.

The result however was that within four years the academy could claim to be one of the best police training facilities in the western Balkans, despite starting from zero. Given sufficient resources, much can be achieved, particularly in the areas of capacity-building such as training, equipping, and infrastructure development, areas where financial and human resources are crucial.¹⁹

The vast majority of this assistance must be provided by international donors. In the majority of cases, host countries do not have the financial, human and logistical resources for reform. Too often however the resources provided by the intervention powers have been insufficient. In the Ministry of Internal Affairs, UNMIK's support consists of a two-person team, which patently 'does not have the time or resources', as one UNMIK staff member conceded, to provide effective assistance. Staff shortages can mean that, as in the case of Iraq, personnel spend time on managing police and ministry operations rather than longer term tasks of institution and capacity building. Financial resources in Iraq also failed to meet expectations. When Maj. Gen. Paul D. Eaton was tasked with rebuilding the Iraq police, his \$2.2 billion budget was cut by a fifth, General Eaton said. He later argued that 'You just look to the money, look to the people sent over to do it, the numbers to do it, you just have to conclude this wasn't important in their minds'²⁰ The PNC similarly suffered from poor international commitment. A General Accounting Office (GAO) report in September 1992 concluded that 'donors have not responded to appeals for funding support.'²¹ Consequently, international support was meagre in the early years, contributing only 12 percent to the costs of public security development in 1993 and 9 percent in 1994.²² Lack of resources can have an

19 Compared for example to changes in police culture; the amount of money spent bears little direct correlation to the amount of change fostered.

20 Micheal Moss, 'How Iraq Police Reform Became a Casualty of War', *op. cit.*

21 US Government Accountability Office Report (NSIAD-92-338), 'Aid to El Salvador: Slow Progress in Developing a Civilian Police', 1992, p. 6.

22 The only funds pledged for the PNC were \$6 million from the United States. US and other donors did contribute

extremely detrimental effect on reform progress, hindering effectiveness of the effort and preventing the expansion of police geographical coverage.²³ In El Salvador a crippling shortage of resources provided by donors represented a major threat to the reform/transition process, even stunting the development of the police and forcing reform in a certain direction. With an estimated 1992 budget requirement for the PNC of \$43.6 million for 1993 and \$40.9 million for 1994, the majority of which was earmarked for salaries and benefits, there was almost nothing left for equipment, technical systems, and supplies,²⁴ not to mention broader institutional reforms. But these funds were earmarked for salaries and benefits only; little or nothing was left for equipment, technical systems, and supplies, the total projected costs of which exceeded \$40 million. The lesson is clear, missions must be resourced properly; half-hearted commitment results in half-hearted reform.

Compounding problems with a lack of resources, it is patchy and uncoordinated, with donor support in one area of the mission failing to keep pace with progress in a related and dependent area, as occurred in East Timor. According to a UNHQ interagency report, 'UNMIT's progress... has been hampered by the United Nations inability to deliver the right resources, both human and financial, at the right time'²⁵ For 11 months in 2008, the post of DSRSG for Security Sector Support and Rule of Law was vacant; and, with regard to the Security Sector System Unit, the Chief of the Unit was appointed approximately 12 months after the establishment of the Mission and it took a further 12 months for the majority of his staff to be recruited. The assessment concluded that the failure to deploy the right resources at the right time, 'had a direct and negative impact on the progress of the Mission in the area of SSR by diluting its ability to support

some start-up funds for the ANSP. *Ibid.*

23 The CCSSP had limited funds available to rebuild police infrastructure; an issue which is still hampering full deployment of the police across the country today.

24 US Government Accountability Office Report (NSIAD-92-338), *op.cit.*, p. 2.

25 UNHQ Inter-agency SSR Team Report (draft), 'Team Visit to Timor-Leste' 12-17 October 2008, p.7.

the Government in the review process.²⁶ Likewise, at the beginning of 2000 400 UNPOL officers had arrived in country. Slow procurement of necessary resources such as vehicles and communication equipment however, meant that only half of this number could be deployed to districts outside of Dili. Two years later little progress had been made. Quite the reverse; by early 2002 300 vehicles was meant to serve over 1,400 UNPOL officers.²⁷

Reform requires the right international actors; both individual and institutional

The issue of personnel

Doctors don't build hospitals...

Commander Grant Edwards²⁸

Problems associated with the quality of mission personnel are perennial features of police reform missions leading police reform scholars Chuck Call and Michael Barnett to start 'Looking for a Few Good Cops'.²⁹ The literature is clear on the point; so too are the case studies; personnel are often woefully inadequate for the task at hand.

Eirin Mobekk highlights the shocking situation where 'typists, drivers and personal assistants have been deployed to train and mentor local police forces, because in their home countries they are considered part of the police force.'³⁰ An extreme example perhaps, but complaints similar in nature, against personnel lacking the appropriate skills, knowledge and experience populated the case studies. KPS officer understanding, Gordon Peake argued in 2004, was 'not being sufficiently filled by shadowing, observing and learning from more

26 *Ibid.*, p.8.

27 Ylber Bajraktari *et al*, *op. cit.*, p.115.

28 *Platypus Magazine*, 'Helping Create Sustainable Police Forces in Timor-Leste', *op. cit.*, p.22.

29 Charles Call and Michael Barnett, 'Looking for a Few Good Cops: Peacekeeping, Peacebuilding and CIVPOL', *International Peacekeeping*, (Vol. 6, No.4, 1999).

30 DCAF Policy Paper No. 9, 'Identifying Lessons in United Nations International Policing Missions', 2005, p.20.

experienced national or international officers'. The problem lay not with the abilities of the officers to internalise what they were taught but rather because many of the assigned mentors lacked the right professional skills. Echoing the findings of the 2006 UN inventory analysis, a senior Department of Justice official noted that 'we don't have people in DoJ with the management, project, administrative expertise and I can't get them. It strikes me that UNMIK is running the mission with people who do not have the skills to do it. Not even close to having the right skills.'

Recruitment onto missions is rarely standardised. In particular this problem affects UN missions, dependent on the contributing government's selection, many of which have diverse selection criteria. But problems abound in more general multilateral missions, where officers are recruited from any nation that offers them, as well as in bilateral efforts, which can be staffed primarily by officers who can be spared or are willing to go. Unsurprisingly, recruitment is regularly conducted with little consideration of the value they would add. However, in some examples however, the mismatch is deliberate; donors sent officers with the skills needed to fight threats reflecting *their* national interests.³¹

Skills required depend upon the role of the personnel, but should largely include good communication skills, empathy and adaptability. Having officers on a mission that cannot speak the relevant language, as occurred in Sierra Leone when some UNPOL officers could not communicate in English, is clearly detrimental. Reform will never be successful if donors cannot understand the local language(s); situations will arise similar to that in East Timor when individuals evaluating judicial examinations failed all the participants despite not being able to understand the language in which they were written, a situation that would be comical if it

31 According to the PRIME report, 'anecdotal evidence suggests that this was particularly the case with some of the West European contingents in Kosovo, which focused more on fighting the crimes that threaten their own societies rather than those that threaten Kosovo.' Ylber Bajraktari *et al*, *op. cit.*, p.105.

were not so serious.³² Outside this core of basic and transferable skills however, requirements are highly context dependent. In Kosovo many international officers found it frustrating working in an alien political context. 'With the exception of officers from Northern Ireland, few of the international officers had experience of policing a divided population.'³³ Likewise, Major General Jonathon P. Riley, a council member of the Royal United Services Institute commented on the British experience in Iraq, that 'Beat Bobbies from Hampshire, and even Royal Ulster Constabulary men, concerned with human rights and traffic violations, are of limited use to a paramilitary police force fighting an insurgency.'³⁴

The right personnel must be provided at the right time. As the PRIME report notes, reform missions and their requirements mature; recruitment must adapt accordingly, which has not often been easy,

32 The tale of judicial development has been bleak, with one analyst characterizing the five years of UN support up to 2006 as "complete ineffectiveness.... The failure of every single one of the judges, prosecutors, and public defenders in a minimum competency examination [in 2004] is itself an indictment of the UN and the Timorese government's joint efforts at capacity building in the judiciary" David Cohen. *Indifference and Accountability: The United Nations and the Politics of International Justice in East Timor*. *East-West Center*. Special Reports, No. 9, 2006, p. 94. It is almost impossible, however, to decipher whether the Timorese judges were unqualified or the support provided by the UN was inadequate, given that the examination, written by the President of the Court of Appeals and principal mentor of the Timorese judges for the previous four years, was riddled with translation and editorial errors only reinforces the analyst's charge. Equally problematically, none of the individuals evaluating the examinations could read the language, Tetum, in which the Timorese judges wrote their exams.

33 Saferworld Report, 'Policing the Peace: Police Reform Experiences in Kosovo, Southern Serbia and Macedonia', *op. cit.*, pp.17-18. The author subsequently goes on to identify that members of reformed Balkan police forces themselves have progressed to advising other nations involved in similar efforts. For example see *BBC News*, 'Bosnian peacekeepers for Africa Horn', 27 January 2001 <<http://news.bbc.co.uk/1/hi/world/europe/1139442.stm>> accessed 5 February 2009.

34 Major General Jonathon P.Riley, 'Boots on the Ground: The Impact of Stability Operations on the Armies That Must Conduct Them' Heritage Lecture (No.893, 8 August 2005) <<http://www.heritage.org/research/nationalsecurity/hl893.cfm>> accessed 2 June 2009.

as experience of various UNPOL missions have demonstrated. In Kosovo for example, forensics investigators, organised crime specialists and intelligence officers were recruited with great difficulty.³⁵ But the right skills must be supplemented by the right level of rank and experience. UNAMSIL personnel included a number of unqualified officers, some with as little as eighteen months of experience in their home police force, who were often sent to advise high-ranking SLP officers. Generally speaking, rank and experience matter to policemen around the world. Consequently, this 'ended up having a real impact on CCSSP-SLP relations.'

Well-worn lessons about the need for proficient personnel must be supplemented however. Police and justice assistance programs are mainly devised, constructed and implemented by criminal justice experts and practitioners. Yet the practicalities of police-building cannot be squeezed into a narrow technical and operational straight-jacket. Reform is highly complex, forming a junction where diverse issues of organisation building, professional culture, civil society engagement, management style and so forth, interact. It is therefore 'too multi-faceted to be left solely to police officers and international experts on policing.'³⁶ Indeed, a good international police officer does not equate to an effective agent of institutional change.³⁷ As TLPDP Commander Grant Edwards rightly argues 'Just as doctors do not build hospitals, or lawyers build courts...police alone do not – and cannot – build police institutions.'³⁸ And yet too often this has been the case. Increasingly however, this appears to be changing. In East Timor the TLPDP should be commended, 'we have working for us current serving police officers as well as individuals with backgrounds in strategic planning, human resourcing, information technology, policy and management.'³⁹

35 Ylber Bajraktari *et al*, *op. cit.*, p.117.

36 Saferworld Report, 'Policing the Peace: Police Reform Experiences in Kosovo, Southern Serbia and Macedonia', *op. cit.*, p.43.

37 Police officers are not necessarily equipped with the skills to reform an institution.

38 *Platypus Magazine*, 'Helping Create Sustainable Police Forces in Timor-Leste', *op. cit.*, p.22.

39 In East Timor, TLPDP Commander Edwards made clear

Calls for a widening of skills and knowledge must be radically expanded however. From San Salvador to southern Iraq, all five of the reform efforts lacked, to varying degrees, an understanding of cultural nuance. Lacking relevant knowledge, foreign advisers often fell back on models and policies familiar from home rather than what fitted local norms and practices. In southern Iraq, Britain stepped forward to lead police reform efforts in three of the four provinces, applying an inappropriate model in a country with a legal and policing model more familiar to continental European states. Meanwhile, numerous reports suggest that a deep ignorance of Timorese history, politics and culture undermined the UNPOL mission. Most revealingly for example, a 2005 article points out that the Western concept of imprisonment as punishment may not correspond to the Timorese cultural heritage or normative structure. 'Where the majority of the population is involved in backbreaking subsistence agricultural work, the notion of being provided with free accommodation and three meals a day with no work requirement, albeit with the loss of liberty and separation from community, is sometimes considered a privilege, not punishment'.⁴⁰ Culture is clearly an important but highly complex issue. Pre-deployment cultural training of one week, as occurred in Dili to orient UNPOL officers thus seems shockingly inadequate.

from the start that the program must take an innovative approach, employing people who have expertise and experience outside of direct police work to contribute; simply deploying police officers is an imperfect strategy to change a police institution. According to Commander Edwards, the 'practicalities of police building involve an understanding of much more: of politics, of history, of culture, of identity, of past efforts, of resistance, and the emotions and actions they arouse. Ever since the inception of the TLPDP program in 2004, the thinking has been to seek a blend of individuals with a police background, either serving police officers or those with more enabling backgrounds in building up the internal apparatus of an organisation. Accordingly, we have working for us current serving police officers as well as individuals with backgrounds in strategic planning, human resourcing, information technology, policy and management.' *Ibid*.

40 Carolyn Graydon, 'Local Justice Systems in Timor-Leste: Washed up, or watch this space?' *Development Bulletin* (No.68, 2005), p.33. <http://devnet.anu.edu.au/GenderPacific/pdfs/09_gen_legal_graydon.pdf> accessed 1 August 2009.

However, so too does the very concept of short-term cultural training. A more radical solution would entail the integration of area, country and anthropological specialists conversant in the cultural norms of the society; experts who are notable by their absence in many police reform missions. Only they have the requisite knowledge and expertise.

Only through the recognition of reform as a holistic endeavour, with the concomitant inclusion of police officers, judicial experts, change management specialists, area specialists etc. all working in a comprehensive fashion, can a police force be reformed or rebuilt. Recruitment, pre-deployment training and posting must therefore be conducted carefully and with the skills and knowledge required always in mind. Evident of its importance, a cultural and language unit should be established. UNTAET did establish such a unit, which included professional linguists, trainers and teachers with expertise in East Timor culture and history. The unit was, however, not involved in the training of UNPOL personnel. Thus they must not only be included, but must be a fundamental part of the process, informing all of the reform elements.

Coalitions of the Willing versus Coalitions of the Able

Issues surrounding the right personnel are mirrored at the institutional level. It would be easy here to relay the usual laundry list of institutional problems.⁴¹ Two brief examples from East Timor and Iraq suffice. In the former, UNTAET largely focused on police recruitment and training, neglecting wider institutional development of the ETPS [TLPS], a failure that was 'a direct result of inadequate strategic planning and institution-building know-how at the UN Secretariat and mission level'. Consequently, police were embedded in an institution both 'unsustainable and weak.'⁴² Likewise, in Iraq, efforts to reform the interior ministry and build a professional police force foundered due to the lack of counterpart

41 With regard to the UN, see DCAF Policy Paper No. 9, *op. cit.*

42 Kings College London, *A Review of Peace Operations: A Case for Change*, (London: Kings College, 2003), p.239.

entities in the US government. 'Whereas European governments have powerful interior ministries and national police forces, the United States has a bureaucratic "black hole," resulting from the constitutional separation of powers between the executive and judicial branches of government and from the delegation of most judicial and law enforcement functions to state and local authorities.'⁴³

Lacking necessary expertise and capabilities reform often becomes a supply-side, rather than a demand-side endeavour. Detailed assessments must be made of the recipient's needs. Likewise, assessments must be made of the reformers. Do actors have the necessary capacities, expertise and tools to provide required reforms? If not, space must be created for organisations that do. NGO's with relevant expertise have collaborated and contributed to a number of police reform missions to great effect. In East Timor police were inappropriate to provide juvenile issues training. UNICEF therefore took a lead role in the design and implementation of juvenile justice training packages. Likewise, contributions were provided from International Rescue Committee, Action Aid and Defence for Children International to the development of a training manual for SLP Family Support Units.

Reform is only as effective as the capabilities of the institution's conducting it. However, while important, a pressing lesson concerns the fundamental identity of institutions conducting reform. Tasked with reform of the police forces in El Salvador, Sierra Leone, East Timor were the usual cast of reform characters; UNPOL, OSCE, bilateral actors such as the US Department of Justice or UK Department for International Development, and various NGO's. Iraq provides an important outlier example; in May 2004 National Security Presidential Directive 36 assigned the task of training Iraq's police and other security forces to the US Department of Defense, an unprecedented move. As Robert Perito highlights, '[b]eginning with *Operation Just Cause*

43 USIP Special Report, 'The Interior Ministry's Role in Security Sector Reform' 2009, p.13. <<http://library.usip.org/articles/1012226.1107/1.PDF>> accessed 29 May 2009.

in Panama, responsibility for police training in post-conflict interventions was always assigned to the Department of Justice with policy guidance from the Department of State.⁴⁴ At a stroke the military became the largest kids on the police reform block, adopting a role managed by civilian agencies in earlier reform operations. Despite their irreducible importance to police reform, 'many of the Coalition officials involved – in and out of uniform – ...had no practical or even theoretical exposure to the art of institutional development.'⁴⁵ Consequently, lessons painstakingly learnt by the development community over the past few decades failed to inform the reform effort, from the need to build local capacity to service infrastructure built and equipment provided, to the central role of broader organisational development. As late as 2008, Iraq and police reform experts such as Tony Pfaff, were urging coalition advisers to develop strategies for reform centred on building police institutions rather than the far simpler task of recruiting and training police officers.⁴⁶ Little wonder then that criticisms of the nation-building and in particular police-building efforts in Iraq have been unusually common and vitriolic.⁴⁷

Lack of expertise, though serious is not the main problem however. General Peterson, the third general assigned to the task of police reform, illustrated the central problem of military involvement in police reform when he conceded he was a peculiar choice for the role. 'I'm an armor officer, which doesn't qualify me for anything but combat'.⁴⁸ The police and military are at polar

opposites on the security spectrum. It is for this reason that DDR paramilitaries and ex-combatants find it problematic adjusting to service in a police force. At the risk of generalisation, militaries are used to taking orders from superiors, police meanwhile are meant to respond to the appeals of individual citizens. The latter also exercise a more restrained exercise of force and authority compared to the military's less subtle licenses. Military personnel have neither the psychological skills and expertise, nor training and equipment to act as law enforcement officers let alone build a police force. In short, police and military institutional DNA are mutually incompatible. They are therefore not the right institutions to undertake the careful job of police reform. A simple thought experiment clarifies the problem; imagine the US military's reaction if, with the army overstretched by other engagements, CIVPOL officers were placed in charge of building a local military, even in a relatively peaceful post-conflict society. The gulf between police and military means that the scepticism and hostility of the CPA's civilian police advisers to the concept of subordinating a civilian police programme to the military, which contributed to the turbulent birth for CPATT is quite understandable.

Civilian reform institutions, the traditional actors in police reform are by no means a guarantor of success; the record of international efforts to reform police institutions, particularly in post-conflict societies, amply attests to this. While El Salvador, Sierra Leone and Kosovo have achieved great strides in reform of their police institutions, the GPPC has been unable to expand these sporadic successes into a consistent standard of accomplishment, markedly improving the democratic credentials, professionalism or effectiveness of the host country police forces. Indeed CIVPOL has been labelled the under-achievers of international peace-building missions. Nevertheless, while the military are not hardwired for police reform, these agencies are, their internal circuitry simply needs tweaking.

Nevertheless, while it is easy to criticise the role of the military in Iraqi police reform it should be noted that the military's new role was not born out of a desire to expand its institutional writ. In February

44 Robert Perito, 'Testimony to the House Armed Services Subcommittee on Oversight and Investigations' March 2007, < <http://www.usip.org/resources/reforming-iraqi-interior-ministry-police-and-facilities-protection-service-0> > accessed 24 April 2009.

45 CSIS Report, 'Fixing Iraq's Internal Security Forces: Why is Reform of the Ministry of Interior so Hard?' *op. cit.*, p.5.

46 Strategic Studies Institute Report, 'Development and Reform of the Iraqi Police Forces', *The Letort Papers*, 2008, p.viii.

47 In part this also reflects the politicised nature of the mission, and the realisation of incompetency as initial military victory subsided into peace-building failure.

48 Micheal Moss, 'How Iraq Police Reform Became a Casualty of War', *op. cit.*

2004, recognising Washington's concern at a lack of Security Sector Reform progress, the Deputy Secretary of Defence (Paul Wolfowitz) commissioned a report by Major General Karl Eikenberry to assess Iraqi Security Force development. This directly resulted in the expansion and restructuring of Major General Eaton's organisation including the transfer of Police (and other civil security organisations) from the CPA to the military. The reason was, unlike other examples of reform, in Iraq, police restructuring was to be accomplished 'under fire'.⁴⁹ The military CPATT concept was thus a pragmatic recognition that civilian agencies were unable to implement police reform within the increasingly hazardous and highly unstable security environment. The importance of context for police reform is nowhere more evident; civilian reformers were an institutional casualty of the Iraq War. While the military were far from ideal in this role, due to the worsening security situation, it was a role only the military could attempt. This case study therefore exemplifies a new tension in *conflict-based* police reform between 'Coalitions of the Willing' versus 'Coalitions of the Capable' – between those actors tasked with reform, and those capable of undertaking it.

In March 2005 MNSTC-I / CPATT introduced a revised strategic approach to Police Reform which rolled out during the remainder of 2005. The revised strategy recognised the critical mentoring and continuation training function of the civilian Police Advisors had failed to materialise. The catalyst had been the catastrophic collapse of the IPS in the cities of Falluja, Mosul, Sammara and the southern Baghdad suburbs. The strategy reversed a 'bottom up' approach to reform and introduced a 'Top Down' strategy starting with multi-discipline support teams in the MOI, Provincial IPS HQs, District HQs and teams allocated to support stations at precinct level. The crucial aspect of this policy change was to provide capacity building

49 Walter Slocombe, 'Iraq's Special Challenge: Security Sector Reform "Under Fire"' in Alan Bryden and Heiner Hanggi, *Reform and Reconstruction of the Security Sector*, (Munster: LIT Verlag, 2004) <<http://www.dcaf.ch/publications/kms/details.cfm?lng=en&id=18849&nav1=4>> accessed 11 December 2009.

throughout the IPS chain of command in addition to supporting the defence and capability of IPS stations and special police units.

This raises an important point – if civilian advisers cannot conduct reform and the military is ill-equipped to do so, what can be done? In conflict-based police reform, to paraphrase David Bayley, the lions of military power must lie down with the lambs of police reform.⁵⁰ Civil-military cooperation must be close. In conflict interventions the military's resources, personnel and institutional reach is far greater than civilian agencies. The expertise, material and psychological tools, and legitimacy however reside with traditional police reform actors.

There are few examples of conflict-based police reform to draw lessons from, however in practical terms there are some tentative lessons from Iraq. Where possible, civilian police advisers/trainers were included in the teams: the US DOD sought to populate the teams with personnel who had the skill sets necessary to equip the Iraqi Police and officials with the range of administrative, logistic, finance and other skills required to manage as well as police their responsibilities. Divisions of labour were also attempted. In the south of the country the military formed teams, 'to take on the lead from the civil police advisers in key areas where the military—in the absence of a paramilitary police organisation—is best placed to lead: organisation, management, control systems, administration, leadership, paramilitary training, and equipment husbandry.'

Divisions were reinforced by Carabinieri and Czech MP contingents, and US IPLOs were placed under military command. With the military in the lead in the areas outlined above, 'the civil police were able better to concentrate on: Criminal Intelligence—to set up an integrated system of criminal intelligence databasing and encourage liaison with other Iraqi intelligence agencies; Serious Crime Investigation—

50 Summary of AEI Event, 'Police-building in Iraq, Afghanistan, and Beyond: Successes, Failures and Lessons Learned' May 2006. <<http://www.aei.org/EMStaticPage/1333?page=Summary>> accessed 6 June 2009.

to address the weakness in felony investigation (the single biggest obstacle to successful prosecution of criminals) and put forward potential investigating officers for advanced training at the police academy; Forensic Investigation; and Tactical Support Units and SWAT teams.⁵¹

Nevertheless, even with close civil-military co-operation at the operational level, such an approach does little to bridge the yawning gap between civilian and military agencies at the strategic level. Successful police reform necessitates a comprehensive approach to the security and justice sector.⁵² A complex web of interrelated actors and institutions provide the public goods of security and justice. Unbalanced development inhibits the development of a functioning criminal justice continuum from police to prosecution and beyond, with direct and important ramifications for the police. Although strategies for police reform were coordinated between the Coalition Military and State/Justice department officials, police reform in Iraq still remained the preserve of Defense, while the Justice Department's responsibilities concentrated on justice sector development, including reform and upgrades to Iraqi courts and penal system, the training of Iraqi marshals service to protect the judiciary.

Consolidation of efforts under the leadership of a single actor is far preferable to even the closest coordination. Likewise, even if military effort is required for the force generation stage of police reform, once completed responsibility for reform should pass to more suitable authorities. This should be a last resort however, it is clear that there should be unity of command between military and civil components. 'There is universal agreement about this, even though the principle is far from consistently applied. It was learned in Haiti but forgotten in Bosnia.

It appears to have been overlooked again in Kosovo, where NATO directs the military component (KFOR), the U.N. has authority for policing, and

the Organization for Security and Cooperation in Europe (OSCE) is responsible for police training.⁵³ Peacekeeping and nation-building requires joint planning and intelligence sharing by civil-military actors. It also requires 'combined operational planning teams as well as combined field commands.'⁵⁴ Police officers should therefore be seconded to departments tasked with peacekeeping or conflict depending on the context of reform.

Co-ordination of actors and reform activities

Police reform concerns a plethora of different actors. Coordination is essential within the international actors involved in reform, as well as between international actors and local actors.

Tower of Babel syndrome

A common complaint heard of the UN mission in Kosovo concerned the vastly different policing traditions from which UN trainers and mentors came.⁵⁵ The UN has no standardised *operational* policing practices that can be used in police development. Consequently, each UNMIK officer arrived with her/his traditions and procedures. Each mentored and developed their partner KPS officer to the best of his/her abilities, but the policing practices of USA differ from those of Bangladesh, which, in turn, differ from those of Chile or Norway. The result was confusion, disorientation, and eventually apathy inside the KPS.

Complications arising from such lack of coherence are ever present between international actors. Examples from the case studies suggest that while actors occasionally integrated planning and operations,⁵⁶ harmonisation between reform

53 David Bayley, 2001, *op. cit.*, p.55.

54 *Ibid.*

55 This problem was also encountered in Timor-Leste, where multiple types of policing and procedures were taught to Timorese recruits by the various nationalities of UNPOL officers.

56 For example as Andrew Rathmell *et al* argue, 'the CPA and CJTF-7 did represent a major achievement in integrating civilian and military organizations and personnel.' A.Rathmell

51 Major General Jonathon P.Riley, *op. cit.*

52 This will be explored in a later chapter.

actors has not always been effective to the detriment of reform efforts. Recipient countries are often flooded by a motley cast of police reform characters. In the aftermath of El Salvador's conflict for example, this small country hosted a crowded field of UN agencies, regional organisations such as the EU, and numerous bilateral donors including Spain, Japan, Sweden and the US. Such confusing plethora of diverse actors naturally bring with them widely divergent objectives, strategies and operational procedures reflecting the diversity of communities who all conceptualise police reform in different ways. As Charles Call argues, questions such as what do we mean by 'police reform' and how should 'success' be measured have very different answers "depending on one's values, criteria and institutional perspective".⁵⁷ Missions have therefore regularly consisted of a bewildering array of programmes and policies with little synchronisation between them.

According to the King's College Peace Operations handbook, 'there is a sense of *déjà vu* in citing the recurring problems related to co-ordination [defined as the use of available resources provided by various organisations to maximum effectiveness, ensuring limited overlap and overall strategic and operational coherence].'⁵⁸ And yet persistent problems in this regard means they clearly bear repeating.

Lacking sufficient harmonisation, vital knowledge and expertise is often not utilised in reform missions. Hindering the effectiveness and progress of training and institution-building in Kosovo for example was the absence of a formal relationship between UNMIK and UNDP until 2002.⁵⁹ More serious however, actors and programmes regularly work at cross purposes; consider the farcical example of US Justice Department trainers who sought to create an Iraqi community-oriented, law enforcement service, while US military authorities attempted

to create a counter insurgency force.⁶⁰ Equally however, with so many different actors working on police reform, operating in close proximity, there is an ever present danger of efforts being duplicated. The UN alone amply demonstrates the problem. According to William O'Neill the Task Force for the Development of Comprehensive Rule of Law Strategies for Peace Operations, created by the UN Executive Committee on Peace and Security (ECPS) in May 2003, identified over fifty different training modules and manuals created by UN agencies or departments.⁶¹

Some maintain that the example of Sierra Leone, where security sector reform was predominantly led and funded by one country; the UK, demonstrates that a key lesson for reform is that the number of organisations involved should be decreased. Granted, in the absence of multiple donors there may be fewer harmonisation issues, however problems associated with a lack of coordination between reformers objectives, strategies and tactics are not unique to multilateral missions. Evident in the UK approach to Iraq police reform was a doctrinal tension 'between the active law enforcement approach of the UK military and the community based consensual approach of the UK police' contributing to a situation where 'their efforts have satisfied neither—the Iraqi police is generally unable to establish law and order, let alone sustain it.'⁶²

The number of actors however is not inherently problematic. Indeed, police reform is an incredibly difficult effort, representing the complex intersection of operational, institutional, cultural and political reforms. Therefore, as leading reformers of the East Timor police argue, 'despite the broad range of areas covered by the TLPDP

et al, op. cit., p.16.

57 Charles Call, 2002, *op. cit.*, p.102.

58 Kings College London, 2002, *op. cit.*, p.27.

59 Kings College London, 2002, *op. cit.*, p.29.

60 Moreover there were differences between international actors. The vast bulk of police training was targeted at providing skills in providing public order and basic counter-terrorism duties. However, in the southeast, the UK effort emphasized community policing and human rights. In the Italian controlled province of Di Qar, the Carabinieri adopted another training method.

61 International Peace Academy Report, 2005, *op. cit.*, p.3.

62 M.A. Ashraf, 2007, *op. cit.*

[Timor-Leste Police Development Program], no single program could meet all needs.' Few, if any actors have the capabilities, resources and expertise to support the full range of activities that constitute a comprehensive police reform agenda. Commander Grant Edwards of the TLPDP believes that in the case of East Timor, 'It will only be through the collegiate commitment of all partnerships with a vested interest in police reform in Timor-Leste that success will be achieved'.⁶³ Consequently, the lesson, rather counter-intuitively, is that building a police force requires multiple actors, not less.

The key lesson is contained in the words Commander Edwards uses; 'partnership' and 'collegiate commitment'. Notable by their absence in many reform missions, these are essential aspects for successful multilateral or indeed bilateral efforts. Effective reform that has a deep and sustainable impact requires greater harmonisation between international actors.

Harmonisation can take many forms however, from coordination to collaboration and cooperation. At a minimum, close coordination entailing 'exchanging information between organisations and dividing up the work of organisations on the ground into separate tasks, phases or territories' should be pursued. Careful assessments of the capacities, expertise, functions and responsibilities of the organisations on the ground are required. Where these overlap, consultation should determine who can add most value, thereby avoiding duplication of efforts. However, this is not ideal, as the Kosovo mission highlights. 'The Kosovo OSCE mission forms a distinct component of the UN Interim Administration Mission (UNMIK) and is mandated to carry out institution- and democracy-building tasks and to foster the rule of law. The two organisations have a division of labour in the area of police reform that gives UNMIK police the task of providing temporary law enforcement and assisting with police administration, while the OSCE trains police officers on international human rights

and community-based policing standards.'⁶⁴ There artificial division between the two organisations created an obvious and harmful disconnectedness between basic in-school training provided by the OSCE, and the field training conducted by UNPOL; with all KPS officers undergo a uniformly standard basic training curriculum at the KPSS, only to be subjected to a variety of training standards in the field, from any of the 54 contributing nations.⁶⁵

Cooperation and collaboration are clearly preferable. Leadership is crucial in this regard. In Sierra Leone this was the key variable; the UK provided clear leadership and a remarkable level of commitment to the country. 'Leadership provided by the UK, backed up by military involvement, proved critical in establishing credibility, not only with the Sierra Leonean population and the Government, but also with the international community.'⁶⁶ There must be a clear organisational structure and chain of command.

More importantly however, there must be a clear strategy and vision of reform. Without clear direction and objectives shared between partner institutions, reform will face problems. Coordination in Iraq faltered because different reform approaches were adopted by actors who had vastly divergent ideas of what the IPS's roles and responsibilities would be. A doctrinal tension existed 'between the active law enforcement approach of the UK military and the community based consensual approach of the UK police. This politically initiated tension reflected the fundamental difference in objectives (and therefore approach) of the two security services. The results of their efforts have satisfied neither—the Iraqi police is generally unable to establish law and order, let alone sustain it.'⁶⁷ Likewise, from the outset of the shared enterprise between the OSCE and UNIP to build the Kosovo Police Service,⁶⁸ no

64 Ursula Schroeder, 'Between Conflict and Cooperation: International Police Reform Efforts in South Eastern Europe', in David Law, *Intergovernmental Organisations and Security Sector Reform*, (Geneva: DCAF, 2007).

65 Ylber Bajraktari *et al*, *op. cit.*, p.51.

66 Peter Albrecht and Paul Jackson, *op. cit.*, p.200.

67 M.A. Ashraf, 2007, *op. cit.*

68 The OSCE took responsibility for recruitment and

63 *Platypus Magazine*, 'Helping Create Sustainable Police Forces in Timor-Leste', *op. cit.*, p.24.

clear 'blueprint' or master plan was provided. This strategic deficit was one of the root causes of many problems with KPS reform. Only with a shared vision and strategy can effective operational coordination focused on issues of logistics, training programs, recruitment activities and so forth, proceed.⁶⁹

International and national actor coordination

During 2004, every single Timorese judge, prosecutor, and public defender was put through a series of examinations to test their minimum competency. They all failed. Initial assumptions naturally suggest the examination was a damning indictment of the quality and qualifications of the Timorese justice sector. Analysing just the judges however, according to David Cohen, 'the most striking thing about the results of the examination was the discrepancy between these results and the actual performance of the judges.'⁷⁰ Upon investigation, it was revealed that the support provided by the UN was inadequate, given that the examination, written by the President of the Court of Appeals and principal mentor of the Timorese judges for the previous four years, was riddled with translation and editorial errors. Equally problematically, none of the individuals evaluating the examinations could read the language, Tetum, in which the Timorese judges wrote their exams. This 'mutual unintelligibility', emblematic of the UN approach in East Timor can be writ large, representing the often difficult relationship between international and local actors.

A salient lesson from the police reform missions under investigation is that coordination between donor and recipient must be one of mutual intelligibility and respect. Unilateral imposition of reform by international donors understandably raises tensions with countries whose sovereignty is often a hot topic. There must be a clear and close

training, whilst the United Nations International Police – the group responsible for providing an interim policing presence – would develop and control the organization until the KP was deemed fit to take responsibility.

69 Kings College London, 2002, *op. cit.*, p.24

70 David Cohen. Indifference and Accountability: The United Nations and the Politics of International Justice in East Timor. *East-West Center*. Special Reports, No. 9, 2006, p. 94

conversation to flesh out what reform is for, align agendas that can often be divergent, and determine how reform should be implemented.

Formal mechanisms should be initiated so that there is close and cooperative contact between international and domestic partners. The experience of Sierra Leone's security system transformation process was primarily one of individuals. With a clear vision and strategy absent the role of personalities rose to the surface and became instrumental in achieving success or failures. While this worked with the SLP, other examples may not be so lucky. Informal relationships and coordination can falter. In East Timor for example the UN has lost its credibility with the Timorese government and even admitted this sorry state of affairs in late 2008 when an internal DPKO document claimed that 'a number of interlocutors highlighted the United Nations reputation as a core challenge to successful SSR in East Timor. While positive and collegial relationships exist between UNMIT and the Government, at both senior and working-levels (the President of the Republic makes a habit of publicly commending UNMIT, and the SRSG, for its support), UNMIT seems to have inherited the perceived failings of previous United Nations Missions in East Timor. In particular, the failure of East Timor's security institutions in 2006 has, for some, called into question the 'added-value' of United Nations support to the Government in the area of SSR. During the visit of the UNHQ Inter-agency SSR Team, the PNTL Commander publicly questioned the value of UNPOL in the area of police. This situation is recognised by donors, who are cautious in tying their own reputation to that of UNMIT, out of concern that they too will lose traction with the Government in the area of SSR. As a result of these issues, the Government and its security institutions are reportedly less willing to engage with UNMIT in the area of SSR'⁷¹

But coordination structures between the international community and local actors must be adhered to closely, by both parties. Too often these mechanisms have been supported poorly or even

71 UNHQ Inter-agency SSR Team Report, *op. cit.*

sidelined for expediency, a problem all too evident in Iraq. In an exchange of emails between Coalition actors in September 2005 the MOI's Logistics organisation was ignored by MNSTC-I/CPATT as it was not considered 'expedient'. The result was a logistic programme controlled by the Coalition that had no audit trail beyond the point of delivery and an MOI overwhelmed by the equipment and weapons issued to police stations by the Coalition. The coalition did not have a single system for its accounting of what had been issued to the police. MNSTC-I/CPATT and the MNC-I had separate systems and sources for issuing equipment and weapons to the police. One email claimed that 'in essence the Iraqi Logistics system, which does indeed exist, has been thwarted at every level, by our unwillingness to allow it to actually work. The MOI unit commanders have been conditioned by [us] that they simply have to ask us in lieu of going through their own process' An example of the well intentioned need for 'operational tempo' to be generated through the delivery of logistics was 'Operation Daytona' – the delivery of vehicles to the Police. While the allocation and distribution plan involved little consultation with the MOI, the delivery and issue programme was to involve members of the MOI logistics executive to ensure 'accountability and control'. Unfortunately the coalition did not have the patience to accommodate the MOI's systems and over road MOI officials thus as noted by an IRMO-MOI official: 'in the most recent cases the cars have been issued with no MOI participation whatever. Consequently MOI now has no accountability over a great number of vehicles issued through the Daytona programme. Why? Expedience...To date we have issued approximately 6,700 IPS vehicles to the Iraqis. No parts, No Pubs [publications], no viable plan for maintenance...the deadline information we have indicates about 40% of the vehicles to be in need of repair.'

Nevertheless, while formal mechanisms are important the case studies demonstrate that lessons are often learned through an ethnocentric perspective which requires deeper analysis. Commonly misunderstood in mission such as East Timor was the importance of personalised politics in post-conflict and fragile state development, a

political misstep which eroded the prospect of the UN engaging productively in police development. Even though some senior UN Police understood the political and personal cleavages that ravaged the Timorese elite, there appeared to be little sensitivity to the legacies of these fissures within the upper echelon of the peacekeeping operation or, at least, little active engagement to mollify their potential disruptive repercussions. There should be a clear assessment of the political situation and context of the country to determine who wields power, what the political cleavages are, and how political relations function. It can then be determined how best to approach the relationship with the host government.

Domestic government commitment to reform

Central to the East Timor police reform programme was the UN's proposed police restructuring plan. One senior Timorese official, when asked by a leading police reform official whether he had read it replied, 'I've meant to read it, but something always comes up and I never get the chance'⁷² At the heart of this comment is one of the most important lessons for police reform. Given the nature of *international* police reform, it should come as little surprise that missions are perceived through an overly international lens. While international donors are important (as evidenced above) domestic 'buy in', 'political will' or 'donor commitment', however it is named, is at the crux of whether reform succeeds or fails. Without this key element many in the international community consider reform impossible;⁷³ in the absence of absence of donor commitment questions over pay and rank reform, training, or institutional strengthening are merely academic. Foreign assistance has little chance against a host government apathetic, or even actively opposed to reform.⁷⁴ In an unclassified letter from the UK Foreign and Commonwealth Office, Iraq Directorate

72 Gordon Peake, 2009, *op. cit.*, p.3.

73 RUSI interview – DfID official.

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to the British Embassy in Washington the author notes: 'This is not an attempt to write a strategy for the Iraqis. We (MNSTC-I) have tried to do this twice before, once in mid summer 2004 and again in November. Both papers languished in the Minister of Interior's in-tray and were quietly dropped.'

From the very outset, the domestic government and relevant political authorities must be committed to reform. According to David Bayley, the success of foreign assistance in reforming the police is directly proportional to the country's enthusiasm for it. Using the example of SSR in El Salvador, Stanley and Call identified domestic government 'buy in' as one of the reasons for success. But the example of Sierra Leone stands out most clearly. For political reasons, including a complete lack of trust by the executive towards the military, the Sierra Leonean government was deeply and consistently committed to police and security sector reform even before the onset of the mission. Re-establishing a functional SLP, to reinstate security for the civilian population and hence re-establish state legitimacy were key considerations behind a Government of Sierra Leone request to DfID in 1996 for total reform of the SLP.⁷⁵

The case studies demonstrate that donor commitment to reform is imperative in terms of leading reform and garnering public support and confidence for it. Meanwhile political will helps steady the direction of reform. The overall direction of the reform process in Sierra Leone for example was driven by a core group of government officials who sustained the effort over an extended period of time. As mentioned above, international staff turnover can be frequent. Institutional memory therefore to a large extent resides in the domestic government, without the support of which, wheels can be constantly reinvented and mission drift become terminal.

75 Evidence of the deep commitment of the Sierra Leone government to security sector reform came when, ignoring issues of post-colonialism and political correctness, the then President, Ahmad Kabbah appointed an expatriate retired UK police officer, Keith Biddle, as IGP in November 1999; a relationship between the police mission and the Sierra Leone government which must be characterized as unique, indeed unusual. Biddle was appointed to the position for an initial two-year period (which was extended until June 2003).

Intervention powers must therefore search for foreign 'demand'. In the absence of reform commitment the question becomes, can leverage be utilised to generate political will? While few in the GPPC would disagree that countries actively opposed to reform cannot be swayed, the literature is quite evenly split when discussing countries that may be merely apathetic. Case studies such as El Salvador however, seem to support scholars such as David Bayley who argue in the affirmative.⁷⁶ The reform effort in this country initially stalled due to a tepid response from the government, but subsequently gathered momentum.

How can the political calculus be changed in a way that equals greater commitment to the reform process? Unfortunately no clear lessons emerge. At opposing extremes, domestic and international factors played a role in El Salvador and Kosovo respectively. Although the international community withheld funds from El Salvador, public pressure ultimately forced increased commitment from the El Salvadorian government. In contrast, the latter demonstrates that the international community can play a constructive role through diplomatic and financial pressures. It is worth quoting one of the key figures of the SLP reform process, Kadi Fakondo; 'I have been to forums where I've been pushed aside, where someone would be verbally highly abusive of the police.' In spite of these spoilers benefiting from the existing system, 'because I had support, I had the confidence to speak up – and you can only speak your case when others are listening.' Fakondo may have been talking about the domestic government, but this can be writ large to the international donors as well.

But the international community must play the game carefully; too often it is clumsy and counter-productive, jeopardising important principles of the reform process as the case of El Salvador's Truth Commission demonstrates. The lesson is that overt and public criticism of the government can be counterproductive. While infractions and abuses must be tackled, it must be done so delicately.

Box 1: International pressure and the reversal of reform commitment

El Salvador's Truth Commission is a case in point. At first glance this commission, and its predecessor, provided an externally imposed modicum of political will seemingly lacking in El Salvador's government and judicial system. Closer inspection reveals however a more complex story. Composed of three international dignitaries the commission's mandate focused on investigating some 32 particularly notorious and representative war time atrocities. Its findings, published in a March 1993 report, named members of the security forces, justice sector and government for complicity in these events, calling for their dismissal and disqualification from holding any official position or post for 10 years (and permanently from any position

involving public security or national defence). Recommending that the entire 14-member Supreme Court of El Salvador step down, the report then gratuitously noted that 'El Salvador has no system for the administration of justice that meets the minimum requirements of objectivity and impartiality.' Unsurprisingly, the government refused to embrace the recommendations which the Minister of the Presidency called an insult to Salvadorian society. Shortly after the report's release the president called for and the legislature passed a sweeping amnesty law essentially providing for the extinction of criminal and civil responsibility for 'political crimes' relating to the armed conflict of the previous 14 years.

Commitment must come from a conviction that reform is right, otherwise resistance at a bureaucratic level is likely to occur and the reform process will be 'captured'. Far more likely to succeed therefore is pressure that aims to convince rather than threaten. At its most simple, donors must set an example, for if reformers are not committed, neither will the host government. Reform fundamentally alters the position and prerogative of those in power. Very often, elites have a far greater interest in preserving the status quo than pursuing reform. In El Salvador, since the United States backed El Salvador's power structure politically and militarily in its civil conflict, its own pursuit of systemic reform in that country was hedged accordingly. A 1993 GAO report therefore concluded that USAID's ambitious reform project ended up focusing on 'easier to manage technical assistance... [and] computerized case-load management rather than working on the institutional, political, and attitudinal changes necessary for fundamental sustainable reform.'⁷⁷

Where fostered, commitment can be difficult to maintain, even more so (rather perversely) when reforms bear fruit. For Peter Alexander Albrecht, stabilisation of Sierra Leone resulted directly in a

loosening of government interest in the process of SSR. As a key actor from the Office of National Security noted, 'by 2003 there was some attention [to the SSR process], in 2004 less, in 2005 they were so comfortable [with the security situation] that they didn't listen at all. Defence Councils were postponed several times. The NSC [National Security Council] had not been convened for two years until we pushed for one major meeting, where we said that the government needed to be aware of the issues.'⁷⁸ Pressure from the international community must be constant.

A more important danger concerns the relationship between donor and recipient; political will may falter if the relationship deteriorates. A product of any number of reasons, the primary reason would appear to be sidelining of the recipient government as occurred in both El Salvador, Iraq and Kosovo. In the latter example, in the initial 12 months, the Albanian political leadership and population were very receptive to the presence and role of KFOR and UNMIK. Tension soon developed however, between the Minister and UNMIK's

77 US Government Accountability Office Report (GAO/MSIAD-93-149) 'Foreign Assistance: Promoting Judicial Reform to Strengthen Democracy', 1993, p. 17

78 Kellie Conteh, quoted in Saferworld Research Report, 'Monitoring and evaluation arrangements for the Sierra Leone Security Sector Reform Programme: a case study', 2008. <<http://www.saferworld.org.uk/images/pubdocs/SierraLeoneCaseStudy.pdf>> accessed 3 March 2009.

Commissioner.⁷⁹ According to MIA official Bali Muharremaj, this was largely a consequence of the grave lack of consultation and a failure on the UNMIK side to communicate information about KP policy decisions.⁸⁰ The Minister felt frustrated that although he represented those who paid for the KP, he had no say in planning or strategy for the police.⁸¹

As such, a lesson would appear to be that in order to keep political leaders supportive, they must be included in the reform process. But perhaps this lesson, common in the main reform literature is mistaken. Returning to the letter from the UK FCO Iraq Directorate to the British Embassy in Washington, after referring to the two failed foreign strategies which languished in the Minister of Interior's in-tray, it went on to note that the Deputy Minister Administration, Adnan al-Asadi acknowledged the failure to recognise the MNSTC-I strategy proposals and gave the author a copy of 'National Security Strategy of The Republic of Iraq (English Translation August 11 2004⁸²)', stating: 'we *already have a strategy, we do not need yours*' [author's emphasis]. The core question therefore is not simply whether there is political will for reform, but rather political will for what *type* of reform? Reform commitment may be present, but quite naturally it is political will for their own vision of reform. Within the extant literature, political will is often conceptualised in a very subjective manner. Commitment may exist, but when it is not the *right*

kind of political will, the international community mistakenly frames this in a negative fashion, portraying the government as having no political will in a rather Manichean fashion reminiscent of Bush's 'you're either with us or against us' mindset.

Police reform and local ownership

The lesson of Adnan al-Asadi

Adnan al-Asadi's broadside against the MNSTC-I strategy raises questions not just about donor commitment and how it's defined, but also suggests that in many cases, the concept is insufficient. His positioning of foreign versus domestic strategies is a manifestation of the need for local ownership, that mantra of police and security sector reform, chanted by almost every member of the GPPC. Various interpretations, but the general rule is that locals should not just support the reform process, but be intimately involved within the process.

A recent study of UN peacekeeping missions suggests that the organisation's operations are not known for their adherence to the principle.⁸³ Institutionally the UN is not alone. Despite almost universal acceptance in the literature, many of the case studies suggest that in practice reformers do not take local ownership seriously. The case studies varied in how seriously it was taken. This undoubtedly reflects the amorphous nature of the concept and various definitions, but it also represents a difficulty in understanding the concept, and also a nagging suspicion drawn from western paternalism and arrogance that the concept is unworkable. It also reflects the different situations of some studies, with some countries able to undertake reform more easily than others. Opportunities for local actors to influence or actively engage the reform effort in Kosovo and Iraq for example were limited, even non-existent thanks to neo-colonialist approaches adopted by the intervention powers. Both the first PISG (*Provisional Institutions of Self-Government in Kosovo*) administration and the CPA were governments of limited and circumscribed

79 Particularly in the wake of the riot that resulted in the death of two protesters in February 2007 caused by UNIP officers firing rubber bullets into the crowd.

80 RUSI interview with B. Muharremaj.

81 UNMIK's apparent failure to consult the local political leaders and the provisional government regarding KP development policies and its effect on relations and political will was confirmed in an interview with a very senior KP officer who wished to remain anonymous.

82 In the possession of the Iraq case study researcher: the covering letter dated 11 August and signed by Ayad Allawi articulated what it described as a single, unifying vision: a united, secure, federal Iraqi Nation, committed to the principals of democracy, enjoying freedom, prosperity, and well being: promoting justice, equality, and human dignity; and serving a positive, effective role in the international community.

83 See Heiner Hänggi and Vincenza Scherrer, eds., *Security Sector Reform and UN Integrated Mission: Experience from Burundi, The Democratic Republic of Congo, Haiti and Kosovo*. (Vienna: Lit Verlag GmbH & Co., 2008).

authority.⁸⁴ Indeed, in the former, there was no Ministry of Justice or Ministry of Internal Affairs; UNMIK retained exclusive authority for policing, security and the judicial system – as the so called ‘reserved powers’.

Too often international reformers simply window-dressed reforms in the language of local ownership or simply misunderstood it. According to Gordon Peake, who is closely involved with the East Timor reform mission ‘One long-term [police] adviser recalls receiving a telephone call from a superior requesting a document. “We need this now”, he was told, “so that we can get it translated and get some local ownership”’.⁸⁵ Likewise, the former UN Special Representative of the Secretary-General in East Timor (DSRSG), while conceding that the *Reform, Restructuring and Rebuilding* plan was written by the UN, insisted that the Timorese ‘became co-authors’ after it was presented to the government in July 2007 (Ibid.). As Eric Scheye makes clear, in Kosovo, despite the claims by UN officials that Kosovan stakeholders had contributed to reform, Kosovar opinion told a different story; ‘For Kosovars, the UN consultation process was a polite form of external imposition and therefore they believed that they had little to no ownership of Kosovo’s JSSR programme. What is important to recognise is that, in any given JSSR initiative, the only meaningful definition of local ownership lies in the different perceptions, beliefs, opinions and actions of national stakeholders rather than in the minds, eyes and reports of international actors.’

National stakeholder frustration and apathy are understandable and common reactions to the lack of involvement in reform. In post-conflict, post-colonial and fragile states (where issues of sovereignty are understandably sensitive) actors have deliberately obstructed reform progress. ‘An unconscionable number of man-months have been wasted’ concluded a CSIS report on Iraq, ‘in producing training courses, plans, concepts, policies and procedures that originate abroad or in

the International Zone, are translated into Arabic and “sold” to Iraqi counterparts’⁸⁶ ‘Sometimes, Iraqi officials will play the game astutely. When asked by the umpteenth set of Coalition visitors if they have documented plans or procedures on topic X or topic Y, they will dust off a beautifully presented set of slides handed to them by previous generations of advisers. On more than one occasion, the well intentioned new Coalition adviser has reported back excitedly about how “well advanced” his Iraqi “charges” appear to be.’⁸⁷ More obviously, in Kosovo attempts to legally define the functions, responsibilities and powers of the police service were delayed by the Prime Minister and Assembly who refused to accept what they viewed as an ‘UNMIK police law’, stating a firm intention to produce their own.⁸⁸ Even where reforms have been pushed through, those not ‘owned’ locally have often expired after donor authority. Witness the emergence of a Shia led Iraqi Ministry of Interior after the January 2005 election which led to a swift dismantling of Britain’s fragile IPS reform policies in Basra. Likewise, in Sierra Leone, with the replacement of Keith Biddle, Brima Acha Kamara noted that ‘We started to review some of the policies, whether they suited us’. Less damaging to the thrust of reform perhaps, but the principle is the same.

Problems resulting from a lack of local ownership extend beyond the reaction of national stakeholders however. Examples abound of economically unsustainable reform. Missions have rarely

86 CSIS Report, November 2007, *op. cit.*, p.12.

87 *Ibid.*, p.13.

88 By May 2007, the KP still lacked a comprehensive legal framework relying instead on Regulation 2005/54, *On the Framework and Guiding Principles of the Kosovo Police Service*, which as its title suggests, provided only a few of the legal principles required to fully regulate the police in a democratic society. In an effort to break the apparent impasse, Jean Dussourd, Head of UNMIK Pillar I, brokered a deal with the Prime Minister in August 2005, whereby certain parts of the draft law would come into force in Regulation 2005/54 and the Assembly would later produce a police law for approval by the SRSG. The researcher of the Kosovo case study had personal knowledge of these events, since he assisted the Head of Pillar I (Police and Justice) with the development of UNMIK Regulation 2005/54.

84 Related to Kosovo, this was highlighted in a RUSI interview with B. Muharremaj.

85 Gordon Peake, 2009, *op. cit.*, p.21.

considered the compatibility of new structures and mechanisms with available long-term national resources and likely financial constraints. Valid concerns remain that the high quality of training and equipment provided by the British in Sierra Leone for example, cannot be sustained once responsibility is returned to national actors.⁸⁹ It is arguable that such grandiose reforms would not have been initiated if owned by the Sierra Leoneans.

Economic incompatibility is mirrored by cultural and social incongruity of externally imposed reforms. Lacking local involvement, and compounded by missions deficient in area, country and cultural specialists, reform has frequently proven completely unsuitable for the context within which it has been applied. At its most basic level, the June 2004 disciplinary regulation for East Timor police was only available in Portuguese, a language not understood by most PNTL personnel.

Writing the history of police reform with foreign ink is fraught with complications that can not only impede the progress of reform, but ultimately undermine, prevent or reverse it. According to Andrew Rathmell therefore, reformers should avoid language of 'putting a national face on...' and 'obtaining national buy-in...', for this fosters a certain mindset and can lead to actions. In short, local actors must be included in reform. But this raises an important point; which local actors? As Laurie Nathan argues, the central question concerning the principle of local ownership, however, is ownership 'by whom and for whom,' which is a purely political issue.

'Security na la man bizness'⁹⁰

In a 2007 assessment of East Timor's police reform,

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90 An expression in Krio coined by security reformers in Sierra Leone which means, security is everyone's business. Rosalind Hanson-Alp, 'Civil Society's Role in Sierra Leone's Security Sector Reform Process: Experiences from Conciliation Resources' West Africa Programme' Working Paper Series No.12: Security System Transformation in Sierra Leone 1997-2007. < <http://www.ssrnetwork.net/documents/Publications/SierraLeoneWPs/working%20paper%2012.pdf> > accessed 17 June 2009.

the EU concluded that responsibility for the lack of success could be ascribed largely to a 'lack of understanding of local cultural knowledge, traditions and practices' and the 'lack of acknowledgement of traditional authority and values'.⁹¹ Such accusations against the UN are nothing revelatory. Rather surprisingly however, it indicted not just the UN, but the Timorese government itself. The case studies therefore raised the issue concerning the principle of local ownership and 'by whom and for whom'.

Eric Scheye identifies four different levels to local ownership; national government and elite, local government and elite, justice and security service providers, and finally the customers of the public goods delivered.⁹² To a great or lesser degree in the various case studies, when the principle of local ownership was adhered to at all, it was ownership only by and for the national government. As a senior UN official emphatically declaimed, the UN 'does not deal with the people...We deal with governments; that is the nature of the beast.' Narrow, governmental conceptualisations of local ownership are deeply problematic. Such flawed political understanding in East Timor for example, meant the UN did not penetrate the thin crust of East Timorese political and societal elite.

Few police reform states are mature democracies. Deep cleavages can exist between society and its political elites. The latter, foreign educated and with little experience beyond the borders of the nation's capital can be geographically and culturally distant from the population and thereby neither representative nor widely legitimate. Elite/governmental interests may not be attuned to the vision of a professional, public service police force. Moreover, reform is an immensely political, redistributing power relations within a particular society; politically dominant national stakeholders therefore have the most to lose. In other words, while local political elites may be the most obvious

91 EU Report, 'Rethinking Timorese Identity as a Peacebuilding Strategy', June 2007, p15.

92 Eric Scheye, 'Unknotting Local Ownership Redux: Bringing Non-State/Local Justice Networks Back In' in Timothy Donais, *Local Ownership and Security Sector Reform*, (Geneva: LIT Verlag, 2008), pp. 63-64.

local owners, they can also be the most problematic, reducing reform to a thin veneer 'which fails to penetrate into society at large.'⁹³ This divorce of local ownership as it is often defined, elite fashion, and the wider society is best illustrated by the use of Portuguese as the de facto official language of East Timor's security and justice sector, despite its use by only five percent of the population.⁹⁴ The UN mistakenly acquiesced to this elite demand, and thereafter, fully supported it.⁹⁵ According to a UN representative in East Timor at the time, the UN caved because, 'we had to have great sensitivity to the Timorese leadership and no one questioned whether the leadership was anything other than the real leadership.' Consequently, USAID concluded that the use of Portuguese devastated any chance of there being a functioning justice and security sector.

Narrow conceptions of local ownership have

93 Timothy Donais, 'Understanding Local Ownership in Security Sector Reform', in Timothy Donais, *Local Ownership and Security Sector Reform*, (Geneva: Lit Verlag, 2008), p.9.

94 Although both Portuguese and Tetum are the country's official language, the truth of the matter is that Portuguese is the language of the security and justice system. In 2005, the UNDP Coordinator of the Judicial Training Center, the institution in which all members of the judiciary were to be educated, stated that only Portuguese will be used in drafting laws, training judges, and in the court system, as that was the policy of the Government of Timor-Leste. This policy was established despite the fact that one judge on the country's highest functioning court, the Court of Appeals, wrote all decisions in Tetum and that the Constitution explicitly stated that Portuguese and Tetum were official languages. The Coordinator went on to belittle Tetum, the language spoken most widely in Timor-Leste as "primitive" and "unfit" for legal use (Ibid). In a separate interview, the UNDP-paid legal advisor to the Minister of Justice, when asked why Portuguese was used when only 5 percent of the country could read the language, dismissively said, "Do you expect that in any country the little peasant can read the law?" David Cohen, *Indifference and accountability: the United Nations and the politics of international justice in East Timor*, (Honolulu: East-West Center, 2006), pp.103-104.

95 According to a UN representative in Timor-Leste at the time, the SRS was urged by his staff not to accede to the Timorese elite's desire to impose Portuguese for reasons of cost, practicality, and the certainty that access to security and justice would be seriously imperilled by the exclusive use of Portuguese.

negatively impacted on reform. In El Salvador, it has been argued that initially the slow movement of community groups, unions, NGO's and other civil society groups to determine their role in the process and the subsequent dearth of civilian specialists on crime, policing and public security planning have been linked to the Ministry of Public Security's ad hoc reform policies. More seriously, it can be counterproductive and dangerous. The UN's fatal political error regarding Timorese local ownership for example, not only contributed to the police and justice sectors ineffectiveness and failure, but according to the EU 'politicians' ignorance and denial of the validity of cultural practices... contributed to the current civil conflict'.⁹⁶

Conversely, when and where broader societal actors have been included in the reform process, reform has run smoother.⁹⁷ In Sierra Leone citizens not only bought into the concept and UK engagement in the country, but also were brought into the reform process. Adrian Freer, former Commander of IMATT has been quoted as saying 'there was no appetite to go back. It worked because the local population wanted us [the UK] to be there.' He argues that without this support and engagement Sierra Leonean reform would 'not necessarily be the success story it has become'.⁹⁸ Similarly, eventual inclusion of civil society in reform is deemed to have been successful in El Salvador.

The 'local' in 'local ownership' must therefore be broadly defined.⁹⁹ While the development of a core

96 EU Report, 'Rethinking Timorese Identity as a Peacebuilding Strategy', June 2007, p27

97 According to Otwin Marenin, in El Salvador one of the reasons for success was the (eventual) emergence of civic society stakeholders in reforms. DCAF Occasional Paper 7, *op. cit.*, p.69.

98 Quoted in Peter Albrecht and Paul Jackson, *op. cit.*, p.183.

99 Local ownership discourse 'has yet to provide an adequate answer to the question of which locals. To the extent that this question gets addressed at all, the positions tend to fall along a minimalist-maximalist continuum. The minimalist response suggests that those locals who really matter are national-level political elites, who are presumed to possess both the capacity to implement reforms (with outside support) and the legitimacy to ensure broad public support

group of governmental actors is essential due to the often high turnover of international advisers, research suggests a broader collaboration and consultation must be sought from civil society groups,¹⁰⁰ community organisations, society elders, sidelined groups and minorities (particularly in contexts where they have previously been mistreated),¹⁰¹ and the wider population. Indeed the principle only fulfils the promise of its name when this plethora of stakeholders are included.

This must take a high priority in post-conflict societies, which are often divided and still face physical resistance and very active domestic spoilers. All these actors must have confidence in the police and expectations that they will serve the public.

But what does this mean in practice? Instead of local support for donor programmes there should be international support for programmes initiated by local actors. Inclusion should where possible, be meaningful, starting with the design and conceptualisation of reform. Robert Perito has berated arrogant international efforts in Iraq claiming that 'the practice of Americans drafting plans for Iraqis to sign and then ignore must end.'¹⁰² But ownership should also aim for the management of training and recruitment courses, and the implementation of policies and procedures. In

for such reforms. Maximalist arguments, conversely, insist that SSR needs to have a far broader local constituency, with domestic civil society in particular cited as a key set of local owners.' Timothy Donais, 'Understanding Local Ownership in Security Sector Reform', *op. cit.*, p.9.

100 To digress from the case studies briefly, according to Timothy Donais, the absence of serious civil society involvement in South Africa goes a long way to explain the gap between what widely held to be an exemplary SSR process and the ongoing reality of persistent insecurity for many South Africans." *Ibid.*

101 If the ears of reform are closed to calls from women for example, the legitimacy of reform as locally owned is called into question. Only through their inclusion can reform be relevant to and geared towards the wants and needs of the main stakeholders in policing.

102 USIP Briefing, 'Reforming the Iraqi Interior Ministry, Police and Facilities Protection Service', February 2007, *op. cit.*

short, reform should be informed at every stage of the process by local actors. The following three examples provide a snapshot of local ownership by three local different actors (the general public, police officers, civil society groups) in the design, management and implementation of reform efforts.

One of the most effective ways to increase local ownership is to begin with a full-throated national debate over police reform, its objectives, and methods. Only then can strategies and programs that progressively tackle those wellsprings be initiated; surely one of the core means to support effective police development.¹⁰³ It is shocking that the UN still does not know either the *level* of crime or the most prevalent *type* of crime facing the Timorese people.¹⁰⁴ Without understanding community security concerns reform cannot

103 Importantly, including the population in the process as early as possible goes a long way to repairing the contentious relationship between society and the police which is often a major problem leading to police reform in the first place.

104 "The most common crime experienced was land grabbing (28%), domestic violence (20%), physical attack resulting in injury of the respondent or one of their family (18%), and theft of personal property (16%). The Asia Foundation Report, 'A Survey of Community-Police Perceptions: Timor-Leste', 2008, p.8. When initially questioned about crime in Timor-Leste, two senior UN officials unequivocally stated that there is very little crime in the country and both offered UN police statistics as proof of the relative peacefulness of the country. However, according to the Asia Foundation survey, Timor-Leste labours an annual victimization rate of 23 percent, which indicates that there is a serious problem with safety and insecurity. When informed about the survey's findings, with which neither official had been familiar, one categorically dismissed the findings. First, he insisted that the victimization findings had to be incorrect because he had been in the country, primarily Dili, for a few weeks in 2008 and his professional judgment told him that crime was low. Thereafter, he proceeded to deny the need to reconcile the discrepancy between the conflicting UN and Asia Foundation statistics. His refused despite his acknowledgement of the vitality of Timor's non-state/local justice and security networks, whose vitality would tend to lower reported rates as crimes/disputes are diverted to the networks. When pressed further, he was adamant that unreported domestic violence accounted for whatever discrepancies might exist between the Asia Foundation and the UN's statistics. Regrettably, he did so without knowing that the Asia Foundation's survey had identified land disputes/seizures as the most prevalent category of reported crime, which affected approximately "11 percent of the national public... in the past year" *Ibid.*, p.39.

be effective. Indeed it has been suggested that in Kosovo western European priorities such as human and drugs trafficking was overly focused on reflecting their national own national security issues rather than security threats to Kosovo. National stakeholders should therefore engage in a dialogue about pressing security issues with relevance to the police. A number of tools have been utilised to effect this, from local forums to citizen surveys.¹⁰⁵ Sierra Leone authorities initiated a security sector review which involved asking a cross-section of society what they believed were the key threats to which the security sector should respond. This one-off review was supplemented by the establishment a network of Provincial and District Security Committees (PROSECs and DISECs) which brought together security officials with local government officials and representatives of local civil society, and created channels to communicate their concerns back to the Office of National Security in Freetown. This process simultaneously created a supply of information from civil society and a demand for that information in central government policy making.

Secondly, the creation, in Iraq of a Ministry of Interior Ethics Center was designed to promote ethics education at institutional level and in the field. 'Prior to the creation of the center, ethics education was conducted by American police trainers relying on curriculum developed by the United Nations. As evidenced by continued accounts of corruption and abuse...these efforts had little impact. So to increase Iraqi 'buy-in' to ethics education, Coalition advisors offered to support the creation of an ethics center that would be staffed by Iraqi police officers with experience in the field as well as in education.'¹⁰⁶ Management of 'their' ethics centre or other examples of ownership over reform measures will build confidence, skills and commitment to reform;

105 The Vera institute has suggested that citizen surveys can act as an interactive tool in the implementation of reform programs. Surveys can measure the state of police-citizen relations prior to the implementation of a reform, can suggest mid-stream corrections during the implementation process, can gauge the impact of the reform, and can suggest reasons why the reform effort was or was not successful.

106 Strategic Studies Institute Report, 2008, *op. cit.*, p.34.

rather than an external imposition which can be negatively perceived in many contexts, reform is more likely to be accepted by the stakeholders involved.

Implementation of reform should also to a large extent involved national actors. In Sierra Leone, identification of domestic violence as one of the most salient issues for local communities led to specialised training, including female and child-focused victim support was assigned a top police priority. Inviting civil society groups, community leaders and other society representatives to participate in police training was highly successful and has proven so in a number of other cases.¹⁰⁷ William O'Neill argues that 'having community leaders come to the police academy to speak to the trainees, participate in role-plays and training exercises, and just mingle at breaks and over lunch is a terrific idea which should be emulated everywhere'.¹⁰⁸

The benefits of such an approach are clear. It is therefore to be expected that an increasing number of GPPC members and organisations are coming round to this perspective. Nonetheless, whilst normatively preferable, the case studies suggest it is often far from practical. Gordon Peake and Otwin Marenin berate the GPPC for 'festooning these reports with standards and expectations... which are far beyond the capacity of local states, communities, or the police to implement'¹⁰⁹ Local ownership is a case in point.

To a greater or lesser degree, excluding perhaps El Salvador, the states under consideration were weak in government, governance and civil society. Domestic capacity to initiate, develop and manage reforms has been degraded by years if not decades of conflict and turmoil. Sierra Leone cautions however against too quickly assuming international actors must conduct reform from start to finish. Despite weak government, one of the most positive elements of the UK intervention was the 'evolution

107 Guatemala and Haiti are just two examples.

108 HURIST Report, *op. cit.*, p.30.

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of the role of most UK staff as advisers.' Local officials were included as leaders in the process of SSR. Consequently, 'Sierra Leonean staff [were] endowed with confidence and provided the necessary space to build institutions in a politically tense environment.'¹¹⁰ Nevertheless, local ownership may necessarily need to be circumscribed. In such situations, where local ownership potential is weak or cannot be found, it is essential that ownership is created.¹¹¹ Capacity-building should provide the skills, expertise and resources to effectively engage in reform. The OECD agrees 'if local ownership of security system reform processes is taken seriously, international support should help increase the capacity of partner country policy-makers and civil society to analyse, understand and debate their own security problems'¹¹² Local ownership at the outset of a peace operation should not necessarily be at the same level as the ownership a couple of years into the process. Rather it suggests that local ownership must be progressively increased day-by-day and be one of the principal objectives and *outcomes* of SSR programming. Donors 'ought to support the progressive acquisition and exercise of substantive, managerial and political skills and techniques on the part of all local owners so that they can successfully achieve the goals of the justice and security initiatives they have decided to undertake'.¹¹³ In Kosovo the expansion of local ownership took too long and led to a deteriorating relationship between international actors and the domestic government.

A mitigating factor however is that deep and meaningful local ownership from design to implementation assumes a certain consensus amongst national stakeholders that very rarely exists in socially fragmented fragile and post-conflict societies. While divisions in East Timor existed between government and societal conceptions of reform, differing views of what reform meant in practice existed within the Sierra Leone national elite itself. Conflict situations present an even

more irreconcilable case. Where political authority remains highly contested and reform is deeply intertwined with a politically charged state-building effort, ownership can be extremely dangerous as Iraq bloodily testifies. Until mid 2005 MNSTC-I imposed a reform strategy on the Iraqi Police and MOI, but following the January 2005 elections MOI minister Bayan Jabr began to impose his will on the MNSTC-I reforming schema, pursuing Shiite agendas and re-forging the police commandoes into a largely sectarian force. Ownership is not a good in and of itself. Benefits of local ownership, such as increased donor commitment, sustainability and so forth can be outweighed in certain cases. Using the metaphor of a car, Timothy Donais therefore argues that 'while the overarching principle may be to have locals in the driver's seat, if the consequence is multiple factions fighting over the steering wheel, the results may well be disastrous.'¹¹⁴

Reformers must make detailed assessments of the societal context, relevant actors and potential for local ownership. The principle must be conditional, not on whether perceptions of reform adhere to those of donors, but on the issue of whether ownership results in reforms inimical to peace-building, the stability of the country or the security of the ultimate stakeholders, the citizens. In many cases there is simply no viable alternative to externally led reforms. This is not to argue that local involvement in reform should be abandoned in totality, merely that it must be circumscribed, limited perhaps to consultation in design and cooperation in implementation. Paternalistic this may be, but the risks as Iraq demonstrates, are simply too great sometime.

Include the police

One of the most surprising lessons to emerge from the case studies concerns the target of reform; the police. As one of the main stakeholders in the reform process it is remiss to exclude them. The inclusion of the police may seem counterintuitive; there is a logical inconsistency in reform which aims to engage seriously with police ownership of the reform process and thus relies on what already

¹¹⁴ Timothy Donais, 'Understanding Local Ownership in Security Sector Reform', *op. cit.*, p.10.

¹¹⁰ Peter Albrecht and Paul Jackson, *op. cit.*, p.7.

¹¹¹ DCAF Occasional Paper No.7, *op. cit.*, p.58.

¹¹² OECD Report, 2004, *op. cit.*, p.35.

¹¹³ Eric Scheye, 2008, *op. cit.*, p.61.

exists locally when as Charles Call notes, ‘reform, by its very nature presumes that what exists is inadequate and requires modification’.¹¹⁵

Yet the behaviour of the police towards reform can be a crucial variable in determining the success or failure of reform efforts. ‘Unless a foreign police force is seriously committed to reform,’ argues David Bayley, ‘it will not occur.’¹¹⁶ Quite understandably, the police have proven one of the institutions most resistant to reform, particularly if they feel that the transformation is overly focused on human rights and therefore perceived as soft on crime. Police feel sidelined and frustrated that they know best and are ignored. Captain Veton Elshani recalls the frustration of KP officers in the Pec/Peja area in 2000: ‘I was pushed aside by foreign police officers who did not know Pec/Peja or the language or the way things work here’.¹¹⁷ Likewise, in East Timor, because much of the PNTL were sidelined from the process of police development, relations between members of the police service and UN police were and still are poor at best. The PNTL leadership has become increasingly vocal in its quarrels with UNPOL.

Inclusion of the police in the reform effort unsurprisingly enhances their receptiveness to reform. Consultation, to find out what works, what doesn’t, what they is the most essential element of this; ‘No plan or mission will be implemented as desired unless the motivations and views of the implementers are included in the design, advocacy and execution of reforms.’¹¹⁸ In El Salvador, one of the key elements of success in El Salvador was the inclusion of the police in the national security strategy from the beginning.¹¹⁹ Likewise consultation and open communication between management levels ‘were crucial in getting SLP officers to buy in to the new service that was being

established.’¹²⁰

Consultation and receptivity to police views should be formalised within the police structure. In Sierra Leone for example, the formation of the Executive Management Board (the highest decision-making body in the SLP) was put in place and a culture of open debate around decisions and policies was instituted ‘that proved invaluable in creating a sense of community among SLP’s leadership.’ Furthermore, this developed confidence amongst the SLP. Kadi Fakondo, Assistant Inspector-General of the SLP noted that ‘We knew what we wanted, we were advised, mentored, we were very confident at that level...The fact that they consulted before taking anything to the Police Council [the highest decision-making body for the SLP] made all the difference.’

Undoubtedly resistance will still be encountered from those unwilling to adapt. Those officers supportive of reform must therefore be identified and cultivated. As in Sierra Leone, they should be handpicked for management positions and tasked with moving the force forward and garnering support. In this regard, it is worth quoting Kadi Fakondo again: ‘There were people that were benefiting from the system, how it used to work. We were yearning for change, we had an idea about what change should be...It was the responsibility of those who wanted change to lead the way.’ Police are often far more receptive to other police than external experts who, it is believed wrongly or rightly, know little of the day to day workings of a police force.

115 International Peace Academy Report, 2002, *op. cit.*, p.4.

116 David Bayley, 2001, *op. cit.*, p.38.

117 RUSI interview – KPS official.

118 *Ibid.*, p.57.

119 *Ibid.*, p.69.

120 Peter Albrecht and Paul Jackson, *op. cit.*, p.37.

2.2 Technical Capacity Building

The solid basis of police reform

In the aftermath of widespread conflict and civil war, or in cases of new state-building, police forces lack even the most basic supplies. According to a General Accounting Office report in September 1992 the PNC began its work with severe shortages of uniforms, radios, side arms, batons, vehicles, and fuel, and investigative tools such as fingerprinting equipment. Severe shortages of equipment and hardware not only initially crippled the effectiveness of the police forces under consideration, but also weighed heavily on the morale of these forces. A DPED survey of KP officers in the field during the summer of 2000 found that, in many police stations, the newly trained officers felt dissatisfied with their working conditions and equipment. This can further compromise a police forces ability to effectively conduct its duties and establish a positive reputation. To the contrary, according to one El Salvadorian account, many posts lacked handcuffs, forcing them to restrain individuals they arrested by tying their thumbs together with the prisoner's shoelaces, 'a practice historically associated with the security police and death squads.' Indeed, human rights abuses can often be an inadvertent but still serious consequence of inadequate numbers and quality of police cells.

Without materials such as pens, notebooks and uniforms, a police officer cannot adequately conduct his duties. With adequate materials and technology however, a police force may simply be more effective at repression, corruption and predatory practices. In the wake of conflict, authoritarian government, or fragile state contexts, personnel are frequently incompetent, corrupt, tainted by past malpractice or participation in armed activity. For David Bayley, attributes of an effective, responsive and rights respecting police force do not depend on technology. Rather, what is required are 'changes in attitudes, orientation, and behaviour. This is not to say that each cannot be assisted by technology, but simply that technology is not a substitute for deeper cultural change within the police... It turns out that what is easiest to change – namely technical capacity – is the least important; what is hardest to

change – namely institutional behaviours – is the most important.' Police reform, rather than police building must inevitably concentrate on the human material which collectively constitute the service.

Without adequate personnel and equipment a police force is unable to enforce and uphold the rule of law effectively or appropriately. Little wonder that police reform has often concentrated on these two 'bread and butter' issues.

Quantitative versus qualitative reform

'All policing reform must have as its final goal the provision of the internal security needs of the people' argues Bruce Baker. But whilst the establishment of internal security through the development of effective and legitimate police services is a key objective of reform efforts from El Salvador to East Timor, common throughout the case studies is a striking obsession with technical inputs and outputs. Mission objectives, strategies and tactics are frequently framed in numerical terms; the number of officers recruited, the percentage trained, or the amount of equipment provided. Even success, which eludes easy definition when related to issues of policing,¹ is measured through the cool arithmetic of output numbers; a UN report on East Timor's internal security dominated almost entirely by outputs; 300 rapid response team officers instructed, two joint police community projects established and so forth.²

Measures to reform the police and provide an effective service to prevent crime and provide security do not obviate the need for sufficient figures of technical inputs. As suggested above,

1 Success is naturally subjective depending on the perspective, values, and objectives of the individual or organisation concerned. A human rights perspective for example will measure success by decreases in torture of arbitrary arrest.

2 United Nations General Assembly Report (A/58/636), 'Performance Report of the Budget of the United Nations Mission of Support in Timor-Leste for the Period from 1 July 2002 to 30 June 2003'.

lacking equipment can seriously hinder a police force. Likewise, adequately sized training programs must cater for the large numbers of holdover personnel that need retraining, as well as the influx of new personnel.

Over-concentration on quantitative metrics is deeply problematic however. US Army Lieutenant General Martin Dempsey, head of the Multi-National Security Transition Command in Iraq declared 2006, Iraq's 'Year of the Police'.³ December ended with the completion of a number of MNSTC-I programs; to train and equip 135,000 members of the Iraq Police Service, 24,400 members of the Iraq National Police (constabulary) and 28,400 members of the Border Police. Impressive achievements granted, but as Robert Perito argued in his testimony to the House Armed Services Committee in March 2007, such accomplishments: 'masks a troubled reality in regards to the loyalty and quality of Iraqi security forces...The Iraq Police Service is unable to protect Iraq citizens. Criminal gangs operate with impunity, cooperate with insurgents for profit, and engage in smuggling of oil and antiquities. The Iraqi National Police, a patchwork organisation of commando-style, counter-insurgency units, harbours sectarian death squads. The Border Police is unable to stop infiltration of terrorists, arms and contraband across Iraq's porous borders. Iraqi police often are intimidated by or collude with insurgents, militias and criminals. Iraqi police units normally are at half of their authorized strength due to attrition, chronic absenteeism and the corrupt practice of including "ghosts" on the rolls.'

Concentration on quantitative building has contributed substantially to the poor record of reform in many of the case studies. Col. Jasim Arabeeya, 37, station chief for the Adala district of Kirkuk has argued that the foundation upon which the Iraq police service was built was unstable. 'Pretty much what the coalition did is they hired people not depending on their background. They

3 David I. McKeeby, 'In Iraq, 2006 is the "Year of the Police," says U.S. General', *America.gov* 24 March 2006. <<http://www.america.gov/st/washfile-english/2006/March/20060324145118idybeekcm0.5733606.html#ixzz0KaBCKOhB&D>> accessed 5 December 2008.

only wanted numbers.' 'That' he said, 'is the problem.'⁴

In short, input and output measures fail to capture the complexity or nuance of a reform process. They should not be confused with outcomes, in so doing, little is known of the quality of police and therefore of their effectiveness in tackling everyday crime or providing security to the population. Neither can be measured by the number of officers trained or the quality of the equipment offered. Quite clearly police reform is not a numbers game. High input figures, whether concerned with necessary materials such as uniforms and firearms, or expenditure enough to recruit and train thousands of police officers, do not equate to successful reform. Yet too often reform is defined as quantitative building, rather than qualitative development.

The lack of a fair, effective and professional police service can be disastrous, not only failing to control criminality and low level violence, but exacerbating wider social tensions and in some cases leading to conflict. 'Predatory state policing, combined with unjust customary policing and violent non-state policing,' Bruce Baker argues, exploring the Sierra Leonean police reform effort, 'were all contributory factors to the outbreak and continuance of conflict.'⁵ State failure to provide public goods of justice and security delegitimises formal institutions, fosters anti-government sentiments or can give rise to fractured security provision based on ethnic, tribal or political affiliations.

Informed by the five case studies, experience strongly suggests a focus on quality technical capacity building is necessary for a successful and effective police force. Increasing the quality of police equipment, recruitment and training practices is essential for an effective police service.

4 Anita Powell, 'Kirkuk combats corrupt police, wayward force', *Stars and Stripes* 30 November 2005. <<http://www.stripes.com/article.asp?section=104&article=33337>> accessed 12 May 2009.

5 Bruce Baker, 'The African post-conflict policing agenda in Sierra Leone' *Conflict, Security and Development* (Vol.6, No.1, April 2006), p.32.

Box 2: The false hope of police numbers

Throughout the police reform missions under consideration there is a striking obsession with the number of police officers the force should consist of; a domestic counterpart to the ‘painful arithmetic of stability operations’.¹ Calculating the ratio of police officers to population appears to be a favourite past-time of the nation-building intelligentsia. For example, the PNC’s 18,000 personnel equate to one policeman per every 377 Salvadorians, well within the UN’s recommended ratio of 1:450, considered the minimum police presence necessary to maintain order. Some say 1:400 however, and it is this numerical wrangling that is the problem.

Historical precedent suggests that the number of police officers in a society does matter – to an extent. According to a previous task force on police ceilings, ‘the average police:population ratio in peacetime situations is 1:400. In conflict situations, using international averages, it is calculated at 1:300.’ Problems arise however when such arithmetic becomes a substitute for the difficult task of reform. In El Salvador for example, the prevailing impression from interviews and from survey data is the PNC still is far from meeting the performance standards that are expected of the new force. The problem however was cast solely as a problem of numbers; ‘El Salvador’s 1:377 police-population

¹ James Quinlivan, ‘Burden of Victory: The Painful Arithmetic of Stability Operations’, 2003. <<http://www.rand.org/publications/randreview/issues/summer2003/burden.html>> accessed 3 February 2009.

ration probably is too low for a lower/middle income post-conflict society characterised by a culture of violence and a high (37%) poverty rate.’ Similarly, in Iraq, coalition targets for the IPS began in late 2003 at 75,000 based on a target ratio of 1:300. Subsequent revisions by the CPA led to the target rising to 90,000 in the spring of 2004, and then following the April 2004 Sunni Uprising and in the face of an emerging insurgency the IPS figure was raised to 135,000. Granted, a disintegrating security situation necessitates increases in security forces including the police. Nevertheless, in June 2004 the state department reported that there were 83,798 IPS on duty, however only 26,876 (32%) had received any training, which in any case only amounted to a coalition run 3 week transition and integration programme.

The difference between an untrained, ineffective, corrupt or abusive police force with a ratio of 1:300 will be little different to a similarly constituted force with a ratio of 1:400; indeed the only difference may be the number of times the community comes into contact with a force of such inadequate quality. Numerical arithmetic is a poor way to measure the success or failure of efforts to build an effective police force or suggest methods to further improve it. It is vital therefore that although the number constituting a police force is duly considered, reformers must not be blinded by the arithmetic involved in determining the final figure.

The pitfalls of short-term force generation

There is a tension in post-conflict, conflict and fragile state contexts however, between lengthy, comprehensive programs, and the delicate security and political context with which reformers must contend. Surges of criminality in post-conflict contexts, or widespread violence and anarchy in

conflict situations give rise to political and societal pressures to recruit, train, equip and deploy police officers quickly. Quite often however, police reform missions have sacrificed quality on the altar of political and security expediency. Ambassador Paul Bremmer, for example, arriving in Baghdad, a city of seven million, discovered the capital had only 4000 poorly trained IPS armed with pistols. With the support of General Sanchez’s CJTF-7, a short term force generation campaign was initiated.

Nicknamed '30k in 30 days', the initiative recruited 30,000 police officers in one month.

There is an ongoing debate within the GPPC over this tension. Some scholars and practitioners such as Gordon Peake maintain that in certain cases, security pressures trump the requirement for qualitative reform. He argues that a feature of Kosovo's police construction project with resonance elsewhere was the short instruction period. Crucial to the mission's success in his opinion was that 'In an effort to create a police force as speedily as possible and get police out onto the streets, the training period for KPS recruits was abbreviated'⁶ Granted, in a context where a police service is non-existent or has been disbanded, recruitment, training and deployment must be established quickly. Considerations of quality, effectiveness and sustainability are luxuries that cannot be afforded.

Beyond this stage or in examples where the effort is focused on reform of a pre-existing force, the tension cannot be reconciled satisfactorily; long term competence should not be traded away for short term gain.⁷ There is little alternative to lengthy and comprehensive recruitment, training and equipment programs even where additional and rapid increases of police are requested. Police reform missions are littered with the debris of quick fix programs; police officers unfit for purpose, ineffective in their duties, or who disappear never to be seen again. Quick fixes paper over reform cracks that merely require more attentive restoration at a later date, both wasting resources and proving time-consuming. Plaguing the new police force of El Salvador for example, was the formation of 'parallel' units which duplicate specialised divisions of the newly reformed police. In El Salvador, Public Security Minister Hugo Barrera formed several special units outside of institutional channels, comprised largely of individuals who had not passed through the new police academy, which

6 Saferworld Report, 2004, *op. cit.*, pp.23-24.

7 Thereafter, with a police force largely on the streets the period must be extended. In Kosovo therefore, the duration of basic training was initially 8 weeks, driven by the demand to put officers in the street as soon as possible, but it has since been extended to a fairly rigorous 20 weeks.

reported directly to him. One such unit, wholly duplicated the function of the anti-kidnapping squad of the PNC's Criminal Investigations Division. Barrera reported the impetus for the unit was the need for a prompt and effective response to kidnappings given the PNC's lack of experience. Reports of shadowy activities meant many were later dissolved after UN pressure. Likewise, '30k in 30 days' was marked by an appalling lack of vetting criteria. Those equipped and only minimally trained unsurprisingly included many former criminals and militia members. This extreme and ill considered measure, justified by the exigencies of the moment would have second order consequences damaging the reputation of the IPS and the Coalition, and exacerbating tensions and violence between Iraq's communities. Despite this evident failure, it is depressing that reformers and the international community more broadly, continue to call for short-term Iraqi force generation.

Reform missions must therefore avoid the mistakes of short term force generation. If the aim of police reform is an effective, rights respecting, professional police force, there is no alternative to the slow and methodical job of training and recruitment.

Quality reform, quality police

Equipment

Highlighted above, police reform efforts frequently confront situations where police hardware, infrastructure and equipment are in poor condition or simply non-existent. Crippling effectiveness, undermining morale and leading to human rights abuses, these tangibles of policing must be provided quickly by reformers.

Infrastructure and equipment capacity-building is considered the easiest part of reform. Granted, building infrastructure is relatively easy compared to the intangible construction of police institutions. But while the task of rebuilding physical infrastructure or providing equipment is often disparaged as the least important part of police reform or rebuilding, it is an important foundation upon which further action can be built. If vehicles, uniforms, equipment, police stations and

accommodation are in short supply, deployment of a police service rapidly expanded through recruitment and training is not possible. By 2005 for example, logistical problems including chronic shortages of police accommodation and short supplies of equipment meant that despite the SLP reaching full capacity at 9,500 officers, deployment outside of the capital Freetown was estimated at a mere 60%. Only through a massive investment in vehicle fleet and nationwide communication systems has deployment been possible.

The building and repair of police stations, or the provision of vehicles and equipment, and their deployment nationwide are readily identifiable mark of progress, particularly in the aftermath of widespread disruption to the police force. Simple measures such as the provision of uniforms can be important emblems of the reform process, contributing to the re-establishment of police credibility and raising public interest and confidence. Before – and during – the Sierra Leonean civil war, individuals without uniforms would make arrests, claiming to be police officers, even when they were not.

The issue of technocratic capacity-building and police visibility cannot be overemphasised in a context of widespread insurgency or civil war. Police forces represent the local face of the government. State legitimacy can be largely dependent on them. In Iraq, this role played by the hardware of reform was clearly understood by the insurgents who by January 2005 were complicating the building and refurbishing programme by interdicting the projects themselves and killing or intimidating the expatriate and Iraqi contractors. Within the space of just four months, the main Baghdad police academy was attacked twice, in December 2008 killing fifteen people and wounding 45 more, and again in March 2009 killing 30 people and wounding over 60 others, constituting one of the worst attacks in many months.

Too often police hardware has been supplied without due consideration of its utility. Equipment for example must conform to the duties the police are tasked with and the situations they are

challenged by. Paramilitary versus community police for example clearly require varying levels of equipment. Similarly, conflict versus post-conflict necessitates different capacities; Iraqi police rapidly became one of the preferred targets of the insurgency which necessitated a change in the equipment provided. Comprehensive reform of this type improves the capability of the police to conduct urban, rural and border patrol operation, investigations, and other specialised functions. Suitable equipment is not always the most sophisticated or technological however. Simpler measures may be more appropriate. Indeed advanced equipment can prove unsustainable, both in financial and technological terms as the inability to replace SLP vehicles in 2006 adequately demonstrates. Analysts have therefore criticised the repair and replacement of hardware as ‘one of the biggest challenges facing the SLP’.⁸

Recruitment

In certain circumstances and at certain times, especially where a police force does not exist or is woefully understaffed as in Kosovo and East Timor, recruitment is one of the most important measures to be undertaken. However, recruitment remains an issue of importance far beyond the initial influx of recruits following the re-establishment or creation of a police force. The effectiveness and strength of recruitment procedures can largely determine the quality of individuals which are to be shaped and moulded by training. Reform must therefore transform nepotistic, corrupt and biased recruitment practices which the case studies suggest are often the hallmark of police forces requiring change.

The recruitment process must be based on objective and fair criteria in order to ensure the police service is composed of the most qualified officers. Recruitment procedures and mechanisms must be clear, transparent and publicised in order to build public trust. The police charter that was published in 1998 by the President of Sierra Leone emphasised as a matter of priority that ‘personnel policies of the Sierra Leone Police will be the

8 Peter Albrecht and Paul Jackson, *op. cit.*, p.144.

same for all members, regardless of sex or ethnic origin. All recruitment, (as well as training, posting, promotions and opportunities for development) will be based on a published equal opportunities policy.' It is never possible to simply legislate reform however. Even after recruitment policies have changed, in many cases ethnic, tribal and political affiliations have continued to matter.

In order to ensure a quality police service, 'A three-step screening process...should be used when creating a local police force. Step one involves initial selection (and screening), training and recruitment; step two is a probationary phase, in which performance reports and further background checks are made, while step three is a certification phase, following further background checks and performance monitoring.'⁹ The recruitment process and criteria must be fairly rigorous. In Kosovo, a successful screening process was adopted comprised of an oral interview, a written exam, psychological test, medical exam, physical agility test, and a background investigation. While the majority of these are standard and problem free, the case studies identified a number of issues with the written exams and background investigations and the criteria used within these sections of the recruitment process.

Educational standards and examinations to ascertain levels in individual recruits have been the main focus of reform efforts. Police reform reports, assessments and articles decry and applaud in equal measure the educational standards required for entry into the various forces under consideration. Understandably so, without an acceptable standard of education police are unable to adequately perform their functions. However, educational standards are context dependent. Post-conflict and fragile state societies with more developed educational systems can afford the luxury of relatively robust educational criteria, which in Kosovo amounts to completion of high school. In less developed countries, a difficulty common amongst some of the police reform missions under consideration, concerned difficulty finding educated

and capable citizens for enlistment, a problem most acute in conflict and post-conflict societies, where schooling facilities have been disrupted. Educated recruits are essential for a quality police force, but in such cases, an uncompromising attitude to high educational standards is unrealistic, too few citizens would qualify and could potentially lead to a severely understaffed police force. Dropping the requirements, such as in Sierra Leone where it was decided academic qualifications be lowered to the equivalent of grade five, is the lesser of two evils.¹⁰

At a minimum however, it is necessary that recruits are literate.¹¹ There is a curious neglect in many reform missions which fail to identify this crucial challenge to reform. In contexts where literacy rates are extremely poor, a situation facing states failed for many years and decades, recruitment criteria cannot be dropped further; without adequate literacy levels a police force cannot perform even basic functions, from report writing and the recording of critical information, to effective communication.¹² Even training is compromised. While this issue illustrates the generational nature of building an effective and professional police service, short-term measures can partially overcome this challenge. For a number of reasons, including rural representation in the police service, as well as including citizens that may have the right aptitude but lacked a formal education, it is preferable that recruits are offered comprehensive

10 The importance of training in these situations is clearly more important.

11 In Sierra Leone, the issue of illiteracy has equally been a concern, and even as the issue is being addressed, and has been since the early 2000s, it is likely to remain an obstacle to developing a professional police force for many years to come. By the end of the war, it was estimated that 1141 sworn police officers – 17.69% of the force – were illiterate. In turn their inability to 1. read and write; 2. adjust to changing social, economic and political conditions; 3. understand the complex nature of human behaviour and police work; 4. communicate effectively; 5. understand modern technology and 6. the lack of confidence in them by members of the public made them stand out as the most unproductive group within the force.

12 Problems can further cascade down the criminal justice chain; lacking the ability to write reports restricts the evidence that can be used to prosecute criminals. Illiterate officers risk permanent relegation to sentry duty.

9 Kings College London, 2002, *op. cit.*, p.52.

literacy courses before formal training. In June of last year, coalition soldiers opened a literacy program to 500 Sons of Iraq members in four sub-districts of Hawijah, Iraq. The course, teaching Iraqi males ages 18-30 how to read and write, prepares participants for the application process for Iraqi Police and Army candidates. Such programs are no doubt costly and time-consuming, but they are also highly beneficial on a number of levels.

Vetting of recruits to determine their background, present loyalties and future intentions is of fundamental importance for a reforming police service. Lax screening procedures have frequently led to the inclusion or holdover of criminals, discredited police personnel, human rights violators, or anti-government forces. Bad apples can corrupt an entire cart, passing on old behaviour patterns to new recruits. According to the Jones report, police officers reinstated from the Ba'athist regime, were often unreliable.¹³ Likewise ex-combatants or insurgents can bring with them a counter-productive militiamen mentality. As the example of El Salvador demonstrates, even more problematic is the 'roll over' of entire units. In 1993 numerous investigators were transferred to the new PNC from the Anti-Narcotics Unit (UEA) and Special Investigative Unit (SIU) of the previous force. The transfer infected the new force with numerous problems, from human rights abuses to criminal conduct. The rolled over personnel performed poorly, resisted further training changes by blockading themselves in their offices, and finally resigned en masse. Despite the possession of unique skills such as criminal investigation, old units bring with them a unity and cohesiveness that can hinder change. Legitimacy, crucial for new or reforming forces can rapidly disintegrate. Even relatively clean forces have been tainted by association with unsavoury elements. Always a fragile commodity, legitimacy, once lost, can be extremely difficult to build.

Whilst tainted police forces are often the product of imperfect vetting and recruitment processes, they also to a large extent reflect the social,

13 James Jones *et al*, *Establishing Law and Order After Conflict*, (Santa Monica, VA: Rand Corporation, 2005), p.

historical and cultural context within which recruits are embedded; societies with a history of warfare and high percentages of former combatants, economically fragile states where corruption is rife, and politically authoritarian regimes with no history of effective, respectful or professional policing. As so often with police reform, reality intrudes on idealism, dictating that while a pristine force is a desirable aim, it is not necessarily possible. As Rama Mani highlights, 'if the new police force is subjected to a rigorous vetting exercise, few if any may qualify due to their prior record.' Indeed one of the pressures on reformers and host governments concerns programs for Disarmament, Demobilisation, and Reintegration. Experience shows that the last letter in the DDR acronym is the most complicated. Few post-conflict societies have succeeded in reintegrating ex-combatants into economically viable activities. Many turn to crime¹⁴ or 'join the ranks of the disgruntled and belligerent unemployed'.¹⁵ More dangerous still, in societies still wracked by violent conflict or widespread political violence, the danger is existential. The focus on police reform in post-conflict societies means that policing remains one of the only professions in economies ravaged by war. Little wonder that governments often acquiesce to suggestions that demobilised combatants with partially relevant skills¹⁶ should be included in the force. Vetting should therefore not be too strict, but should at a minimum attempt to exclude criminals, ex-combatants *with records of war crimes*, and other violators of human rights.

Even this can prove difficult however. The issue of vetting in the various case studies, particularly post-conflict states, lays bare the implementation gap identified by Otwin Marenin.¹⁷ Conspiring against

14 Reports from El Salvador regularly note the composition of arrested gangs in El Salvador and strongly suggest that demobilized ex-policemen and soldiers are responsible for a high number of crimes, in particular armed assaults and robberies.

15 Rama Mani, 2003, *op. cit.*, p.13.

16 Former combatants often have qualifications for handling weapons and vehicles, alongside experience working in dangerous situations.

17 "The biggest gap in SSR framework is the almost complete

attempts to thoroughly screen recruits via an initial reference to records in El Salvador for example, confronted a post-conflict situation where many records had not been kept or had in fact been destroyed.

A counterpart to the issue of who to actively keep out of the police in examples of post-conflict and fractured reform is the issue of who to actively recruit. Where deep ethnic, sectarian or political divides have split societies or even driven past conflicts, reform should aim for appropriate balances within the service; police legitimacy can depend not simply on effectiveness, but also community representation. According to Gordon Peake, in Kosovo there is a 'strong symbolic value to the sight of...ethnic Albanians and Serbs patrolling together in common uniforms in areas where just a few years ago policing was intimately associated with the perpetuation of communal conflict.'¹⁸ Depending on the particular context, solutions can include regional recruitment centres (particularly useful in balkanized societies), recruitment drives in minority enclaves and areas, or minority quotas. The latter has occasionally led to resentment by other groups it should be noted. However it has been utilised to good effect in Kosovo, where unlike any other Kosovo public institution, the KP in 2009 can claim to be fully representative and fully integrated in its provision of police services to all communities.¹⁹ Whatever the method chosen,

lack of attention to the practicalities of implementation and the likelihood that things will not go as planned, which they never do." DCAF Occasional Paper No. 7, *op. cit.*, p.31

18 Saferworld Report, 2004, *op. cit.*, p.28.

19 According to the Living Standard Measurement Survey (2000), Statistical Office of Kosovo, the approximate ethnic composition of Kosovo is 87% ethnic Albanian, 9% ethnic Serb and 4% other ethnic groups. Ideally, therefore, the ethnic mix of the KP should mirror this picture, both in overall numbers and at each level of the organisation. The ethnic Albanian representation in 2009 is 84.6%, slightly less than the estimated proportion of Albanians in the population; the ethnic Serb representation in the KP is 9.9%, slightly more than the estimated proportion of the population; and the other ethnic groups make up 5.5% of the KP, slightly above the proportion in the population. The effort to reflect the ethnic mix of Kosovo across the rank structure of the KP also appears to be reasonably successful. Ethnic Serbs and other minority ethnic groups are comprise 13.5% of the supervisory and

criteria must still be adhered to as was the condition for the 50% of the new force initially reserved for the Kosovo Liberation Army. As William O'Neill makes clear, objective, clear and transparent hiring criteria must apply to all candidates regardless of political beliefs or ethnic/religious or racial background.

Recruitment in divided states is a fragile procedure that must be handled with great care. In El Salvador, exploiting weaknesses in the screening process, various 'old guard' forces tried to inflate their numbers in the police force. As Rachel Neild notes: 'The National Public Security Academy was supposed to receive lists of former military, PN, and FMLN personnel to use in screening candidates. The government failed to provide complete and timely lists of former military personnel, making it difficult to identify personnel who had been transferred into the PN from the army or from the demilitarizing National Guard or Treasury Police.'²⁰ Consequently, although local ownership is often normatively preferable, the importance of recruitment for police quality, representation and loyalty (of particular concern in conflict situations) means that for pragmatic reasons mean it is not always advisable. As such, other examples of reform have placed recruitment in the hands of international reformers, actors at an intellectual distance from domestic divisions, who are less likely to pander to ethnic, political or tribal loyalties. Results have been inconclusive however. Largely successful during the creation of the Kosovo Protection Corps, where the International Migration Organisation was tasked with screening recruits to prevent the KPC's politicisation/militarisation, in Iraq the approach largely failed.²¹ US officials conducting

management ranks (i.e. above the rank of patrol officer), just over the proportion of non-majority communities in Kosovo. Although the most senior ranks (General Lieutenant Colonel and Major General) are occupied by five ethnic Albanian officers, ethnic minority representation in the middle ranks is more than proportionate. Minority representation is 17.6% at the rank of Colonel, 16% at the rank of Lieutenant Colonel, 12.9% at the rank of Major, and 12.3% at the rank of Captain. With the exception of the rank of Lieutenant, the first three ranks also achieve more than proportionate representation.

20 WOLA Report, 'Themes and Debates in Public Security Reform: Police Recruitment', 2000, p.4.

21 Rama Mani, 2003, *op. cit.*, p.11.

the recruitment process encountered problems of infiltration because, as the former Iraqi interior minister Falah al-Nakib argued, the US simply 'didn't know who they were hiring'.²² There is thus a tension between allowing local ownership of recruitment, which draws on local actors' intimate knowledge of the society, and builds institutional capacity, and the risk that in fractured societies recruiters may be subject to bias, whether ethnic, tribal or political. Conversely, utilising international reformers as recruiters may be fairer, but lacking an intimate knowledge of the host society and communities may lead to poor oversight. It is not necessarily an either/or question; both can contribute. Recent programs in Iraq have been undertaken with the co-operation of both coalition and Iraqi forces.

Training - Moulding model police officers

Recruitment provides the raw material for a new or reformed police force, but the case studies largely concurred that personnel quality can still be variable. Training must be a core focus of efforts to shape the police force into an effective, rights respecting law enforcement institution. There is no short-cut to quality. Training must be lengthy and comprehensive. Expedited courses have frequently led to poor police capabilities, an inability to provide civil security, and lack of confidence in resisting pressures powerbrokers outside of the chain of command. Short training often reflects a lack of commitment by international actors to commit to longer timetables of reform and accept that in many cases it will take time before local forces have the capacity to effectively and efficiently police.

Similarly, with limited resources and limited time, there is a temptation to concentrate on training the upper levels of the police, applying a form of free market economic theory to police reform, assuming that experience and good practice will 'trickle down'. Much like the economic theory, experience suggests reality fails to match the theoretical model. This approach, adopted in Sierra Leone, placed a heavy emphasis on training the top cadre of the police force, 70 or so officers of which were

taken to the UK for specific training. Assessments have concluded that this resulted in pockets of excellence however; similar quality could not be found on the lower levels of the organisation. This was one of the conclusions reached in a DfID output to purpose review, which identified a crippling lack of management and supervisory skills at the lower levels of the organisation. Training must therefore be comprehensive, otherwise situations arise similar to that in East Timor where 'despite nearly 10 years of training by international forces, 56 percent of PNTL members say they lack training'.²³

Neither donor timetables nor domestic pressures should determine the length and thus quality of police training. If the aim of reform is to create a professional police force effective in providing security as a public good for all, then training must be extensive and comprehensive. In post-conflict or post-authoritarian contexts, where the police service may be nonexistent or needs to be completely disbanded, the force needs to be (re) built from scratch. In such cases, training will need to be basic. Even in examples where a police force continues to exist, such police forces may be weighed down by the psychological, debris of previous institutional procedures and operational practices resulting in little organisational or individual capacity to provide a meaningful public service. By the end of the war in Sierra Leone for example, the SLP had lost its ability to provide any semblance of normal, basic policing. It was clear to the reformers that rebuilding the police required attention to the foundations of basic policing. Likewise, all Kosovo Police Service officers – regardless of their previous experience are forced to undergo two rounds of training before official induction.

In Sierra Leone this requirement was conceptualised and operationalised through the development of a programme titled 'Back to Basics' (B2B). The skills that were originally outlined give a good impression of the training that was initially needed: completing entries in notebooks; interviewing skills and identifying key points; recording statements from complainants, witnesses and suspects; compliance

22 Michael Moss, 'How Iraq Police Reform Became a Casualty of War', *op. cit.*

23 Asia Foundation Report, 2008, *op. cit.*, p.36.

with rules of evidence and obtaining accurate descriptions of persons and properties. Common elements found during other examples of reform included 'crime scene investigation, handcuffing, use of force, report writing, traffic policing, weapons training, finger-printing, community policing, crowd control, election policing.'²⁴ However, as suggested above, back to basics could initially mean literacy campaigns to bring those below par, up to standard. The efficacy of future training could depend on it.

Basic police training is not context dependent, either in terms of security or culture. No matter the society, activities of crime scene investigation, handcuffing, or report writing, are fundamental requirements for a domestic security force. Notable however, is that some observers of the Sierra Leonean reform effort now feel that the training initiated by initial reform is now largely unsuitable. While it may have served a purpose earlier in the mission, it is now considered necessary for training drawn from countries with similar policing experiences and a greater understanding of the challenges facing the provision of security in Sierra Leone; greater participation of African civilian police, drawn from countries such as South Africa and Ghana are mentioned.

Beyond the core basic skills, the case studies made clear that training is too generic, blind to local particularities and thus fails to chime with the cultural, social or security realities of the host country. According to David Bayley, training is 'too parochial, reflecting the experience of the donors rather than the circumstances of recipients.' In Kosovo, the fact that the KPS remains weak on certain types of crimes implies that training is inadequate to fully equip officers with the skills they need to fight crime effectively. Despite problems with the training courses for the KPS, the same training curriculum was clumsily transplanted to other reform missions. The three week Training Integration Programme (TIP) Course for former Iraqi Police Service officers and the 8 (then later 10-12) week programme for new recruits designed by the CPA, was merely a reworked ICITAP course originally

designed for Kosovo. Of particular concern, the 8 week course focused on a 'democratic policing model' that was not contextually cognisant of the Iraqi 'street reality'.

Consequently, much training is wasted. Training must be tailored for each reform mission. This means that, for example, in conflict situations the police must be able to defend themselves. Little wonder that in early 2005 the Iraq training course was supplemented with a 3-4 week counterinsurgency package. More fundamental than mere tinkering to adapt to local conditions, training should be fundamentally oriented to the end-user; the local population's needs and concerns. From this standpoint, local ownership broadly defined is helpful. Consultations with local communities can identify salient issues and training to tackle these wellsprings of insecurity can be designed accordingly. This approach was utilised to great success in Sierra Leone, where rigorous engagement with local communities identified domestic violence as a salient issue. Specialised training, including female and child-focused victim support was assigned a top police priority. In contrast, with over half the population under the age of 21 in East Timor, police were offered customised training and skills 'to enable them to handle the problems, needs and challenges associated with young people.'²⁵ Of note, police officers may be inappropriate for such training; where possible space must be created for relevant NGO's to collaborate and contribute to the training effort. For example, the focus on juvenile issues in East Timor led to UNICEF taking a lead role

25 "Major initiatives included: Development of a police training manual on child rights and juvenile justice; Training of Trainers (ToT) at the Police Academy on juvenile justice and child rights to create a pool of police trainers with experience in child rights and juvenile justice; District level in-service trainings for police officers on juvenile justice and child rights. Trainings have varied from 1 to 3 days in length; Support to development of Standard Operating Procedures (SOP) on Juvenile Justice, and on Child Abuse and Neglect of children. The SOPs will be integrated in a Police Manual containing SOPs on a range of issues (arrest, detention etc); Support to development of a new Police curriculum, expanding it from 3 to 6 months. UNICEF has ensured that child rights and juvenile justice are integral parts of the new curriculum." HURIST Report, *op. cit.*, p.21.

24 Eirin Mobekk, 'Post-conflict Civilian Police Training', *op. cit.*

in the design and implementation of juvenile justice training packages.

Training must concentrate on more than simply operational requirements. Post-conflict police forces have a history of oppressive and predatory policing. Educating the police to be more technically efficient can simply increase police effectiveness at undermining civil society rather than supporting civil security. Training must therefore concentrate on what can broadly be termed 'police culture', which lies at the heart of police behaviour, 'affecting all they do by shaping the interpretations of events and justifications for their work'. Inculcating specific cultural values of professionalism, responsibility, human rights and an ethos of community service are necessary. Human rights, democratisation, civilianisation, and accountability were four watchwords of the Salvadorian police reform experience. Establishment of a new police training academy – the civilian-run National Public Service Academy (ANSP) was governed by a doctrine of minimal use of force and respect for individual rights. Cultural change is notoriously difficult however.²⁶ Inculcation of cultural and professional values cannot be a singly unit added on to the end of a training course, but must be reinforced throughout the process.

Frequently however, there has been a damaging disconnect between the various training programmes initiated by international actors. This was most evident in Kosovo where initially all KPS officers would undergo a uniformly standard basic training curriculum at the KPSS, only to be subjected to a variety of training standards in the field, conducted by UNPOL officers from any of the 54 contributing nations. Where divisions of labour exist, training must be complementary. Coordination must be high.

This raises the important point that while the structure of training programmes, or the content of training curriculum's are undoubtedly important, the case studies demonstrate that it is important

26 Initial training is merely a starting point. As will be discussed later such values must be reinforced continuously on the job.

to look at who is conducting the training. Given the extensive period over which CCSSP ran, the quality as well as number of trainers/mentors varied. At a general level, however, it appears that after the end of the contracts of Keith Biddle and Adrian Horn, IGP and CCSSP leader, respectively, trainers coming in were of lower ranks than during the early life of the project. It was an issue noted by JSDP advisers as well as the SLP itself. Lacking capacity, expertise and experienced personnel, it is quite evident that training programs should rely on international instructors. In El Salvador and Kosovo however, after a number of years, train the 'future trainers' were established.²⁷ In Kosovo a 12-week Trainer Certification Program was implemented by the OSCE. Hundreds of officers have since become certified trainers and assigned to various training programs. This is a compelling practice, ensuring the sustainability of local police forces and their academies, alongside increasing local ownership. 'International instructors are present, but they have downshifted from teaching lessons to playing an aiding and monitoring role in the classroom.'²⁸ Reformers should establish such programs as early as possible. They provide a cost-effective solution to the expensive and less efficient practice of sending foreign police officers of varying quality and with little understanding of local conditions. Reformers must evaluate those police officers with the best record and more importantly the relevant communication skills and encourage them onto train the trainer courses.

The importance of mentoring

Both the case studies and broader literature agree that no matter how well planned, organised, and implemented initial training is, classroom training is insufficient. Indeed, according to William O'Neill East Timor offers a clear example of the limits of training. Many in the new police are 'are used to an educational system that rewards rote memorization and actually discourages analysis, critical thinking and independent judgments'. As such, trainers need to be aware 'of just how disconcerting the active learning, probing, case-study participatory

27 In the former example international instructors from ICITAP, Spain, Chile, Sweden and Norway were mostly replaced by Salvadorians after just three years.

28 Ylber Bajraktari *et al*, *op. cit.*, p.60.

approach will be, at least at the start. Participants must understand that their active participation will be crucial to the success of the training.’

More than this however, it is clear that from the case studies that training, particularly of the classroom variety is far from sufficient.

The basics of police work for example; these skills ‘must largely be learned on the job, and not in the classroom.’²⁹ Sustained mentoring of recently trained police in Kosovo and East Timor has been utilised to great effect, particularly when the two were co-located. This reinforces what has been learnt in the police academy and allows for immediate feedback from mentors in the initial stages of deployment which can prevent the misapplication or misunderstanding of training. In Kosovo for example, after training at the Police School in Vucitrn, ‘KPS cadets deploy for 19 weeks of on-the-job training in all districts of Kosovo.’ International or senior KPS officers act as mentors, explaining, demonstrating, observing and critiquing newly trained officers. ‘The CIVPOL officer explains how to search a vehicle, for example, and then observes and critiques the KPS officer’s performance. This is an excellent way to extend and deepen the trainee’s knowledge and literally “buys time” for the newly created police force to develop the skills and obtain the experience necessary until the KPS can take over policing.’³⁰

Crucial during this stage is the right sort of personnel, perhaps more so than in the training stage. This issue has been identified by the British Foreign Office. Stephen Chambers, Head of International Policing Policy Conflict Group argues that officers with insufficient rank and experience tasked to mentor senior national officials is deeply problematic; ‘whereas training is a specific acquired skill, where one rank can train another, this does not work in mentoring, advising etc. National officers rapidly realise that the international mentor/adviser has insufficient experience or rank to give sound advice. One

contributor stated that it is misplaced and arrogant to send e.g. a Police Sergeant to advise a Police District Commander. Another stated that mentors should be of at least Inspector (in UK police terms) rank and preferably higher, or have staff officer experience.’³¹

Mentoring provides one of the clearest indicators of the difficulties faced by those attempting to reform a police service within a context of acute insecurity. Training for new recruits to the Iraq police service, consisting of an 8-12 week course, was to be complemented with further station based training and mentoring to be conducted by International Police Advisors and a specialist course to be centrally run in Baghdad. The insurgency denied the IPAs the freedom of movement to conduct this important part of the overall training package. There is an inherent tension between the two strand process adopted in Iraq - short term expediency of rapid expansion and limited training, while introducing simultaneous reform such as mentoring to address human rights and a community policing approach. The mentoring programme intended to introduce the reform was (and largely still is) ineffective as the civilian police mentors could not leave their secure/not so secure compounds. The only mentors who could successfully reach the police eventually became soldiers who concentrated on strand one at the expense of strand two. While it is easy to criticise the role of the military in the training or mentoring of supposedly civilian police, it must be recognised that often the military are the only ones that can implement this sort of mentoring program.

29 HURIST Report, *op. cit.*, p.37.

30 *Ibid.*, p.39.

31 FCO Conflict Group Report, ‘Review of Conflict Related International Policing’, February 2009, p.4.

2.3 Building an Institution

Capacity building is insufficient

Taken together, recruitment, training and equipment provision have constituted the 'stock-in-trade of reform assistance.'¹ While true that host police forces often lack adequate equipment and training, reform has repeatedly failed to move beyond technical assistance. A 2003 Joint Assessment of UNPOL's efforts in East Timor concluded that the main focus of support has been centred on policing and in particular the development and delivery of training; '[w]hile this has been a necessary starting point in establishing the TLPS it is now necessary to provide assistance to strengthen its management and administration'.²

The case studies largely concur with scholars such as Robert Perito and others who argue that over-attentiveness to technical capacity-building is not sufficient to qualitatively improve donor police forces.³ Consider for example the issues of human rights and corruption. Training is undoubtedly important. In this the case studies largely disagreed with William O'Neill's assertion that police officers 'already know that they are not supposed to beat or torture people, extract bribes or become involved in trafficking of any kind, whether drugs or people'⁴ Many were unaware of the illegality or immorality of such practices.

Nevertheless, even if training is carefully designed, appropriate for the cultural and historical context, precisely targeted and well implemented, serious doubts remain as to whether instruction that lasts weeks or even months can ensure change in practices, norms and values learnt and perpetuated over many years. 'Suitable training can make a difference at the street level in the short term

but reform is unsustainable in the absence of the appropriate motivation and resources; locals are left to their own devices when the foreigners leave.'⁵

Sufficient training and recruitment procedures may make a difference in the short term, but force generation does not equate to police reform. As shown by the literature review in Appendix A, there is already widespread consensus amongst the GPPC that successful reform of the police into a professional, accountable and sustainable organization depends heavily on supplementing capacity-building with measures to construct and strengthen the broader institutional architecture within which police officers are embedded. In both positive and negative ways the five case studies supported this view. Whether due to a lack of institutional memory (a common complaint of police reform organisations), the absence of expertise in reforming institutions,⁶ or because as two scholars have recently theorised GPPC reports 'are not read', this lesson was not universally applied in the missions under review. As late as 2008, advisers such as Tony Pfaff were urging coalition advisers to 'develop a strategy that includes building institutions'.⁷ In East Timor, according to a 2003 assessment, UNPOL had produced 'an institution that is unsustainable and weak'.⁸ The UN's own assessment agreed, with

5 Alice Hills, 'Police Reform in Post-Colonial States', paper presented to Workshop on Democratic Control of Policing and Security Sector Reform, Geneva, Switzerland, 1-2 November 2001.

6 In Timor-Leste it has been suggested that poor institutional reform was a direct result of knowledge and expertise in institution-building, strategic planning and budget development at the UN Secretariat. Consequently, actors fell back on familiar yet inadequate reforms. As discussed earlier, the right actors must be utilized in reform; this means they must have the right expertise and capacities. Teams of experienced international police officers do not necessarily equate to worthy agents of institutional strengthening or change; this is the job of civilian administrators.

7 Strategic Studies Institute Report, 2008, *op. cit.*, p.viii.

8 Kings College London, 2002, *op. cit.*, p.239.

1 David Bayley, 'Police Reform as Foreign Policy', *the Australian and New Zealand Journal of Criminology*, (Vol. 38, No. 2, 2005), p.210.

2 Joint Assessment Mission, 2003: paragraph 1.3.1.

3 USIP Special Report, 'The Interior Ministry's Role in Security Sector Reform' 2009, *op. cit.*

4 HURIST Report, *op. cit.*, p.4.

Box 2: Institutional reform – ‘courage under fire’

As Iraq exemplifies time and again, conflict holds reform hostage; in this case preventing adequate attention being paid to institutional change and strengthening. Part of this undoubtedly manifested itself in the increased role the military was forced to play in police reform, meaning lessons learnt from decades of reform experience were not applied.¹ Just as important however, evidence suggests that the deteriorating security environment created a tension between providing short term stability and long-term institutional reform. The latter, perceived as an issue far removed from immediate security requirements was jettisoned,

1 According to Andrew Rathmell ‘many of the Coalition officials involved – in and out of uniform – have had no practical or even theoretical exposure to the art of institutional development.’ CSIS Report, ‘Fixing Iraq’s Internal Security Forces: Why is Reform of the Ministry of Interior so Hard?’ *op. cit.*, p.5.

and reform was subsequently defined as technical capacity-building. Ongoing conflict therefore appears to produce dynamics that strains the ability of reform to tackle institution building.² Nevertheless, it is arguable that the importance of such reforms is even greater. ‘In relation to the civil security forces, the mass production of poorly trained recruits, schooled often along paramilitary lines, has been counterproductive without the building of the institutions into which the recruits can be absorbed.’³ The security situation must not be an excuse for ignoring the organisations architecture; reformers must guard against giving in to such pressures.

2 In this regard, a conflict typology of police reform should clearly be developed.

3 CSIS Report, ‘Fixing Iraq’s Internal Security Forces: Why is Reform of the Ministry of Interior so Hard?’ *op. cit.*, p.5.

the senior UN peacekeeping official in charge of justice and security development conceding that ‘tremendous institutional gaps persist [within the Timorese police], including weak management and command and control, lack of core capacities..., and an almost total absence of logistics and systems maintenance capacity...’⁹

Neglect of institutional building can seriously hamper the police. In East Timor a 2002 UN-sponsored joint assessment unequivocally claimed that ‘little attention [has been] paid to strengthening the key management and administrative support areas such as human resources management and finance. Equally, there is little or no planning and policy development capacity within the TLPS.’¹⁰ The lack of a developed policy framework impacts on the TLPS’ capacity to make strategic and appropriate decisions regarding resource procurement and training. It also makes it difficult

9 DPKO Memo, 2008, *op. cit.*, p.2.

10 The name of the police varies according to who is writing and the time period: East Timor Police Service (ETPS), Timor-Leste Police Service (TLPS), and National Police of Timor-Leste (PNTL).

to prioritise requests for assistance. The focus of support from UNPOL has been on policing and the development and delivery of training. While this has been a necessary starting point in establishing the TLPS it is now necessary to provide assistance to strengthen its management and administration.¹¹ According to the UN’s assessments, the 2009 situation strongly resembles that of 2003. The senior UN peacekeeping official in charge of justice and security development has conceded that ‘tremendous institutional gaps persist [within the Timorese police], including weak management and command and control, lack of core capacities..., and an almost total absence of logistics and systems maintenance capacity’.¹²

Whether in conflict, post-conflict or indeed any

11 Echoing the King’s College review, a joint assessment found that there was a ‘lack of standardised procedures across the 13 Districts [into which the police were divided] due to lack of institutional framework and to the introduction of concepts and procedures by UNPOL officers from a wide range of jurisdictions’. Joint Assessment Mission, 2003, paragraph 1.3.3.

12 DPKO Memo, 2008, *op. cit.*, p.2.

other context of reform, a police service requires management and administration structures, policies which constitute the foundation of policing, command and control structures, organisational culture, human resource management, operating policies and codes of conduct, logistics and so on and so forth. Without these essentials, the police will at best be able to provide a rough, unrefined service, at worst, ineffective, counter-productive, and often predatory policing. However, three elements of institution building stand out as crucial; reform of the bureaucratic structure in charge of the police; development of a civilian-oriented police force, and the establishment of oversight and performance mechanisms. All three are immensely difficult, as is institution building in general, yet reform cannot shy away from the task.

Reforming bureaucracy: political police reform

In September 2007, retired US Marine Corps General Jim Jones led an independent commission to evaluate the state of the Iraqi security forces. His team concluded that the Ministry of Interior was 'a ministry in name only'; dysfunctional, sectarian, and suffering from ineffective leadership. In so doing, Jones identified one of the major challenges to police reform in Iraq and elsewhere; the bureaucratic institution in charge of the police force. As the report argued, such fundamental flaws, 'present a serious obstacle to achieving the levels of readiness, capability, and effectiveness in police and border security forces that are essential for internal security and stability in Iraq.'

Police forces require capable leadership and management. It requires structures of administration, command and management, criminal statistics databases, operating policies and codes of conduct, and human resource management. For example, police require adequate and accountable logistical systems to supply the police force with resources and equipment. In short, the police require a ministry that can manage, sustain and support it. Nevertheless, while it is one of the most critical aspects of

reform, the bureaucratic agency responsible for the police is also one of the most neglected areas of reform, from Iraq to East Timor and beyond. Prior to Sierra Leone's Justice Sector Development Programme, almost no assistance had been given to the Ministry of Internal Affairs for example. As mentioned above, reform has typically equated to technical and operational capacity-building at the level of individual policemen. According to Robert Perito, '[t]he obvious analogy is to Dr. Frank-N-Furter's muscle-bound but intellectually immature creation, "Rocky Horror" from the *Rocky Horror Picture Show*.'¹³ Institutional reform must start at the top, developing the police's intellect rather than physique.

Unfortunately, the lack of reforms concentrating on the bureaucratic organisation with ultimate control over police institutions means that there are few lessons to guide other efforts. It is clear however that in order to provide competent leadership and management, capacity-building both at an individual and an institutional level is essential.

Reformers must ensure that the ministry is run by a competent and professional staff dedicated to public service and who are accountable and transparent in their actions. Mentoring is one of the most useful tools for international actors to address issues of capacity by boosting skills and quality of personnel. Although effective, conflict and post-conflict bureaucracies - particularly those concerned with internal affairs - are frequently targeted by unsavoury forces, from organised crime and warlord/local powerbrokers, to anti-government forces and insurgents. According to an independent task force on progress and reform of the Iraqi MoI, the police and ministerial reform agenda would not have been able to gain momentum had all of the nefarious actors remained in the Ministry.¹⁴ While recruitment

13 CSIS Report, 'Fixing Iraq's Internal Security Forces: Why is Reform of the Ministry of Interior so Hard?', *op. cit.*, p.5.

14 Matt Sherman and Roger Carstens, "Cooling the Streets: Institutional Reforms in Iraq's Ministry of Interior", 2008. <<http://irtheoryandpractice.wm.edu/publications/Independent%20Task%20Force%20on%20Progress%20&%20Reform-%20ENGLISH.pdf>> accessed 16 December

practices should ensure future transparent and merit-based recruitment, there is often little option left but to purge the ministry's ranks, thereby promoting institutional and organizational reform through personnel change. This can pose a number of challenges however, including the inadequacy of screening procedures, and the (total or partial) destruction of records and information databases.

Complementing individual capacity-building, reform should also consider the institution as a whole. Bureaucracies can be inadequately structured, suffering from byzantine complexity, departments with unclear mandates and units with overlapping responsibilities. Reform must clearly define the roles of each department, foster effective coordination between them, and establish clear lines of authority and command.

Of significant value for the success of the entire reform project, ministerial reform ought to focus on bureaucratic capacity to formulate a police strategy and concomitant policies, providing the theoretical underpinnings required for the reform, development and maintenance of the police service. Lacking strategic direction can be disastrous; fundamental questions concerning the role and responsibility of the service remain unanswered resulting in ad hoc decision-making and fragmented reform. Without an overall strategy for the police outlining their form, function and responsibilities it can be difficult to make appropriate decisions concerning force strength, necessary and relevant equipment, budget allocations and the prioritisation of available resources. The lack of a clear and developed policy framework for the TLPS for example impacted on its ability to strategically assess and weigh options for resource procurement, training and requests for assistance.¹⁵¹⁶ Indeed according to one assessment, the development of the Timorese police bordered on the wretched. Its conclusion

2009.

15 (Joint Assessment Mission, 2003: paragraph 1.3.1)

16 As the Kings College assessment also makes clear, 'without clear understanding of the type of police service East Timor should have, the preparation of the budget for the East Timorese police represented a problem for the entire lifetime of UNTAET'. Kings College London, 2002, *op. cit.*, p.238.

blamed the UN which was 'slow to elaborate a comprehensive development plan for the ETPS, partly because no UNPOL had been assigned to the police development function in the original mission design. In the absence of a comprehensive strategy, UNPOL focused on training rather than the institutional development of the ETPS. International actors can readily produce off-the-shelf police strategies and visions. Transplanting models of reform, as the literature and case studies make clear, is rarely effectual, failing to accommodate the particularities and idiosyncrasies of each reform context. Ownership of the reform process and the police force which the strategy envisions necessitates the development of this capacity at the ministerial level.

In the immediate security environment of post-conflict states, and in the ongoing environment of states still wracked by conflict, there is a temptation to ignore the importance of strategic vision. A minority of officials involved in past examples of reform have not perceived this as necessarily negative. Rapid decisions need to be made, they argue, and should not be encumbered by constricting strategies. Security-related programming for the SLP was, in the early stages a direct response to immediate needs rather than dependent on a detailed overarching strategy. One DfID official quoted by Peter Alexander Albrecht and Paul Jackson argued that the 'great thing was that we got on with it, supported the Government and avoided obsessions about planning at the expense of actually doing things.'¹⁷ Nevertheless, sooner or later a strategy is necessary. Without clear indications of the role and responsibility of the police additional questions of training, recruitment and equipment, to name just the basics, cannot be adequately addressed. Additionally, as argued earlier in this report, strategy improves coordination and if developed by host nation actors, increases local ownership of both the reform process and the end-product police service.

Ensuring a professional and competent organization involves far more than individual and institutional

17 Peter Albrecht and Paul Jackson, *op. cit.*, p.22.

capacity-building however. Frequently defined as purely a technocratic exercise, ministerial reform is deeply political. Poor ministerial efficacy is often less related to ministry capabilities, but rather factionalised interests and divided loyalties within the institution. An extreme example is Iraq's ministry. Described as a 'federation of oligarchs', personnel were too busy settling power struggles between internal factions via assassinations in the car park than to concentrate on the pressing job of reform and management of the IPS.¹⁸ Conversely ministerial efficacy has been hindered by its unrepresentative reflection of broader societal make-up. In states fractured along ethnic, cultural or social fissures institutionalisation of social imbalances poses dangers to government legitimacy, creates public distrust of the reform process, and can foster corruption, discriminatory practices, and a culture of impunity which soon filters down to the police. Ministerial reform that attempts to remedy these political problems or any other politicised issue will likely engender spoilers and bureaucratic resistance. However, even minor reforms can prove deeply political, challenging vested interests and affecting power balances within the institution and society more broadly. Deep, nuanced assessments of the political terrain are required; individual relationships, factional interests, networks of influence and the likely dynamics of reform must be adequately understood. Strategies and measures to cope with inevitable reform backlash, in the form of bureaucratic resistance or subversion of reform measures can then be developed.

Deterred by the delicate nature of interfering in an institution synonymous with national sovereignty, or detecting a lack of political will from closely allied elites, an unfortunate precedent has been set by international actors shying away from ministerial reform. A leading reform official in Sierra Leone noted: 'The Ministry of Internal Affairs was not seen as SSR. The development of the MIA was included in the CCSSP with the Permanent Secretary as Project Director. However, due to the political dynamics at the time, work with the MIA wasn't taken forward, it just didn't

18 Ned Parker, 'The Conflict in Iraq: A Ministry of Fiefdoms', *Los Angeles Times* 30 July 2007.

happen.'¹⁹ Given the weak authority which characterises conflict, post-conflict and fragile states, the onus falls on international reformers who must pressure repeatedly yet diplomatically for bureaucratic change.

In no aspect of reform are the quality and skills of assigned personnel more important. Military officers are fundamentally incompatible with the task; the complexities of reforming civilian governing architecture necessitates experienced civilian professionals armed with the many skills necessary to promote institutional change. Efforts in Iraq for example, were 'handicapped by the sort of personnel [the US] assigned to the task of ministerial and police reform...No American adviser had worked in an interior ministry responsible for managing a national police force. Few of those selected had held senior executive positions in major city or state police departments.'²⁰

Searching for the right strategy

Successful police reform, it has been suggested previously, requires a clear vision and strategy detailing the roles and responsibilities of the police force. What is the purpose of the police service? What is its form? What are its functions? These are primary questions that need answering. Although any comprehensive strategy will assist coordination efforts, not all are made equal. No universal model of police or policing is suitable across politically, culturally and socially diverse countries. Policing requirements can be very different. Nevertheless, it must not be forgotten that the general public are the main stakeholders of police reform. It should therefore always aim to increase the ability of the police to uphold citizen and community safety from crime. Too often reform loses sight of the end-user. Yet their needs and priorities are paramount, not the dictates of donor national security concerns, as in Kosovo, nor the unique concerns of the government as in East Timor.

19 Keith Biddle quoted in Peter Albrecht and Paul Jackson, *op. cit.*, p.80.

20 USIP Special Report, 'The Interior Ministry's Role in Security Sector Reform' 2009, *op. cit.*, p.14.

Three related principles in particular have born fruit across the diverse contexts of reform under consideration in creating a strategy for police reform that effectively tackles public insecurity and builds civil security; demilitarization, community-focused policing and ‘third force’ generation.

Transitional societies, fragile states and other contexts of police reform often exhibit considerable overlap between the police and military, blurring the lines between their form and function. Police are frequently housed in the ministry charged with defence, function as a military arm, and are tasked with defending a government or a political, social or economic system, rather than the people. In El Salvador, training documents for both institutions were almost indistinguishable, emphasizing themes of counter-insurgency and anti-Communism. Police were even trained in military academies.

As discussed previously, police and military institutions are at opposite ends of the security spectrum, divergent in professional cultures, sensibilities, geographical areas of responsibility, and importantly, the use of force. Unsurprisingly therefore, demilitarization ‘has marked almost all reform efforts up to Iraq’ according to Piet Biesheuvel. For Rama Mani the separation and redrawing of clear boundaries between the two institutions is one of the key lessons learned through the 1990s. The risks and dangers of leaving lines blurred are so great that even in cases where a new police force was created from scratch, as in Kosovo, measures were established to prevent the militarisation of police institutions. Leaving the two blurred threatens the population with heavier weaponry, less restrictive rules of engagement and lack of restraint in the use of force which can prove ineffective and counterproductive, alienating a population from the police and undermining the crucial relationship between the service and the community that helps the former detect, prevent and investigate crime.

Demilitarization must constitute a central lodestar around which police reform strategies should gravitate. The police must be separated conceptually and organizationally from the military. In Sierra

Leone, a number of policy documents including a Security Sector Review gave much needed clarity to the institutions involved in or contributing to the security system. Although it is important to clarify the roles and responsibilities of the police vis-à-vis the military, demilitarization must be implemented at the level of training, equipment, even the style of uniforms and the designation of ranks.

Closely related to demilitarisation, but requiring specific policies in and of itself, a strategy should successfully (re)civilianise the police. Refocusing police institutions as community officers upholding and enforcing the rule of law is a complex endeavour. Reform aimed at the radical departure from past models of militarised, oppressive and biased policing requires a multidimensional approach from technical, institutional and cultural angles. Technical capacity-building has already been covered in the previous section; suffice it to say, recruitment should preferably ensure those with a militarised mentality are excluded. Meanwhile training must develop appropriate skills and attitudes for working closely with the community.

More important is the need to address community security concerns; a simple idea the importance of which should not be underestimated. Despite the purported creation of a civilian law enforcement police service in East Timor, donors did not understand the immediate security needs of the communities the police were meant to serve. Reform programs thus lacked relevance. Any increases in police effectiveness must be appropriately targeted if it is not to be wasted. In other examples of reform, meaningful citizen engagement including the use of public opinion surveys, as used in Kosovo²¹ and ‘on-going meetings with civil society, NGOs and other community organizations’ as in El Salvador, ferreted out the predominant community issues, concerns and suggestions for improved police service.²² Policies and programs were then able to

21 Where the UNDP launched a comprehensive survey among the general public to identify the public perceptions of the police which arguably helped clarify public knowledge of the new police force and touched on predominant public security concerns and services the KPS should provide.

22 HURIST Report, *op. cit.*, p.48.

target these unchecked areas of crime, initiating supplementary training for officers, specific equipment provision and so forth. Extreme and particularly endemic crimes can necessitate the establishment of specialised departments within the police. Intensive public consultation in Sierra Leone for example identified domestic sexual and physical violence as an issue of particular saliency. Specialized training was offered and Family Support Units were established to great effect.

Out of all the case studies, reform in Sierra Leone epitomized this approach most clearly, forming the basic operating principle of the police model which was developed; Local Needs Policing. Progressing further than most other examples of reform, the process institutionalised community consultation, establishing local policing boards. These regular police-community forums were designed to increase local ownership of the police, reinforcing their status as community law enforcement officers by ensuring the dynamic needs and expectations of the public were heard. Increased dialogue and interaction would also act as a forum of accountability to the public and educate the public in the new novel policing approach now being adopted.

This raises an important point. While community and civil society engagement is necessary, reform must also to an extent target these societal groups. Reform must confront as in El Salvador a passive form of resistance from civilians who have not imagined alternatives. Liaison boards, alongside public information campaigns can educate citizens of their rights and responsibilities. Societal involvement in reform will not be successful if the population is not well informed. Take the issue of holding police accountable to human rights abuses; little progress will be made if the population are not well informed of the issues. UN actors have a good track record in this regard, raising awareness of human rights standards among the community. This locks reform in. 'We know our rights now' is one argument used by ordinary Sierra Leoneans, when they explain why they no longer fear the police. It is this dialogue between the police and

society that will build trust and thereby produce a sustainable model of policing effective at tackling crime and insecurity. This relationship between dialogue, trust and effectiveness is clear from a 2006 survey in northeast Baghdad which 'found that 75 percent of Iraqis did not trust the police enough to tip them off to insurgent activity.'²³

Iraq provides a difficult case however. Conflict provides a very specific and difficult context within which to reform police, particularly concerning attempts to reorient them to a civilian focused agency. Even in post-conflict El Salvador, a strategy of community-oriented policing, which involved outreach efforts to youth groups, churches and local leaders was 'sorely tested by the country's high crime rate'.²⁴ Widespread and pervasive conflict understandably leads to the belief that the police must be militarised to tackle the insurgency along with the armed forces. In Iraq, the introduction of a democratic community model based Police Force was the original CPA intent. As the insurgency gained traction, a more robust form of policing was developed. Training, equipment provision and IPS responsibilities were geared towards the all-encompassing need to tackle the insurgency, taking the police away from ordinary policing duties. Consequently it had neither the material, legal or intellectual resources to conduct criminal investigations and confront general lawlessness, street crime and organised criminal activity that were rising to endemic levels. 'By targeting the police towards the insurgency the population were left defenceless.'

Militarisation of police roles and responsibilities in the face of political violence misunderstands both the nature of insurgency and the contribution of policing to counterinsurgency. Although armed force provides a necessary component to COIN, insurgencies rarely have military solutions. Brute force is too blunt an instrument for tackling the nuance and complexities of armed resistance to

23 Strategic Studies Institute Report, 2008, *op. cit.*, p.8.

24 HURIST Report, *op. cit.*, p.48.

the state, often proving counterproductive. Policing is essential for COIN, but too often is ill-used. Nick Grono explains:

In an insurgency police should be the eyes and ears in uncovering violent networks, spotting bombs, guarding public facilities and reporting suspicious activities. More generally – but just as importantly -- police keep everyday public order on the streets. Reducing general criminality and providing security to the public provides the most widely shared and distributed public good. It is much more effective in winning hearts and minds than digging wells or building schools – and indeed encourages and protects such development activities.²⁵

As such the temptation to militarise or paramilitarise the police must be resisted, at both a strategic level, and as mentioned previously, at an operational one; a community-focused model of reform can be hijacked by the inability of civilian reformers to conduct training and mentoring programs and the use of military institutions and personnel to execute reform. Nevertheless, civilian police officers, even if not tasked on the front-line of tackling insurgency, are emblems of stability and government legitimacy and as such will remain ‘soft targets’ of anti-government forces. Equipment and training must acknowledge that police have to work in an environment lacking the minimal conditions of a basically safe and secure society. It would be remiss not to provide them adequate protection. This must be finely balanced however and not dominate capacity-building, so as not to scare the public or undermine community focus.

Reconciling the need for civilian policing within the context of ongoing conflict - and its creation of a breeding ground for sources of acute insecurity such as organised crime and violent drug trafficking – requires a police strategy which sanctions the creation of a ‘third force’. Lying both functionally and structurally between police and military, gendarme’s are paramilitary institutions concerned with internal and civilian security.

²⁵ Transcript of speech by Nick Grono, ‘Policing in Conflict States – Lessons from Afghanistan’, <<http://www.crisisgroup.org/home/index.cfm?id=6167>> accessed 29 June 2009.

In examples of reform such as Sierra Leone, the presence of such a model provided robust policing where necessary but unshackled the civilian police from duties beyond their capabilities and allowed them to concentrate on civilian law enforcement.

Such elite paramilitary forces must obviously be trained and equipped differently from civilian police. In Iraq it was noted that ‘those UK volunteers who had served with PSNI or the RUC tended to be amongst the most effective in understanding the Iraqi situation and in contributing to their counter-terrorism capability. These officers had experience of counter-terrorism in a sectarian environment. They understood the threats and pressure that Iraqi officers faced. They also understood the crucial importance of acquiring and using intelligence effectively in a terrorism context, and they knew how to coordinate action with the Army.’²⁶ Fellow gendarmerie forces are therefore most appropriate.

Strategy is essential for successful police reform, providing conceptual clarity to the reform effort and its final aim. Without strategy reform exists in a state of churn, never progressing towards a clear direction. Clear strategic vision of the police service reform aims provides clear guidelines for capacity-building and other institutional reforms to follow. But without a strategy focused in improving community safety and thereby consisting of the three principles outlined above, reform may simply make the police more effective at community oppression or serving the interests of particular societal groups such as political elites or ethnic communities thereby failing to contribute to public safety and security.

Forging a few good cops: Oversight, management and performance assessment

A professional, disciplined and rights respecting police force begins with strict recruitment criteria and sound training with a strong focus on human rights. These are never sufficient however. Mechanisms to ensure police oversight are essential in promoting

²⁶ M.A. Ashraf, 2007, *op. cit.*

ethical and professional standards, ensuring transparency and accountability, and provides a means to correct abuses of power, corruption or incompetence. Without effective oversight, failure to penalize corruption, human rights abuses and so forth creates a climate of impunity which can very often undermine the effectiveness of training as a tool to create an effective, rights respecting police service. Oversight reinforces respectful, professional and effective policing; this results in greater levels of public cooperation which in turn can lower crime. Oversight mechanisms are therefore a *sine qua non* of reform. Accountability and oversight must be watchwords of the reform process for they are essential elements in the equation of successful police reform. 'No police reform will be successful without a heavy emphasis on police accountability.'²⁷ Any misbehaviour by a reforming police service can have a devastating impact, with perceptions rapidly forming that the new force is just like the old and therefore unworthy of trust, and the reform effort unworthy of support. Inexplicably, despite their crucial nature and wide acceptance amongst the GPPC, oversight and accountability mechanisms have not been universally prioritised.

As shown in Appendix A, much ink has been spilled debating the finer points of oversight form and function, and external versus internal is the dominant lodestar around which discussion has centred. However the case studies suggest that this debate is largely stale, based on an artificial binary where one needn't exist. Both have their advantages, and weaknesses too.

Establish strong internal mechanisms

Most police will not accept being lectured to, particularly by civil society, human rights organizations or international reformers. For new police forces, an adversarial approach to topics of discipline can create a siege mentality that limits the potential for change. Internal discipline mechanisms avoid this. Units to investigate police malpractice have been established in all the examples of police reform under investigation.

However, wide differences existed between those with the mandate and strength to execute their duties, and those that didn't.

Of key importance, internal mechanisms must be independent. The Foundation for the Study of the Application of Law²⁸ was right to question the El Salvadorian Inspector General's autonomy when in December 2001 overall authority over IG operations was transferred to the PNC's Director General.²⁹ Independence must be joined by sufficient staff and funds to cope with the inevitably large number of police corruption, abuse and misconduct cases. Without human and financial resources, these institutions are severely restricted in their capacity to carry out their mandate. In March 2005 the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported that 'The Professional Ethics Office (PEO) of the PNTL is increasingly unable to investigate cases of misconduct due to lack of resources for field work'. Its successor, the Professional Ethics and Deontology Unit (PEDU) is similarly constrained. Staff do not have access to transport to conduct investigations, or to return to complainants to update them on the status of their case and lack training in investigation and interview techniques. Plugging these institutional gaps will count for little if efforts to discipline those convicted are constrained. In East Timor for example, authority to recommend the dismissal of police officers found guilty of malpractice lies with the police commissioner, however the power to enact the dismissal lies solely with the minister of interior.

If independent, rigorous and complemented by adequate punishment procedures, such mechanisms can prove extremely useful. Though far

28 Fundación de Estudios para la Aplicación del Derecho, - a Salvadoran-based non-governmental organization that provides legal assistance to vulnerable groups.

29 Immigration and Refugee Board of Canada Report, 'El Salvador: The National Civilian Police (Policia Nacional Civil, PNC); recent attempts to fight corruption, treatment of police officers suspected of being criminals or involved in criminal gangs; whether complaints against the police are treated seriously by government authorities', April 2005, <<http://www.unhcr.org/refworld/type,QUERYRESPONSE,,SLV,42df618d37,0.html>> accessed 12 May 2009.

27 HURIST Report, *op. cit.*, p.9.

from perfect, by late 2005, the Kosovan Professional Standards Unit (PSU) had led to some 317 officers being dismissed from the service for disciplinary reasons, some of which included charges of criminal acts. They 'have a great potential to encourage good behavior since they directly influence an officer's career. Performance assessments go into personnel files, which then affect promotions, transfers, raises assignments, and opportunities for further training and skills enhancement.'³⁰

Middle management as a force multiplier?

Depressingly common throughout the establishment of external discipline and oversight mechanisms is the concentration on rank and file police officers. Malpractice by those of higher ranks often goes unpunished.

Not only is this unjust, it also ensures that rank and file police, who are often poorly trained are entered into an unreformed environment managed by officers who may be corrupt and abusive, thereby passing on such bad practices to those below. Acting Inspector General, Keith Biddle, who argued in 2001 that after years of deterioration and the spread of corrupt practices, the largest challenge facing the SLP was personnel management. In Iraq, confronted by epidemic levels of violent and sectarian police abuse it was eventually realised that strong measures were required. In October 2006 the US military 'began a purge of INP units that were involved in sectarian violence, arresting their leaders and subjecting the rank and file to vetting and training ("re-bluing") in civilian police skills.'³¹ Purging management level officers, whilst retraining rank and file police is a pragmatic response to ill-disciplined police forces. Although those engaged in criminal activities can not be exonerated, in many examples of reform firing every police officer for malpractice is simply not feasible; their ranks are simply too many and would contribute hundreds if not thousands to the disgruntled and unemployed population.

30 HURIST Report, *op. cit.*, p.9.

31 USIP Peace Briefing, 'Iraq's Interior Ministry: Frustrating Reform', May 2008. <<http://www.usip.org/resources/iraq-s-interior-ministry-frustrating-reform>> accessed 23 March 2009.

Moreover, targeting middle managers sets a clear example to the police force that discipline will be taken seriously, whilst also providing an emblem of reform to the population and furthermore act as a powerful force multiplier increasing discipline by ensuring a 'clean' managerial environment within which rank and file police are embedded.

Consequently, internal mechanisms must have institutional authority over the police. The main internal police oversight body in East Timor, the Professional Ethics and Deontology Unit (PEDU) lacks institutional authority over the various branches of the police. Although theoretically the unit could investigate police officers of superior rank to themselves, 'in practice it was the district commanders who ultimately decided which cases would be investigated in the district, which ones would be sent to Dili, and which ones would be set aside.' To combat inaction by senior police officers, reform 'from the top' should ensure the development of strict instructions that disciplinary action will be taken against commanding officers who are aware of such acts and who fail to take action to prevent or punish. Those in the upper echelons of the police should be held personally responsible for the discipline of those their command.

The importance of external mechanisms

In light of the vast problems which confront reformers attempting to change post-conflict, conflict and fragile state police forces, technical tinkering with internal oversight and accountability mechanisms seems inadequate. The gap between the establishment of external mechanism outputs and discipline outcomes is wide. The track record of internal mechanism's punishing those who violate the rules is poor. According to a Human Rights Watch report from 2006, 'The internal police oversight body, the Professional Ethics and Deontology Unit (PEDU, until recently called the Professional Ethics Office, PEO), has often failed to take cases of police abuse seriously, follow up on complaints, or appropriately discipline the officers involved.'³² In many of the case

32 Human Rights Watch Report, 'Tortured Beginnings: Police Violence and the Beginnings of Impunity in East Timor', April 2006, p.5. <<http://www.hrw.org/reports/2006/>

studies, in the absence of independent and robust external mechanisms, complaints against police malpractice are dealt with inconsistently, or in many cases not at all. This should come as little surprise; a police service requiring reform is not likely to be effective at policing itself.

Compounding this problem, public suspicion of the abilities of a *reforming* police service to hold their peers accountable is often understandably high. The failure to provide civilian oversight in East Timor for example, greatly undermined the reputation of the TLPS amongst the population. Fear and lack of faith mean many people choose not to use these channels to register complaints. A young Timorese man interviewed by Human Rights Watch reported that he was too scared to seek accountability for the abuse he suffered at the hands of three police officers in Maliana police station; 'I have not yet submitted a complaint because they threatened me. I do not want to go back to Maliana police station. I don't want to be summoned again by the PNTL.' As the Police Inspectorate Implementation Project of the OSCE Mission in Kosovo emphasizes, '[a] system that is largely controlled and monitored by a body that is totally independent of the police and populated by civil servants rather than police officers, commands public confidence'.³³

In sharp contrast to the establishment of internal oversight mechanisms however, such as the Professional Standards Unit in the KPS, reform missions have been inattentive to the creation of external, civilian mechanisms of oversight and accountability. Police violence in East Timor, which has led observers to label the first years of the force as 'tortured beginnings' and looks like escalating/entrenching into a culture of impunity, is testament to the U.N.'s failure to establish an external oversight body until 2003. Police misbehaviour must be tackled quickly if isolated incidents are to be prevented from evolving into a dangerous dynamic between police and community.

easttimor0406/index.htm> accessed 8 May 2009.

33 OSCE Briefing Notes, 'Police Inspectorate of Kosovo – A New Approach to Police Accountability', July 2007. <http://www.ks-gov.net/ipk/docs/PIK_Implementation_Project_Briefing_Notes.pdf> accessed 3 January 2009.

Two external oversight mechanisms are recommended; a policing board to oversee strategic direction and performance, and an Ombudsman to receive and investigate complaints about improper and illegal conduct. As David Bayley makes clear, 'It is advisable to create two oversight agencies... because the functions of ensuring accountability of the police for both effectiveness and fairness are respectively very complex, requiring different processes of evaluation and different assessment skills. In addition, the functions may contaminate one another. For example, controversy generated by the investigation and reporting of misbehaviour may undermine the willingness of the police to participate in assessments of their effectiveness.'

Additionally, external mechanisms with units dedicated to the police are highly advisable. Oversight institutions are often required to divide their time. While the mandate of the Provedor's Office in East Timor has far-reaching powers of investigation, its purview covers all government officials and state institutions. Oversight of the police is of the utmost importance however.³⁴ Officers are the most public face of the government. Malpractice reflects badly not only on the police service but undermines the legitimacy of the state itself.

It should go without saying that external mechanisms also need to be strictly independent and objective. Because effective external institutions can potentially clash with government authorities including the police and bureaucratic agency responsible for the police, Mary Popkin argues convincingly that 'an adequate and protected budget becomes essential'.³⁵ These institutions must also be transparent and should ensure that disciplinary and criminal investigations are conducted in a fair and transparent manner, so that confidence in the process is engendered in the victims of police abuse, and police officers are assured that they will receive due process in the investigation of any allegations.

34 Particularly when facing an insurgency where legitimacy is a central battleground upon which conflict is waged.

35 Margaret Popkin, *Peace Without Justice: Obstacles to Building the Rule of Law in El Salvador*, (Penn State Press, 2007), p.167.

The relationship between oversight bodies and the community

As Sebastiao Dias Ximenes, Provedor for Human Rights and Justice in East Timor rightly emphasised, while issues of human and financial resources are important, ‘what is most important is the people and all the communities.’ He argues that only with public support for oversight mechanisms such as the Provedor, can these institutions succeed.³⁶ This issue of public support and engagement has a number of facets.

Tiago Amaral Sarmento from the NGO Judicial System Monitoring Programme told Human Rights Watch, ‘If there are violations the communities don’t know who they can report it to. They are scared and just stay quiet. The police are a strong institution. The communities don’t yet know or understand that they can report to someone.’ Likewise, an independent survey conducted in 2007, funded by the OSCE Mission in Kosovo, found that less than 1% of the sample knew of the existence of the Police Inspectorate of Kosovo (PIK), an independent police oversight agency. People must be aware of these mechanisms and must be aware of how to use them. Otherwise resources ploughed into their creation and operationalisation, indeed their existence is largely pointless. Frank Harris has suggested that an important factor explaining the poor recognition of the PIK was the inability of the agency to properly market itself to the public of Kosovo.³⁷ Public information and marketing campaigns are essential; the public should be informed of these existence of these mechanisms, their roles and responsibilities (particularly as rather confusingly there are often many of them with similar but slightly different mandates and *raison d’etre*’s), and how to lodge complaints.

The public must be knowledgeable about how to access and use these mechanisms. ‘Human Rights Watch spoke to many victims and their families

about their attempts to seek accountability for human rights violations committed by the East Timor police force. Many were frustrated and perplexed by opaque bureaucratic procedures and long delays.’ Experience suggests the issue of accessibility is not as simple as it at first appears however. One way to achieve this in Sierra Leone was to have CDIID units located in every police station. While decentralising access was a good idea, with trust still a rare commodity between the community and police who not so recently were abusing or suppressing them, concerns have been raised repeatedly that the public is wary of filing complaints against the police *within* a police station. The judiciary is another avenue through which complaints against the police can be made. In Sierra Leone, according to a recent UN report, ‘Police have not been held accountable in many cases of arbitrary arrest and detention. Although legal remedies are provided for under the Constitution and in the laws of Sierra Leone, weak access to justice and legal representation often renders these ineffective.’ Compounding such matters, often the institutional reach of the formal system is poor, or in cases such as Kosovo, the justice sector is painfully slow and inefficient. Multiple oversight mechanisms, with different access points are therefore crucial.

However this is not sufficient. Wide public awareness and accessibility will count for little if the population is not confident their complaint will be acted upon. Public participation will soon turn to apathy. It is therefore essential to build trust in these mechanisms. Oversight and transparency are two sides of the same coin. As William O’Neill argues, ‘The inspector general or internal review board of the police should air public reports, give press briefings and issue press releases describing the allegations, both the nature of the alleged police abuse and the names and ranks of the officers involved.’³⁸ To diverge briefly from the five case studies, the example of Haiti is revealing; ‘in the mid-1990s, the inspector general’s office of the new Haitian National Police gave a weekly press conference, announcing the number of

36 Human Rights Watch Report, April 2006, *op. cit.*, p.46.

37 Indeed it even had problems marketing itself to the international community. As an example of the latter, Human Rights Watch published a report that made several references to the PIK and, sadly, important factual errors – including the date it became operational and its methodology.

38 HURIST Report, *op. cit.*, p.7.

complaints made against the police, actions taken – including the referral of serious cases for criminal prosecution – and updates on the status of earlier cases. This openness encouraged the population to work with the police to provide information and tips, identify suspects and prevent crime.³⁹ The PNC Director-General meanwhile created a ‘Unit of Communications and Public Relations’ which theoretically at least, allowed public access to statistics on crime trends, police performance and internal disciplinary problems.

Where reform efforts have authorised and implemented oversight mechanisms, very often these have consisted solely of formal mechanisms, whether internal, external, or a combination of both. For most victims of police malpractice in fragile state societies, either wary of formal state institutions, or simply at a geographical and cultural distance from them, the first place they turn is normally a human rights NGO.⁴⁰ Civil society mechanisms are effective in bringing attention and subsequent action to police malpractice. In El Salvador for example, the media has played a large role. These external instruments have frequently pushed authorities to investigate complaints. In September 1995, for instance, an investigative story by the *Diario de Hoy* exposed the alleged involvement of an entire PNC substation in the killing of a young man from a well-to-do family. Where possible, civil society mechanisms providing oversight and monitoring of the police should be supported and if necessary, strengthened. Links should be fostered with the formal system in order for cases and information to be passed on. Forging a close relationship between these various oversight actors and institutions also helps move beyond the issue of punishing misbehaviour. Too often the functions of oversight mechanisms are defined exclusively in terms of punishment and deterrent. ‘This is a mistake. In addition to investigating and punishing erring officers, it is important for [internal oversight bodies and external review boards] to analyze patterns of misbehaviour’. Cases

and complaints filed against the police constitute a wealth of information which, when evaluated, reveal malpractice trends and patterns that can be used to design corrective reform strategies, policies and programs which improve police performance. This diagnostic approach, which requires a complete picture of police malpractice informed by the various and divergent perspectives of abuse, not only requires institution-building, but actively contributes to it producing a dynamic evolutionary model of police reform.

However, training for the police on the role of civil society, and the valuable place it has as a counterbalance to government is also necessary to ensure mutual respect and cooperation, given the negative and confrontational role the police have previously played. According to William O’Neill, ‘a key element of success is creating and maintaining a dynamic relationship among the police department, civil society and the oversight body.’⁴¹ Formalization and coordination between the various institutions entrusted with acting as oversight mechanisms for the fledgling police force is therefore highly beneficial.

39 HURIST Report, *op. cit.*, p.7.

40 Primarily Perkumpulan HAK or FOKUPERS, the two biggest rights organizations in East Timor and the main Timorese bodies in the country monitoring police abuse.

41 HURIST Report, *op. cit.*, p.7.

2.4 Comprehensive Reform

A broad police perspective

Without exception the case studies agreed that a specific concentration on reform of the local police service would fail to have the necessary impact on police effectiveness. Police reform must be part of a holistic effort which draws together the entire security and justice sector. The effectiveness and impact of reform missions is related to whether a comprehensive and strategic approach to the entire security and justice sector is adopted. Military is obviously important here but much has been concentrated on this already. More work needs to concentrate on two main areas; justice sector, and non-state/informal security and justice providers.

Criminal justice sector reform

Despite widespread consensus from the GPPC that the link between police reform effectiveness and criminal justice reform is one of the most often repeated lessons derived from over thirty years of police reform missions, a significant and common theme throughout the case studies is the woeful lack of attention paid to the criminal justice sector. Attention has focused rather myopically on the direct providers of security. Sierra Leone is a case in point. The CCSSP programme's concentration on re-establishing policing meant the transformation of other institutions progressed more slowly. Until 2005, years after the start of the intervention and during which the SLP received considerable international support, the justice sector languished as reform backwaters, devoid of human, financial or diplomatic support.¹ As one JSDP adviser to Sierra Leone noted in 2005: 'The SLP is the only functional unit in MIA – there is a huge imbalance. The SLP is frustrated in terms of the judiciary, it's better, but not functioning.' Similarly in El Salvador, although the peace agreements accorded great importance to the reform of public security, the modernization of the justice and prison administrations were largely neglected. As the Kings College review makes clear, in many of the case studies, on a

planning and structural level 'the administration of justice appeared to be an afterthought.'² Consequently, the justice sector languishes in a state of widespread disintegration and decay, poorly trained, inadequately resourced, ineffective, incompetent and corrupt.

The hyphenation of security sector reform with criminal justice transformation into a new acronym to add to the alphabet soup of development studies is not for want of a good reason. The two are mutually interdependent. Underpinning the provision of security and justice are a complex system of actors and institutions, from the police and prisons, to judges and prosecution services. Unbalanced development inhibits the development of a functioning criminal justice continuum from police to prosecution and beyond, with direct and important ramifications for the police.

A common complaint from many of the police forces under investigation is that weak justice sector capacity seriously undermines their ability to enforce the law and provide security; expanding police capacity is irrelevant if the justice system cannot handle the rising volume of cases, either through increased police effectiveness, or the widespread proliferation of crime which is a well documented characteristic of conflict and post-conflict societies. The SLP for example bemoan that they can catch criminals adequately enough, 'but the judicial system cannot either process them fast enough or obtain a high enough ratio of convictions to arrests.'³ Likewise in Iraq, imbalances between police, prosecution and judicial capacity resulted in pragmatic mass pardons to alleviate the pressure of mushrooming numbers of cases on a system groaning under the weight of cases. Compounding these problems, prison capacity is directly linked to police effectiveness. Improved police performance can lead to prisons operating beyond full capacity. East Timor, Iraq and Sierra Leone all suffered from

1 The Law Reform Programme, commenced in 2001, received considerably less funding than CCSSP, with a budget of only £3-4 million.

2 Kings College London, 2002, *op. cit.*

3 Peter Albrecht and Paul Jackson, *op. cit.*, p.41.

this, with the Pademba Road prison in Freetown operating at 350% capacity at one point. Convicted criminals can be released early, prisoner abuse can occur, and human rights violations are, from insufficient sanitary facilities to worse, almost guaranteed. Police morale understandably suffers, with concomitant effects on efficacy. Moreover, without a functioning justice sector the abilities of the police are confined to the enforcement of a crude and rudimentary order rather than focused on providing a crucial node in the provision of justice and the rule of law. Naturally public confidence in all these institutions and the reform effort more broadly suffers.

In short, the idea that actors can support the development of an enhanced police service whilst not supporting the broader development of the criminal justice system is not borne out by the case studies. Positive reforms in the police service are largely nullified without similar and complimentary reforms in the justice sector. And vice versa. Without development of systems for processing, trying, holding and rehabilitating criminals, the police cannot effectively enforce their duties. Experience suggests therefore that a comprehensive and strategic approach to the entire sector, both security and justice, is a necessity. Despite the poor start, this conclusion emerges most forcefully from the UK's experience in Sierra Leone. Here the UK has come closest to sector wide engagement most evident in the transformation from CCSSP to JDSP which recognised the central role the judicial component now has in Sierra Leonean reform.⁴ The scale of justice reform is understandably vast from human rights training, to legal reform and cultural change. Whilst recognising the expansive nature of the justice sector, a full and nuanced exploration of its various components is far beyond the scope of this study. This report therefore only concentrates on those elements of the justice sector without which a police service cannot function effectively.

4 As the reform effort progressed it became increasingly obvious that huge justice capacity problems remained. Prisons, probation, legal advice and so forth had not benefited from development assistance. Consequently, the new programme cuts across the SLP, the judiciary, the prison services and the Ministry of Internal Affairs.

As such it is largely limited to technical solutions.

A robust, coordinated approach to the justice sector is clearly a priority for effective police reform operations. But what does such an approach look like? Kirsti Samuels argues that despite decades of development experience, there is much that remains unknown. Solid analysis evaluating why particular strategies and approaches were effective or not is thin, noting in particular that '[t]here is a striking lack of systematic results-based evaluations of the programs, especially independent rigorous cross country evaluations, or [even] comprehensive case studies of all the programs in a country.' Nevertheless, a number of lessons can be divined from the case studies.

Despite manifest differences, past experience suggests that the various components of the justice administration system must be modernized simultaneously. Public safety is provided by a complex and interrelated system of agencies, from prosecutors and judges, to prisons and rehabilitation officers. Public confidence in these institutions can be seriously undermined if even one element is dysfunctional.⁵ Elements on the justice continuum are regularly ignored however. Appointment of Timorese judges and lawyers from the outset of reform for example, was not complimented by assistance to public defenders or skills building of legal drafters. Similarly, in Kosovo, the prosecution service proved a major capacity gap. According to assessment, this fact 'can be directly attributed to managerial weaknesses within UNMIK and the absence of a coterie of SSR personnel in the Office of the SRSG to plan and manage the development of Kosovo's security sector.' A senior DoJ staff member argued, 'I don't think there was a high-level decision made. I doubt that there was a strategy, political strategic decision. I think [UNMIK] went from emergency to emergency.' It is quite clear that from the planning stage onwards there must be a strategic assessment and understanding of the entire sector similar to the comprehensive JSDP in Sierra Leone initiated in 2005.

5 Kings College London, 2002, *op. cit.*, p.29.

Where there is no such joint effort, the chance of success is much reduced. This effort is dependent on the actors involved; the wide range of institutions, objectives, strategies and activities means that any single donor is unlikely to have the relevant skills, experience and expertise to reform the entire sector. Indeed, donors are approaching the subject and practice of justice sector reform from a variety of diverse perspectives including civil society strengthening, post-conflict peace-building, governance, and legal development. At first this may seem confusing, but there is perhaps more logic to this than at first seems; it must be approached from multiple trajectories if such a complex sector is to be transformed.

As with police and security sector reform more broadly, capacity-building is an essential foundation upon which to build. As the police become more effective in their functions, there must be the physical capacity to detain and process the people arrested. The destruction and pillaging of justice sector buildings, similar to what happened in East Timor and Kosovo, means that destroyed court-houses must be rebuilt, prosecutor officers refurbished, and equipment provided. Nowhere is the necessity of physical justice infrastructure more important than prisons – without the physical space to confine, convicted criminals cannot be locked up or human rights abuses averted by preventing overcrowded and inhumane conditions. The importance of physical capacity-building transcends the material however; in post-conflict and conflict situations it can represent the first signs of normalisation. In 2002, it was noted that the rehabilitation of justice infrastructure provided by the Law Reform Programme in Sierra Leone ‘had a major psychological effect – symbolizing the restoration of normality and the rule of law.’

These ‘easy wins’ must not be concentrated on to the detriment of more difficult tasks however. High visibility outputs, including the adequate provision of physical capacity achieves little without the restoration or reform of human capacity. New prosecutors and judges must be recruited to investigate and rule on the increased number of cases resulting from improved police effectiveness

and high post-conflict and conflict crime rates. Without sufficient personnel the system can quite soon become log-jammed, with concomitant increase in abuses such as suspected criminals languishing in prison without formal charge.⁶ Human capacity is not simply a numbers game however. To ensure justice and fairness, it is necessary to have professional, competent and unbiased personnel to properly adjudicate criminal cases. Already existing justice officials often complicit in past crimes, such as the judges in El Salvador, will need to be vetted and if necessary purged. This must be approached pragmatically however; even more so than the police, the judiciary cannot be wholly replaced by new recruits in a short time frame. Merely incompetent officials therefore, along with new recruits, will need extensive training. Training must be focused on the particular circumstances of the country. In Sierra Leone for example, corruption prosecution is a particularly patchy problem. But also domestic violence is a regular crime. In Kosovo, the OSCE’s initiated a programme of judicial monitoring. Although individual reports may be anecdotal, the accumulation of such observations can, over time, provide accurate and invaluable information on the strengths and weaknesses of the judiciary. In fact the Kosovo Judicial Institute (KJI), another OSCE endeavour, uses these reports to determine what courses and training programmes it should offer judges and prosecutors.

Despite the implementation of these policies and procedures however, many of the justice sectors explored in the case studies continue to be poorly trained, incompetent and corrupt. Unsurprisingly, public opinion surveys in countries such as Kosovo and El Salvador indicate the judiciary’s still enjoy very little public credibility. Poor assessments of the justice sector after vetting, recruitment and training reflect less on the design and implementation of the programmes (although these often need refinement), and are more a function of the sheer scale of rebuilding a justice sector and the difficulties producing rapid change in a new legal and judicial culture.

6 This was a prevalent problem in El Salvador.

Eric Scheye relays the story of a UNMIK staff member 'consistently surprised at the reports of judicial misconduct, given that she has personal knowledge of judges having been taught different things than what they are doing'. The gap between outputs and outcomes is clear,⁷ but so too is the space between technical solutions and efforts to build a legal culture, whether based on respect for human rights, equal protection under the law, or more culturally differentiated principles. This is inevitably a long term, generational process.

As Laure-Helene Piron rightly emphasises, justice is a sector, not a separate set of institutions.⁸ Provision of equipment, building of physical capacity and recruitment/training efforts must proceed in tandem across the entire sector.⁹ But just as important, reform must actively promote the creation of this sector, establishing and reinforcing institutionalised links between these various services. Without these links, the justice continuum cannot function. Witness the problems in Kosovo resulting from an overlooked prosecution service and the absence of judicial police. As a senior UNMIK staff person admitted, 'prosecutors have been totally left alone. No one has done anything with the prosecutors: on how they do their jobs and manage themselves.' Crucial links between the police and the judiciary are therefore not present or working effectively: 'For evidence to be legally admissible and a successful prosecution "made", a secure "chain of evidence" must be established, certifying that the evidence has not been tampered with as it moves along the

7 Outputs should not be measures of success. The 'SSR in south eastern Europe: an inventory of initiatives' project at York University has highlighted that the of many projects dealing with legislative reform ends at the point where legislation is adopted.

8 Laure-Helene Piron, 'Donor Assistance to Justice Sector Reform in Africa: Living up to the New Agenda?', February 2005, <http://www.odi.org.uk/rights/Publications/Piron_Justice_Aid.pdf> accessed 4 April 2009.

9 And indeed across as much of the country as possible. It is regularly the case that reform has concentrated on the capital. Shortages of prisons and courts in Sierra Leonean provinces for example mean that it is often necessary that suspects are transported 14 to 16 hours by road to Freetown to be held and their cases heard.

criminal justice continuum. In other words, how evidence is handled is one of the pivotal links in the criminal justice system, cementing the relationship between the crime scene and the police, the police and the prosecutors and, thereafter, the prosecutors and the courts.' Consequently, the passage of evidence from one end of the continuum to the other is badly mismanaged. This can result in scant prosecutions, or as Human Rights Watch pointed out with reference to the trials of suspects involved in Kosovo's 2004 unrest, lenient sentencing.¹⁰

Maintaining the chain of evidence is as basic a linking component in the justice sector as one can get. However, fostering links is not just about drafting legislation and developing procedures. Relationships between the various institutions in the sector can be apathetic, often adversarial. In some of the documentation produced by the CCSSP, the tone was regularly hostile towards a judiciary that was regarded as corrupt, unprofessional and inefficient.

The divisive and fragmented nature of most conflict and post-conflict societies suggests local ownership of reform in its most expansive definition (international support for locally proposed, implemented and overseen reforms) is not possible. Iraqi lawyers working at a US funded legal aid clinic designed to clear the backlog of mostly Sunni detainees lost in Iraq's severely overloaded prison system, are concerned whether the Shiite-led government will foot the bill when US funding runs dry. Nevertheless, local ownership in some form should be a guiding principle. It is likely reform cannot be led by the host government or population due to divisive politics, corrupt officials and so forth; the aim should be to progressively increase the ability of local actors

10 'International and local officials interviewed by Human Rights Watch suggested that lenient sentences for serious crimes often result from the weak evidence presented at trial, leading judges to convict on lesser charges than those sought by the prosecution, and thereby limiting their ability to impose longer sentences. This underscores the need for improved training and cooperation between the police and prosecutors to ensure that all relevant evidence is presented at trial.'

from government ministries to community groups to meaningfully inform, engage and implement reforms. Given the long time frame, building local capacity to eventually propose, implement and oversee reforms is, like with police reform, particularly important. Only by doing so can reform hope to build a credible and reliable justice system accessible to the end-user; the population. Too often local ownership has been roundly ignored, with disastrous effect. Consider East Timor's legal framework, much of which was written by international experts. USAID reported that while some concerns were expressed by international consultants about the 'cut and paste approach, [greater]... concerns [were] reported to the team as to whether these laws were appropriate within the cultural Timorese context'.¹¹

Accessible justice, according to the World Bank is dependent on the compatibility of sector and end-user norms and values.¹² Unfortunately, many justice sector reform programs do not chime with the predominant cultural norms of the state. The justice sector is therefore inaccessible 'intellectually, linguistically and culturally because their operations and proceedings are unintelligible to their consumers.'¹³

According to the 2007 EU evaluation, one of the predominant themes has been 'a discord and misunderstandings between local East Timorese and Western values and belief systems'.¹⁴ The mission argued that perceptions of the formal system show a noteworthy proportion of East Timorese lacking an affinity to consider and use it as a reliable system. The challenge, however, encompasses more than the pragmatics of the judicial and legal system that are novel to the population. It is the core philosophical base of the formal sector that presents a formidable hurdle. The epistemological outlook of 'modern'/Western

perspectives finds answers to conflict resolution in the physical world without consulting the spiritual, a concept fundamentally at odds with the East Timorese view of the world as made of spiritual-material dimensions described earlier. The *modus operandi* of legal procedures focuses on individuals and takes place in an environmental sphere that formalises active participation to a minimum. This methodology disassociates the community from both individuals and events and contradicts the integral component of Timorese identity constructed around the value of communal relationships'.¹⁵ Only through the inclusion of local actors can such mistakes be averted; training the trainers and consultation groups with civil society groups and NGO's are just two of the measures that can be suggested.

As this last paragraph demonstrates, the issue of justice just as much as the issue of security is contextually dependent. Careful assessment of the cultural, political and social situation will be essential. Conflict in particular can violently intrude on the ability of justice sector reform to make headway. Insurgency can soon overwhelm the ability of the sector to prosecute and detain insurgents. Compounding the problem, violence is regularly directed at the sector. In Iraq for example, as the insurgency gained traction, judicial infrastructure and an increasing numbers of justice sector officials were targeted. Dozens of judges have been murdered since 2003. According to William Gallo, director of the Law and Order Task Force¹⁶ 'If you can intimidate that aspect of the judicial system — the judges — then it doesn't matter how many witnesses you have and it doesn't matter how many investigators you have or prosecutors. If the judges don't feel they can make a decision in a secure environment that is fair and even-handed, then the whole system is going to crumble'.¹⁷ As secure an environment

11 USAID Report, 'Rule of Law in Timor-Leste', June 2007, p.24.

12 World Bank Report, 'World Development Report 2006: Equity and Development' 2006.

13 Eric Scheye, 2008, *op. cit.*, p.69.

14 EU Report, 'Rethinking Timorese Identify as a Peacebuilding Strategy', June 2007, p.14.

15 *Ibid.*, p24.

16 An American military unit helping the Iraqi government to redesign the judiciary.

17 Dina Temple-Raston, 'Iraqis on Slow Road to Building Judicial System', *NPR* 27 March 2008. <<http://www.npr.org/templates/story/story.php?storyId=89162530&ps=rs>> accessed 13 June 2009.

as possible is required. This can involve high walls and razor wire surrounding the apartment blocks of justice official to security crews picking up judges and then taking them inside a secure complex to eat and work, then drive them home again. In El Salvador the US government in 1984 initiated a multi-year \$13.7 million programme to reform and reconstruct El Salvador's failing judicial system. The project, spear-headed by USAID, included four major elements, one of which was the creation of judicial protection units to provide security for judges, prosecutors, witnesses and justices in high profile cases. Anything that can mitigate the dangers of a poor security contexts is essential, for faith in the justice system is essential to draw the poison from civil conflict and insurgency; 'if communities believe the courts will address their grievances fairly and unbiased fashion, there is little need to take the law into one's own hand.'

Other challenges to reform also mirror those in police reform more narrowly. In general, Salvadorian elites had a far stronger interest in preserving the status quo than in pursuing rule of law reform. As one writer observed, a military subordinate to civilian control and subject to judicial supervision would 'alter fundamentally the position and prerogatives of those in power.'¹⁸ Since the United States backed El Salvador's power structure politically and militarily in its civil conflict, its own pursuit of systemic reform in that country was hedged accordingly. For example, according to a 1993 GAO report, USAID's ambitious judicial reform project ended up focusing on 'easier to manage technical assistance such as judicial training seminars and computerized case-load management rather than working on the institutional, political, and attitudinal changes necessary for fundamental sustainable reform.'¹⁹ Despite regular evaluations, relatively few

judges have been removed from office and the renewal of the judiciary which was envisioned by the Truth Commission has not taken place. Resistance to change can be deep rooted; it is up to international actors to persuade and leverage these necessary changes.

At an operational level, financial, material and human resource requirements must be commensurate to the task. Bringing Iraq's justice infrastructure up to humane international standards for example has taken many years of commitment; a job, it should be noted, that is still not complete. Experience shows however that resources and commitment are not always forthcoming; whether the scale of the task is underestimated, or international commitment simply does not exist is often unclear. Reform in Sierra Leone was complicated by the broadening of the effort to include the justice sector, without a commensurate expansion of resources. Support for equipment and infrastructure disappeared, reallocated to the far more desperate nodes on the justice spectrum. Funding shortfalls of 93 percent – courts – and 66 percent – prisons – were unsurprisingly detrimental.

Lastly, capacity-building, both in terms of infrastructure and equipment, as well as the development of the justice sector as a set of interlocking institutions must be decentralized beyond the capital and main urban centres. The Kings College London review is clear that this has rarely been the case. Resources should attempt to ensure an adequate distribution of all justice sector nodes throughout the country; without concomitant development of all the institutions involved in providing justice across a wide geographical areas there are likely to be 'blank spaces' on the justice provision map where connections are weak or simply do not exist.

As suggested at the beginning of this section, these lessons and suggestions are far from exhaustive. Technical solutions and capacity building, whether physical of human, must be complimented by a raft of other measures if justice sector reform is to be successful.

18 Benjamin Schwarz, *American Counterinsurgency Doctrine and El Salvador: The Frustrations of Reform and the Illusions of Nation Building*, (Santa Monica, CA: Rand, 1991), p.61.

19 US GAO Report, (GAO/MSIAD-93-149), 'Foreign Assistance: Promoting Judicial Reform to Strengthen Democracy', 1993, p. 17.

From long term programmes of institutional development across the continuum including judicial oversight mechanisms to investigate allegations of misconduct, to less tangible measures legal and constitutional changes to ensure judicial independence, justice sector reform is an expansive area of development. For the purposes of police reform however, those measures identified above are a base minimum necessary if the justice sector is not to hinder the effectiveness and impact of police reform.

‘...the state of the state’: Informal justice and security mechanisms

A young Sierra Leonean male in the capital Freetown, when asked by a police reform expert about who provides policing, he replied ‘We do! If there is fighting or stealing we take them to the police. And if there is provocation or abusive language we fine them!’²⁰ In so doing, he raised an important issue in police reform; discussions within this report so far have concentrated on formal state-based security and justice mechanisms.

Yet from East Timor to Sierra Leone, it is clear that fragile and post-conflict states lack a state monopoly in the provision of security and justice. Indeed the government is frequently a minority stakeholder/provider. Security and justice, as it has been for generations in some cases, are in the hands of a whole host of alternative community actors; multiple and diverse systems contributing or even wholly providing services of crime-prevention, intervention, investigation, resolution and even punishment. The models range from neighbourhood-committees with a vague mandate to ‘procure information and control public security’ fostered by El Salvador’s Ministry of Public Security, to spontaneous youth group networks conducting night patrols across towns such as Yengema in Sierra Leone. In an indication of the strength of the non-state/local justice and security networks in most conflict, post-conflict and fragile state contexts,

20 Bruce Baker, ‘Post-War Policing by Communities in Sierra Leone, Liberia, Rwanda’, *Democracy and Security*, (Vol. 3, No. 2, 2007), p.15.

a 2008 Asia Foundation survey pointed out that ‘the national public is four times more likely to identify community leaders, rather than the PNTL, as the individual/institution which has primary responsibility for maintaining security in their locality. More people assign primary responsibility for maintaining security to elders (18%) than they do the PNTL (15%). For non-violent crimes such as theft or disputes involving land, most citizens and community leaders prefer the assistance of community leaders (suco chief or the suco council elder)’.²¹ Informal justice and security mechanism are often the predominant means through which public goods of justice and security are provided.

These non-state security and justice mechanisms are the elephant in the police reform room. Common to the majority of the case studies, reform missions overwhelmingly concentrated on formal institutions. Both theoretically and practically, the police are most often defined as ‘the institution and function of civilian public police forces that are formally legitimated within the context of national states with the tasks of crime control and order maintenance’.²² Likewise the justice sector is defined solely as state institutions. Thus, from the very beginning of many security and justice reform missions, international actors proceed upon the understanding that their mandate is primarily to build a fully functioning *Westphalian state* system, regardless of social, cultural and political reality.²³ As a senior UN official involved in East Timor confessed, ‘we were a state focused mission. Unabashedly so. The avenue we would naturally

21 Asia Foundation Report, 2008, *op. cit.*, p.8.

22 Mathieu Deflem and Suzanne Sutphin, ‘Policing Post-War Iraq: Insurgency, Civilian Police, and the Reconstruction of Society’, *Sociological Focus*, (Vol. 39, No. 4, 2006)

23 According to one scholar, this lack of reality-testing is common, as ‘little thought has been given to the background of the local police force to be rebuilt or strengthened, to the connections between police building and broader law and justice reform and, indeed, the other components of the external engagement such as economic and public sector reform, to knowledge of local political and legal systems, and to familiarity with local culture(s) and language(s) and, where applicable, non-state justice systems’, Andrew Goldsmith and Sinclair Dinnen, 2007, *op. cit.*, p.1096.

go down was a state that can manage itself.²⁴ The emphasis, he explained 'was on getting up a state justice system...It was a state model of justice. The non-state issue was raised, but didn't get much traction.²⁵ A senior UN staff person assigned to East Timor after 2006 admitted that 'everyone is aware of the traditional system, but there is an in-built prejudice... This was the consensus in the UN mission. There were discussions [about the non-state networks] ... but they never got into action.'

Donor engagement to support statebuilding in these post-conflict/fragile states can assist in enlivening the formal structures and systems of governance. Under the best of circumstances, however, animating these arrangements is a long haul endeavor. Given the depths from which progress needs to proceed, to believe that a sustainable state apparatus capable of delivering affordable, accessible, appropriate, and accountable security and justice can be reconstructed (or built de novo) in the short- to intermediate-term is naïve and foolhardy. To assume that the post-conflict/fragile state will be able to supply justice and security to more than a sliver of the citizens and residents of the country within a generation or two is a politically dangerous and irresponsible supposition. 'Neither violent war, nor a centralising state, nor the international donor community funding will alter this reality' Bruce Baker rightfully highlights.

The problem with state based reform is revealed when it is revealed that '75 percent of the general public in Timor-Leste primarily... [relies] on

24 While this emphasis may have been an understandable oversight in the first year or two of UN peacekeeping involvement when the priority is, appropriately, on stabilization efforts, it become less so with the passage of time when the peacekeeping focus ought to shift toward reconstruction and sustainable development, a transition that depends for its effectiveness on a recognition of Timor-Leste's structure as a minimal state.

25 Echoing the UN/DPKO representative's statement, a UNDP official, intimately involved with Timor-Leste, admitted that 'the non-state was always talked about, but nothing was done till now.' Curiously, however, another peacekeeping official, who reads the daily correspondence from the field, conceded that 'I don't see much discussion of the non-state in the cables. I don't see it prominently in the traffic.'

traditional justice mechanisms... for maintaining security'.²⁶ Similarly, in Sierra Leone, the vast majority of disputes, particularly outside Freetown, are presided over by non-state actors. Indeed the viability of a state-centric reform mission is abundantly clear when one considers that in 2006 in Sierra Leone, a country with a total of just 100 lawyers, only 10 practiced outside the capital, Freetown. The result of the political error is plain to see – many of the case studies are marked by a dysfunctional state-provided justice and security system.

Pragmatism dictates reform should accept the utility of these organizations. Indeed to briefly digress from the case studies, Rwanda is arguably the policing success story of Africa, largely because of the effectiveness of the informal local government structures that operate at the levels of 10, 25 and 200-500 households. Police and rule of law reform should acknowledge and embrace the informal sector. Not only are traditional structures already intact and functioning, and thus more economically viable than attempts to construct a dominant state based system, they are also politically viable - supplanting organic structures with external ones can serve to disrupt communities rather than provide stability. They represent the most workable option to promote security and stability in some areas. If the aim of reform is access to justice and security then this must be the case; formal state institutions lack institutional presence; their geographical reach confined to 'major urban centres and the tarmac road'.²⁷ Financial, security and logistical problems often play a role. All three converged in Sierra Leone, where SLP presence outside of Freetown was limited by few open lines of communication to the leadership in the capital, the economic viability of expanding their 'turf',²⁸

26 Asia Foundation Report, 2008, *op. cit.*, p.23.

27 A phrase coined by Bruce Baker.

28 Lacking the institutional and administrative systems to collect sufficient revenue and effectively allocate public finances, governments have neither the human or financial resources to offer a comprehensive security system capable of maintaining the rule of law, combating crime and ensuring citizen safety. Highlighting the problem, Sierra Leone, with a population of over six million, can still only provide a limited

and the perpetuation of insecurity.²⁹ Confined to urban islands and their connecting asphalt arteries, state security and justice systems evidently do not serve the entirety of communities within conflict, post-conflict and fragile state borders. Many East Timorese have never encountered or had resort to a formal justice system. Acceptance of these structures is therefore predicated upon the OECD dictum that ‘state-building policy in any given fragile state must be grounded first and foremost in a specific, historically informed assessment of the state of the state.’³⁰

However, the issue is not simply one of accessibility. While Chiefs, widely used in most areas where state-sanctioned justice mechanisms are not immediately available and even in cases where they are and since hiring a trained lawyer is financially impossible for the majority of Sierra Leoneans. Commonly therefore, the fundamental issue is historical and cultural. In Kosovo, the legal system of the prior regime was tainted by ‘association with or direct role in protecting the perpetrators of long-standing abuses. Public trust in or experience of an independent impartial justice system was non-existent.’³¹ Similar factors affect East Timor where there is also a deep cultural dissonance between communities and formal institutions. As one analyst of the country has written,

many [of the returning elite] were not familiar with the basics of their own land. Language was one issue: while they spoke Portuguese (and were to make it the official language alongside Tetum) only a small number of the general population did so.... The result is linguistic confusion: official police paperwork and the courts work in Portuguese which the vast preponderance of Timorese – around 90% do not speak fluently. Interacting with the police and the courts – an

number of police despite massive international assistance and resources.

29 The institutional reach of the police often run up against the poor security context in situations of ongoing conflict or residual violence, including Iraq and El Salvador.

30 OECD Report, ‘Concepts and Dilemmas of State Building in Fragile Situations’, 2008, p. 23.

31 Kings College London, *op. cit.*, p.33.

already stressful experience – becomes more so. The linguistic gulf was symptomatic of wider differences in politics, approach and knowledge.³²

Informal structures are accessible, efficient and often free. They are understandably trusted by local people. As the main stakeholders in the provision of security, their wants and concerns should be paramount. Because these are the providers to whom the majority of the population turns for the resolution of disputes and conflicts, as Eric Scheye argues, it is one of choice by the local communities. It is often acknowledged that justice and security sector reform programming ‘should, wherever possible, build on existing judicial systems and legal traditions and reflect the culture and values of the country in question’. Reform that understands and incorporates the non-state local security and justice networks therefore increases the local ownership of those to whom security and justice is provided, and is concentrated on the ‘predominant local owner in terms of concrete, practical service delivery on the ground’.

Utilising these structures benefits state institutions as well. Bringing criminal or civil cases to a state court system overwhelmed and under-capacity can be painfully slow and frustrating. Importantly, it will most likely result in extensive human rights violations, given that there will be not timely adjudication of the case for either the victim of a crime, the alleged perpetrator (frequently subjected to lengthy pre-trial detention), and/or the contesting civil claimants. Backlogs of cases are common. In East Timor for example, a 2008 assessment found a backlog of up to 5,000 cases. Little wonder that there has been a step-by-step decrease in the public’s sense of security since 2001. Diverting cases to the informal sector goes some way to relieving the pressure. Furthermore, state actors can draw from security and justice actors useful resources including intelligence that might otherwise be denied to them by communities traditionally wary of state institutions. Likewise, legitimacy can be a healthy by-product of acceptance or integration of

32 Seth Mydans, ‘A Babel for East Timor as language shifts to Portuguese’ *International Herald Tribune*, 23 July 2007

the non-state system. In these contexts, customary law, traditional societal structures and traditional authorities 'determine the everyday social reality of large parts of the population...particularly in rural and remote peripheral areas.' Often the only way to make state institutions work is through utilising kin-based and other traditional networks.

The conceptualisation of policing should therefore be broadened, defined as 'any organised activity that seeks to ensure the maintenance of communal order, security and peace through elements of prevention, deterrence, investigation of breaches, resolution and punishment.' Justice too should be expanded to include all organised activity that seeks to ensure the resolution of disputes. This is not to call for the blanket adoption of non-state mechanisms. Rather it is to recognize the many important roles both can play in the provision of security and justice.

There is as of yet no clear evidence as to how non-state policing and justice should be approached.³³ The GPPC has expended little theoretical effort exploring these mechanisms.³⁴ Practical experience is equally lacking; ideologically predisposed towards state-based solutions, a constitutional obligation to serve the 'government of the day', and blinded to the socio-cultural particularities of countries hosting reform efforts, donor agencies exhibit an almost complete lack of political will to understand the form and function of these mechanisms. Few reform missions have therefore progressed beyond the example of Sierra Leone or East Timor; in the latter suggestions were raised with the UN Office of Legal Affairs to incorporate traditional mechanisms

33 A document agreed to between Indonesia and Portugal regarding autonomy stated that "the judiciary can apply any customary law applicable between such parties and recognised as such by the judiciary of the SARET," thereby tentatively connecting the idea of state and non-state provision of justice.³² Such a step would have been beneficial, in this particular case however, with the seeds already planted, while the peacekeeping operation was still being planned, the idea of linking state-provided justice and the non-state networks of the 'second state' was mooted, but regrettably rejected.

34 Exceptions include Bruce Baker and Eric Scheye.

into new security and justice structures. Few concrete steps are ever developed however. Consequently, for comparative studies hoping to learn useful practices and lessons learned, pickings are meagre. It seems even less likely considering that these structures are so heavily embedded in the cultural, social and political milieu of the particular country that much many lessons would be appropriate from one context to the next. Nevertheless, the case studies do point to a number of suggestions.

Engagement between state and non-state is not simply a desired end-product of reform; as the Kings College review agrees, it should be an intimate part of the reform process. Assessment, planning and strategy may be heavily dependent on a deep understanding and appreciation of the informal sector. Often, as Carolyn Graydon points out, 'the cases reaching the formal justice system represent only a tiny fraction of those occurring'.³⁵ Consequently, if the majority of disputes and crimes are directed towards and resolved through the informal security and justice sector, a myopic focus on formal mechanisms will dangerously skew the reform process; additional training may be inadequate and issue specific community liaison boards may be inappropriate or underused. Once again it is important to dwell on the political failure of UN officials in East Timor to identify either the level of, or most prevalent crime.

It is in the direct provision of security and justice in which they can most benefit reforms however. Bruce Baker argues that there are a number of ways the state or reformers can react to, influence and shape alternative security and justice agencies, ranging from sponsorship and training, regulation, networking and incorporation.

Governments and international donors should support positive non-state justice and security mechanisms, ensuring they work effectively. This is one of the easiest, most cost effective ways to increase security and justice for a large section of the population. Indeed the Government of Sierra

35 Carolyn Graydon, 2005, *op. cit.*, p.34.

Leone's reform strategy from JSDP recommended just that; to support both state and non-state justice systems operating in Sierra Leone and to ensure that both work fairly and effectively to provide a real choice for the majority of the people. Support could entail financial help or training.

Deeper, more useful relationships are possible however. Mechanisms of the local justice system could be incorporated into the formal justice system, and could be legally and nationally recognized. Informal structures are frequently the first port of call for local communities. As Carolyn Graydon makes clear, '[w]ith the exception of murder and other serious physical assaults against the person (which may or may not include rape depending upon the circumstances), most see a role for the formal justice system only where local efforts have been exhausted and failed to produce an acceptable resolution'.³⁶ As an adviser to the JSDP noted: 'Each system will have its own advantages and disadvantages and both need support even if the state system will inevitably require a greater share of financial resources.' Clearly potential exists to institutionalize some form of labour division between state and non-state agencies, with certain crimes and disputes directed to either as delineated. Linking up the formal and informal requires a comprehensive assessment and approach to the entire security and justice sector as outlined in the previous section. Where attempted in Sierra Leone for example, the local courts to which tribal chiefs must refer serious disputes have not been universally established, a gap not sufficiently appreciated as there is no discernible strategy to address this problem.

It is often presumed that implementation of a step such as this entails a clearly defined legal link to the state system. However, among the many other reasons why these states are in the condition they find themselves in is because their political structures and legal systems are undeveloped, unelaborated and poorly institutionalised. It is naïve and impractical, therefore, to insist that the existence of a fixed relationship between state and

non-state/local networks, one of the most complex justice and security governance linkages, be a precondition for donors to support the strengthening of the delivery of equity and safety. Rather the reverse should be the case. Precisely because these linkages are relatively unspecified, in law and practice, donors should engage with non-state/local justice networks and make them more able to work with state institutions and agencies. Likewise, such reform would entail little in the way of training for *local* police or justice workers who, embedded in the same cultural soil as the community, hold similar values and sentiments. In many examples of reform, sizeable proportions of cases are withdrawn from the formal system and referred back to local mechanisms, not just by locals, but police officers, prosecutors and occasionally the courts themselves.³⁷ A USAID report agrees, stating that 'police officers... did not trust the court system and believed on a personal level that community dispute mediation represented a better avenue toward resolution'.³⁸ Such links are therefore often present already.

The recognition of non-state policing is often assumed to raise an important point; while people recognise these structures, there is a strange notion that the state remains the principal institutional locus of efforts to subject security institutions to forms of public scrutiny, accountability and reform. It is thus assumed that the GPPC are faced with an expansion of the field of policing, but that these exist in some sort of vacuum, absent from appropriate accountability mechanisms. This is not the case. Bruce Baker explains: 'In its fullest sense accountability involves being open as regards policies, decisions and operations; providing information willingly; explaining and justifying actions; responding to public concerns and complaints; investigating alleged abuses; accepting imposed sanctions for illegal conduct; allowing a right to redress for abuses committed. Neither the state nor community-based policing can meet this standard in full. Yet bearing in mind that accountability is, primarily, about holding values

37 *Ibid.*

38 USAID Report, 'Rule of Law in Timor-Leste', *op. cit.*, p.22.

36 *Ibid.*

Box 4: The dangers of non-state actors – a warning from Iraq

By definition, non-state security providers can draw legitimacy away from the state. In the context of fractured ethnic and sectarian states, or with strong decentralising tendencies, non-state actors can also act as roadblocks to the development of a central state. Consider the Sons of Iraq scheme. Their initial utility is not in question; a recent G.A.O report ‘the establishment of local nongovernmental security forces that oppose AQI has helped decrease the levels of violence in parts of Iraq, most notably in Anbar province’.¹ A core element of the counterinsurgency fight, they have a deep knowledge of the local populace and provide regular intelligence reports on activities international forces, with less local and cultural knowledge, might miss. Furthermore, providing security for communities and key facilities has freed MNF-I and Iraqi forces to pursue their counter-terrorism objectives. Long-term uncertainties remain however. Some experts have warned of striking similarities between

the Sons of Iraq and armed actors in previous conflicts who provided short-term military benefits but later proved a roadblock for state building. Indeed the G.A.O report acknowledges that ‘these groups by and large have not yet reconciled with the Iraqi government.’² Indeed, following the temporary withdrawal of tribal security support for MNF-I and the Iraqi security forces in Diyala and Babil provinces during early 2008, ‘fraying relations between these groups and the Iraqi government in Anbar province caused a spike in violence in this area.’³ Deborah D. Avant, director of international studies at the University of California-Irvine therefore argues that ‘To the degree that the U.S. is trying to build a state -- which it says it is trying to do -- then these types of efforts are counterproductive.’⁴ The clear lesson is that state-building should not be sacrificed at the altar of military or policing expediency.

1 US GAO Progress Report, ‘Securing, Stabilizing and Rebuilding Iraq: Some Gains Made, Updated Strategy Needed’, June 2008, p.21.

2 *Ibid.*, p.21.

3 *Ibid.*, p.22.

4 Quoted in Bradley Brooks, ‘Sunni fighters need political role’, *USA Today*, 24 December 2007.

concerning how the relationship is to be conducted between policing agencies and those policed and only secondarily does it mean the institution of structures and processes to facilitate this, there are some positive elements.³⁹

Let us not be deceived; informal security and justice mechanisms are not a utopian panacea to failing police reform missions. Many are as deeply problematic as the state institutions it is hoped they can directly and indirectly support. Vigilante neighborhood committees in El Salvador, ostensibly under civilian control, have been linked to acts of social cleansing. One such group, the *Black Shadow*, targeted not just alleged criminal elements but also lenient judges who let suspected lawbreakers go free.⁴⁰ Human rights abuses on this scale are rare,

but many run counter to or break statutory law. Corporal punishment is a frequently cited problem. On this issue in Sierra Leone however Bruce Baker suggests, ‘few in their communities would harbour doubts about the use of violence’.⁴¹ Consequently, he argues that the dividing line between positive and negative local justice and security mechanisms so clear from a western perspective, is less defined on the ground. Cultural values are a notoriously thorny topic, however reform cannot afford to ignore the value systems of the local communities it is directed at. At the very least local mechanisms should not be shunned because they do not match up to certain international standards unrecognisable to local

control in pre-Accords Salvador. Post-1992, the focus of parallel private justice entities, overt or clandestine, has been on crime-fighting. Their role can be expected to diminish with the expansion of the legitimate capacity of the PNC to control crime.

39 Bruce Baker, *op. cit.*

40 Vigilantism and ‘death squads’ were a form of political

41 Bruce Baker, *op. cit.*

communities. Cultural change is a broad societal and generational issue immune to mere tinkering of the law. Indeed as Eric Scheye argues, ‘Donors support state institutions that routinely violate human rights, in part to lessen the occurrence of the abuses. The same logic should be applied to nonstate/ local justice networks.’

Indeed it is justifiable to retort that the state sector is usually little better. Both formal and informal mechanisms are products from the same cultural, social and political soil. In all likelihood, they express similar norms and values and problems in one are mirrored in the other. Consider the common complaint that non-state mechanisms regularly discriminate against women and fail to adequately address gender grievances. Such problems, noted about traditional justice mechanisms in Sierra Leone, a country with endemic domestic and sexual violence is deeply troubling. However, the PRIME report identified that the Justice and Security Monitoring Program found ‘many police officers do not consider cases of domestic violence seriously.’ The problem is common to both the formal and informal sectors. In the context of a deeply flawed state system, there is little justification to ignore or attempt to supplant these systems, which is largely impossible anyway. The price of order in post-conflict, conflict and fragile states may therefore be the acceptance and inclusion of flawed but nevertheless effective and legitimate non-state mechanisms.

Potential does exist to avert this challenge. Reform perhaps could target rather than simply acknowledge and embrace their utility, addressing some of the issues raised. These structures, like culture, are not monolithic entities unchanged down the centuries; they are malleable and adaptable, indeed that is part of their longevity. Quite positively, ‘most are capable of being upgraded - and would welcome that.’⁴² In an article on local ownership and the informal justice sector, Eric Scheye explores a Kenyan project initiated in 2004 to address the disinheritance of women due to the deaths of their spouses from AIDS. Based on

a number of assumptions including the recognition of local justice mechanisms and the importance of local cultural values:

[T]he programme did not seek to extend the authority of state courts into rural areas, an unsustainable choice... the programme persuaded the village elders, who lead the networks, that if their norms and belief system were to continue to proclaim that one of its values was the protection of women, inheritance rights had to be modified. The result was ‘with the support of the elders in a number of cases it was agreed to install the widows legally as trustees of the communal land’. This resolution kept the dead man’s lineage intact (a preeminent cultural value) and allowed the deceased children eventually to inherit their father’s land, without requiring their mother to marry her brother-in-law. At one and the same time, the approach resolved an acute problem, satisfied local norms and cultural values, and respected women’s rights.⁴³

Clearly there is much that can be learnt in terms of how reformers, with the right cultural understanding and predispositions could work towards reform not only of the formal state sector, but also the informal sector.

If the aim of police and rule of law reform is to provide accessible, effective and efficient public goods of security and justice then these must be part of the reform effort. If a police reform programme is merely to bolster a state institution then it can justifiably be ignored. Unfortunately the latter appears to be the case, whether due to inbuilt prejudice or political reasons. For example, in late 2008, UNDP began to organise ‘dialogues’ regarding the potential of linking elements of non-state/ local justice and security networks into Timorese justice development programming. Nevertheless, the Report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (for the period from 9 July 2008 to 20 January 2009) unequivocally declaims, ‘the fundamental tasks ahead are not necessarily about solving particular

42 Bruce Baker, *op. cit.*

43 Eric Scheye, 2008, *op. cit.*, p.74.

issues, but about strengthening the institutions of State and improving policy and decision-making processes marked by transparency, accountability and consultation'.⁴⁴

It remains a serious challenge to donor agencies to find the appropriate balance between support of state and non-state actors, what seems clear however is that in many examples of reform this is both normatively and practically necessary.

44 UN Report, 'Report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (for the period from 9 July 2008 to 20 January 2009), p.17, <<http://daccessdds.un.org/doc/UNDOC/GEN/N09/222/46/PDF/N0922246.pdf?OpenElement>> accessed 12 July 2009.

Part Three

Applying the Lessons to Afghanistan

The analysis of five case studies in the previous sections taps into the rich seam of experience from past police reform missions in an attempt to discern lessons learnt, practices that which have proven successful, and others that are to be avoided, which have the potential to inform a new strategy for police reform in Afghanistan.

Temptation within reform is often strong to simply graft policies and programs that have worked well in one example of reform to another. This is to be avoided. It is axiomatic within the existing literature that reform policies, programmes and strategies cannot simply be transplanted from one context to the other. The success or failure of police reform is highly sensitive to local political, cultural, societal or security conditions. As a leading academic, Alice Hills, claimed at a RUSI workshop on police reform, 'reforms are never objective; good in one, disastrous in the other, the outcome can be hard to predict.'

Consequently, in this section it is necessary to assess not only the virtues and shortcomings of current reforms in Afghanistan - highlighting areas of convergence and divergence with the lessons learned in other examples of reform - but also analyse whether practices that have worked in other examples of reform are suitable for the unique reform context which Afghanistan presents.

3.1 The Afghan Reform Effort

Committing to the Afghan clock

By 2010 the international community will have been engaged in Afghanistan for close to a decade. Yet commitment has been sporadic, extended on an ad hoc basis with little understanding that reform would be long term. Commitment to ANP transformation has suffered from short-termism, mirroring reform in the case studies. Police reform in Afghanistan, even if originally approached correctly, will take years if not decades, particularly in light of the base from which the ANP has to rise. Exacerbating this, reform is being conducted 'under fire' producing frictious dynamics slowing the pace of reform. Due to the exigencies of rising insecurity, political and societal pressures to focus on capacity-building have distracted attention from ministerial reform. Meanwhile, civilian trainers and mentors have been unable to reach areas suffering acute levels of violence. At its most basic level, the ANP has suffered high levels of infrastructural and personnel attrition thereby requiring rebuilding, recruitment, and retraining. Seven years after the start of reform, many of the lessons identified in the case studies are only now being internalised and integrated into reform policies and programs. Others remain 'unlearnt'. Commensurate with the scale and complexity of the enterprise, it can be guaranteed that reform will be a generational endeavour; as one civilian police mentor admitted, 'the older police generation are lost, we won't change them. The 19-year-olds we might change one or two. It's the four or five-year-olds growing up. By the time they reach maturity they will be ready.'¹

For too long reformers have laboured under the misapprehension of naive and over-optimistic expectations. Despite Afghanistan's downward spiral into insurgency, narco-statehood and endemic corruption, the 2006 Afghanistan Compact

unrealistically aimed for 'by end-2010, a fully constituted, professional, functional and ethnically balanced Afghan National Police and Afghan Border Police...[which] will be able to meet the security needs of the country effectively and will be increasingly fiscally sustainable'. International actors may continually reaffirm their long-term commitment to Afghanistan, but their definition of long-term is often woefully inadequate. Benita Ferrero-Waldner, Commissioner for External Relations and European Neighbourhood Policy has stated for example, that the European Commission earmarked '€610million for assistance to Afghanistan between 2007 and 2010 thus confirming its long-term commitment to assisting Afghanistan [authors emphasis] on its path of rebuilding the country.' Likewise, a US interagency assessment of the ANP that was released in November 2006 suggested that long-term US assistance and funding—at least beyond 2010—will be required to institutionalize the police force and establish a self-sustaining program. Three, four or even five years is not even close to the commitment necessary. Attitudes and timetables must be re-attuned to a new sense of realism. It must be acknowledged, publicly as well as the corridors of power in Washington, Berlin or London, that reform of the Afghan National Police will take many years.

International governments should signal their intention to establish long-term reform efforts by entering into a memorandum of understanding with Afghanistan. This would psychologically, conceptually and diplomatically prep both donors and the GOIRA for the lengthy timescales that are required. An MoU would guarantee against fickle international commitment which can often be subject to the dictates of new crises or flagging interest from the international community. Development fatigue can soon set in, particularly after many years of reform with seemingly little results. Moreover, it would guard against Afghanistan's tricky reform paradox; Reform of the ANP is necessarily long-term, yet in the face of deteriorating security, there is a strong temptation

1 Tom Coghlan, 'Laying down the law: US tries to make policemen of the "robbers in uniform"', *The Times* 21 July 2009. <<http://www.timesonline.co.uk/tol/news/world/asia/article6721176.ece>> accessed 21 July 2009.

to conceptualise the process as primarily an attempt to bolster immediate and short-term security concerns, thereby counter-intuitively viewing reform in even shorter time periods.²

The Memorandum would outline key principles, planned activities and bind both parties to a series of commitments until 'year x', cementing commitment on a time-scale that is realistic. Within that Memorandum, different governments could commit to different programmes commensurate with their resources and capabilities. A recent ECFR publication for example argued that 'plans should also be put in place for a 20-year programme to support the Kabul Police Academy and its regional equivalent in Mazar-e Sharif. The academy could be twinned with European training centres like Britain's National Policing Improvement Agency or the Centre of Excellence for Stability Police Units in Italy, creating a regular rotation of trainers.' More long-term suggestions like this are required, such as decades long programmes to support the payment of police salaries, or efforts to upgrade equipment and refurbish infrastructure, but within a broader long-term commitment. This is hardly music to the international community's ears in the current economic climate. However, it would foster domestic commitment to reform and instil confidence in reform and the ANP that is all too lacking in Afghanistan.

At a minimum this should be ten years. Fifteen to twenty is preferable. Having said this, it is futile to try and force the timetable of reform however. In Afghanistan, fragile and weak government combined with internationally-led reform has resulted in timetables that try and squeeze transformation into the straight jacket imposed by the planning and implementation imperatives of developmental agencies, or the exigencies of donor government politics. One year after the start of Focused District Development, an American initiative to (re)train district-level police and

originally scheduled to last just three to four years, only 52 out of 350 districts had completed or were undergoing reform.³ International mentors still remained in many districts for the simple reason that police were not capable to undertake their full roles without oversight. The futility of trying to synchronise the reform clock to Washington or Berlin time is clear and must be abandoned. Quite the reverse. Timetables should be based on a careful assessment of progress, judged from a domestic perspective. It should be based on outcomes, not international outputs. Reform should be measured against the value added to the ANP and its efficacy, rather than against targets set in foreign capitals and unreflective of local realities; the horizon of reform must be assessed and adjusted accordingly.

Adapting to a long term vision not only requires political measures, but operational ones too. Change to long term reform in Afghanistan must confront the short-termism of staff turnover. CSTC-A staff typically serve tours of 12 months or less and according to reports, have minimal or no periods of overlap with outgoing officials contributing to a loss of institutional memory.⁴ Where possible, reform officials should be required to commit for a number of years. While impractical at lower levels, with upper management this must be insisted upon to ensure wheels are not reinvented and a consistency of purpose is maintained. Extended commitments are also preferable for advisers and

3 'Although Defense assesses the FDD program to be demonstrating promising initial results, FDD districts have required more time to become fully capable than CSTC-A had originally projected. CSTC-A had projected that FDD units would reach full capability in 9 months. However, only 4 of the first 7 units to undergo the FDD program reached full capability within 10 months, according to CSTC-A. CSTC-A informed us the program has been affected by growing security threats. Also, CSTC-A responded to concerns of international partners in Afghanistan by initiating FDD in districts that faced relatively greater security threats than originally anticipated.' US GAO Report, March 2009, *op. cit.*, p.15.

4 Testimony of Charles M. Johnson to the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government and Reform, 'U.S. Efforts to Develop Capable Afghan Police Forces Face Challenges and Need a Coordinated, Detailed Plan to Help Ensure Accountability', 2008, pp. 14-15. <<http://www.gao.gov/new.items/d08883t.pdf>> accessed 12 June 2009.

2 International police reform or rebuilding missions in these states demonstrates most clearly how police and security sector reform lie uneasily at the intersection of security and development that characterises police force transformation efforts.

mentors who need to build strong relationships with Afghan counterparts that can often take many months of meetings involving little more than convivial conversation and copious amounts of tea.

Filling the resource gap

We went into Afghanistan with one-25th of the troops and a 50th of the aid per head of population that we put into Bosnia.⁵

(Paddy Ashdown)

Reform aimed at the transformation of the police into a competent and professional service does not come cheap. Financial, human and logistical resources must be commensurate to the task. Unfortunately, during the early stages of international intervention, the international community adopted a myopic focus on the ANA. Efforts to build and reform the ANP remained a low priority, receiving little attention or resources.⁶ Germany began training the ANP in 2002 but made sent only 40 police advisers to Kabul, and made available just 12 million euros per year up to 2008 when it tripled funding to 36 million euros.⁷ Originally just forty personnel were sent to The UNDP Law and Order Trust Fund for Afghanistan (LOFTA), a fund for the payment of ANP salaries and operational costs has been persistently starved of sufficient financial resources.

5 Quoted in Nicholas Watt, 'Lord Ashdown: "Afghanistan is a war we should be fighting and we have to win – but we are losing"', *The Guardian* 12 July 2009. <<http://www.guardian.co.uk/world/2009/jul/12/paddy-ashdown-afghanistan-policy>> accessed 12 July 2009.

6 It is arguable that problems with inadequate resources have been a perennial feature of the Afghanistan mission. Implementation of the ANDS has been hampered by the inability of the international community and the Afghans to obtain commensurate funding. This was evident at the Paris Conference in June 2008, where many nations pledged money that they had pledged previously meaning that what was initially thought to be \$20 billion pledged in support of the ANSDS was actually \$14 billion. Meanwhile the GIRA estimates the cost of fully implementing the ANDS at \$50 billion.

7 Institute for Security Studies Occasional Paper No. 78, 'Security Sector Reform in Afghanistan: the EU's contribution', April 2009, pp.26-27.

Interest and prioritisation of police reform has increased, particularly after the US became concerned at the slow pace of German progress in 2004-5. This led to a dramatic increase in funds, from \$24 million in 2002 to a projected \$2.5 billion in 2007 and concomitant increases in personnel, equipment and technical support. But problems still persist; even as late as 2007, retired US Army Gen. Barry McCaffrey wrote in a memo at the US Military Academy at West Point, that the effort to create the police was 'grossly under-resourced'⁸ Of specific importance, according to the DoD's latest assessment, 'Significant shortfalls in ANP training personnel continue to hamper police development in Afghanistan.'⁹ The US Government Accountability Office (GAO) recently assessed such shortfalls as having a direct impact on the wide roll out and successful implementation of training and mentoring programs such as Focused District Development. Whilst achieving promising results: 'a shortage of military personnel is constraining CSTC-A's plans to expand FDD and similar programs into the rest of Afghanistan by the end of 2010. Defense has identified a shortage of about 1,500 military personnel to expand FDD and similar police development programs. CSTC-A has previously obtained military personnel for the FDD program and ANP training by redirecting such personnel from resources intended for its Afghan National Army training program. However, the Afghan army program's demand for military personnel is likely to grow due to the recent decision by the United States, Afghanistan, and international partners to increase the Afghan army from 80,000 to 134,000 individuals.'¹⁰

Blame can be widely shared. But it can hardly be argued that the US is not pulling its weight, providing the vast majority of funds and personnel.

8 James Rupert, 'U.S. Loses Ground as Afghanistan Erodes', *The Seattle Times* 20 September 2007. <http://seattletimes.nwsources.com/html/nationworld/2003893062_afghanistan20.html> accessed 30 April 2009.

9 Department of Defense Report, 'Progress Toward Security and Stability in Afghanistan' June 2009, p.7. <http://www.defenselink.mil/pubs/pdfs/1230_June%20AD2009Final.pdf> accessed 1 July 2009.

10 US GAO Report, March 2009, *op. cit.*, p.11.

Other partners have not been so generous. Last July, Cone called for coalition partners to help meet the shortfall in instructors. In June 2007, the European Union Police Mission in Afghanistan (EUPOL Afghanistan) assumed control of the German led Afghan police mission. Like its predecessor however, it has failed to provide the required number of trainers, mentors and operational staff to build and reform the ANP. With an initial authorisation of 200 personnel – representing just 0.0001 percent of the EU's combined 2 million police - the mission could only muster 150. No less than '14 calls by the EU Council Secretariat for contributions by EU states to EUPOL have fallen on deaf ears...Only 15 EU states are contributing staff to the operation, and of these, only Germany, Italy and Britain have provided more than ten staff. France, for example, has only two people in the EUPOL mission, but has managed to find 18 for the equivalent mission in Bosnia, 43 for Georgia and 176 for Kosovo. Though Portugal has told the EU it has 481 police officers ready to be deployed on ESDP missions, it has sent none to EUPOL Afghanistan.'¹¹ In December 2008, the EU pledged to expand EUPOL to 400 personnel, but staff levels remain at half that.

Extra efforts must be made to properly resource the reform effort. Added incentives for staff working in Afghanistan, along the lines of the tripling of EU salaries discussed last April, would help. The EU in particular should expand its efforts, demonstrating its commitment to soft power. European reform actors have persistently expressed disquiet and disagreement with US efforts to paramilitarise the ANP; only by increasing its resource, manpower and thus diplomatic weight compared to the United States will its proposals for a civilian police service be taken seriously. Furthermore, while increasing staff to 400 would be welcome, the mission remains small by comparison to the 200 strong EU rule of law mission to Kosovo.¹²

In terms of specific programs such as FDD, in November 2008, CSTC-A officials stated they may propose that Defense use US combat units, provincial reconstruction teams,¹⁰ and international forces to help address the shortage of personnel. Six FDD police mentor teams had been staffed using personnel provided by international forces. Given the importance of FDD, if forces can be spared from more secure geographical locations, this could prove useful. In the long run however, local ownership should be expanded to provide 'Afghan'sation' of reform efforts, in particular training and mentoring programs.

Likewise, as the previous section argued, resources will need to be applied over the long term. Donors must recognise that reform is a long term investment; returns may not be evident for many years. It is clear that Afghanistan will be unable to provide anywhere near the amount needed to finance the ANP and its other security forces from its own revenues for many years, with some estimates predicting two decades. Sustaining an 82,000 strong ANP alone is estimated at \$1 billion annually for the next five years according to the Defense Department.¹³ Such a figure is larger than the country's entire domestic revenue which currently hovers around the US\$700 million per annum range. An adequately resourced multi-donor trust fund for ANP reform, along similar lines to LOFTA is recommended. It is essential they realise that a well resourced reform effort is cheaper than leaving the ANP underequipped and poorly resourced thereby contributing to a repeat of Afghanistan's state collapse in the 1990s followed by possible and costly intervention from scratch.

But predictable donor funding is a must and cannot be hostage to annual budget changes in donor countries. Without this there is a danger that costs end up being paid from Afghan budget

11 European Council on Foreign Relations Policy Brief, 'Shaping Europe's Afghan Surge', March 2009, p.9.

12 Paul Taylor, 'EU Approves 2,000-strong Kosovo police mission', *Reuters* 16 February 2008. <<http://www.reuters.com/article/worldNews/idUSL15749020080216>> accessed 7 May 2009.

13 US Government Accountability Office Report (GAO-08-661), 'Further Congressional Action May Be Needed to Ensure Completion of a Detailed Plan to Develop and Sustain Capable Afghan National Security Forces', June 2008, p. 14. <<http://www.gao.gov/new.items/d08661.pdf>> accessed 15 December 2008.

revenues, squeezing other priority expenditures. The idea behind a formalised commitment such as the Memorandum of Understanding discussed above is important in this regard. The Sierra Leonean MoU presented in writing the activities planned to be undertaken by the UK government along with the financial commitments that would be necessary to conduct them. Such an approach is highly beneficial, ensuring that the long-term nature of reform is built into donor support at a financial, planning and implementation level.

Importantly, resource provision must include adequate oversight. In May of this year, the Special Inspector General for Afghanistan Reconstruction released a damning audit of reconstruction and reform of the Afghan security forces.¹⁴ Concentrating on one \$404 million contract to provide ANSF training and support, it found that 'CSTC-A lacks effective contract oversight capabilities'. Just one contracting officer, located in Maryland in the United States 'which is nine time zones from contractor performance locations' was assigned to monitor progress. Likewise, in January of this year the GAO released a report damning the lack of accountability for weapons provided to the ANA and ANP. Several reviews have made it all too clear that resources provided for the ANP have often not reached the intended target. Transparency International rates Afghanistan as one of the most corrupt countries in the world. The GAO has therefore warned that 'the sudden influx of substantial amounts of donor money into a system already weak from poorly regulated procurement practices increases the risk of corruption and the waste of resources.' Capacity, funds and personnel for adequate oversight and accountability of international assistance to ANP reform could provide at least in part, additional resource flow.

14 Special Inspector General for Afghanistan Reconstruction Report, 'Contract Oversight Capabilities of the Defense Department's Combined Security Transition command – Afghanistan (CSTC-A) Need Strengthening', May 2009. <<http://www.sigar.mil/reports/pdf/audits/Audit-09-1.pdf>> accessed 1 June 2009.

Utilising the right individual and institutional actors

Accepting the Coalition of the Able

Sharply contrasting with the other case studies, bar Iraq, Afghanistan has experienced the military undertaking reform. Originally the preserve of the Germans, with other actors playing a supplementary role, concern at the lack of progress led to the US Department of Defense taking the lead in US police reform efforts from State /INL in early summer of 2005.¹⁸ By July 2005, OSC-A (renamed the Combined Security Transition Command-Afghanistan (CSTC-A) in 2006) formally assumed control of ANP reformation and training.¹⁹ The military personnel of the *Combined Security Transition Command Afghanistan* (CSTC-A) thus started working with German police representatives on the reconstruction of the Afghan National Police.

This is a development that has been greatly criticised; past examples of reform strongly indicate that professional, cultural, and institutional dissonance between military organisations and police forces make the former inappropriate to lead police transformation efforts. US military domination of efforts to transform the ANP has regularly handicapped reform implementation whilst distorting the form and function of the police. Evidence strongly suggests the military has not understood the separate nature of policing either at a strategic or implementation level. After CSTC-A became the predominant actor for example, 'an earlier reorganisation plan with eight policing regions reflecting the various ethnic populations in the country was resolved into five regions, crossing ethnic lines to conform to the military command structure. Organisational convenience over-ruled community considerations.'¹⁵ An article at US central Command noted that the Parwan police mentor team was 'comprised of service members trained in an array of military occupational specialties. With their expertise combined, they made a highly-skilled and effective team – ready to tackle the task of teaching the ANP necessary skills to remain effective.'¹⁶

15 Tonita Murray, 2007, *op. cit.*, p.21.

16 Sgt. Jessica Dahlberg, 'Coalition Troops Mentor Afghan

A simple and obvious solution is to argue that the military must not be involved in reform.

However, Afghanistan exposes the limitations of lesson applicability. Civilian reform actors have been increasingly unable to conduct civil COIN in the midst of a resurgent Taliban and the rise of a multidimensional insurgency. The dictates of reform context meant that the U.S. military filled a vacuum no other actor was capable of occupying.¹⁷ *Coalition's of the Willing* have therefore had to cede ground to the *Coalition of the Able*. Furthermore, the development has not been without its benefits, infusing substantial energy and resources into Germany's faltering efforts. Moreover, rising insurgency often targeted at the police mean that there is a convincing case for a more militarised training curriculum.

Although the handing over of police reform from the military to civilian reformers must become a primary goal and measure of success, recommendations must duly consider the realities on the ground. As the largest player on the police reform block with commensurate manpower and resources that dwarfs other international actors, criticism must stop short of recommending the removal of CSTC-A from efforts to transform the ANP. After all, the police have made great strides since CSTC-A took over. Recognition of this fact is important.

But rather than refuse to engage, or as one diplomat interviewed by ICG termed it, 'splendid isolation and sniping from the sidelines', a more

Police', 15 May 2008. <<http://www.centcom.mil/en/what-we-do/coalition-troops-mentor-afghan-police.html>> accessed 12 June 2009.

17 The use of COIN provincial reconstruction teams (PRTs), with mixed civilian and military personnel, is an important, if small, step toward securing civil COIN under fire. But the PRT does not encompass the facilities, assets, government services, and indigenous personnel that must be involved and eventually take over civil COIN, much less the access of the local population for whom services are intended. To protect PRTs is to protect only a thin crust of the total civil effort, leaving unsolved the problem of securing civil COIN in the large.

pragmatic approach is required. Piet Biesheuvel agrees, arguing that civilian agencies must adapt to the circumstances imposed by reform 'under fire' and work with the military rather than against it. Conversely, CSTC-A must become more inclusive. It's dominance of the reform effort has dangerously widened the 'knowledge gap' identified by Otwin Marenin; efforts in Afghanistan have not tapped into the rich vein of police reform lessons and knowledge from over three decades of development experience. A greater role for traditional police reformers is essential. These institutions and personnel have the requisite knowledge and expertise and in conflict situations such as Afghanistan it is urgently necessary to find ways to utilise their experience, their knowledge and their tools more effectively than is currently being done so. This should occur at two levels, strategic/policy headquarters and on-the-ground. There is little precedent in past reform missions to indicate how this can be achieved. At an international level it would clearly be preferable for EUPOL to assume coordination and political leadership of the reform effort. Police reform experts have made clear that it has the 'intellectual high ground and police reform expertise'¹⁸. Yet the (widening) gap between US and EU mission sizes make this more than unlikely. Cooperation between EUPOL and CSTC-A must be therefore be prioritised. And within the US mission, the presence of civilian reformers in CSTC-A HQ and the Pentagon helping to devise policies and programs is advisable.

At the implementation level, Police Mentoring Teams are composed primarily of military personnel. The ratio of military to civilian personnel should be reversed, but only where security allows. This is frequently not a benign environment for PMT's.¹⁹ EU and US civilian personnel (as suggested above) are lacking however. Senior CSTC-A personnel report that Defense has not provided enough personnel to act as police mentors. Consequently, 'CSTC-A redirected to the police program personnel that would have been used to mentor Afghan National Army units.' Personnel could therefore either be

18 RUSI interview with Piet Biesheuvel.

19 Sgt. Jessica Dahlberg, *op. cit.*

hired from the private sector, or at a minimum, military personnel redirected to the PMT's must be adequately trained by civilian professionals; currently training for ANP mentors takes place at Fort Riley where ANA mentors are trained. Lastly, not enough has been done to exploit the potential of Military Police unit involvement in police mentoring and training.

The right personnel

While debate continues to rage about the suitability of institutional actors, consensus reigns concerning the need for the right personnel. Criticisms of trainers, mentors and advisers have been widespread. Quality has been variable. International actors 'use inexperienced translators and interpreters [which] causes misunderstanding in content' claimed one Afghan interviewee. Greater attention to the deployment of quality personnel is important. International and Afghan officials have expressed deep reservations about the quality of civilian contractors such as DynCorp, the company hired to implement police training at regional training centres.²⁰ In light of their troubled history in reform, it is perhaps time to reassess their costs and benefits. At the very least, through evaluations of their performance and effectiveness should be made before assigning additional reform programs to them.

Concentration must focus on widening the skills base of ANP reformers. Most mentors, trainers and advisers have only operational experience. Such knowledge and experience, while 'essential for transferring policing techniques... are not sufficient to achieve reform'. ANP training, which requires knowledge transfer and competency development, has often been 'sabotaged by ineffective training methods, poor learning materials, bad examples and sometimes outdated information.' Likewise,

²⁰ While many had significant expertise in reforming police, others have been criticised as incompetent and lacking in experience. As one RAND study noted, 'The use of private contractors for police training or other tasks during counterinsurgency and nationbuilding operations has long been controversial.' RAND Counterinsurgency Study No. 4, 'Counterinsurgency in Afghanistan', 2008, p.71. <http://www.rand.org/pubs/monographs/2008/RAND_MG595.pdf> accessed 17 May 2009.

soldiers have been tasked with bureaucratic reform and restructuring of the MoI.²¹ Stark differences between military and bureaucratic cultures mean that soldiers and even police are unsuited to the deeply political and sensitive nature of ministerial transformation. It is essential to hire and deploy personnel with skills in strategic and corporate planning, management of organisational change, human resource management, and performance monitoring and evaluation. Appropriately skilled, trained and experienced experts would undoubtedly help avoid many of the mistakes that have already been made.

The importance of context and the idiosyncrasies of individual examples of reform suggest that efforts should be made to deploy personnel with experience of reform under similar political and security conditions. Instead actors have brought in junior policemen, patrol officers, or law enforcement agents from small rural police departments. Good beat cops from the streets of London, New York or Berlin, let alone western suburbia do not necessarily make good agents of change in Afghanistan's context of conflict, ethnic division and poor development.

More importantly, continuing a trend in police reform efforts from El Salvador to Iraq, few reformers are cultural, linguistic or area specialists. Lieutenant Mike Martin is the MoD's first cultural understanding officer for example.²² This is extremely detrimental; a former police academy interviewee was indignant that the international coalition regularly assigned 'inexperienced and

²¹ 'Within CSTC-A, the responsibility for police training and reform lies with the Task

Force Police Directorate (TFP) and the Police Reform Directorate (PRD). The TFP has primary responsibility for the development of the police, including "training, mentoring, and organising the ANP to enable them to perform the full spectrum of traditional law enforcement roles, as well as counter-insurgency operations". The PRD has primary responsibility for police reform, including mentoring and training the Ministry of Interior and ANP officers.

²² Jon Swain, 'The British Soldier Reading Afghan Minds', *The Times* 24 May 2009. <<http://www.timesonline.co.uk/tol/news/world/asia/article6349141.ece>> accessed 25 May 2009.

low ranked instructors' to advise and mentor older and higher ranked MoI and ANP officials. These institutions and Afghan society more broadly are extremely deferential to rank and experience. Consequently, the crucial personal relationships between reformers and reformee often failed to develop.²³ While the best police and soldiers may be younger officers, international actors must be aware of Afghanistan's rank and age conscious society.

In order to successfully implement police reform, international actors urgently require more experts conversant in Afghanistan's cultural norms and languages. Such experts should become intimately involved in the development, planning and implementation of reform. Few experts exist however. 'The Foreign Service Institute should be turning out 200 to 300 Pashto speakers a year,' argues Chris Mason, formerly a member of the Interagency Group on Afghanistan. Reports indicate the US has trained just 18 Foreign Service Pashto speakers. Pre-deployment cultural training of international reform personnel is all the more important therefore. Yet, according to Captain Daniel Helmer, a former police mentor in Afghanistan 'the lead U.S. unit at Fort Riley charged with training advisers for Afghanistan and Iraq uses the same trainers for both missions. While Riley has made extensive efforts to prepare teams to operate effectively in Afghanistan, the major differences between the theaters make it very difficult for those who have only been to Iraq to develop an appropriate frame of reference for Afghanistan and prepare teams accordingly.' Training must be extensive, conducted by police reform experts, but most importantly, must focus on Afghanistan and utilise those with experience of the country. Evident of its importance, cultural and language units should be developed within the large reform missions of CSTC-A and EUPOL.

Where are the Afghans? Broadening local ownership

Underused, both at an institutional and an individual level are the Afghans themselves. Reform began with the positioning of major intervention powers as lead nations in the area of security sector reform. Although formulated as a 'light footprint' approach, in reality Afghan control over reform was minimal. The Afghanistan Compact put an end to the lead nation approach and former lead nations were now introduced as key partners. The "partnership approach" was to re-emphasise the importance of Afghan ownership of the reform processes.

Nevertheless, ANP transformation can justifiably be characterised as 'donor driven' exemplified most clearly by the ideological battle fought between international actors over the final vision of the ANP. Actors have approached transformation of the ANP reform from a host of different perspectives with the main fissure dividing the US and German visions, the former conceptualising the ANP as military auxiliaries, and the latter envisioning an Afghan police as a civilian law enforcement agents.²⁴ Examples abound of reform absent of meaningful Afghan participation and ownership. Reports suggest the donor community has spent nearly three quarters of their assistance outside of Government budgets, channelling just 30 per cent through the government. Even measures which initially started out as Afghan led, such as Pay and Rank Reform (PRR) begun in 2005, was soon increasingly dominated by international players. Although an Afghan Rank Reform Commission was officially in control, the process was imposed by international actors to the point where even those Afghan officers considered professional were apprehensive of it.

Deeply independent and proud, Afghans do not tolerate being dictated to by foreigners. Of this history is crystal clear. 'Afghanistan has never been

23 When asked about the perceived failure of American methods in training the ANP, a senior anti-drug smuggling officer interviewed for this report cited an example where the American consultant to the anti-drug smuggling prevention program was a junior officer. The officer saw this as a major impediment in the training of older officers.

24 A divergence informed by different foreign policy goals, and shaped by the vastly diverse security context and challenges found in the geographical areas Germany and the US are focused on.

susceptible to interference, as opposed to advice which it readily accepted in the 1950s-1970s.²⁵ Moves to expand meaningful Afghan ownership are necessary. Of central importance for ownership both of reform and its end-product is the lack of a common vision of the ANP which must be addressed. Eighteen months after the seventh Joint Coordination and Monitoring Board meeting in Tokyo, it is time to follow the main recommendation of the police review: 'stakeholders should agree to a unified, integrated vision of the police, which addresses the concerns of both law enforcement and security.' Rather than attempt to reconcile the German and US approaches as some analysts have suggested²⁶ at the risk of tautological reasoning, the development of an Afghan vision of the ANP is most suitable for Afghanistan. Relevant Afghan actors, including the Ministry of Interior, should develop a comprehensive vision of the ANP addressing issues of role, responsibilities, form and function. More broadly, reform programmes and policies should be increasingly Afghan-led. Without locally designed reform, strategies and policies are likely to remain in Mol or quietly subverted. Reform will also chime more readily with local context and the political, economic and cultural idiosyncrasies of Afghanistan. With institutional actors largely absent of cultural and area experts, this is even more pressing. 'Window-dressing' of reform as Afghan owned must cease; it has been suggested by credible sources that the Ministry of Interior's National Internal Security Strategy was written by US officials. At the very least, the process of designing and drafting reforms without serious consultation with Afghan actors must end.

The local context within which Afghan police reform is conducted sounds a note of caution however. Broadly defined local ownership may be preferable in most reform missions, but as Antonio Guistozzi argues, 'Afghanistan is clearly one of these cases suggesting that the equation 'more local ownership = more successful security sector

25 Frank Ledwidge, 'Accepting Indigenous Solutions in Afghanistan', < <http://www.rusi.org/research/studies/asia/commentary/ref:C499A9D0B560E9/>> accessed 21 June 2009.

26 For example Andrew Wilder. Afghanistan Research and Evaluation Unit, 2007, *op. cit.*

reforms' is overly simplistic. Decades of war have degraded Afghan government, governance and civil society, hindering the capacity of Afghan actors to effectively 'own' police reform either through its initiation, management or implementation. For example, although government departments such as the agricultural ministry are well developed and fully functioning, the ministry of interior lags far behind, suffering from inadequate capabilities. Led by a strong and competent minister in Muhammad Hanif Atmar, the Ministry is constrained by poor second- and third-tier leadership.²⁷

In light of this factor, the external domination of police reform is understandable and in many cases there is simply no viable option other than international domination of reforms; local ownership must be circumscribed. Nevertheless, although naïve and unrealistic to expect Afghanistan to take the lead in police reform from design to implementation, progressive Afghan ownership of the process must be a core and explicit aim of ANP transformation, interwoven into all policies and programs. Too often the international community has been satisfied to lead reform on the basis that expediency demands it, a view supported by the international community's relative ignorance of ministerial reform in favour of ANP capacity-building. Clearly, set against the ticking clock of the Afghan insurgency reforms cannot wait until the sufficient development of Afghan capacity to lead the transformation of the ANP is developed. Nevertheless, reform should concurrently target both the ANP and Afghan capacity to lead reform. For example, at the implementation stage of reform, 'train the trainer' programs should become a priority of the first order. Building up an increasing cadre of Afghan police trainers and mentors while international instructors gradually reduce their responsibilities to monitoring and assistance is a cost effective solution to the expensive and less efficient practice of deploying foreign police officers of varying quality and with little understanding of local conditions. Although pockets of training in regional centres are Afghan-led, CSTC-A calls for thousands more police reform personnel are

27 Department of Defense Report, June 2009, *op. cit.*, p.7.

evidence that not enough has been achieved.²⁸

Limits to ownership are political just as much as technical. Antonio Guistozi suggests that Afghanistan's fractured political and social environment marked by competing interests has created an example of factional ownership. Afghan actors have been more interested in building fiefdoms than establishing impartial institutions. Genuine reform is the primary casualty. Highlighting the problem, one Afghan police trainer when asked about the transfer of certain reform initiatives to ministerial control theorised that 'Maybe they have stolen the reform process from the Americans'. But factionalization and its effects has been a symptom of 'the proclivity of certain donor states to pursue initiatives outside the development framework and without adequate Governmental consultation'. From the Bonn political process onwards, reform has often favoured narrow ethnic or political factions.²⁹ Local ownership should be broadly defined. But not simply concerning political elites. Strategies, policies and programs for ANP reform, and Afghan development more broadly – including the Afghanistan National Development Strategy – have been 'formulated by Western and Afghan technocrats who were not familiar with the situation in the Afghan hinterland. A consultation process took place, but it was confined to the Afghan government and a small elite in Kabul.' Little credible effort has been expended consulting the views of civil society, or communities in the provinces.³⁰ Measures to promote the democratisation of reform and ownership of the police include provincial and district level policing

28 Indeed 'train the trainer' programs have been consistently conceptualised in a damaging way, training small numbers of police officers who can then pass on the training in to their colleagues in a repeat fashion so that it cascades out eventually reaching the entire force. The German Federal Foreign Office's funding of the first ANP training programme focused on domestic violence against women and girls utilised this flawed approach.

29 The Bonn process favoured a narrow ethnic group of Panjsheri Tajiks, fostering its assumption of control over many government ministries.

30 Citha Maass, 'European Union, Germany and Security Sector Reform in Afghanistan', 1 April 2009, <<http://www3.grips.ac.jp/~pinc/data/09-05.pdf>> accessed 24 April 2009.

forums populated by local elders, community groups and civil society organisations, similar to those in Sierra Leone is highly desirable.³¹

Meaningful Afghan ownership and participation in reform would in no small measure resolve many of the issues associated with the reform effort to date, such as bypassing the problematic ignorance of cultural context displayed by international reformers. Reform will resonate with the population far more readily. Hopes for a universal panacea to the shortcomings of ANP reform are misplaced. Let it not be forgotten that the failed Afghan National Auxiliary Police was an Afghan government initiative overseen by the Interior Ministry. A report from the Second International Police Conference on Afghanistan in October 2006 noted that: 'After much debate and comment, the overwhelming majority of the international police representatives present, stated that they did not agree with the establishment of the Auxiliary Police within ANP. However, the Afghan Government ordered its establishment. It was agreed that the international community would have to agree with this decision and make the best out of it.' The point however is not that Afghan policies and strategies cannot fail, but that in addition to increasing cultural sensitivity and thus expanding the potential for success, Afghan development of reform develops the capacity to learn from mistakes and adjust course where necessary. Where appropriate, international actors must offer expertise and point out examples where they think local actors are going wrong. 'Tinkering with action plans for reform will fail unless it is fully realised that indigenous solutions that work, in however ramshackle a fashion, trump silver-plated foreign strategies every time.'³²

Moreover, pragmatically speaking, expanding Afghan ownership and participation in reform will increase domestic commitment to the process of transformation. Afghan domestic 'buy in', 'political will' or 'donor commitment' is central for success.

31 This recommendation would also gear the police towards community needs.

32 Frank Ledwidge, 'Accepting Indigenous Solutions in Afghanistan', < <http://www.rusi.org/research/studies/asia/commentary/ref:C499A9D0B560E9/>> accessed 21 June 2009.

Without it reform has often foundered. Conversely, stagnation has occurred *because* of it. Reforms to the Ministry of Interior were resisted by Afghan government officials. 'Initially it was President Karzai, more concerned with building alliances centred around his person than with building strong institutions, who led the counteroffensive, issuing a decree to reappoint many of the "generals" who had failed the qualifying exam, quite a few of whom had been reported by UNAMA as drug traffickers or as being involved in other unsavoury activities.' The sooner the international community re-orientates this approach the better. This example makes clear however that international pressure, when not political theatre to satiate western public opinion can be effective. The ensuing reaction of the international partners involved in police reform led to another of the type of compromise which has been described in earlier paragraphs: Karzai's most highly suspect appointees were placed on probation and subsequently the removal of 11 out of 14 of them was recommended by an Afghan-staffed probation board. As Karzai failed to remove them as recommended, international pressure grew until finally in January 2007 they had to be sacked. Afghan ownership must be complemented by international oversight and pressure when reform stalls or reverses.

Increasing coordination and cooperation

Police reform in Afghanistan has long been a crowded stage. From international organisation such as the United Nations Assistance Mission-Afghanistan, NATO's International Security Assistance Force (ISAF), and EUPOL, to bilateral donors such as the United States, Germany, Japan, the Netherlands, the UK and Canada.

Originally lacking formal coordination mechanisms, individual actors approached police reform bilaterally, creating a chaotic, byzantine structure of assistance to the ANP. Complicated by variable resources and divergent, often conflicting agendas, relationships between these actors has been fractious, and coordination throughout all stages of the reform

process weak. Liaison and cooperation between CSTC-A and EUPOL was recently characterised as 'messy' by one European think tank.³³ Even within bilateral missions chains of authority and command has been unclear, and formal coordination weak. Relevant US agencies for example, include the CSTC-A; the Department of State; US Agency for International Development, and Bureau of International Narcotics and Law Enforcement Affairs. Criticism of the coordination between Defense and State has been high. Although partners in training the ANP, a February 2007 document detailing plans to sustain the ANA and ANP 'does not identify or discuss the roles and responsibilities of State. State also did not contribute to the development of this document and has not developed a plan of its own.' Consequently, DynCorp complained of unclear lines of authority, conflicting guidance and complications in the deployment of personnel and the conduct of reform activities.³⁴

The result was ever predictable. Reform has been confused, ineffectual and lacking in direction. ANP officials and officers interviewed by RUSI consistently complained about police training, crowded by too many actors and a disorientating array of policing models. Overlap has been persistent, 'which simply does not make sense given the limited personnel, the limited resources and the limited timeframe in which there is to turn the ANP around' said one official. Compounding issues with replicated effort, clumsy actor relations resulted in numerous reform gaps, from large issues related to the absence of meaningful institutional reform to smaller but no less damaging holes in specific programs. Efforts to mentor the MoI for example suffered from the lack of 'a single communication chain to share information and coordinate mentor activities'. Consequently in 2008 CSTC-A officials reported that despite mentor shortages some MoI officials were partnered with more than one while others did not receive any; 'one MOI commander had four mentors from two different countries'.³⁵

33 European Council on Foreign Relations Policy Brief, 2009, *op. cit.*, p.9.

34 Testimony of Charles M. Johnson to the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government and Reform, 2008, *op. cit.*, p.14.

35 United States Government Accountability Office Report

Signs of improvement are evident. Coordination is increasingly evident both at the planning and implementation stages. Focused District Development, CSTC-A's training and mentoring program highlights both. The Department of Defense recently conceded that for the first seven cycles of FDD 'there were no formalized procedures for collaborating with international partners to select which districts would go through the FDD program.' It was announced this June that FDD cycle eight will adopt a more collaborative approach with CSTC-A approaching ISAF to develop a more formalised cooperative approach to selection. 'This collaborative approach to district selection will be continued for future FDD cycles'.³⁶ At the implementation level, close collaboration between the US and EUPOL has resulted in German contribution to district-level training under the FDD banner in 2009.³⁷

Increased coordination has been evident in the institutionalisation of police reform coordination since 2006, with the establishment of the Joint Coordination and Monitoring Body and the International Police Coordination Board. The latter, set up to align donor policies and programs, thereby ensuring a coherence of effort has had a few token victories. But responsibility for coordinating trainer recruitment and the syllabus for the first training programme for Afghan police on dealing with domestic violence, while necessary, is far below the level of coordination needed. The IPCB has not lived up to the promise of its name. Still entirely voluntary, coordination between multiplying police reform initiatives remains haphazard. According to Eva Gross this is a 'reflection of the relatively low importance assigned to the IPCB on the part

of EU personnel – and as a result also the US'.³⁸ Restructuring in late 2008 has streamlined the board and should increase coordination.³⁹ Indeed, according to Canadian Deputy Minister Yves Brodeur, encouraged by this development, Canada became a member of the board in January 2009.⁴⁰

Donor countries, especially the major reform players, must commit to the International Police Coordination Board. Only then can it effectively coordinate activities; one area for improvement concerns addressing where institutional and individual reform actors can most add value. Officials may have noticed the emergence of an institutional division of labour between police reform actors such as the US and the EU, with the US concentrating on churning out rank and file patrolmen while the EU focuses in structural change, but this is nascent and undeveloped. Inappropriate for ministerial reform, CSTC-A should have little to no role in MoI transformation, in contrast to the EU which has deep expertise of institutional reform thanks to its experience in reforming former Soviet bloc countries. Additionally, strengthening the board would also allow it to move beyond implementation issues and concentrate more on coordinating the goals and activities of various police programmes.

More effective than trying to coordinate disparate programs however, as one senior UN official in Kabul argued, 'it is the Government of Afghanistan that is in the best position to coordinate the donors...not by telling the donors they should be better coordinated but by designing good programmes for the donors to fund.' Coordination requirements would therefore be relegated to the far simpler issues of how much funding or resources are required. Mark Ward, special adviser on development to the Special Representative of the Secretary-General would like to see ministries

(GAO-09-280), 'Afghanistan Security: U.S. Programs to Further Reform Ministry of Interior and National Police Challenged by Lack of Military Personnel and Afghan Cooperation', *op. cit.*, p.8.

36 Department of Defense Report, June 2009, *op. cit.*, p.37.

37 *Auswartiges Amt*, 'Germany's Support for Rebuilding the Afghan Police Force', 11 March 2009, <<http://www.auswaertiges-amt.de/diplo/en/Aussenpolitik/RegionaleSchwerpunkte/AfghanistanZentralasien/Polizeiaufbau-dt-Engagement.html#t2>> accessed 20 May 2009.

38 Institute for Security Studies Occasional Paper No. 78, *op. cit.*, p.33.

39 Citha Maass, *op. cit.*, p.7.

40 'Remarks by Mr Yves Brodeur at the Special Committee on the Canadian Mission in Afghanistan', 30 April 2009, <http://www.afghanistan.gc.ca/canada-afghanistan/speeches-discours/2009/2009_04_30a.aspx?lang=eng> accessed 1 May 2009.

‘who are able to tell the donors – stop following your priorities – start following up our priorities’.⁴¹ According to report, Atmar is the man for the job, but first, as suggested above, he needs to develop a comprehensive police strategy.

Development of an Afghan vision of the ANP and a strategy of how to achieve that vision would constitute a qualitative leap in coordination if accepted by donors. Lacking the essential foundation provided by a clear conceptualisation of ANP form and function, donor activities have differed. Witness the divergent training approaches adopted by the US and Germany; the former expedited, para-militarised, and *satunkai* (patrolmen) focused; by contrast the latter was methodical, centred on law enforcement duties, and restricted to the ‘backbone’ of *satanman* (NCO’s) and *saranman* (officers). Progress has been undermined, resources wasted. This would help ensure that there are no major gaps, that reform efforts are properly prioritised and sequenced, and that they are all based on achieving the same goals and objectives. For Piet Biesheuvel, a common vision and strategy would speed ANP development ‘allowing coordination to progress from thorny issues of the ANP’s *raison d’être*, to the execution of reaching a common goal.’⁴²

41 Homayon Khoram, ‘Afghanistan: Government and Donors Must Build on coordination Efforts to Boost Progress’, *UNAMA*, 6 July 2009. <<http://www.reliefweb.int/rw/rwb.nsf/db900SID/PSLG-7TPFRW?OpenDocument>> accessed 8 July 2009.

42 RUSI interview – Piet Biesheuvel.

3.2 Re-laying the Foundation of Police Reform

The key is having a detailed, well thought-out plan, not just throwing numbers at the problem.

(Police Mentoring Team leader for Arghandab)

The obsession with numbers

Afghanistan, like many past examples of police reform before it, has mistakenly focused on the quantity of personnel which collectively constitute the ANP. Originally, in November 2005, the GoA approved a *tashkil*¹ authorising a force level of 62,000, including 50,000 Afghan Uniformed Police (AUP) and 12,000 Afghan Border Police (ABP). Personnel end strength has consistently been revised upwards since then, eventually reaching 82,000 at the April 2007 meeting of the Joint Coordination and Monitoring Board (JCMB). Two years later, the Board authorised an expansion to 86,800. On 19 April, Interior Minister Hanif Atmar announced that the JCMB had agreed upon an interim increase of the ANP by 15,000 ahead of the country's August presidential election.

Some of these increases were justified. The 2005 *tashkil* was developed for a relatively benign security environment, and based on an estimated population base of approximately 24 million. CSTC-A, using a more generous US Census Bureau population estimate of 31 million, and taking into consideration the increased insurgency and higher threat levels, proposed that the ANP be increased by 14,000 and the ABP by 6,000.² Measures to reform the police and provide an effective service to prevent crime and provide security do not obviate the need for sufficient police numbers. In 2006, when President Karzai introduced the idea of the Afghan Auxilliary National Police, 'he pointed to the rising violence in Kandahar. One of the

province's districts has only 45 police to protect a population of 65,000'.³ Staff shortages this severe have predictable consequences, resulting in fewer patrols, disregard of important duties, or in some cases, local commanders hiring raw recruits directly and bypassing training at the academy altogether. 'We do not have enough personnel to maintain security while some are off studying in the academy' argued Ghafur, a police commander in Marja district.⁴

Nevertheless, challenged by rising insecurity, crime and poor ANP performance, problems have almost automatically been defined as a lack of police numbers.⁵ For example, a JCMB annual report claimed that the 'current number and professionalism of the police also remains insufficient to address existing domestic law and order needs. In order to address personnel shortages partners should investigate the current problems of desertion and lack of payment to prepare a further discussion on whether maximum numbers need to be increased'.⁶

Officials, officers and analysts alike, have long been engaged in complex calculations to determine the correct level of police to maintain security.⁷

3 Graeme Smith, 'Can new Afghan police resist temptation' *The Globe and Mail* 8 November 2006.

4 Mohammad Ilyas Dayee and Zaimullah Stanekzai, 'Helmand: Derided Police Turn Over New Leaf', *Institute for War and Peace Reporting* 26 March 2008. <<http://www.reliefweb.int/rw/rwb.nsf/db900sid/SODA-7D5482?OpenDocument>> accessed 7 June 2009.

5 It should be noted that the expansion of the ANP has not supported by all international actors engaged in the police sector. In particular those less involved in fighting the Taliban insurgency in the south have often sounded caution.

6 Joint Coordination and Monitoring Board Annual Report, 'Implementation of the Afghanistan Compact', May 2007, p.7. <<http://www.ands.gov.af/ands/jcmb/site/src/Meeting%20and%20Documents/Fifth%20JCMB/JCMB%20Annual%20Report.pdf>> accessed 2 July 2009.

7 'Military strategists estimate the proper ratio of police to people in peacetime is around 1 per 400 citizens, while

1 An organizational document dictating force structure, personnel numbers, command relationships, and unit/staff functions and mission descriptions for the ANP.

2 Afghanistan Research and Evaluation Unit, 2007, *op. cit.*, p.8.

‘Historical precedent’ argued one British official ‘suggests that the average police/population ratio during a major insurgency is roughly 1:300-350. Assuming a population of 33 million, the ANP would need to expand to roughly 110,000.’⁸ Afghanistan like many other examples of reform has become characterised by an obsession with the cool arithmetic of police numbers.

Security is not the product of a neat mathematical equation. Expanding the ANP, from a ratio of 1:383 to 1:300, or even 1:200⁹ will do little to tackle crime and restore law and order. Quite the reverse in fact. ‘If [the British] bring these people [the police] back, we can’t live here. If they come back, I am sure they will burn everything’ said one man in Helmand.¹⁰ Scathing critiques of the police are common. Media headlines such as ‘Afghans turn to Taliban in fear of own police’¹¹ clarify the issue; in many cases the problem is not the absence, but rather the presence of corrupt, abusive and predatory police officers. ‘The bad reputation of the police and local government is seriously undermining the legitimacy of the central government, and is one of the major destabilising factors in Afghanistan today. It is not only generating support for the Taliban in southern Afghanistan, but also contributes to increasing levels of popular disaffection with Karzai’s government throughout the country.’ Until the quality and effectiveness of the ANP is improved considerably, and the corrosive environment within which new recruits are placed is reformed, increasing the quantity of largely illiterate, poorly trained and often corrupt police will merely promote insecurity.

Calls for further increases in ANP numbers ignores the persistent struggle which LOTFA has had in finding enough funds to pay for even

stability operations call for much high ratios. Afghanistan, with an estimated population of 33 million, will have a ratio of 1 to 402 police once the force is fully staffed.’ Greg Bruno, ‘Afghanistan’s National Security Forces’ 16 April 2009, <http://www.cfr.org/publication/19122/afghanistans_national_security_forces.html> accessed 18 April 2009.

8 RUSI interview with Ministry of Defence official.

9 As recent proposals to double the ANP would equate to.

10 Peter Graff, *op. cit.*

11 *Ibid.*

62,000 police.¹² Most recently, this February Japan offered assistance by agreeing to pay ANP salaries, but only for a period of six months.¹³ More problematic is the mitigating factor of Afghan fiscal sustainability. Prospects for GoA ability to finance even a much reduced ANP out of its own limited budget are slim, ‘yet it is under pressure due to its international commitment under the International Monetary Fund’s Poverty Reduction and Growth Facility program to gradually take on this fiscal responsibility.’¹⁴ A JCMB Task Force on Afghan National Police Target Strength in March 2007 criticised a third option of increasing the police to 94,000 (the number recommended by the threat assessment) as unviable due to ‘the severe fiscal impact of that size increase.’ Doubling the force poses the same problems but on a massively increased scale.

Even with a force of 82,000 with pay at \$100, the MoF noted that ANP salaries would comprise 8.6% of the GOA budget in 2012 and 11.9% of the budget in 2014.¹⁵ ‘Moving such a large percentage of the budget to the security sector would mean massive cuts in other programs, probably to include education, health, and other social services’¹⁶ a fact the World Bank agrees with.¹⁷ It is now axiomatic

12 Historically it has not been able to keep a reserve for emergency payments.

13 *BBC News*, ‘Japan to Pay Afghan Police Salary’ 24 February 2009, <http://news.bbc.co.uk/1/hi/world/south_asia/7907468.stm> accessed 24 February 2009.

14 ‘JCMB Task Force on Afghan National Police Target Strength’, March 2007, p.2, <<http://www.and.s.gov.af/ands/jcmb/src/jcmb5/5B.%20Task%20Force%20on%20Police%20Ceillings.pdf>> accessed 11 May 2009.

15 The Ministry of Finance therefore cautioned against any additional increases, even if the amount was fully paid by the international community for the next several years. *Ibid.*, p.3.

16 The Ministry of Finance has therefore emphasized that a decision to increase the size of the force should a) be based on a security assessment reflecting the “extreme exceptionality of the circumstances,” and b) should be only a temporary measure with the number then reverting back to 62,000.” *Ibid.*

17 A recent World Bank blog argued that ‘any further money coming from this source [the GoA budget] will be at the expense of much less funding for urgent development priorities like educating children, improving basic health,

that in counter-insurgency, as General Sir Frank Kitson made clear, there is 'no such thing as [a] purely military solution'.¹⁸ Any increases would be fiscal suicide, leading to a bloated but inefficient security sector and jeopardizing other sectors such as health, economy and education which are just as critical to a state building and counterinsurgency effort.

Statements by the GoA and international reform actors suggest they realise the problem. The Ministry of Interior for example has reiterated the urgent and continuous need for an improvement of the *quality* of the police force. Rhetoric aside, the numerical obsession continues. A JCMB study to increase the force still further is expected soon. 'Our initial calculation is that it should be at least double the size of the current police force,' Interior Minister Atmar said in April. Substantial expansion of the police forms a crucial element of Obama's 'new' strategy for Afghanistan and 'may very well be needed as our plans to turn over security responsibility to the Afghans go forward.' Defense Department officials have reported that McChrystal has informed Defense Secretary Robert M. Gates, in weekly updates, of the need to increase the Afghan force substantially.¹⁹ Such increases match with the general thrust of international public opinion, where there is currently a consensus that the police should be expanded.²⁰

building public infrastructure, etc.' William Byrd, 'Financing, Oversight Critical for Afghanistan's Army, Police', 4 February 2009, <<http://blogs.worldbank.org/endpovertyinsouthasia/financing-oversight-critical-afghanistans-army-police>> accessed 10 February 2009.

18 Alexander Alderson, 'Revising the British Army's Counter-Insurgency Doctrine', *The RUSI Journal*, (Vol. 152, No. 4, 2007).

19 Greg Jaffe and Karen DeYoung, 'McChrystal Sees Afghan Army, Police Insufficient: Obama Strategy Requires More Funds, U.S. Troops', *The Washington Post*, 11 July 2009.

20 For example, a report for the UN Secretary-General claimed 'The current challenges facing the Afghan National Police can be met only by increasing its size and improving training, mentoring and equipment.' UN Report (A/63/892-S/2009/323), 'The Situation in Afghanistan and its Implications for International Peace and Security', June 2009, <<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/>

At the very least, prior to any formal decisions (most likely at the next JCMB meeting) the affordability of any increase should be the subject of a JCMB task force. Assessments must be made on how to finance the increase and limit the impact on development projects and the GoA budget. It is strongly recommended however that further increases are rejected; any such policy represents a flawed 'non-strategy' for the ANP. It is time the nation-building intelligentsia in Afghanistan give up their favourite past-time of calculating police to population ratios and concentrate on the difficult task of police reform. Instead, the yawning gap between current police effectiveness and Afghan visions of a model ANP officer should be closed. Only qualitative reform, rather than quantitative building will provide the necessary improvement in policing and security that are sought.

Nevertheless, certain districts are crippled by a debilitating lack of police. The problem is not necessarily concerned with the final authorized figure. Despite Department of Defense claims in April 2008 that the ANP had expanded to within a few thousand of its target 82,000 target figure, a subsequent US GAO report argued that 'the extent to which the ANP has truly grown is questionable'.²¹ Indeed Defense investigations into Ministry of Interior payrolls resulted in an inability to verify the physical existence in the provinces surveyed, of roughly 20 percent of the Afghan Uniformed Police (AUP) and more than 10 percent of the Afghan Border Police (ABP). According to a June 2009 DoD assessment, out of an authorized total of 17,621, only 12,792 are currently assigned.²² As retired US Army General Barry McCaffrey argues 'We have no real grasp of what actual [police] presence exists' in Afghanistan's 355 local districts.²³ Need to

[Afgh%20S%202009%20323.pdf](#)> accessed 16 July 2009. This belief is particularly prevalent in policymaking circles in the US where Senator Carl Levin and Senator Joseph Lieberman proposed a dramatic doubling of ANP numbers in a letter sent to President Obama in May.

21 Testimony of Charles M. Johnson to the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government and Reform, 2008, *op. cit.*, p.2.

22 Department of Defense Report, June 2009, *op. cit.*, p.26.

23 James Rupert, *op. cit.*

concentrate on verifying numbers. Measures are in place to do this. Once completed, assessments must be made to explain the difference between authorized numbers and boots on the ground; police attrition, unprofessional behaviour²⁴ poor human resources management²⁵ or 'ghost policemen' corruption. Methods must be sought to tackle these problems and fill these gaps.

Consensus among those Afghan officials interviewed for the report suggest that assessment will reveal inappropriate balance of forces both functionally as well as geographically, in particular highways and borders.²⁶ Challenged by a derisory lack of attention and funding, major personnel shortages continue to cripple the Afghan Border Police (ABP). A UN report claimed that 'border police are almost non-existent along significant parts of the country's border and are unable to prevent large-scale smuggling and drug trafficking.'²⁷ As Brigadier General Shermohammed Zazi, who commands the Afghan National Army's 205 Corps in Kandahar states, the border police simply 'don't have enough personnel to cover a 1,000-plus kilometer border'²⁸

Re-configuring the police geographically and functionally could do much to stem the rising tide of crime and insurgency. Again however, it is foolish to think that the issue is solely or primarily one of numbers. 'You can't make some kind of human chain-link fence' said US Army Captain

24 As suggested earlier, police often base themselves in major urban centres rather than their postings due to security concerns.

25 International forces have often come across station commanders that have little idea of the number of police they are meant to be overseeing.

26 According to interviews with Afghan subject matter experts, highways and borders were seen as needing as many police as every other area in the country combined, the former underscoring the essential nature of land transport in this landlocked country, and the latter, the importance of Afghanistan's porous borders.

27 UN Report (A/63/892-S/2009/323), *op. cit.*, p.7.

28 P.J. Tobia, 'Afghans Fight Flow of Drugs and Guns Fueling Taliban Insurgency', *Christian Science Monitor*, 9 June 2009, <<http://www.csmonitor.com/2009/0609/p06s04-wosc.html>> accessed 11 June 2009.

Philip Poag, who has been helping train the Afghan border police.²⁹

Concentrate on quality: Quantitative inputs versus qualitative reform

The over-concentration on police numbers is part of a broader concentration on quantitative metrics which has consistently plagued the ANP. Afghanistan has followed the mistakes of past police reform missions by using quantitative metrics of success, confusing inputs and outputs with outcomes.

Partly responsible for the lack of progress over the last eight years has been inadequate levels of quantitative inputs. Measures to reform the police and provide an effective service to prevent crime and provide security do not obviate the need for sufficient figures of technical inputs. From the very beginning of the reform process, international donors have persistently failed to provide the necessary injections of financial, technical and logistical support. Concentrations on the ANA were not matched by similar concentrations on the ANP which was largely neglected. Consider the example of police hardware and equipment. The ANP originally began operations hampered by severe shortages of necessary equipment, from cars and communications equipment to boots, pens and paper.³⁰ Progress has been slow. The former head of CSTC-A, Major-General Durbin, highlighted the severity of the problem at a news conference in July 2007; five years after reform of the ANP began in earnest and with 70,000 in the force, he claimed that 'only about 40 percent of those are properly equipped'³¹ Lacking equipment and hardware

29 Laura King, 'Change on Afghan Border', *Los Angeles Times*, 2 July 2009, <<http://www.latimes.com/news/nationworld/world/la-fg-afghan-border-war2-2009jul02,0,618652.story>> accessed 2 July 2009.

30 Mark Sedra, 'Police Reform in Afghanistan: An Overview', paper presented to BICC e-conference Afghanistan: Assessing the Progress of Security Sector Reform, One Year After the Geneva Conference, 4-11 June 2003, p.3, < http://www.ssronline.org/edocs/mark_sedra_paper.pdf> accessed 2 March 2009.

31 Jon Hemming, 'Afghan Army and Police Understrength – US general', *Reuters*, 12 July 2007, < <http://www.reuters.com>.

has undermined police effectiveness and morale. These undoubtedly need to be filled and efforts are underway. In late 2008 the Afghan Interior Ministry began work on the construction of 1000 checkpoints.³² But efforts need to be redoubled. It is long past time the police are adequately equipped and supplied.

But the issue of equipment, as with training and recruitment, demonstrates the fallacy of concentrating on quantitative metrics. Equipment has been poor quality. 95 per cent of donated equipment, from cars to firearms, was substandard, creating numerous problems. Training quality has regularly been poor. Recruitment figures, while consistently high enough that the MoI has little trouble reaching its targets, masks a troubling reality about the quality of individuals being recruited. British officials estimate that 60 percent of the ANP in Helmand use drugs;³³ a conflicted interest in a force supposedly key in the fight against narcotics and the insurgency.

The gap between inputs/outputs and outcomes is clear. Despite quantitative boxes ticked, and capacity building metrics increased, security has deteriorated. Crime remains high and insurgency is spreading. In 2009, the number of fatalities and other casualties inflicted by terrorist elements on Afghan civilians and security forces and on international military and civilian personnel was higher than in any year since the fall of the Taliban.

Of prime importance for reform therefore, is a reconsideration of the erroneous focus on quantitative metrics, a fact the JCMB 2007 Annual Report appeared to recognise; 'the major question is how to move from Compact to impact, from an agreed document to tangible improvements in the lives of Afghans. The Compact expresses commitments to provide inputs: 'The Afghan

[com/article/featuredCrisis/idUSISL244893](http://www.bbc.com/article/featuredCrisis/idUSISL244893)> accessed 14 June 2009.

32 *Auswertiges Amt*, 'Germany's Support for Rebuilding the Afghan Police Force', *op. cit.*

33 Martin Patience, 'Drug Abuse Hampers Afghan Police', *BBC News*, 18 February 2009, <http://news.bbc.co.uk/1/hi/world/south_asia/7895612.stm> accessed 18 February 2009.

Government hereby commits itself to realising this shared vision of the future; the international community, in turn, commits itself to provide resources and support to realise that vision.' Many of the benchmarks are defined by outputs: how many soldiers and police trained, schools built, or laws passed. But the real test is not in meeting benchmarks for outputs but in achieving the outcomes identified in the Compact itself: 'to improve the lives of Afghan people and to contribute to national, regional and global peace and security.'³⁴ Technical assistance and capacity-building with qualitative change at its core is essential. Numerical arithmetic must be replaced by a concentration on improving the quality of the currently authorised ANP.

Avoid short-term force generation; keeping end-state in view

'We also know that the challenges ahead involve how fast we can grow a credible force,' Major General Formica said.

Police reform in Afghanistan, like Iraq must be conducted 'under fire'. Consequently, reformers are challenged by an acute tension between lengthy, comprehensive programmes, and the disintegrating security context. Widespread crime, pervasive violence and a rising insurgency have given rise to political and societal pressures for short-term force generation, of which fears for the election are merely the most recent manifestation.

Responding to this most recent pressure, Interior Minister Atmar's announced in April that 15,000 extra police would be recruited and trained as an interim measure before the August presidential election (subsequently announced at a meeting of the Afghan-led International Police Coordination Board). Providing additional security in the most vulnerable provinces and in the capital Kabul, these police will receive just three weeks training.³⁵ The

34 Joint Coordination and Monitoring Board Annual Report, *op. cit.*, p.3.

35 Although training is now complete and the election past, there are well founded concerns that they will be quietly integrated into the ANP afterwards. It must be insured that

GoA and international coalition thereby acquiesced to such pressures by submitting to short-term force generation, continuing a damaging tradition of sacrificing ANP quality on the altar of political and security expediency. Major General Formica recently argued that one of the challenges facing Afghanistan was 'to accelerate the growth for the army and the police - without sacrificing standards'. The lesson from past reform missions, however, is clear; speed and quality are incompatible.³⁶

Afghan's need no lessons from other case studies to recognise that hastily assembled security forces have a derisory track record. Recent history, in the form of the National Auxiliary Police (ANAP), is lesson enough. Faced with a shortfall of security forces in the south as the insurgency gained traction in early 2007, prevailing sentiment in both Afghanistan and the international community coalesced around the idea of a temporary quick fix. According to Brigadier General Gary O'Brien, the former Deputy Commander of CSTC-A, the ANAP was created 'to address the need for urgent quantity'. Fears voiced at the time that this was an extreme and ill considered measure were ignored; the exigencies of the moment demanded action. 'We needed a temporary increase because we did not have enough police in the remote districts of the south,' Interior Ministry spokesman Zemarai Bashary said. Consequently, over 11,000 village youths from the six southern provinces most affected by the Taliban insurgency were inducted into this supplementary force, offered uniforms and guns after a ten-day training program. Although the expedited vetting and training - a fraction of what the ANP receives - allowed for rapid deployment of 11,000 auxiliary police, predictions of poor quality soon materialised. The force was riddled with drug addicts and petty criminals. Coalition forces watched in dismay as Auxiliary Police got into firefights with their fellow security forces and hard-won ground in areas like the Panjwai valley descended into chaos.

plans they receive five weeks of training after the election to bring them up to the current standard, are met.

36 American Forces Press Service, 'Command Changes Hands for Afghan Security Forces Training', 22 December 2008, <<http://www.defenselink.mil/news/newsarticle.aspx?id=52423>> accessed 5 June 2009.

The majority, according to Ali Jalali, 'either deserted with their arms and equipment or were more or less forced to join the insurgents'.³⁷ Of the rest, about 3,200 have since received three weeks' additional training and transitioned to the Afghan Uniformed Police.²⁹ Others, considered unsuitable or unable to find positions in the new *tashkeel*, were simply let go, with no apparent efforts to disarm them. By September 2008 the programme was scrapped, an ignominious failure.

The risks are clear, short-term force generation results in corners cut, distracts time and resources from building sustainable and robust institutions, and undermines those forces which already exist. Maintaining minimum standards to don a police uniform and ensuring clear command and control up to the national level are vital if the police are to represent the state. Reformers must therefore resist pressures for short-term force generation which will undoubtedly be strong. Even the most sober assessments foresee Afghanistan's downward spiral deteriorating further before improving. Rather than accede to pressures, both Afghan and international officials must focus on the desired end-state of police reform (which is described later). Strategic focus must be reoriented. No longer should short-term security issues cloud the need for patient, long-term police reform.

There is little alternative to lengthy and comprehensive recruitment, training and equipment programs even where additional and rapid increases of police are requested. Mark Wilder compares the hurried creation of the ANAP to 'the careful planning that went into developing the Afghan National Civil Order Police (ANCOP).' Designed to respond to urban unrest and rioting, and to provide a mobile police presence in high-threat and remote areas, recruitment is highly selective. The commanding general of the ANCOP also Afghan National Civil Order Police reportedly interviews all applicants for his force.³⁸ Afterwards

37 Shaun Waterman, 'Costs of War: No to Tribal Militias', *ISN Security Watch*, 6 January 2009, <<http://www.isn.ethz.ch/isn/Current-Affairs/Security-Watch/Detail/?lng=en&id=94992>> accessed 10 January 2009.

38 US GAO Report, March 2009, *op. cit.*, p.22.

they receive 16 weeks of ‘the most intense training available to police in Afghanistan’ including specialized crowd-control training for urban units, and specialized patrol tactics training for rural units.³⁹ Better equipment is provided, alongside stronger leadership development than other ANP forces. Both official and unofficial assessments have rated them highly. With the newly-graduated battalion joining the 3rd Brigade, 16 ANCOP battalions have been fielded, with a target end strength of 5,365 personnel by January 2010. By April 2008 six battalions were rated at CM2, constituting 50% of those at that level.

In a keynote address to recent ANCOP graduates US Army Colonel Stephen Yackley, the Combined Security Transition Command-Afghanistan Deputy Commander for Police Development, did not exaggerate when he told the recent graduates, ‘as you prepare to report to your assignment, always remember that ANCOP are the best police force in Afghanistan. Your fellow countrymen know it, and soon the enemies of peace and stability will know it.’⁴⁰

It is deeply troubling therefore to discover that from the debris of quick fix force generation programs which litter Afghanistan, depressingly similar recommendations and policies are rising. Challenged by immediate security issues such as the election and the surge in Taliban attacks this year, reformers have moved quickly to sponsor expedited training programs and new security forces that have drawn comparisons with the Awakening Councils in Iraq, called the Afghan Public Protection Force. The former, has most recently manifested itself in a ‘pyramid scheme’ to train 35,000 police in election specific procedures and policies. Initially, 350 officers from across the country were trained in Herat, Kabul, Mazar, and Kandahar. ‘These trainers will go back to their districts and train 10 other stakeholders, who will in turn train 10 others’ said Gerrit Jan van Gelder,

39 Paul Dillard, ‘ANCOP Graduates 321 New Officers’, *Blackanthem Military News*, 1 July 2009, <<http://www.blackanthem.com/News/afghanistan/ANCOP-Graduates-321-New-Officers20328.shtml>> accessed 1 July 2009.

40 *Ibid.*

the Deputy Head of EUPOL’s training component in Afghanistan.⁴¹ Based on an oral transmission of information which circumvents the high illiteracy rate present in the ANP, the quality of ‘trainers’ simply cannot be guaranteed. The latter will be explored in more detail later. Suffice it to say, in an attempt to quickly provide forces to stem the rising tide of Taliban insurgency, these new APPF units will receive just three weeks training, a welcome increase on ten days allocated for ANAP forces, but still insufficient.⁴² If the Interior Ministry is able to provide the Guardians with training, salaries, weapons, uniforms and other equipment, why are they not thinking of utilising those resources and the time spent training these forces, to bolster the quality of the Afghan police?

Recruitment, training and mentoring

Recruitment: ‘Ten good police are better than 100 corrupt police’⁴³

According to the DoD’s *Report on Progress toward Security and Stability in Afghanistan June 2008*, ‘Recruiting efforts are the critical lynchpin to the efforts to build and sustain a viable and resourced national police force.’⁴⁴ In this regard recruitment has arguably been one of the success stories of the ANP. The MoI has been ‘generally successful in obtaining the required number of personnel to keep the growth in police on an upward

41 UNDP, ‘Election training for 35,000 Afghan Police Officers’, 31 May 2009, <<http://content.undp.org/go/newsroom/2009/may/election-training-for-35000-afghan-police-officers.en>> accessed 1 June 2009.

42 Numerous questions have been raised about the advisability of arming militias within the Afghan historical context, the applicability of an Iraqi solution to Afghanistan, their role, responsibilities and so forth. All are relevant, but will be dealt with later.

43 Lt. General Karl Eikenberry quoted in Lyse Doucet, ‘Afghanistan: A Job Half Done’, *BBC News*, 4 December 2006, <http://news.bbc.co.uk/1/hi/world/south_asia/6205220.stm> accessed 15 January 2009.

44 Department of Defense Report, ‘Report on Progress toward Security and Stability in Afghanistan’, June 2008, p.27, <http://www.defenselink.mil/pubs/Report_on_Progress_toward_Security_and_Stability_in_Afghanistan_1230.pdf> accessed 24 May 2009.

trend'.⁴⁵ Between March 2008 and February 2009, nationwide recruiting numbers for all police programs was 17,191 (2,737 ABP, 3,562 ANCOP, and 9,468 AUP and specialty police).⁴⁶ Recruitment drives consistently say that numbers are not the problem. Over the past year, US forces helped initiate a recruiting drive for the Afghan Border Police (ABP). In Afghan provinces near Bajaur, the ranks of the ABP have almost tripled, according to US military officials.⁴⁷ This is even more of an achievement when it is recognised that levels are high despite previously poor pay, and the evident danger faced by the ANP. As TIME reported, the Afghan police are a terror target, facing kidnappings, beheadings and assaults.⁴⁸ In one instance, a policeman was mutilated by the Taliban in front of his tribe to intimidate potential recruits.

Masked from view are the many problems with the loyalty, reliability and make-up of the ANP. Recruitment standards are low, particularly for *Satunkai* who require no formal education. *Satanman* require nine years of education, and *Saran* twelve years of education. It is maintained that entry standards have been necessarily liberal. In light of Afghanistan's poor education system and recent history this is understandable. With recent increases in salaries, quality recruits may be attracted to the ANP. Assessments should be conducted exploring the feasibility of increasing standards.

Recruitment criteria and standards have not previously been strictly enforced. Often conducted outside of formal channels, some desperate commander's hire raw recruits directly. Even where recruitment proceeds through the relevant institutional procedures, uniform criteria and

standards are ignored or circumvented. According to one British official, 'there are no clear job descriptions, and thus no detailed requirements or skills.'⁴⁹

Past evaluations have found that out of the NPA, the CTC, and several of the RTCs, 'only the NPA screens students based on the entry qualifications of age, height, health, and literacy'. Consequently, in districts such as Gamsir, twenty per cent of the 84-strong unit have some form of physical disability.⁵⁰ Consequently, merit-based recruitment is non-existent. Local political, tribal and ethnic loyalties have played a larger role in police recruitment than qualifications or competence, with recruits introduced by local officials, factional commanders or tribal elders. As the DoD admits, 'in most of the country's districts, policemen are on the force because they were friends with the right people'.⁵¹

Afghan respondents have emphasised the strict enforcement of recruitment procedures as one of the key ways to create a professional force. Renewed emphasis must be placed on merit-based recruitment at the implementation level. A potentially fruitful approach to recruitment is to draft in recruitment officials from other areas thus undermining potential for tribal, ethnic and factional loyalties to bias vetting procedures. Even so, political pressures are likely to be strong. 'I actually witnessed, on the first ANAP training course, we expelled a number of students for inappropriate behaviour,' the Canadian officer continued. "They refused to follow direction. The regional training commander wanted them expelled. Immediately, the phone calls started coming in from the governor, saying, 'Why are you doing this' [and] from [President Karzai's brother], saying, 'You know, these are good people, don't expel them.' And the very next day the governor

45 *Ibid.*

46 Department of Defense Report, June 2009, *op. cit.*, p.37.

47 <http://www.csmonitor.com/2009/0213/p06s01-wosc.htm>

48 Aryn Baker and Ali Safi, 'Terror Target: The Afghan Police', *TIME*, 17 June 2007, <<http://www.time.com/time/world/article/0,8599,1634031,00.html?xid=feed-cnn-topics>> accessed 3 March 2009.

49 RUSI interview – FCO official.

50 One of which is nicknamed Popeye, who is deaf in one ear and blind in one eye.

51 Reeba Critser, 'Growing Afghan Police Force Needs More Help', *American Forces Press Service*, 2 July 2008, <<http://www.defenselink.mil/news/newsarticle.aspx?id=50392>> accessed 17 June 2009.

came to the regional training centre”.⁵² In this case the police trainers resisted the pressure. Consequently, perhaps the only workable solution is to reduce local ownership in this area, either taking recruitment solely under control of the international community, which would be politically sensitive and fail to build capacity, or conducting a form of joint recruitment similar to that in Iraq. The transition of the Mol from locally-based recruiting to a national recruiting system in 2009 is likely to improve matters – although it remains to be seen exactly what the system entails.

While strict enforcement is desirable, literacy poses a major problem for the ANP.

Although literacy is crucial for training – which can be conducted in greater depth and to a greater degree of sophistication – and for police work, criticism of lax recruitment standards must be tempered by a recognition that illiteracy rates in Afghanistan are some of the highest in the world. Poor levels of literacy, particularly outside of the main urban areas, means a strict approach is not possible. In interviews with SME’s it was recommended that illiteracy should not necessarily be a disqualifier. Aptitude tests rather than written exams are more appropriate entry requirements for Afghanistan. This would prevent many able yet uneducated Afghans from joining. Importantly however, adequate procedures must be put in place to address problems with literacy to ensure quality is not sacrificed.

Secondly, recruitment must concentrate on the issue of ethnicity. The ANP has a long road to travel before it reaches the Afghan Compact aim of ‘a fully constituted, professional, functional and *ethnically balanced*’ force. The National Internal Security Strategy is correct in stating that the imbalance of the ANP’s ethnic composition ‘raises questions about the ministry and police forces’ legitimacy as national institutions. Public trust, local as well as national legitimacy, and police efficacy will depend largely on a force representative of Afghanistan’s multiple communities. Ethnic quotas might help,

52 Graeme Smith, *op. cit.*

but not if certain ethnicities are put off joining. Recruitment drives in regions populated by under-represented ethnicities could therefore help.

Vetting must be radically overhauled. On paper, measures to vet recruits appear solid:

all Afghan National Police recruits undergo a process established by the Mol Recruiting Department where they are screened by the Mol Medical, Intelligence, and Criminal Investigative Departments. Recruits are meant to have either a national identification card or two letters of recommendation from community elders. ANP officers are vetted a second time upon arrival at an RTC for FDD training, undergoing further health screening, biometrics data collection, enrolment in the electronic payroll system, issue of Identification Cards, enrolment in electronic funds transfer where available, and drug testing. According to the procedure, recruits who test positive for opium are released from the training programme while those who test positive for less serious drugs such as hashish remain in the programme and receive counselling.

But as Otwin Marenin’s implementation gap reveals, outputs, in the form of procedures and policies, do not ensure successful operationalisation. By all accounts, Mol vetting of police recruits is rarely followed. Little wonder that drug users, criminals and anti-government forces have continued to contaminate the force.⁵³ Not only has this undermined the quality of personnel and their effectiveness in establishing law and order but it has also strengthened political factions within the police and contributed to centrifugal loyalties that weaken the force from the inside. ‘Many of the volunteers already wore police uniforms when they arrived, suggesting links to armed groups, but the foreign trainers said they avoided asking too many questions about their origins. “Most of them were militia guys,” said US Sergeant Felix Ayala, the lead trainer. “I don’t really care. We didn’t kick anyone out, unless they had drugs or weapons.’

53 Anthony Cordesman *et al*, *Winning in Afghanistan: Creating Effective Afghan Security Forces*, (Washington: CSIS, 2009), p.103.

We just stripped their old uniforms off and gave them new ones”...Unfortunately, what’s happening throughout the region is that the initial influx of candidates that we’re receiving for this training, the majority of them is militias from governors,” Col. Stafford said.⁵⁴

A second but underutilised line of defence is FDD. Vetting takes place again during FDD, but again problems persist. Trainees are scrutinized for corrupt tendencies and tribal prejudices that would lead to biased policing. Police officers that fail to graduate from the FDD course are removed from the force.⁵⁵ Reports indicate a mere 5% fail to pass, a figure that would be cause for celebration if it were not for the endemic levels of corruption, criminality and false loyalties in the ANP.⁵⁶ Renewed emphasis must be placed on strict vetting. It is crucial that during the implementation of these measures, procedures are strongly adhered to and enforced. Greater numbers rejected from initial recruitment or during FDD re-training may prove problematic in reducing already tight numbers of police, but as Lt General Karl Eikenberry states, ‘Ten good police are better than 100 corrupt police’.

Efforts to vet Afghan police confront a number of problems however. Background checks as part of the PRR process for example were hampered by the lack of information on government-wide and non-government databases. Despite the high level nature of those vetted, according to a UNAMA official, out of 18,000m checks, UNAMA found no detailed information for ‘more than 10,000’ names and varying degrees of information about the remaining names.¹⁶ Problems were compounded by culturally specific issues such as the fact many Afghans use a single name. Different approaches are clearly required. Of great potential, since 2008 Marines armed with biometric tools plan have attempted to weed out new officers with

54 Graeme Smith, *op. cit.*

55 Department of Defense Report, June 2009, *op. cit.*, p.38.

56 Aryn Baker, ‘Policing Afghanistan’, *TIME*, 21 October 2008, < <http://www.time.com/time/world/article/0,8599,1852296,00.html>> accessed 12 December 2008.

links to tribal warlords.⁵⁷ Eyes are scanned, thumb prints logged, and the information is fed into a growing national database linked to criminal and intelligence records. Any link or ties to warlords means they are disqualified from serving. Strengthened and expanded, such measures hold much promise, but too much hope should not be expended on technical solutions. ‘We know there are some shadow police and some militia-type police,’ Lieutenant Colonel Ray Hall, the Marine commander, said. ‘Once we go through the vetting process, we’ll have everybody screened ... so that problem should go away.’ Problems with police reform are rarely solved through technological means alone.

Unaddressed are the webs of social influence in Afghanistan mentioned above, which impede on merit-based recruitment and vetting procedures.

Training – reshaping raw human material

The first time they heard that they weren’t supposed to beat people, and they weren’t supposed to take their money, [but] that they were supposed to enforce laws and that their job was to protect the people, most police were surprised

(Army Col. Michael J. McMahon)⁵⁸

Granted, efforts to train the Afghan police have been successful in terms of numbers trained. The Kabul Police Academy, in charge of training senior officers and commanders, was rebuilt early on. Its efforts were later supplemented by the National Police Training Center which concentrates on basic training for the rank and file and is estimated to produce roughly 7,000 graduates per year. In 2008 CSTC-A, trained 25,000 police. However, a UNDP

57 David Axe, ‘Marines Land in Afghanistan – with Biometrics’, *WIRED*, 22 May 2008, <http://www.wired.com/politics/security/news/2008/05/biometrics_afghan_marines> accessed 14 June 2009.

58 John Kruzal, ‘Afghan Police Culture Evolves Through ‘Focused District Development’, *American Forces Press Service*, 19 May 2008, <<http://www.defenselink.mil/news/newsarticle.aspx?id=49929>> accessed 2 May 2009.

report admitted, 'the quality of the police remains in question'.⁵⁹

Even a cursory glance at ANP training programs exposes deep flaws in the current approach, starting with the persistent reductions in the length of instruction. While training for *saran* is a respectable three years, instruction length is at a minimum for both *satanman* and *satunkai*. The former complete the middle-tier training course at the central academy in just four and a half months, down from nine months at the end of 2007 and twelve months before that. The latter receive a paltry eight weeks of training - which compares poorly to past reform missions such as Kosovo. A US interagency assessment concluded this was 'adequate, *albeit minimally*, to prepare a graduate for an entry-level position in the ANP.' Last year ICG suggested that 'Lowering requirements and training even further to speed efforts would do more harm than good.'⁶⁰ This is insufficient. With initial force generation now largely complete, the length of training courses for *satanman* and *satunkai* must be increased, with the latter preferably receiving sixteen weeks, similar to ANCOP units.

What of the training itself? While the actors and personnel conducting training has already been criticised earlier in the report, the training curricula they have developed has also been widely questioned. Initial Entry Training and Focused District Development are both meant to cover a wide range of issues. The former for example includes 'police officer values and ethics, democratic policing and human dignity, criminal law and procedure, community policing, first aid, human rights, hate crimes, crime scene management, security checkpoints, traffic control, criminal investigations, interview techniques, note taking, and report writing' supplemented by a three and one-half day firearms component.' The latter, developed jointly by CSTC-A and DynCorps includes topics such as general police duties, weapons proficiency, conducting searches, tactical movement

and building clearance, unarmed combat, first aid, human rights, community policing and Afghan law. According to Piet Biesheuvel however, current curricula stress military training constituting 80%. 'Just five to ten per cent concentrates on traditional policing duties.' It would be remiss to deploy police without the capabilities to survive in Afghanistan's security context. Nevertheless, these figures must be reversed if the ANP are to provide civil security to Afghan communities, a view supported by the AIHRC's recent and disturbing findings on police torture; 'Where is the training on human rights for police officers?' asked Canadian MP Paul Dewar.⁶¹

Indeed, as suggested in more detail later, ANP training must be context-specific and attentive to public needs. Specialized courses should be developed, of which the German Foreign Office's funding of the first training programme for Afghan police on dealing with domestic violence, in particular against women and girls is to be commended.⁶² But training must also hark 'back to basics', emphasising traditional civilian policing duties from patrolling to report writing. The latter raises the important issue of illiteracy which as previously mentioned is extremely high; nationwide the Afghan Foreign Ministry estimates the rate is approximately 71% nationwide. Only 9,500 police officers are believed to be able to read and write easily, while a further 11,500 possess basic skills. Illiterate police cannot write reports, take notes, obtain witness statements or engage in further study of criminal law and procedure. Moreover, efforts to improve the standard of professional police work are constrained.⁶³ In August 2008, Germany began

61 Steven Chase, 'Afghan Police Unaware of Basic Rights Laws', *Globe and Mail*, 30 April 2009, <<http://v1.theglobeandmail.com/servlet/story/RTGAM.20090430.wafghan30/BNStory/International/home>> accessed 30 April 2009.

62 *Auswertiges Amt*, 'Afghan Police to Tackle Domestic Violence', 7 April 2009, <http://www.auswaertiges-amt.de/diplo/en/Aussenpolitik/RegionaleSchwerpunkte/AfghanistanZentralasien/AktuelleArtikel/090407-PolizistenGegenH_C3_A4uslicheGewalt,navCtx=265888.html> accessed 18 June 2009.

63 *Auswertiges Amt*, 'Afghanistan: Literacy and Trainer Courses for the Police', 1 October 2008, <<http://www.auswaertiges-amt.de/diplo/en/Aussenpolitik/RegionaleSchwerpunkte/AfghanistanZentralasien/>

59 UNDP Report, 'Law and Order Trust Fund for Afghanistan Annual Project Report', 2008, p.7.

60 International Crisis Group report, No.85, p.4.

financing the first literacy courses for Afghan police officers in Masar-e-Sharif. In 2009 it aims to launch 'a large-scale programme in 50 northern districts designed to dramatically improve police literacy'. Nationwide efforts to improve literacy, 'at least as fast as in the general Afghan population, if not faster', is highly recommended.⁶⁴

In light of the ANP's evident failings, CSTC-A launched Focused District Development in October 2007, a district-by-district reform programme. Under FDD, the police are taken from their district, (re)trained and re-equipped at a RTC while temporarily replaced by Afghan National Civil Order Police, and then returned. The programme not only provides supplementary training for ANP officers, but also is designed to fill in gaps of untrained ANP. Even as late as July last year, many police officers had received no policing instruction⁶⁵ The structure of the initiative provides additional benefits. As Anthony Cordesman notes, 'ANP are recruited and trained individually and are dispersed across a wide district'. Withdrawing and instructing all ANP officers in a district simultaneously fosters standardized knowledge and practices, alongside the promotion of professional relationships and esprit de corps that is severely lacking in this factionalized institution.⁶⁶ One of FDD's specific aims according to Defense, is 'to build the AUP as a reformed service loyal to the Afghan people and Afghan national interests.'⁶⁷

Improvements in unit capability suggest the initiative is proving very successful, a view supported by another important measure of success. Casualty data for local Afghans has recorded a decrease of 60 to 85 percent in reformed districts. It is therefore highly recommended

Aktuelle Artikel/081001-Alphabetisierungskurse-Masar,navCtx=278562.html> accessed 2 June 2009.

64 *Ibid.*

65 Reeba Critser, *op. cit.*

66 Cordesman *et al*, *op. cit.*, p.106.

67 Department of Defense Report, 'Progress Towards Security and Stability in Afghanistan', January 2009, p.45, <http://www.afghanconflictmonitor.org/USDoD_ProgressTowardSecurityStability_Afghanistan_Jan2009.pdf> accessed 10 February 2009.

that FDD should be strengthened. Reports have concluded that 'due to problems in threat assessment and a lack of intelligence advisers, the selection of districts may not be linked to the priorities that would emerge from an integrated concept of operations based on better intelligence and planning. There are some indications that districts were picked on the basis of districts in need of help, not the districts that need the *most* help.⁶⁸ Triage would be a useful tactic here. In so doing this would target the populations with the lowest security and thus provide the greatest added value.

Preferably FDD should be expanded. Currently it is taking too much time. Estimates suggest at the current rate it will take more than five years to complete. 'There is a general desire is to almost double the rate that districts are trained and mentored.' Mitigating factors remain including too few ANCOP units to temporarily replace retraining districts.⁶⁹ Likewise, capacity at Regional Training Centres is already full. Solutions to these are relatively simple and steps should be taken to increase both. More seriously however, according to GAO evaluations, a shortage of personnel is constraining CSTC-A's plans to expand FDD and similar programs into the rest of Afghanistan by the end of 2010. 'Defense has identified a shortage of about 1,500 military personnel needed to expand FDD and similar police development programs.' Efforts should be made to recruit and deploy additional ANP trainers. A potential sticking point is CSTC-A's past practice of redirecting ANA trainers to the ANP. Personnel shortages are thus further threatened by the proposed expansion of the Afghan army from 80,000 to 134,000 and perhaps beyond. Efforts to expand FDD are thus extremely unlikely. At the very least therefore, current levels must not be affected by efforts to expand the ANA especially considering the Afghan police are the more important counterinsurgency institution.

68 Cordesman *et al*, *op. cit.*, p.107.

69 Although it will be suggested that these units should be expanded.

Mentoring – training squared

Training must be complemented by sufficient mentoring. Since 2007 a number of programmes have provided on-the-job instruction, with FDD currently constituting the vast bulk of mentoring efforts.⁷⁰ Such programmes have provided valuable oversight and assistance to newly trained or retrained ANP forces. Previously, in the absence of mentoring, units were regularly deployed back into areas where they were susceptible to high social pressures, from requests for loyalty from local warlords, to orders from corrupt commanders to engage in extortion. Major General Cone further explained the importance of on-the-job assistance thusly; ‘I think that’s really important is that we have these police mentor teams that stay and live with the police in the districts to perhaps keep them – in terms of – keep them from returning to some of their previous behavior, but more importantly keep them tied into the logistics system, the pay system, weapons accountability, et cetera, make sure they’re performing as a competent police force.’

Reformers should be commended for concentrating on these programs. But a number of problems remain, not least of which is the lack of personnel. Indeed mitigating the expansion of FDD refers mainly to the lack of personnel for mentoring teams. PMT’s are manpower intensive, designed as 16-member groups of senior officers and non-commissioned officers. ‘With 365 districts, 46 city police precincts, 34 provinces, six regions, 20 ANCOB battalions, 33 Afghan border Police battalions, and 35 Afghan Border Police companies, Police Mentor Teams are present at no more than one-fourth of all Afghan National Police organizations and units.’

Severe US troop shortages have reportedly limited the number of PMT’s fielded. Moreover, others are understaffed. And questions remain about mentor quality, ‘many of whom are junior enlisted who haven’t attended the training course [at Fort Riley]’.⁷¹

70 FDD is currently the largest such programme. After (re) training, an embedded police mentor team accompanies the unit upon its redeployment to its home district.

71 Amy Bonanno, ‘Unprecedented Number of Afghan Police Head to FDD Training’, 4 August 2008, <<http://arsicsouth7.wordpress.com/2008/08/10/afghan-police-depend-heavily->

Reports of a long term plan to replace PMT’s with oversight from Provincial Reconstruction Teams should be avoided. With other tasks to consider, attention for ANP units would surely be diluted.⁷²

One possible solution argues Antonio Guistozi, would be to focus mentoring teams on senior officers such as station commanders and police chiefs. This would target those officers with influence over the rank and file who often fail to provide effective management and oversight, and are indeed considered one of the main drivers of corruption and malpractice.

Of greater benefit, other countries should be persuaded to provide personnel for PMT’s. According to the DoD, international cooperation has partly alleviated this dilemma. Three countries, the UK, Germany, and the Netherlands, agreed to provide PMTs for the seventh cycle of the FDD program. ‘Additionally, the German, Dutch, British, and Canadians expressed interest in taking over mentoring responsibilities in FDD districts within their respective forces’ areas of operation.’ The latter for example recently assumed mentor responsibility for districts in Kandahar City. Other countries should be pressured to follow suit, allowing US teams to move on to other districts, but it is essential they are of sufficient quality, with a delicate balance of age, experience, rank and technical skills. Although the majority of police mentor teams are dominated by military personnel, given the highly kinetic situation that mentoring must take place under, this must be accepted. As so often in Afghanistan, the best solution is the least worst.

on-us-support/> accessed 2 August 2009.

72 C.J.Radin, ‘Afghan Police Update’, 26 February 2009, <http://www.longwarjournal.org/archives/2009/02/afghan_police_update.php#ixzz0L9QFoa9y&D> accessed 28 February 2009.

3.3 Building the ANP as an Institution Beyond capacity building

Many of the reform actors in Afghanistan appear wedded to technical capacity-building. Problems with the ANP, from abuse of power to inefficiency and corruption are considered problems with the quantity or quality of technical assistance. In a recent article for *Christian Science Monitor*, the American commanders overseeing the programme acknowledged that corrupt and unprofessional behaviour prevalent among southern border guards, insisting that with more resources, training, and time, things will improve.¹ Likewise, a UN Secretary General report to the Security Council argued that ‘The current challenges facing the Afghan National Police can be met only by increasing its size and improving training, mentoring and equipment.’² A recent ECFR assessment ‘Shaping Europe’s Afghan Surge’ by Daniel Korski frames the problem of the Afghan National Police largely as purely a technical capacity issue, to be solved through more focused training and increased resources. Suggestions for establishing a long-term training and mentoring relationship with the Afghan police and increasing resources are sound ideas, but they are insufficient.

A less monogamous relationship with this important but narrow conceptualisation of reform is highly desirable. Force generation, even focused on qualitative reform, will not ensure success. Despite units under FDD being re-vetted, re-trained and re-equipped combined with extensive follow-up mentoring, the GAO’s recent analysis of the program cautions against undue optimism. Quoting a February 2009 review by the Pentagon, ‘just 19 percent of FDD-retrained units were capable of conducting missions, 25 percent as capable of doing so with outside support, 31 percent as capable of partially doing so with outside support, and 25 percent as not capable.’ As one analyst argues, ‘The police would get trained, but then they would go back into the system with nothing to support them, and they’d tend to fall back into their old bad habits’. There is little point in treating a patient for

disease if they are then re-entered into an infected environment. Required is long-term immunisation of the ANP, and only reform of the institutional environment within which individual officers are embedded can provide that. The UNDP’s Human Development Report was correct: ‘improved facilities, increased training and better equipment may be insufficient for enabling the ANP to become a fully functional organization.’³ Such reforms must be placed within the wider context of institutional reform which must now take centre stage.

Tentative steps have been taken to address problems with the ANP’s institutional environment, from pay and rank reform in the upper echelons of the police force, to reshuffling of the ANP’s organization structure. The general thrust however of efforts to build and reform the ANP has been technical capacity-building and a focus on the police officers themselves. Despite the promise of Obama’s new strategy, and the potential of the lead actor in reform adopting a wider focus, US policy remains stubbornly fixated on resourcing, training and building the ANP, with the imminent deployment of 4,000 extra trainers.

Institutional reform, as in Iraq, has been held hostage by the deteriorating security environment. Confronted by widespread violence, efforts to build the architectural structures which collectively support the ANP were sidelined, perceived as issues far removed from the immediate security environment and the need to supplement stretched international forces by rapidly recruiting, training and fielding ANP rank and file. The increased role the military has played in reform further exacerbated this trend.⁴ This myth must now be exposed as illusory. Neglect of institutional building has seriously hampered the ANP. The effort to build the institutional structures that will create a professional effective and sustainable Afghan police

3 UNDP Report, ‘Afghanistan Human Development Report’, *op. cit.*, p.84.

4 As suggested earlier, lessons learnt from decades of reform experience were therefore not applied

1 P.J.Tobia, *op. cit.*

2 UN Report (A/63/892-S/2009/323), p.6.

service will remain in tension with the dictates of Afghanistan's insurgency. Reformers must remain on track and recognise that institution building – while complex and difficult - is important in the long term. Three broad areas of reform seem crucial in Afghanistan; the bureaucratic organisation in charge of the ANP, a civilian-focused strategy, and internal/external disciplinary mechanisms.

With force generation complete, it is well past the hour that reform concentrates on building and strengthening the ANP's institutional architecture.

Reforming the Ministry of Interior

...it's that combination of institution building in the Ministry of Interior as well as the development of the police that is so critical to getting this right in the future.

(Admiral Mike Mullen)⁵

Admiral Mullen's recent acknowledgement that the locus of ANP reform must be expanded to include the bureaucratic institution with authority over the police is well received. The appointment of Mohammed Hanif Atmar as the Minister of Interior in November 2008 created new momentum for ministerial reform and accountability. But rhetoric must be matched by action.

Ministerial reform has been widely ignored comparative to both its requirements and other areas of ANP reform, surrendered to the belief that security requires force generation and deployment. This myth must now be exposed as illusory. Neglect of MOI transformation has seriously hampered the ANP. Reports from embassies in Kabul have stressed that the effectiveness, professionalism and integrity of the police have been seriously impeded by the lack of reform in the bureaucratic leadership of the police. The impediment posed by an unreformed MOI is thrown into sharp relief by the Afghan Civil Order Police. ANCOP units are almost universally well-regarded, both by Afghans and international

5 DODvClips, 'Admiral Mullen on Afghan Police', <http://www.dodvclips.mil/?fr_story=FRdamp357929&rf=sitemap> accessed 29 July 2009.

officials. Tactically capable, disciplined, and competent in their duties, international mentors have nevertheless suggested 'they remain hobbled by institutionalized corruption and dysfunctional logistics, and, US officers say, depend on American support for everything from food and fuel to generators and vehicles.' Many mentor teams report that combat assistance is increasingly unnecessary. Focus has shifted to logistics routines, resource management, and 'convincing the Afghans to submit supply requests through their own system even though the requests rarely produce anything....In the end, U.S. troops often end up providing essential supplies, but only after the Afghans have submitted a request through their own lines. "We're trying to get them doing the right thing so that when the Ministry of the Interior catches up they can hit the ground running"' reported one mentor in Maiwand.

The ANP is in dire need of management and administration structures, policies which constitute the foundation of policing, command and control structures, human resource management, operating policies, codes of conduct, and logistical mechanisms. Together these constitute the institutional intellect without which the ANP is merely another example of 'rocky horror' police reform; a muscular yet uncoordinated force.

According to a recent GAO report, 'U.S. goals for the MOI include ensuring that it is competent and efficient, provides strong and effective leadership, and has the organizational structures needed to reform, manage, and sustain the police.'⁶ In order to achieve this goal firstly measures must be adopted to improve the professionalism, capabilities and skills of the ministry. Started in 2005, PRR was a programme to restructure and streamline the MOI's bloated upper echelons, tackle corruption and inefficiency via extensive vetting and testing of personnel, and ensure that police appointments were merit-based. Reducing the oversized MOI-ANP officer corps from about 17,800 to about 9,000 personnel and restructuring the ANP's top-heavy rank structure to increase pay

6 US GAO Report, March 2009, *op. cit.*, p.2.

undoubtedly contributed to the professionalization of the ministry's upper echelons. Nevertheless, much remains to be done. DoD assessments rate most senior interior ministry officials at Capability Milestone 2, with significant numbers languish at CM3; poor assessments considering the completion of Pay and Rank reform.

To further address the MOI's weak institutional capacity, international actors initiated efforts to mentor individual MOI officials. Numerous flaws impacted on effectiveness. Efforts were woefully inadequate. Despite limited available mentors, some MOI officials were partnered with more than one adviser. Others were left with none. Confused and non-existent international coordination further complicated matters, for example 'one MOI commander had four mentors from two different countries'.⁷ US officials also criticised the lack of alignment between mentor skills and the specific capability gaps which required attention. These must be addressed and thankfully moves are afoot. 'CSTC-A and other international partners have agreed on a plan to better coordinate U.S. and international efforts to mentor MOI officials. CSTC-A and other international partners sought to define mentor roles and required skill sets, outline the international partners best suited to support mentoring requirements, establish a personnel management process to facilitate mentor assignments, and identify information and reporting requirements for mentors. The goal of their effort was to reach an agreement to support an integrated mentor program within MOI's headquarters. In the final plan, which was approved in January 2009, CSTC-A and other international partners agreed to provide an organisational framework to manage the mentoring program, agree on the allocation of mentors according to rationally derived priorities, and optimize the match between mentors' skill sets and position requirements.' As suggested earlier, ministerial reform should be the sole preserve of the EU, which has extensive experience of such matters, rather than military figures whom do not possess the requisite knowledge, experience or capabilities.

Secondly, the MOI has little understanding of its size, structure and form. To offer a revealing example, the ministry lacks basic abilities to manage and oversee its own personnel. A GAO assessment of limited US attempts to reform the ministry and ANP officer corps reported that it could not determine the ranks of 1,985 officers. More broadly, as highlighted earlier, the number of actual MOI and ANP personnel is unclear. While LOTFA data indicate that 78,541 personnel were on MOI and ANP payrolls as of January 12, 2009, CSTC-A has reported that the ministry does not have an accurate personnel manning roster or tracking system.

Ministry deployment of thirty four provincial teams to establish personnel and equipment accountability throughout the country should now be largely concluded. By March 2009 the MOI had completed work in 341 of 365 districts. The Ministry has also established reliable identification measures. 'Before the U.S. assumption of ANP development, identity documentation for ANP officers was limited to the name of the individual. Because Afghans often pass entire names through the family, these records are of little value in ascertaining the identity of police officers.' A database of biometric information on ANP officers who have attended training at the RTCs had, by February 2009 enrolled 18,744 policemen, with plans to extend the program to include all ANP officers.⁸

Concentration on these two areas of reform should greatly improve efforts to oversee and manage the ANP. Other areas must also be tackled and movement, while slow, is nevertheless evident. According to a Secretary-General report from 2009, the Ministry of the Interior 'is now taking serious steps to fight corruption, enhance administrative accountability and improve leadership and merit-based appointments.' Indeed Mohammad Hanif Atmar's appointment as Interior Minister in October 2008 has injected considerable energy and dynamism into the ministry. One of his first acts involved the implementation of a Ministry reorganization designed to enhance capability,

7 *Ibid.*, p.8.

8 Department of Defense Report, June 2009, *op. cit.*, p.34.

transparency and reduce duplication of effort within ministerial branches.⁹

Nonetheless, increasing ministry capabilities will count for little if MOI control over itself and the ANP is not strengthened. Reform efforts to date have foundered because too frequently reform has been defined technically, as something to be solved through the development and implementation of policies, procedures and systems. Social and political context have remained obscured from view. As the case studies demonstrate, transforming of the bureaucratic institution in charge of the police is the most politicised element of what is already a highly political act of police reform.¹⁰ For example, in 2008, ‘CSTC-A, MOI, and international partner officials developed a plan for restructuring MOI headquarters. Their goals in developing the plan included increasing efficiency, streamlining organization, improving coordination, creating conditions to mitigate corruption, and reducing headquarters staff by 25 percent.’ Originally scheduled for September 2008, implementation was delayed by political resistance within the ministry itself. CSTC-A claimed that some MOI departments were concerned that they would lose power and personnel as a result of restructuring. Only in December 2008 was the plan approved, and largely because the scale of restructuring was minimised, providing for ‘a 7 percent reduction in staff, rather than the 25 percent reduction goal originally set’.¹¹ Likewise, State and MOI have attempted to validate the status of more than 103,000 applicants for police identification cards by positively identifying all police, building a computerized police database, and issuing identification cards for use in paying police salaries. However, according to State, these teams have been unable to validate the extent to which another 29,372 applicants—about 37 percent of the total reported MOI and ANP workforce of 78,541—are active and eligible to receive identification cards. State informed us that

9 *Ibid.*

10 This is particularly the case in Afghanistan, with deep political, social and cultural fissures dividing both state and society, its strong tradition of decentralisation, the lack of a political settlement.

11 US GAO Report, March 2009, *op. cit.*, p.10.

three ANP zone commanders are not cooperating with efforts to validate the status of these applicants and that plans to complete the validation process have been put on hold until MOI persuades the commanders to cooperate.¹²

All reform measures must entail detailed political assessments of who will gain and who will lose influence. Political strategies including engagement, incentives and removal can then be designed to minimise political resistance. However, deeper subordination of ANP and the MOI’s various interests is required. The Ministry of Interior is a factionalised institutional environment, which has ‘frequently demonstrated its preference for its own incentives over that of the Government of Afghanistan.’ The Ministry’s constituent parts have frequently adopted a similar attitude within the organisation itself. The MOI is weakened internally by centrifugal forces of divergent interests and loyalties. ‘Right now there are too many people who can pick up a phone and say to their man in the Ministry of Interior, “Call down and move 200 guys this way,” or “look the other way on this,” says Cone.’¹² The Government Linked Illegal Armed Groups stage (GOLIAG) of Disbandment of Illegal Armed Groups was the product of a growing realization that significant numbers of government officials, the majority of which were determined to be in the Interior Ministry, maintained links to illegally armed groups.

Until these sorts of problematic interests are mitigated, the ministry will be unable to function properly. It is often maintained that the Ministry has little options open to it. However, this is mistaken. The problem lies not with the range of options, but rather with the courage and commitment to enact them.¹³ As Mark Sedra

12 Aryn Baker, ‘Policing Afghanistan’, *op. cit.*

13 Although it must be recognised that the deep fissures and centrifugal interests which divide weaken ministry authority are not confined to the structures of government. The MOI is a microcosm of broader Afghan society; it will be difficult to supplant these divergent interests with a robust Afghan national identity which transcends social, ethnic and political divisions.

outlines 'Despite being a key stakeholder in the DIAG [Disarmament of Illegal Armed Groups] process, the Ministry has resisted efforts to remove targeted officials. Even when it has complied with the process, the ministry has tended to shift officials to different positions rather than remove them outright. By June 2006, eight officials in the Mol had been earmarked by the Joint Secretariat for dismissal, but the Ministry had only agreed to the removal of three by the end of the month. 'The GOLIAG stage has demonstrated how deeply entrenched patronage networks are in the Afghan government...The process has proven singularly unsuccessful in deconstructing those patronage links, not only between commanders and their militiamen but between commanders and their superiors ensconced in government.'¹⁴

International and domestic political commitment must be high. For too long Karzai and his international backers - the US chief among them - have adopted an 'accommodating' style with local power holders, warlords and corrupt but influential officials, unwilling to face the costs and risks that such an approach would produce, in the mistaken belief that co-option has averted instability. Instead, as is clear from the pervasive levels of corruption, resistance to reform and the undermining of state-building efforts more broadly including measures to transform the ANP, instability has been the result of this unholy alliance. Donors should make their assistance more conditional on comprehensive and deep reform of the Mol, without which reform of the ANP will be limited. Professionalization of the police depends on sufficiently thorough reform of the Ministry of Interior itself with one senior figure in the US policy review reportedly describing this area of change as a key test of progress in the Afghan government.¹⁵ Progress in ministerial reform will be a bellwether of future ANP development.

14 Michael Bhatia and Mark Sedra, *Afghanistan, Arms and Conflict*, (New York: Routledge, 2008), p.140.

15 Des Browne and Stephen Carter, 'Afghanistan: The Change We Need', *The RUSI Journal*, (Vol. 154, No. 3, 2009).

Developing a strategy for the police – civil not state security

And I think everyone in Afghanistan agrees that in the long-term what Afghanistan needs is a police force that is well-linked to the rule of law, can prosecute crimes, domestic violence, those kinds of things and basically gather evidence and make prosecutions and contribute to the rule of law.

Major General Cone¹⁶

Despite Major General Cone's statement, the direction of police reform has built the ANP into an auxiliary military force. The MOI's National Internal Security Strategy (NISS), states that 'ANA and the ANP, continue to wage war against armed groups promoting the use of terrorist activities to achieve their goals'. But ill-equipped and ill-trained for the task at hand, the ANP have been launched as cannon fodder onto the frontline of the insurgency. Out-gunned and outmanoeuvred by Taliban and anti-government forces resulting in well over a thousand deaths per year. Meanwhile, as David Kilcullen highlights, 'nobody is doing the job of actual policing-rule of law, keeping the population safe...civil and criminal law enforcement'.¹⁷ The Taliban are rapidly and conspicuously devoting energy and resources to fill this vacuum.

Police forces constitute one of the most effective counterinsurgency tools, but not in the way current efforts in Afghanistan have conceptualized, which have fallen into the trap of assuming counterinsurgency has a military solution.¹⁸ ANP

16 Transcript of DoD News Briefing with Major General Cone, 12 November 2008, <<http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=4314>>, accessed 18 August 2009.

17 David Kilcullen quoted in George Packer, 'Kilcullen on Afghanistan: "It's Still Winnable, But Only Just"', *The New Yorker*, 14 November 2008, <<http://www.newyorker.com/online/blogs/georgepacker/2008/11/kilcullen-on-af.html>> accessed 5 December 2009.

18 General David Richards reportedly admitted as much. *Voice of America*, 'General Syays Afghan Development Must Come This Winter', 17 October 2006, <<http://www.voanews>

contribution to the COIN effort lies not in a role as military adjunct; 'Police are not meant to wage war' notes the ICG. Rather, their contribution lies in effective, professional policing. The limitations of military force in tackling insurgencies is clear from the case studies.¹⁹ In countering an insurgency, the police are the first line of defence as the interface with the community. They have powers of stop and search, arrest and detention, and since they observe daily comings and goings, should be aware of the first signs of illegal activity. Yet, as the interior minister rightly said, 'it is not the responsibility of the police to fight [the insurgency]. The police are responsible for implementing the law, and we should not train our policemen with an inclination for war'. Furthermore, in Afghanistan, crime has undermined public support for the central state. Security and justice are one of the battlegrounds of legitimacy in this insurgency. A viable and effective ANP with a permanent presence in urban and rural areas will be critical to providing security, legitimacy and undermining the insurgency. The Taliban know this, and herein lies the reason for the wave of insurgent attacks that have claimed the lives of 1,500 police last year.²⁰

Following President Obama's inauguration, hope rose for a reorientation of flawed US policy for the ANP; the 'campaign against extremism will not succeed with bullets or bombs alone' he said. His new Af-Pak strategy represented a false dawn and missed opportunity. The strategy's objective to develop Afghan security forces, including the ANP, which can 'lead the counterinsurgency and counterterrorism fight,' makes clear that Obama intends to continue his predecessor's use of the ANP as a paramilitary force. In short, the new strategy continues the US approach of concentrating on the recruitment, training and equipping of a police

force that is misused to fight the growing insurgency confronting Afghanistan, rather than to stabilize and secure Afghan society.

Demilitarise the ANP

The U.S must radically rethink this approach and listen to those actors who have viewed with concern the development of the ANP into a predominantly counterinsurgency force. No amount of reform, institutional or otherwise, will make a difference to the Afghan population if the police are tasked as cannon fodder for the insurgency. Afghan police reform must be driven by the needs and desires of the Afghan population not the dictates of US foreign policy; intuitive though this may be, it nevertheless bears repeating. The Afghan people are the main stakeholders of police reform. As such reform should aim to increase the ability of the police to protect and serve the citizenry. 'Contrary to international opinion, polling, and on the ground testimony suggests that ordinary criminality is the predominant concern of the locals, not the Taliban' argues Piet Biesheuvel. This opinion supported by a recent BBC/ Royal United Services Institute (RUSI) poll which found that only 8 percent of Afghans rated the Taliban as their most serious problem.²¹

The ANP should engage in a strategic retreat from the military front-line of the insurgency and refocus its attention to enforcing the law and providing civil security. Conceptually, the ANA and ANP have been tied together. Rhetoric which describes the two institutions as 'Afghan National Security Forces' is a dangerous semantic manoeuvre which, as German officials have cautioned 'blurs the difference between the police and the army'. Indeed considerable overlap and confusion continues to characterize their roles and responsibilities. Afghan national security documents and strategies conflate their functions into an all consuming task for counterinsurgency and counter-terrorism. It is time to divorce the two institutions starting with both rhetorical and conceptual clarification of their separate natures,

com/english/archive/2006-10/2006-10-17-voa55.cfm?CFID=257057916&CFTOKEN=59758407&jsessionid=0030a6aca7207501ac28457d517866225255> accessed 21 May 2009.

19 For example, as the case studies demonstrated, unlike the military, the police have a permanent presence in cities, towns, and villages and thus a better understanding of the threat environment in these areas. Connections to the communities they serve boosts intelligence capabilities.

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21 BBC and RUSI Afghanistan poll, <http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/05_02_09afghan_poll_2009.pdf> accessed 1 August 2009.

roles and responsibilities. Their work and conduct must be separate from the military.²² Relevant GoA departments including the MoI must revise and amend the necessary documents and strategies, such as the National Internal Security Strategy clearly defining the role of the ANP as a civilian law enforcement agency. The National Security Council (NSC), the body 'charged with the direction and coordination of all security ministries and security related policies', should issue appropriate policy guidelines.

Training, the curriculum of which has been criticized as overly militarized, must concentrate on the basic of civilian policing. They are also excessively armed, with Rocket Propelled Grenade anti-tank weaponry not uncommon.²³ This does little to foster a police mentality or engender trust from the population. Renewed effort on the part of CSTC-A to understand the role police and policing should play in state-building and COIN, and should cooperate with police reform actors who can adequately supply relevant training and equipment to the ANP.²⁴

Nevertheless, the GoA claims that 6 to 10 police are killed every day.²⁵ In post-conflict contexts, demilitarization can progress swiftly and radically. 'Under fire' however, this lesson from past reform must be circumscribed. Even in a civilian policing role, the ANP will remain targets of anti-government

forces and well-equipped criminal organizations. 'It would be egregious not to prepare the police for the kind of adversaries that they encounter in the field in Afghanistan violent south and east' argues British army Lt. Col. Jasper De Quincy Adams.

Civilianise the AUP

Demilitarization and re-civilianization are two sides of the same coin. The ANP must be refocused towards serving the needs of the civilian population, a strategic aim that requires a multidimensional approach. One of the simplest methods to increase ANP effectiveness involves understanding the immediate law enforcement concerns of Afghanistan's communities and addressing them. Without a basic understanding of security concerns, police reform strategies, programs and policies cannot hope to be effective. In order to quickly re-address the police, cultural and social experts should conduct deep surveys into the level of crime and the most prevalent crimes. Without the necessary information around which to initiate a strategy, there is little to no possibility of reform actors being able, effectively, to guide and mentor. Community meetings, sponsored lunches with civil society groups to allow the police to hear what is worrying the community would reorient the public to the new community focus (and could warn against bribery attempts), and would provide a clear signal to the public that change is coming.

However crime and security are never static. A sustainable community focused approach requires measures such as the establishment of criminal databases which can identify geographical and topical issues of insecurity, and changing patterns of crime. The ANP can then begin to build up knowledge about crime and develop strategies and programs that progressively tackle those wellsprings of insecurity can be initiated including supplementary training focused on the most salient crimes, and the establishment of specialized departments can be established within the upper levels of the police/MoI. Good work has already been conducted on this with the Counter-Narcotics Police of Afghanistan (CNPA) and the Counter Terrorism Department, but only because this subject is a core concern of the international

22 Although given the intertwined nature of the insurgency and crime such as anti-narcotics, certain elements of the police such as the counter-narcotics unit, will need to work together. Moreover, they been to be present at house searches.

23 Steven Edwards, 'As Election Looms, few Afghan police adequately trained: UN', *The Vancouver Sun*, 11 June 2009, <<http://www.vancouversun.com/news/election+looms+Afghan+police+adequately+trained/1686870/story.html>> accessed 12 June 2009.

24 'When I say I need weapons they bring thousands, when we ask for equipment for the CID [Criminal Investigation Department] they don't know [what to do]', said an interior ministry official quoted in the International Crisis Group Report No.85, *op. cit.*

25 *AFP*, 'Six-10 Afghan Police Killed Every Day: govt', 12 July 2009, <http://www.google.com/hostednews/afp/article/ALeqM5jQL95VCU3757t7R7qS_oykTzkHnw> accessed 12 July 2009.

community. Although family response units have been established since 2006 in a number of police stations, they receive much less attention and support.

Less technocratic, institutionalised police-community boards should be established to ferret out concerns and suggestions for improved policing, thereby increasing local ownership of the police and ingraining their public servant status into the police mentality. Formalising links also demonstrates to the public that the police engagement is serious, and would ensure regular meeting, rather than ad hoc fashion which may peter out based on the personalities involved. Acting as a forum for increased dialogue and interaction between police and communities, these boards would educate Afghan citizens of their rights and responsibilities; provide a decentralized antidote to the dearth of ANP accountability,²⁶ and break down historical perceptions of the police as something to be feared, thereby increasing trust. Whilst a new culture of trust in Afghanistan will be difficult to forge, the benefits are great, leading to added intelligence. The best information on crime often comes from local people. Training on community engagement, and patrols which talk with the people who live in their districts is more important than usually imagined.

Such engagement is only possible however if, conversely to re-tasking the ANP away from high security issues, they are also unshackled from menial tasks. Afghan police complained that too much of their time is wasted on non-core duties such as administration and construction. According to Atmar, the ANP have regularly been assigned basic tasks such as protecting roads, schools and government buildings; 'They are reduced to simply guards.'²⁷ 'On 31 January 2004, 300 ANP were deployed to Kandahar in one of the

first deployments of centrally trained police to a province. Within the unit, high levels of optimism about their training and pride for their symbolic representation of the central government were reported. The arrival of the ANP in Kandahar led to considerable disappointment – they were... sent to guard UN compounds, rather than engage in policing.'²⁸ Not only ineffective for civil security, such assignments are also demoralising; coupled with lack of equipment and accommodation, one hundred deserted. A possible solution suggested by Afghan SME's involved reassigning ineffective or illiterate officers to these tasks instead of firing them.²⁹ Likewise traffic police responsibility for maintaining roads and traffic signals, and overseeing the licensing exam process could be redirected to other segments of society; this would have the dual benefit of creating employment for educated and uneducated Afghans, thereby somewhat alleviating the endemic unemployment that cripples both economy and society.

Expand the ANCOP

While refocusing the bulk of the ANP towards civilian law enforcement is necessary, it must be accepted that Afghanistan is not a benign policing environment. Paramilitary forces are required. Afghanistan National Civil Order Police units, which are gendarmerie-type police trained to deal with urban unrest, civil disorder, and national emergencies currently provide this 'third force'. Presently however, most are operating almost exclusively in areas where the local police have been sent for training under the Focused District Development program. Given their role, and in light of their sound performance as measured both by public opinion and DoD assessments, it is recommended that additional units are formed. The presence of such forces in regions where more robust action is required could allow the local police to concentrate on their law enforcement role.

26 Take the issue of holding police accountable to human rights abuses will not proceed if the population are not well informed about such issues.

27 Graeme Smith, 'Afghan Militia Gears up to Fight the Taliban', *The Globe and Mail*, 9 April 2009, <<http://www.theglobeandmail.com/news/world/article972299.ece>> accessed 15 April 2009.

28 Michael Bhatia and Mark Sedra, *op. cit.*, p.227.

29 Illiterate police could be assigned to construction projects, while better educated ones if abusive, unprofessional towards the public etc might also be used for administrative work.

Last April a new ANCOP training facility was established in Herat. Despite this, by June 2009, only 2,462 civil order police were assigned out of an authorised figure of 5,365. Current estimates suggest force generation will be complete in March 2011. This time-frame is unacceptably long and efforts should be made to expand generation capacity, as opposed to expedited recruitment or training programs. Gendarmes are the most capable to provide that training, rather than the military or police. Italian Carabinieri have already taken part in reform efforts.³⁰ The added value of the Carabinieri training methodology has reportedly been particularly appreciated by the US government which does not possess police forces with military (or militarized) status.³¹ While a 'Carabinieri surge' was announced at the NATO summit in Strasbourg-Kehl, additional options were raised by a recent French proposal to send the EGF to train Afghan paramilitary police. Support has been widely expressed. British Foreign Secretary David Miliband argued that as long 'as this idea is properly integrated with the NATO and other operations it can be very useful.' To prevent adding another level to the densely layered complexity of Afghan police reform efforts, the former should be folded into the EGF proposal.

Expansion of the paramilitary ANCOP alongside an AUP focused on civilian law enforcement and the ANA concentrating on traditional military issues would create a robust three pillared security structure that recognises the diverse forces needed to tackle complex insurgencies.

30 Indeed such police have already been involved in ANP training starting with a platoon of Carabinieri who were integrated into *Operation Enduring Freedom* and carried out training activities in support of the ANP. Recently, Italy's contribution to the police effort totalled 70 personnel, mainly Carabinieri.

31 Federiga Bindi, 'Europe's Problematic Contribution to Police Training in Afghanistan', 4 May 2009, <http://www.brookings.edu/opinions/2009/0504_afghanistan_bindi.aspx> accessed 6 May 2009.

Forging a few good Afghan cops: Oversight, management and performance assessment

...and ten corrupt police can do more damage to our success than one Taliban extremist.

Lt. General Karl Eikenberry

A professional, disciplined and rights respecting police force is never solely the product of training, human rights instruction or strict recruitment practices. A recent State Department report that over 25,000 ANP personnel had received training on fundamental standards of human rights, police values and ethics conceded that abuses of power, corruption and predatory policing persist. By all accounts, such problems are endemic and epidemic. NGO reports continue to highlight the ANP's excessive use of force, practice of physical torture, and engagement in sexual abuse/humiliation.³² Corruption remains a growth industry for the police. Public lack of trust, alienation and fear negatively impacts on ANP effectiveness in detecting and preventing crime, and carrying out investigations. Lack of ANP discipline is nothing short of an issue with national existential importance. A May report from the UN Special Rapporteur on extrajudicial, summary, and arbitrary executions investigated numerous examples where police killed civilians with impunity, numbers of which were 'high enough to give Afghans, particularly in the south, some reason to support the Taliban.'³³

Can the ANP police themselves?

Strong, effective internal disciplinary mechanisms would do much to foster professionalism. A number of internal disciplinary systems to curb police corruption and abuse such as the Mol's internal affairs unit and the human rights unit have been created. Over the past year and a half these have been strengthened. The former contains new sections in the six regional commands and plans to expand further to the provincial level, and

32 US Department of State Report, 2008, *op. cit.*

33 *Ibid.*

reports of hundreds of investigations. The MoI's Human Rights Unit, which receives and responds to complaints of police abuse has trained at least two ANP officers in each province and one at each checkpoint in Kabul to recognize and report human rights violations.³⁴

Further actions are necessary. Given the scale and importance of ANP problems, resources should be ploughed into expanding the capacity of these units and systems. Efforts must ensure that the internal affairs unit has institutional authority over the ANP, with enough sufficiently high ranking officials that it does not shy away from investigating the upper reaches of the ANP and MoI. More importantly, there exist a number of gaps within the systems themselves which need to be addressed. In light of poor personnel management, individual accountability of ANP officers has been particularly difficult to establish. Previously, identity documentation for ANP officers was limited to the name of the individual because of the Afghan tradition of passing entire names through the family made such documents of limited value. To address this gap, the MoI is establishing biometric databases of all ANP officers who have attended training at the RTCs, with plans to expand the scheme to all ANP officers.³⁵ Furthermore 'CSTC-A has proposed a draft ANP strength accountability regulation that incorporates all 11 of the current ANP strength tracking documents as well as adding a Unit Manning Roster (UMR) to track policemen by their position of work, including the data collected during the initial the initial recruitment and vetting process. The database will then be linked to the ANP Identification Card database and a finance database. 'These reforms will facilitate personnel complaints because it will show exactly where the complainant is located, and it will be easier to find his or her chain of command and records and resolve the issue.' Combined with the efforts of CSTC-A mentors and the MoI Legal Advisor to provide disciplinary instruction for the ANP which 'will provide for the administrative discipline of police personnel through the reduction in rank, pay

forfeitures, and transfers' measures such as these may prove fruitful.

However, firing a patrolman requires a criminal conviction or a Presidential decree. CSTC-A is currently working with the MoI on redrafting the personnel regulation that governs MoI employees, specifically, the ANP. These efforts are aimed at empowering lower-level officials to make removal decisions while providing sufficient administrative due process to the employee subject to termination. The Minister of Interior has commissioned a legislative drafting committee to revise the 'Inherent' (or police personnel) Law to ensure that it provides for the administrative separation of corrupt or inept police officers. Passage of this law should be made a priority.

But it must be combined with renewed political will. CSTC-A ANP legal mentors have reportedly focused on utilising the police court and prosecutor to charge relevant police officers for criminal misconduct. According to Defense, 'these efforts have not yet shown results.' By most accounts ANP impunity remains pervasive. AIHRC's recent research of torture in law enforcement institutions revealed numerous public complaints to official, from police departments to local prosecution officers and courts.³⁶ 'Unfortunately' it concluded, 'there has been no performance in most cases and the complaints have usually not been followed up. Of all complaints, only about 3% have been investigated. This is while even one torturer has so far not been prosecuted and sentenced as per the laws.' Similar lack of action has plagued efforts to tackle corruption and excessive use of police force which has regularly ended in civilian casualties.³⁷ It must be made clear that malpractice will not be tolerated. Corrupt and abusive police officers can no longer be allowed to remain in their positions. Nevertheless, the realities of Afghan society act as a break on idealistic notions of reform. Expulsion of every ANP officer for malpractice and infractions is

36 AIHRC Report, 'Causes of Torture in Law Enforcement Institutions', *op. cit.*, p.28.

37 There remains a continued lack of development in the investigation of a May 2007 killing of 10 persons by police in Jowzjan Province.

34 US Department of State Report, 2007, *op. cit.*

35 Department of Defense Report, June 2009, *op. cit.*, p.34.

an unrealistic solution to a very large problem. Such a mass cull would dangerously thin the ranks and could lead to a large number of unemployed and very angry group, that could make them a fertile recruitment pool for Anti-government forces just as it did in Iraq when the Army was disbanded. Exemplary punishment is widely considered more effective by Afghans.³⁸

The importance of middle management

As the above example demonstrates, largely concurring with the case studies, measures to increase discipline and tackle malpractice which focus on middle managers can be highly productive.

Mid-level police are crucial for discipline and performance, of that both Afghan and international officials agree. Canadian mentors instructing one ably commanded unit in Zhari district claimed that if the ANP had more high calibre commanders their job would be redundant; 'we wouldn't need to be here' said Master-Cpl. Gary O'Brien.³⁹ Afghan police reform experts agreed, with one arguing this level was 'the lynchpin upon which hinges the rest of the ANP.'⁴⁰ Previously, the effects of individual training were diluted when trainees were deployed to police stations staffed by poorly trained personnel with little loyalty to the central government. Corruption in particular is perceived as a top-down affair. Officer respondents state that a police officer can only stay honest and free from corruption for three months on the job at most. Pressure by fellow officers, especially more senior officers, to participate in corruption is seen as one of the most significant challenges that is faced by

honest men who join the ANP. The GAO reported in 2005 that many returning trainees were 'forced by their commanders to give their new equipment to more senior police and to help extort money from truck drivers and travelers.'⁴¹

It is pointless to continually churn out rank and file police officers and insert them into an unreformed command structure. FDD addresses this somewhat, 'by training all uniformed police in a district as a unit'.⁴ Likewise, as mentioned earlier, mentoring should particularly focus on senior officers such as station commanders and police chiefs thereby targeting those officers with influence over the rank and file who often fail to provide effective management and oversight. Increasing the training period of non-commissioned officers from its current level of four and a half months will also assist in professionalising this force.

These measures to improve police leadership must be complemented by stern disciplinary action at this level. According to the ICG, where disciplinary action has been taken it has 'tended to be aimed at the lower ranks, not high-level officials, or delayed for political reasons...' 'those who are arrested for corruption are the traffic police, or those who take 50 Afghans [about \$1], not those who take millions and stay as commanders', said a senior ministry official. A border police commander who did lose his position reportedly had 123.5kg of opium found in his vehicle but was not prosecuted.' This is not just pragmatic, but also makes clear to both the police and the public that no one is immune from the rule of law and secondly tackling the top.

External oversight mechanisms

Tackling the ANP's culture of impunity and instilling discipline however will take a more fundamental approach than fine tuning already existing institutional safeguards. There is a logical inconsistency with police requiring reform being entrusted with the task of policing themselves. Accountability and oversight should ideally be to multiple audiences and via diverse mechanisms. Afghan civil society, NGO's and the media have

38 Integrity Watch Afghanistan Report, 'Afghans' Experience of Corruption', 2007, p.44, <<http://www.iwaweb.org/Afghanexperienceofcorruption.pdf>> accessed 3 July 2009.

39 According to Khan, 'Corruption and drug use shouldn't be tolerated because they're illegal and police officers are supposed to uphold the law'. He also blames infringement on the officers managers; '...it's the fault of their commanders - they should tell their officers not to it.' Archie McLean, 'Afghan Cop A Rarity in Force Rife with Corruption', *CanWest News Service*, 14 February 2009, <<http://www2.canada.com/topics/news/features/afghanistan/story.html?id=1291166>> accessed 20 February 2009.

40 RUSI interview – DfID official.

41 US GAO Report, March 2009, *op. cit.*, p.12.

played important roles. International human rights groups have claimed that extensive reporting of human rights abuses led to increased arrest and prosecutions of abusers. But they can only achieve so much. External oversight and accountability constitute a *sine qua non* of reform aimed at positively affecting police discipline. They are urgently required in Afghanistan.

The recent establishment of the High Office of Oversight and Anti-corruption will go some way to tackle graft within the MoI and ANP, but its task is monumental. Considering its size, its gaze will often be cast elsewhere. The scale of corruption within these two institutions, which Integrity Watch polled as two of the most corrupt in the country, necessitates mechanisms focused solely on them. A police complaints authority should be established to receive and investigate complaints about improper and illegal conduct.

According to a 2009 AIHRC report the majority of complaints against the police were lodged in prosecution offices and courts (around 25% and 23% respectively) despite the fact that out of a wide sample of Afghans polled by Integrity Watch Afghanistan in 2007, 52.6% of respondents said that the court system was the most corrupt institution in Afghanistan.⁴² Many are undoubtedly deterred by the lack of a dedicated and independent mechanism. Accessibility would increase the flow of complaints as well as centralizing and streamlining oversight efforts. Other institutions to which complaints were directed included prisons, governors offices, even police departments themselves.

Yet the example of the High Office of Oversight and Anti-corruption, which has no powers of enforcement, investigation or prosecution suggest that merely creating external oversight mechanisms is not sufficient. It must have the mandate and the resources to make its presence felt. Due to the high levels of malpractice which have spread like a cancer throughout all the levels of the ANP and MoI reaching its upper echelons, there exists high potential for political clashes. Independence and

the resources to carry out its duties must be insured through an adequate and protected budget. This institution must also be transparent and should ensure that disciplinary and criminal investigations are conducted in a fair and transparent manner, so that confidence in the process is engendered in the victims of police abuse, and police officers are assured that they will receive due process in the investigation of any allegations.

Strengthening oversight of the ANP must confront a demonstrable lack of political commitment for such reforms at many of the highest governmental levels. Calls for external oversight have been repeatedly ignored. International reports detailing law enforcement abuse, such as Amnesty International's 2007 investigation into torture perpetrated by law enforcement officials, are frequently rejected by the government.

The interests of many high ranking government, police and MoI officials do not include an accountable and effective police. Atmar's appointment, following strong performances in the education and rural development portfolios is nonetheless encouraging. He brings 'a reputation for integrity and administrative competence to the ministry'. His statements and policies against corruption and abuses of power have been encouraging. According to one Afghan official, 'he has already demonstrated a commitment, being one of the first to complete and return an asset declaration form instituted by the High Officer of Oversight and Anti-corruption'. But whether he can change a deeply engrained culture of impunity remains to be seen. He has much work ahead of him. He will also require the full support from Karzai and the international community, both of which have often adopted an accommodating style with powerbrokers rather than directly confront them in an attempt to centralize power and clean up the government in the hope that this will prevent further instability. This myth must be put to bed.

The period after the election will be particularly important. Analysts and observers have speculated that in a bid for re-election Karzai has temporarily leashed Atmar. If successful, as widely predicted, a

42 Integrity Watch Afghanistan Report, *op. cit.*

REFORMING THE ANP

window of opportunity to radically purge the Mol and ANP of unsavoury elements must be taken, with the international community leveraging support to do so.

3.4 Comprehensive Reform

Much could be achieved through technical and institutional reforms to the ANP. But as the case studies demonstrate, the ANP does not exist in an institutional vacuum. The police form just one node in a broad and interrelated criminal justice sector. Without reform directed at and including the formal justice institutions, as well as non-state security and justice sector, reform will likely founder.

Criminal justice sector reform: Off to a slow start

‘Good policing’ stated General Cone, ‘needs a good judicial system’. Exploring past examples of reform made clear that police effectiveness is intimately tied into the efficiency and effectiveness of the broader justice sector institutions. Reform of one without concurrent transformation of the other will have limited impact. Disappointingly, in Afghanistan reform actors both domestic and international have failed to heed this valuable lesson. Efforts to reform the justice system, underway since 2003, have been poor. From the very beginning, a myopic focus on expanding police numbers and capacity was not complemented by similar attentiveness to the criminal justice sector. As one US official argued, ‘the international community’s efforts on justice reform got off to a slow start.’¹ Eight years after the overthrow of the Taliban however and progress in the justice sector is minimal with no sign of the sense of urgency that has recently characterised reform of the ANP.

After more than two decades of civil war and the false dawn of international intervention, the State Department recently characterised development

as patchy: ‘Nationwide, fully functioning courts, police forces, and prisons were rare.’² In addition to widespread infrastructural disrepair, lack of equipment necessary for even the most basic functions, poor salaries, and inadequate numbers of qualified personnel, the system is handicapped by more complex problems, from institutional deficiencies such as pervasive corruption and the lack of credible mechanisms for discipline and accountability, to broader issues concerning Afghanistan’s confused and overlapping legal structure informed by statutory, customary, and shari’a law, a weak legal aid system, and threats to judicial independence from politicians, local powerbrokers and military commanders.

The effects on the ANP are manifold. Recent evaluations of police effectiveness have concluded that the weak judicial system constitutes one of the primary challenges facing the ANP.³ ‘Until the Afghan criminal justice system, including law enforcement, judiciary, and corrections, has matured and is synchronized and coordinated’ argued the Inspectors General of the US Departments of State and Defense, ‘the ANP will function more as a security force than as a law enforcement organization.’

Civilian security and justice are not the only casualties however. Arsala Jamal, the Governor of Khost Province, realized that lack of justice and dispute resolution, particularly surrounding land- and resource-based conflicts, were major problems with implications for provincial and regional stability. In some areas, the frustrating lack of justice is stoking the power and influence of anti-government forces. Frank Ledwidge states:

‘Complex insurgencies are powered by injustice. The ability to adjudicate and resolve disputes in a way that the population believes to be fair is a

1 Statement of David T. Johnson, Assistant Secretary Bureau for International Narcotics and Law Enforcement Affairs US Department of State before the House Committee on Oversight and Government Reform Subcommittee on National Security and Foreign Affairs, ‘Oversight of US Efforts to Train and Equip and Enhance the Justice System in Afghanistan’, June 18 2008, < <http://nationalsecurity.oversight.house.gov/documents/20080618133207.pdf>> accessed 16 May 2009.

2 US Department of State Report, 2008, *op. cit.*

3 Testimony of Charles M. Johnson to the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government and Reform, 2008, *op. cit.*, p.8.

major step towards establishing the legitimacy an insurgent requires for success. If an insurgency is powered by injustice, it succeeds partly through appropriating the virtual territory of justice. This is especially true in the 'Maoist' type protracted insurgency we are encountering in Afghanistan'.

This link between justice and counterinsurgency has been missing from both reform analysis and action in Afghanistan;⁴ a mistake not made by the Taliban who are filling the vacuum left by the absence of effective state justice and dispute resolution. Credible reports suggest in southern districts firmly or even partly under insurgent control, the Taliban run permanent law courts, whilst a cadre of roaming Taliban 'judges' dispense judgements in villages across Helmand province.⁵ As David Kilcullen argues, these are the activities that 'the police and judiciary ought to be doing, but instead they're out in the countryside chasing bad guys. Where governance does exist, it is seen as corrupt or exploitative, in many cases, whereas the people remember the Taliban as cruel but not as corrupt. They remember they felt safer back then. The Taliban are doing the things we ought to be doing because we are off chasing them instead of keeping our eye on the prize—securing and governing the people in a way that meets their needs.'⁶ A battle for legitimacy, just as fierce as that waged in the military campaigns is being fought and often won by the Taliban. Public hankering for the strict, harsh but swift justice provided by the Taliban are increasingly common.⁷ 'If the Taliban were still here, that rapist would have already been executed by now. It would have been a lesson for all' said

4 Frank Ledwidge, 'Justice and Counterinsurgency in Afghanistan: A Missing Link', *op. cit.*

5 It should be noted that in many areas the choice between Taliban justice and the state system (or non-state mechanisms) does not exist. Direct intimidation of the community, lack of formal state penetration into the areas or weak social structures meant there are no other options. UK officials have highlighted Gamsir as one such example. Conversely, in Nade-Ali and Gereshk there is arguably a degree of choice.

6 David Kilcullen quoted in George Packer, *op. cit.*

7 Lory Stevens, 'New Courthouses promote rule of law in Afghanistan', 16 July 2009, <<http://www.army.mil/news/2009/07/16/24451-new-courthouses-promote-rule-of-law-in-afghanistan/>> accessed 17 July 2009.

the sister of a raped girl. 'If there is no law, and the government does not listen to people's complaints, then it is better to go back to the Taliban era. At least then we had justice.'⁸

It is imperative for the success of police reform and the wider state-building and counterinsurgency effort that reform actors urgently prioritize criminal justice reform. In light of the sectors manifest problems, extensive reform is required to reshape the Afghan criminal justice continuum into something that resembles even a modicum of effectiveness and honesty. RUSI well understands the necessity of a thickly textured criminal justice reform, but while the criminal justice sector as a totality is important for the development of civil security and the efficacy of the ANP, in-depth research into justice reform would require a monograph of itself. Nonetheless, effective action in the form of the following limited recommendations could potentially produce relatively large results to improve ANP efficacy and thus Afghan security and justice.

Launching a criminal justice 'surge'

The 2005 Afghan judicial reform strategy 'Justice for All' admitted that while significant progress had been made 'equipping military and law enforcement units, almost nothing has been accomplished to provide resources for the justice system.'⁹ Since the beginning of international intervention 'justice' has languished as a reform backwater with efforts to transform the sector crippled by a poverty of financial and human capital. At the December 2002 Rome conference, the international community pledged a mere \$30 million for the rehabilitation and reconstruction of Afghanistan's entire criminal justice system. Calculations by the World Bank estimate that up to 2005 just 3 per cent of SSJR spending was allocated to the justice sector.¹⁰

8 Aryn Baker, 'Afghanistan's Epidemic of Child Rape', *TIME*, 17 August 2008, <<http://www.time.com/time/world/article/0,8599,1833517,00.html>> accessed 3 June 2009.

9 Afghanistan Ministry of Justice Report, 'Justice for All', May 2005, <<http://www.cmi.no/pdf/?file=/afghanistan/doc/Justice%20for%20all%20MOJ%20Afgh.pdf>> accessed 23 March 2009.

10 World Bank Report, 'Afghanistan: Managing Public

Meanwhile Italy, tasked as 'lead nation' for justice reform initially staffed the Italian Justice Office with just five personnel.

Resources have since been increased. At the 2007 Rome conference on the rule of law in Afghanistan, \$360 million was pledged by donor nations.¹¹ But resources have failed to match the astronomic figures spent on the ANA and ANP. Likewise, although judges, lawyers and prison officers have been sent from countries like Norway to mentor and advise their counterparts, 'few other countries have contributed trainers for any part of the judiciary at all.'¹² Reform objectives and policies have been necessarily cut to this resource cloth.

Efforts to improve and expand the justice sector will not come cheap. Though the hour is late, the initiation of a justice sector 'surge' is required.¹³ Resources including financial aid and skilled justice sector officials to train, mentor and advise, must be drastically ramped up. 'I think that a similar effort to the police effort needs to be launched' argues Major General Robert Cone, 'on a similar scope and scale to address the justice issues'.¹⁴

Leading this 'soft power' surge naturally falls to the EU. According to James Dobbins, Italy lacked the expertise, resources, interest and influence needed to succeed in the task of justice reform. Recognition of poor Italian progress resulted in the expansion of EU involvement in the sector at the 2006 London Conference. The European Commission has since taken the lead under its Rule of Law programme. Indeed, the US has previously suggested that

in the absence of EU deployment of sufficient troops for Obama's 'hard power' surge, European nations should concentrate on expand assistance in the 'rule of law' sector. In 2007, EU External Relations Commissioner Benita Ferrero-Waldner announced that the EU would provide 600 million euros until 2011 to help fund Afghanistan's public administration, with about 40 percent of the funds earmarked for reforms in the justice sector. This is a solid basis on which to build, but further efforts are required to increase financial assistance and staff numbers. In so doing, it will support its vision of the police as law enforcement officers.

Indeed EUPOL and the EU rule of law programme should be merged. As suggested later, comprehensive efforts are needed to link the police and justice sector. Although CSTC-A and the majority of police reform would remain outside of this, it would increase coordination and add greater diplomatic weight to the EU. 'Linkages between EUPOL and the Commission have been put in place. A commission representative sits in on the IPCB, EUPOL staff includes justice and rule-of-law advisers, and working relations between the two are quite good, with regular exchanges taking place – both in the form of monthly meetings between EUOL, the commission and the EUSR as well as more informal exchanges. In addition to EUPOL, close coordination is also sought with other donors in the justice sector, although the commission has not assumed a coordination function among international actors in the same way as EUPOL was mandated to do.'

Building justice sector capacity

'Donor activity in the justice sector' concludes the Afghan National Development Strategy 'has generally focused on building the capacity of the judicial system'.¹⁵ Physical infrastructure has been built and justice officials trained. Indicating the depth from which Afghanistan's justice sector is to rise however, progress has been minute.

Finance for Development', 2005.

11 Alessandra Rizzo, '\$360 Million Pledged for Afghanistan', *The Washington Post*, 3 July 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/07/03/AR2007070301427_pf.html> accessed 24 July 2009.

12 Henning Høgseth from the Norwegian Foreign Policy Institute quoted in Tarjei Olsen, 'Afghanistan: Justice is Hard to Import', *IPS*, 11 August 2008, <<http://ipsnews.net/news.asp?idnews=43513>> accessed 9 May 2009.

13 Although it must be recognised that development will take many decades.

14 Aryn Baker, 'Afghanistan's Epidemic of Child Rape', *op. cit.*

15 'Afghanistan National Development Strategy, 2008 – 2013', p.66, <http://www.ands.gov.af/ands/final_ands/src/final/Afghanistan%20National%20Development%20Strategy_eng.pdf> accessed 29 July 2009.

Assessment of 437 courts across the country in 2007 discovered that 132 required construction and another 93 needed rehabilitation, signifying that 'a staggering 97.8% of Afghanistan's court houses are in need of construction or rehabilitation.'¹⁶ Provision of professional equipment and resources has been inadequate, often non-existent. Lack of transportation facilities has constrained prosecutors in their ability to properly prepare cases for trial. Moreover, even resources necessary to hold trials in accordance with the law are frequently unavailable. Access to statutes, governmental regulations, legal textbooks and Supreme Court decisions was poor. Many judges therefore 'make decisions without reference to the law' or 'largely based on personal opinion.'¹⁷

Meanwhile, the system has been operating 'with staff who are insufficiently trained or educated -- recruited through a system that is not at all transparent -- and who do not operate under very credible mechanisms for [ensuring] accountability and discipline.' Provinces such as Helmand suffer from severe shortages of judges, prosecutors and lawyers congesting a system whose procedures already make it inefficient and sluggish. Countrywide 80 percent of provincial prosecutors had no university qualifications. More seriously, a 2006 survey of judicial training needs found 40 percent of judges had not completed *setaj-e-qazaiee* stage training prior to appointment.¹⁸ 90 percent had not participated in other training programmes.

Amalgamation of these factors has resulted in a gridlocked system that by 2007 had a back-log of 6,000 appeal cases awaiting adjudication.¹⁹ But many arrested by the police never go to trial. In Gereshk for example, only two to three criminal cases are lodged with the court every month. Limited capacity means just five a week are heard in the whole of Helmand. Few of the accused

are ever convicted. Poorly trained justice sector professionals depress the ratio of convictions to arrests to appallingly low levels.

Weak, painfully slow, and ineffective, investment in physical and human capacity is essential. Increased ANP effectiveness will count for little if not balanced by adequate capacity to detain, process and prosecute. Court-houses must be rebuilt, prosecutor officers refurbished, and basic equipment provided. Prisons are of particular concern and must be a priority. Numerous problems plague the prison system, from inhumane treatment to rampant disease.²⁰ Of core concern for police reform however are issues of prison security and overcrowding, both issues an ongoing US military review is expected to criticise. Interpol Secretary General Ronald Noble emphasised the problem: 'When you look around the world, where was the largest prison escape of terrorists in the world? Afghanistan'.²¹

New justice sector personnel, from prosecutors to prison guards, judges to judicial police must be recruited to investigate and rule on the increased number of cases resulting from improved ANP efficacy, and clear the backlog of old ones. The quality of already existing justice officials must be improved. The US military review is rightly expected to conclude that more training for justice sector staff is required.²²

The justice sector is riddled with incompetent and predatory officials. Endemic corruption cripples the system's ability to provide a modicum of justice. In a recent article for the RUSI in London, Frank Ledwidge, former Justice Adviser to the UK PRT in Helmand, highlighted the example of a state court that sentenced a murderer to only six months in prison after the murderer's family greased the

16 Afghanistan Human Development Report, *op. cit.*, p.71.

17 *Ibid.*

18 This twelve month practical training involves theoretical study, one month of convening a supervised mock trial, and secondment to a variety of different courts.

19 Afghanistan Human Development Report, *op. cit.*, p.71.

20 US Department of State Report, 2008, *op. cit.*

21 Quoted in *Los Angeles Times*, 'Interpol Aims to Bring Afghanistan Police up to Speed', 5 October, 2008, <<http://fairuse.100webcustomers.com/mayfaire/latimes0170.htm>> accessed 1 April 2009.

22 *BBC News*, 'US Seeks Afghan Prison Overhaul', 20 July 2009, <http://news.bbc.co.uk/1/hi/world/south_asia/8158528.stm> accessed 20 July 2009.

judge's palm. To ensure equitable and fair justice, the judicial sector needs extensive vetting to ensure corrupt people are not included. Old ones must also be vetted. One official spoke of it thus; 'the police are like a scorpion....the judiciary is like a dragon.' Creeping radicalisation and fundamentalism is also a problem. However, a large-scale purge of unqualified judges is not practical because there are few qualified candidates to replace them. 'What is necessary immediately, and one of the greatest challenges, is to upgrade the knowledge of those who are supposed to stay and remain in the system,' argues Azimi. The reason is that Afghanistan needs them despite their inadequacies. 'Afghanistan also hopes to create a new generation of judges, but this will be a longer term project, even with international donor support, since a current high school graduate is still decades away from becoming qualified.'²³

Training must be focused on the particular circumstances of the country. A programme of judicial monitoring should be established which over time can discern strengths and weaknesses of the justice sector, determining training courses and programmes. Anecdotal evidence suggests that there are a number of priorities which should perhaps be concentrated on such as child rape.²⁴ Others are typical of fragile state contexts; according to Kilcullen, ninety-five percent of the work of the Taliban law courts 'is civil law, property disputes...water and grazing disputes, inheritances etc.'²⁵ 'Due to the fact that more than one third of Afghanistan's population was displaced during the recent history of conflicts in the country, conflict over land, rural and urban, continues to be a significant source of instability in Afghanistan. A USIP report suggests that in one province, Khost, '70 percent of the land in Khost Province has no legal documentation of ownership.'²⁶ Disputes over

land range from boundary disputes to possession conflicts due to poor records, landgrabbing, migration, inheritance, and issues of communal pasturage. Corruption and forged land titling is widespread. Sales of land and land-use agreements made in the past may have been fraudulent or currently impossible to prove. The lack of functioning courts and reliable documentation has made legal adjudication extremely difficult. The United Nations, specifically UN Habitat and UNHCR are involved in a comprehensive Land Property reform programme which goals are the reform of the

Criminal justice sector development has predominantly been confined to national level institutions, including the Supreme Court and a number of specialized courts which deal with national security, military issues and narcotics. Reform and necessary capacity-building has, apart from the main cities and urban centers,²⁷ failed to penetrate sub-national levels. The Attorney General's Office for example, whose main function is the investigation and prosecution of crimes is highly centralized. By 2007 it has a district structure on paper only. 'It is estimated that some 80 district offices have either never been opened or are non-functioning.'²⁸ According to a report from the Afghanistan Justice Sector Support Program, in both districts and provinces 'little communication, coordination, planning, or training has taken place and...little assistance from the international community has been provided.'²⁹ Upon the announcement of additional security and justice sector assistance in February 2007, EU External Relations Commissioner Benita Ferrero-Waldner

Program Brief No. 1, <http://www.usip.org/files/file/jirga_judge.pdf> accessed 10 April 2009.

27 Targeting the greatest concentrations of population makes sense, but with these areas now mostly covered, the system must be expanded.

28 Afghanistan Human Development Report, *op. cit.*, p.79.

29 Afghanistan Justice Sector Support Program Special Report, 'Provincial Rule of Law Development in Afghanistan 2005 to 2008' November 2008, < http://www.jssp-afghanistan.com/Reports%20and%20Publications/Special_Report_Provincial_ROL_Development_11_25_2008.pdf> accessed 1 August 2009.

23 Stephen Kaufman, 'Afghanistan's Judiciary Rebuilding Under New Supreme Court', *America. Gov*, 28 November 2007, <<http://www.america.gov/st/washfile-english/2007/November/20071128174012esnamfuak0.8012964.html>>

24 Aryn Baker, 'Afghanistan's Epidemic of Child Rape', *op. cit.*

25 George Packer, *op. cit.*

26 USIP Report, 'Between the Jirga and the Judge', *TLO*

made clear that it would be limited to working directly with Kabul; 'the central government will remain responsible for "spreading out" the rule of law into the provinces.'³⁰ This has been a mistake. Local ownership is counterproductive when local actors lack the resources and capabilities to conduct reform. As such, Afghan and international actors together must now concentrate on expanding geographical coverage and extending institutional depth. Not only is this important for the equitable distribution of justice, but also because lack of provincial and district level physical and human capacity has, according to a British government report on Helmand, 'led to problems relating to the processing of persons arrested by the Afghan National Security Forces (ANSF)' including but not limited to '(i) No clear or transparent system in place for the processing of detainees in the districts...(v) Ad hoc transfer of cases to Lashkar Gah for processing in the formal justice system; (vi).'³¹

The UN Assistance Mission for Afghanistan (UNAMA) in cooperation with the UN Development Program (UNDP) have been beefing up its rule of law unit through establishing the provincial justice initiative. The Afghanistan Justice Sector Support Program has, since 2005 engaged the provincial justice communities in the reform process, providing programs of training and equipment to provincial justice officials. Constrained by resources, their valuable work has been limited. Provincial training for example has been delivered only to approximately 300 personnel.³² The international community must support and expand these programs with increased resources.

Efforts to decentralise the justice sector throughout Afghanistan are challenged by the context of rising insecurity as participants to a panel on provincial justice coordination at the 2007 Rome conference highlighted.³³ Encouraging therefore is the targeted

30 Ahto Lobjakas, 'Afghanistan: EU Aid Targets Justice System', 12 February 2007, <<http://www.rferl.org/content/article/1074657.html>> accessed 27 May 2009.

31 British government report in the possession of the author.

32 Afghanistan Justice Sector Support Program, *op. cit.*, p.2.

33 Rome Conference Report, 'Provincial Justice

training of judges and prosecutors within FDD reform districts. 'The FDD-Law program has been able to reach prosecutors, defense attorneys, and criminal justice investigation police in areas of Afghansitan that have been, and continue to be, largely inaccessible to traditional reform initiatives.'³⁴ Such efforts can only continue to work in areas where security has not declined to such a degree that the system has effectively collapsed. Justice officials and infrastructure are frequently targets of insurgent attacks.³⁵ Consequently, in Helmand, faced by deteriorating security 'the Judiciary, the Office of the Chief Prosecutor and the Ministry of Justice departments have expressed an inability to deploy staff to districts outside Lashkar Gah and Gereshk'.³⁶

Creating an Afghan criminal justice sector

Justice must be approached as a sector. Civil security and justice is provided by a complex and interrelated system of agencies, from prosecutors and judges, to prisons and rehabilitation officers. Donor activity in the justice sector has concentrated on the judiciary to the detriment of other institutions.³⁷ Prisons in Afghanistan remain one of the weakest and most under-resourced components of the rule of law sector.³⁸ Likewise the Attorney General's Office's capabilities are lacking. While its ability to investigate and prosecute simple crimes such as theft has been reasonably established, 'it does not have the capacity to handle complex crimes such as organized crime, terrorism, or white-collar crimes, due to an unfamiliarity with proactive investigations, resources constraints, the need to build up cases through detailed interviews

Coordination Panel: Report to Plenary', <http://www.rolafghanistan.esteri.it/NR/rdonlyres/DADEF123-F197-45E2-8E3B-154B95E16CB6/0/Final_Report_GL5.pdf> accessed 1 June 2009.

34 Afghanistan Justice Sector Support Program, *op. cit.*, p.4.

35 In Helmand alone 2007 witnessed the murder of Garmsir's judge. A year later, Gereshk's judge was murdered and the Judge for Nad-e-Ali survived an assassination attempt.

36 British government report in the possession of the author.

37 'Afghanistan National Development Strategy, 2008 – 2013', *op. cit.*, p.66.

38 RUSI interview – FCO official.

of witnesses and experts such as forensic auditors, as well as the inability to gather circumstantial evidence before making an arrest.³⁹ Unbalanced development has inhibited the smooth functioning of the criminal justice continuum from police to prosecution to prison, with direct and important ramifications for the ANP.

However, it is not simply a case of adequately building capacity and capabilities within each institution. Reform must actively promote the creation of a justice *system*, establishing and reinforcing institutionalised links between these various institutions. As General cone noted, there are 10 links between arrest and putting someone in jail. ‘The police own the first four links in the process, but if you fix the first four links without addressing the next six, it won’t work.’ Reform has failed to sufficiently consider the interfaces between these institutions. In Helmand, one manifestation of this has been the transfer of prisoners to Lashkar Gah ‘with no record or details of any evidence against the prisoners’ resulting in ‘the release of prisoners in Lashkar Gah and/or dismissal of their cases by the courts’.⁴⁰ Development of training programs to improve sector-wide coordination and build inter-agency capabilities is essential. But this is not sufficient. In Afghanistan lack of effective coordination is due to weak and dysfunctional relationships. Confidence building measures must be explored and developed similar to the JSSP’s organization of conferences in 2006 that brought Kabul-based national justice professionals face-to-face with provincial justice professionals. Providing a forum for justice sector professionals to meet, such measures promote understanding and cooperation. Indeed, for many at the JSSP conferences, ‘this was the first time national and provincial justice professionals interacted.’⁴¹

The Afghanistan National Development Strategy includes a sector wide strategy for justice reform that will undoubtedly assist in the balanced

development of justice institutions and the links between them. Notable by its absence from ANDS discussions of the justice sector, however, was the fundamental link between the ANP and the criminal justice institutions. This has been a recurring theme of Afghan security and justice reform. The 2005 Police Law for example barely mentions ANP/prosecutor interaction, a product of and further contributing to reform and utilisation of the police as military auxiliaries.

Conversely, linkages with the ANA are immeasurably stronger as exemplified by the common usage of the term Afghan National Security Forces; with primary responsibility for both ANA and ANP reform falling under the command of CSTC-A, lines between the military and police have been blurred both rhetorically and conceptually. Recognising the poverty of institutional linkages between the police and other justice agencies such as the AGO, in August 2007 the JSSP-Regional Program launched a Provincial Police-Prosecutor Training Program for provincial and district prosecutors as well as police investigators at a number of regional training centers. Designed to ‘improve police-prosecutor coordination and build inter-agency efficiencies’ from 2007 to the beginning of 2009, eight of these seven month courses were completed training 240 personnel serving in 15 different provinces.⁴²

Capacity at the other RTC’s should be provided so that they can participate in this program. Nonetheless, without the conceptual delinking of the ANP and ANA and the subsuming of the former within a comprehensive strategy for the criminal justice sector it is doubtful what progress can be made. Developing coordination between the ANP and the justice system is futile if the ANP subsequently spend their time as cannon fodder for the insurgency rather than agents of

42 ‘The success of the JSSP-R Program has been recognized by the chief of Herat’s criminal investigation police. He acknowledged that following the JSSP training his criminal investigation [police were better able to handle significant criminal investigations. In addition, he noted that his department was able to work more cooperatively with the provincial prosecutors. JSSP’s training not only developed the capacity of the justice professionals, it allowed them to more effectively implement the law.’ *Ibid.*

39 Afghanistan Human Development Report, *op. cit.*, p.79.

40 British government report in the possession of the author.

41 Afghanistan Justice Sector Support Program, *op. cit.*, p.2.

law enforcement working effectively within the continuum of criminal justice institutions.

The non-state security and justice system: the limitations of lessons learned

Afghanistan, like most post-conflict, and fragile state contexts, is characterised by a weak formal security and justice system. Filling this gap is a number of informal, non-state security and justice mechanisms. They remain the elephant in Afghanistan's reform room. Few reform actors acknowledge or address it, but lessons from past examples of reform suggest that they should not be ignored and that they can often prove one of the principal ways in which to expand justice and security to the population. However, although cooperation in the justice sector seems worthwhile, inherent dangers in non-state security sector suggests that it should not be attempted. Despite the lesson from other examples of reform, Afghanistan presents a dangerous context within which to support, strengthen or utilise non-state security actors. Models of reform can not be transplanted from one context to the other.

ANP not *Arbakai*

With a history of poor security provision by state institutions and over three decades of violent conflict and turmoil, it is unsurprising that non state security actors associated with local powerbrokers and warlords, tribal systems underpinned by codes of conduct - such as *Pashtunwali* – and rural communities far from urban/state services are present in many parts of the country. Superficially, the lesson from past examples of reform appears both simple and clear; police and security sector reform in Afghanistan must engage with these actors, through co-option, strengthening, attempts at transformation etc.

Since late 2008, reform strategy has been increasingly interested in utilizing some of these actors. The US in particular is investing much time, hope and energy in co-option of these actors as part of the *Afghanization* of the counterinsurgency and

nation-building effort. In March 2009, the Ministry of Interior, strongly supported by the US, began a programme to train a new force called the Afghan Public Protection Force (APPF). With Taliban attacks rising, reaching twice the levels seen last year, international actors are moving quickly to sponsor the creation of new security forces that have drawn comparisons with the Awakening Councils in Iraq. The Afghan Public Protection Force, better known as 'the Guardians', is a recent Afghan-led initiative to recruit and train local males in unsecured areas that can act as community guard forces. According to reports, 'There are currently insufficient security forces – Afghan, US, and International Security Assistance Force – to deal with the worsening situation. While commanders would like to field more fully trained Afghan Army and Police forces immediately, these forces are simply not available. New Afghan forces are being trained but they will not be ready for action in sufficiently large numbers any time soon. The creation of the APPF is a response to this shortfall in Afghan troops. It is an attempt to quickly provide some forces to fill the gap while additional Afghan National Army and Police are being trained.'⁴³

Their integrity and discipline have rightly raised concerns. As mentioned earlier, reports suggest these new APPF units will have just three weeks training; woefully inadequate in terms of quality. Also of concern, command of the APPF lies with the Ministry of Interior, which already faces serious capacity deficiencies managing and controlling the ANP. For example, problems firing local commanders and an inability to validate the eligibility of 29,372 applicants for police identification cards because of resistance from three ANP zone commanders do not bode well. A recent report from Wardak province by journalist Balint Szlanko notes that 'Even Capt. Andrew Harris of Apache Company of the 2-87th infantry, who was instrumental in setting up the program, admits that some of the APPF commanders see it as a way of gaining power in their area. If left unchecked, he knows, they could

43 C.J.Radin, 'The Afghan Public Protection Force Pilot Program is Underway', *The Long War Journal*, 25 March 2009, <http://www.longwarjournal.org/archives/2009/03/afghan_public_protect.php> accessed 26 March 2009.

quickly turn to crime.’ There have been reports that some of the militias have abused their power by falsely reporting people as Taliban.⁴⁴ They may therefore prove not only ineffective but a source of insecurity. Despite this, a 23-page PowerPoint briefing obtained by The Globe and Mail ‘suggests the Afghan government wants the new militiamen in some districts to vastly outnumber the police. The document shows the first units will be organised in Saydabad district of Wardak province, southwest of Kabul. They will eventually cover the province with 1,200 uniformed men carrying Czech-made assault rifles and driving white Ford Rangers, dwarfing the province’s current police force, officially listed at 688 officers.’ In short, the initiative threatens to place responsibility for the vast bulk of security, to poorly trained, inadequately managed security actors.

At the very least expansion of the pilot project should be resisted until an honest and transparent assessment of its effectiveness has been carried out. A Western official said the government appears to be envisioning a rapid expansion of the APPF beyond the pilot program in Wardak, with plans to distribute as many as 9,000 light weapons in seven provinces along the main highway that rings the country.⁴⁵

However, it is strongly recommended that the GoA and relevant international actors should reconsider their support for the APPF. Short-term security gains may be achieved; CSTC-A is certainly reporting positive feedback. Medium to long term trends are far less certain and there is a high probability that the APPF will likely follow the example of past projects.

Indeed, Afghanistan presents a problem for any attempt to utilise non-state actors in this way. Drawing on the experience of past police reform

missions, these measures should be welcomed. However, peppered throughout this report are examples of policies and programmes which demonstrate the inapplicability of clumsily transplanting lessons learned in one theatre of reform to another; contexts can differ widely along political, economic or social spectrums. Nowhere is the limitation of a ‘lessons learned’ methodology more evident or important than the incorporation of Afghan non-state security actors into the reform process. Not simply ineffective, this measure is pregnant with disastrous possibilities that threaten the police reform effort, and more importantly, the continued existence of the post-Taliban political system.

Much of the discussion in favour of such plans are informed by the experience of Iraq. Holding the Afghan mirror up to Iraq’s Awakening movement is flawed however. The two contexts are radically different. Coalition forces in the latter ‘had the luxury of dealing with tribal councils who helped reconcile differences with different nationalist insurgent groups against a common foreign foe, al-Qaeda’ argues Thomas Johnson, Director of the Program for Culture and Conflict Studies at the Naval Postgraduate School. ‘In the south of Afghanistan, while there are foreigners, this is much more of a local insurgency, where probably 95 percent of the insurgents are homegrown, and only 5 percent are foreign.’ This is compounded by the complexity of the Afghan tribal system, with approximately four hundred (sub)tribes complicates efforts to replicate the experience of Iraq. Intricate webs of tribal influence, feuds and conflict, many going back centuries simmer under the surface, threatening to boil over if reforms strengthen one over another. Statements from General Cone and other officials suggest the nuances of Afghanistan have been taken into consideration: ‘I think that there is willingness today among senior Afghan government officials to engage in some form of -- actually the term they prefer to use is community engagement. And I think the point that I would make is there’s some 425 tribes here in Afghanistan and oftentimes a single tribe might be on one side of a valley and another tribe on the other side. So you need to be careful about which tribe you engage because they

44 Balit Szlanko, ‘Reporter’s Notebook: Jalrez Valley, Afghanistan’, *World Politics Review*, 24 July 2009, <<http://www.worldpoliticsreview.com/article.aspx?id=4119>> accessed 29 July 2009.

45 But a senior Afghan official said such plans do not yet exist, and the government’s first priority is proving the concept in Wardak.

may have traditional hostile rivalries, etcetera.’

However, past experience suggests that even with a deep understanding the risk is too great. Although arguably a great success in Iraq, such measures are inadvisable for Afghanistan. As mentioned above, setting up and arming local security actors to protect their territory in support of overstretched security forces has been tried here before by the Afghan government and US forces, with minimal success.

Supporters of community security provision raise the example of Paktia province and the moderate success achieved using the existing *arbakai* – community militia – system. But as early as January 2008 it was recognised by some western officials that success was dependent on the lack of tribal mixing and the strong tribal structures in the region; ‘these forces are strongly tied to tribal *shuras* (local councils), and therefore to some extent have an inherent legitimacy and accountability.’ Gen. Dan McNeill argued that previous British attempts to engage with non-state security structures would work only in small parts of Afghanistan. ‘My information, from studying Afghan history’ he said ‘is that *arbakai* works only in Paktia, Khost and the southern portion of Paktika, and it’s not likely to work beyond those geographic locations.’⁴⁶ Elsewhere in Afghanistan structures have been weakened and distorted by war, social change and the rise of the Taliban. Paktia is therefore perhaps unique in Afghanistan. Support for this view emerges from other attempts to engage the tribes which have degenerated into abuse, warlordism, and insecurity. The failure of the Afghan National Auxiliary Police, analysed earlier in this report, is just one example.

For those officials with slightly longer memories, historical precedent suggests a worrying track-record of failed experiments with programs to engage and traditional and non-state security structures in security provision, which have

historically stoked the embers of rebellion and destabilization. Indeed the last three decades of violence and turmoil was partly the result of similar decisions made by President Mohammad Najibullah’s in the 1980s. Besieged by mujahedeen fighters, Najibullah established local militias in various parts of the country. After a while the militias grew out of the government’s control. Frustrated by the heavy-handedness of the militias, villagers turned to the mujahedeen for security, eventually played a major role in the fall of Najibullah’s government. Responding to a criticism of the APPF plan, US officials reported they were certain that the groups could be kept under control. Reports of criminal activity mentioned above bode ill. Worse could be just over the horizon. ‘It is no accident that disarming militias has been a centerpiece of Western policy since the 2001 invasion. Militias are bad for nation-building.’ It is a gamble the Afghan people and the international community cannot afford to take.

Local Justice Mechanisms – bridging tradition and modernity

The provision of justice as a public good in Afghanistan, similar to the provision of security, is in a parlous state. Measures to reform the criminal justice system will go some way to remedying the situation, but can only achieve so much. Resembling other post-conflict and fragile state countries, Afghanistan has a robust informal justice sector. Scant attention from both Afghan government officials and international actors alike has been paid to customary and *shari’a* law, religious and community elders, and the panoply of *shuras*, *jirgas* and other informal justice mechanisms. Instead state-centric perspectives have dominated the reform agenda. The UNDP’s program’s and activities have centred for example, on ‘strengthening the JRC, training judicial staff, establishing a state judicial bureaucracy, constructing physical judicial infrastructure and improving legal education.’ The futility of constricting reform within state institutions is clear from the widely quoted statistic which estimates 80 percent of disputes are directed to non-state justice mechanisms, a figure which rises to 99 percent in some provinces such

46 *The Independent*, ‘U.S. Hits UK Plan to Arm Afghan Locals’, 15 January 2008, <<http://www.military.com/NewsContent/0,13319,160060,00.html>> accessed 19 June 2009.

as Helmand.⁴⁷ At worst, justice sector reform as currently conceptualised is affecting one percent of the disputes in some Afghan communities.

Indeed the non-state system has a number of benefits which could be utilized. Geographical and sub-national penetration of the formal system is limited, hindered by security concerns and inadequate resources.⁴⁸ Many Afghans particularly in rural communities have no effective alternative to the informal sector. Without requiring expensive courthouses and infrastructure, such mechanisms are geographically accessible. According to the AIHRC, such traditional methods of delivering justice should be promoted on the grounds that they have the advantage of being immediately available to the local population.⁴⁹

However, casual assumptions that the issue of one of a lack of choice are fallacious. Interviews and consultations for this report rarely found positive words to say about the system, even amongst high-ranking Afghan government officials, one of whom described the judiciary as a dragon with a bite that can prove fatal.⁴⁹ Legitimacy and trust in the discredited formal system is minimal. A national survey of over 6000 Afghans revealed that 'only 16% said that they trusted formal state courts [to resolve disputes]...the overwhelming majority (68%) trusted informal institutions and traditional figures of authority most.'⁵⁰ 'I hear from a lot of people that if a case goes to the (government)

47 'Traditional jirgas and shuras (informal tribal councils), which operate outside the formal justice system...continued to handle an estimated 80 per cent of all disputes'. Amnesty International Report, 'Afghanistan 2009', <<http://thereport.amnesty.org/en/regions/asia-pacific/afghanistan>> accessed 29 June 2009. Helmand figures were discussed in a RUSI interview with an FCO official.

48 Indeed both problems are evident in Helmand province which suffers from severe shortages of qualified judges and prosecutors and lacked district-level justice infrastructure, whilst also facing a deteriorating security context that reportedly led the judiciary, officer of the chief prosecutor and the MoJ to express an inability to deploy staff to districts outside of Lashkar Gar and Gereshk.

49 Afghan official during a RUSI roundtable on anti-corruption.

50 Afghanistan Human Development Report, *op. cit.*, p.74.

court, then the person with the most money will win that case' said one Afghan Tribal Group Leader in Kabul.⁵¹ He may have a point.⁵² Criminally corrupt, predatory, and ineffective, Afghans intentionally avoid engagement with courts, prosecutor officers and other justice system institutions, preferring instead to utilise traditional institutions of informal justice. Reform must attend to the stakeholders in the reform process, increasing local ownership.

Pervasive nationwide, informal mechanisms are not uniform. Afghanistan is home to over fifty distinct ethnic groups and as many customary legal systems, varying by tribe and geography. These institutions are culturally accessible, rooted in the deep soil of Afghanistan's social norms and values, and more likely to embody Afghan citizen's sense of justice. 'We trust our system because sharia law is more respectable for us than government law' said one Afghan Tribal Group Leader in Kabul.⁵³ Relatedly, they have the benefit of operating in the mother tongue of the parties. 'Afghanistan is home to 34 languages. It is unlikely that a state judicial system will immediately be able to accommodate such linguistic diversity. Due process and public trust demand linguistic-sensitive proceedings.'⁵⁴

Not only do they provide a useful system, but in many areas they are the only alternative to Taliban forms of justice. Ideological insurgents recognise this; intimidation and killing of community and religious leaders has eroded the power, influence and effectiveness of these non-state structures. They can provide a bulwark against the further spread of Taliban justice which bolsters the influence, legitimacy and control of anti-government forces.

Westphalian prejudices must be set aside and an acceptance of the reality on the ground should provide a window into redirecting justice sector

51 Rachel Martin, 'Afghan Justice System Fails to Win Public Trust', *NPR*, 5 April 2006, <<http://www.npr.org/templates/story/story.php?storyId=5324455>> accessed 12 May 2009.

52 *IPS*, 'Afghanistan: Two Justice Systems for Poor and Rich', 28 July 2009, <<http://ipsnews.net/news.asp?idnews=47839>> accessed 29 July 2009.

53 Rachel Martin, *op. cit.*

54 Amy Seiner, *op. cit.*, p.4.

reform to the institutions which cater to the vast majority of the public. As Sandro Calvani, UNICRI Director argues, 'Probably the main issue regarding the access to justice in particular and the whole Justice reform initiative in general in Afghanistan is represented by the difficult coexistence between the current formal legal system with the traditional dispute resolution system'.⁵⁵ Resolving this issue is both a pragmatic and normative necessity.

Policy documents from both the ministries of interior and justice suggest a belated recognition of the limitations of formal mechanisms and the need to investigate ways to utilise them to address the current security and justice deficit that blights Afghan communities and individuals. Stronger linkages 'where appropriate and where in keeping with the rights of citizens between the state system and the traditional systems that are for many Afghans their only regular justice system'⁵⁶ is part of the MoJ's 'Justice for All' strategy. Echoing this recommendation, Afghanistan's National Development Strategy 2008 to 2013 aims to increase 'the necessary interaction...with the informal justice systems, which are prevalent throughout the country'.⁵⁷ Commitment at this stage appears little more than rhetoric however. After briefly identifying the non-state sector, the ANDS fails to sufficiently explore its potential, concentrating instead on its formal counterpart. Moreover, few tangible projects or programmes have been developed. Action has been largely limited to research, including successful attempts by international organizations such as the UNDP, which have mapped customary law.

Nonetheless, these developments provide a useful theoretical and strategic foundation upon which to engage with the informal justice sector which must now be a priority if there is to be any hope for the restoration of viable and sustainable justice for the vast majority of the Afghan population. Ways

55 Sandro Calvani, 'UN Justice Reform in Afghanistan', 13 November 2008, <http://www.unicri.it/www/staff/speeches/081113_dir.pdf> accessed 18 December 2009.

56 Afghanistan Ministry of Justice, *op. cit.*, p.4.

57 Afghanistan National Development Strategy 2008-2013, *op. cit.*, p.65.

must be found to accept the reality of the informal justice system and utilize it to the advantage of the community and the state.

Shuras, jirgas and other informal justice mechanisms have long adjudicated non-criminal community disputes and minor crimes, from property and land disagreements to domestic issues. Efficient and successful, their role has continued for centuries largely uninterrupted by war, political upheaval and enforced programmes of social modernisation. Surveys have discovered that only '31% of the people interviewed said that if they had a dispute over property stolen from their houses, they would take their cases to the formal state courts. However 38% said that they would take such cases to traditional *jirgas* or *shuras*.' Conversely, for murder cases, over forty percent said that they would take such cases to state courts. Only twenty percent felt more confident with *jirgas* and *shuras*. Evidence also points to public support for a functional distribution of responsibilities, with traditional courts considered those of first instance (except in cases of serious crimes) and state courts for appeals. While figures may be disputed, they all suggest that Afghan perceptions of justice posits a division of labour between the formal and informal system, with either forming the preferred option based on the nature and severity of the dispute.

Reform should aim to formalize this hybridized model of justice, institutionalising non-state jurisdiction over those matters it has traditionally managed. Afghan citizens would have the choice of directing particular community, civil and non-criminal cases to these informal mechanisms, leaving the formal justice system as the appropriate forum for handling serious crimes. Pragmatic, cost effective and efficient, it would also prove popular, increasing local ownership of both reform and the end-result of the process.

The Afghan government should define the areas in which the non-state system can play a positive role in administering justice and work to strengthen it. Currently however, decisions by the informal system are most often resolved on the basis of norms and principles distinct from those legislated

by government. Consequently, as a 2005 USAID report makes clear, they 'enjoy no entitlement to government recognition or enforcement.'⁵⁸ For example, an innovative alternative dispute mechanism established by the Khost provincial governor, the Tribal Liaison Office and the United States Institute of Peace - the Commission on Conflict Mediation - had by March 2009, successfully resolved 18 cases. A USIP assessment noted however that 'it remains to be seen what legal weight a CCM decision, even when signed by the Governor, actually carries.'⁵⁹ The gap between realities on the ground, and the lack of legal weight and recognition is a fundamental problem to be resolved; problems arising from the perception of justice being served at the local level but state recognition being unforthcoming could store up intractable issues, particularly in property cases.

Reform must urgently tackle this problem, ensuring recognition of informal judicial processes possibly by having decisions registered or recognised by state administrative institutions. Informal mechanism could therefore provide mediation and resolution of non-criminal disputes, with the formal system recording and where possible and relevant, enforcing agreements. Suggesting the efficacy of such an approach, the head of the provincial appeal Court in Kandahar outlined an already existing and similar approach; 'In most civil cases, we encourage people to resolve their disputes by *jirga*, and then bring them to the court. As long as these decisions do not contradict the law and *sharia*, we endorse them formally.'⁶⁰

Such an approach provides a glimpse of a hybrid system working jointly to provide services for the Afghan people. Another possible area of cooperation concerns empowerment. Despite the reactivation of a formal justice sector, state capacity and capabilities to enforce justice sector decisions are low. According to one official '*jirgas*

do the jobs that courts in Kandahar are unable to do... we could not enforce our decisions. But the *jirgas*' decisions are enforced by the community through social pressure and other mechanisms. Second, courts could settle a dispute, but could not end enmities between the disputants. A *jirga* does both.'⁶¹ In order to target this weakness.

Many international organizations in Afghanistan maintain that recognition of informal justice mechanisms 'undermines the integrity of the formal justice system and the rule of law.'⁶² To the contrary.⁶³ As the above examples suggest, recognition has a number of positives. An Afghan justice architecture linking state and non-state systems in these ways would alleviate the heavy caseload pressures currently weighing down the courts. It could also provide assistance with enforcement of decisions by liaising with State institutions.

Any dual system risks being unclear however. Indeed Afghanistan's National development Strategy identifies one of the considerable challenges that remains includes the poorly defined of the justice sector.⁶⁴ Any hybrid system must be clarified both legally and publically. Formal recognition of a dual system of justice must be followed by an in-depth public information campaign to educate the public of the changes.

Combined, these recommendations and ideas suggests an outline of an integrated justice architecture that reflects and expresses the interplay between Sharia, local/tribal institutions of informal justice, the formal Afghan legal framework, and fundamental principles of human rights.

Let us not be deceived. Informal justice mechanisms are no easy antidote to Afghanistan's justice deficit.

61 *Ibid.*

62 UNAMA Report, 'Arbitrary Detention in Afghanistan', 2009, <http://www.ohchr.org/Documents/Countries/ADVC_Vol_I_UNAMA.pdf> accessed 1 February 2009.

63 Indeed, failure to recognise the system is ignorant of realities on the ground and has done little to reduce the vast majority of cases directed to the informal sector.

64 Afghanistan National Development Strategy, *op. cit.*, p.62.

58 USAID Report, 'Afghanistan Rule of Law Project: Field Study of Informal and Customary Justice in Afghanistan', 2005, p.ii, <http://pdf.usaid.gov/pdf_docs/PNADF590.pdf> accessed 20 July 2009.

59 USIP Report, 'Between the Jirga and the Judge', *op. cit.*

60 Afghanistan Human Development Report, *op. cit.*, p.43.

Recognising and integrating the informal system is rich in political, logistical and most importantly ethical problems. DfID officials have cautioned against unquestioningly adopting local institutions. 'We must be careful of who we ally ourselves with', said one. Practices derived from the informal sector often 'do not comply with those laid out in Afghanistan's Constitution or international law' imperiling the dignity, rights⁶⁵ and access to justice of Afghan citizens.⁶⁶ Concepts of restorative justice utilising sentences of *poar* (blood money) are perhaps the most palpable expression of this. The Pashtun *poar* for murder for example is two 'fair and virgin girls' from the perpetrators family.⁶⁷ 'Precisely how restorative this practice is for Pashtun women' Amy Senier rightly highlights, 'is not considered.'

It is precisely because of these problems that reform must engage with the informal sector. A number of fruitful strategies by which reformers can magnify its positive features and eliminate less savoury elements. In February 2005, Italy and UNDP launched Access to Justice. Billed as a 'judicial literacy' programme, Access to Justice educates rural populations about national legal reforms that could impact the realization of their rights before traditional courts. The program will teach rural Afghans how to demand their new legal rights in the face of discriminatory traditions. Rather than dismantle customary structures, Access to Justice empowers villagers to defend their rights within existing local structures.

According to the Ministry of Justice customary law is 'flexible, adaptable justice, tailored to local beliefs and conditions' which may prove an entry point into reform of these institutions. *Poar* of girls in Nuristan for example has been strongly condemned. 'Although Nuristan had a similar custom in the past, Mullahs have severely condemned the custom and it has been eliminated.'⁶⁸ The *Deiyat* [blood

money] for murder is now 200 to 250 cows or the equivalent number of goats. Reform should aim to engage with these systems and promote change from within their inherent flexibility. But this must be approached in the right way. Talk of tribes retaining traditional legal practices if they repeal those which violate international human rights standards will not resonate with Afghan tribes. As the above example demonstrates, precepts such as *poar* contradict not only statutory law, but also *Sharia*. Reform will be more fruitful if approached from this perspective.

65 Such as violations of the right to fair trial.

66 UNAMA Report, 'Arbitrary Detention in Afghanistan', *op. cit.*

67 *The Customary Laws of Afghanistan* (New York, Kabul: International Law Foundation, 2004), p.11.

68 *Ibid.*, p. 38.

Conclusion

Conclusion

Reform of the Afghan National Police is finally receiving the attention it deserves. Resources are the highest they have ever been, and a recognition of the importance of police and policing for both state-building and the counterinsurgency is increasingly apparent.

But concerns remains that the approach to reform, which has been poor up to now, could remain stuck.

Reform efforts to date have achieved some notable advances, particularly in light of the base from which reform has had to progress. Infrastructure has been built, thousands of police officers recruited, and just as many trained. But success cannot be measured by output figures increased or donor target boxes ticked. These achievements should not be the aim of reform, but rather the means to achieve security for the Afghan population. It is clear that the ANP are not fulfilling this task. After eight years of reform and billions of dollars in investment, the police have failed to achieve even the minimum acceptable standard expected of it by both Afghan and international actors.

Unprofessional, riven by alternative – often unsavoury – loyalties, and largely ineffectual against crime, they remain the Achilles heel of the state-building effort, an important component which is not living up to its potential in providing civil security and the space for social, political and economic development to flourish. More dangerously, the ANP are a widespread source of crime and insecurity, synonymous with corruption and widespread human rights violations. Consequently they exacerbate public dissatisfaction with the political order, undermine government legitimacy, and ultimately stoke the embers of violence and insurgency.

Reform requires a new approach from that which has gone before, rather unsurprising when reform has largely ignored the vast body of knowledge and experience which has accumulated from the past three decades of police reform efforts.

Development to date provides a useful foundation to build on, but the focus on numbers and short-term force generation has more than served its purpose. The five case studies point to a number of lessons, policies and programs to both adopt and avoid. There is little point in repeating them in detail here, suffice it to say *police-building* must now be matched by deeper more fundamental *police-reform*, from measures to ensure internal discipline and external oversight, to a concentration on the broader criminal justice sector.

However, repeated throughout the report has been the necessity of reform attentiveness to the specific context in which the police are embedded and operate. Each mission is *sui generis*, uniquely defined by social, cultural, political and security factors. Transplanting lessons from these case studies to Afghanistan would be foolish. Analysis of practices from the case studies in light of the experience in Afghanistan therefore provides recommendations tailored specifically to overcome the problems facing the *Afghan* National Police. Indicative of this problem, while non-state security actors in Afghanistan are detrimental to reform, the utilization of non-state justice actors could prove highly beneficial. Combining these recommendations provides a pragmatic, affordable and most importantly achievable plan for reform of the ANP, with a number of policy implications for the reform actors – both national and international – who are involved in the process.

Even if these recommendations are adopted, returns on reform investment will be many years in arriving. 'It will take anything up to 30 years to build a conventional police force in this country' claims the British head of justice and security Dr Ian Oliver, 'The problems cannot be solved in the short term.'¹ Abuses of power, factionalised loyalties, and endemic corruption reflect broader societal issues shaped by decades of war and turmoil. The ANP are not an institutional island

1 <<http://www.timesonline.co.uk/tol/news/uk/scotland/article6036300.ece>>

separated from the mainland of Afghan society. An official from the FCO therefore claimed that issues with the police 'cannot be tackled by ANP policies or reforms alone, the solution is societal, cultural and political'. This will be a generational endeavour, one that requires a reform not simply of the police, but also of international expectations. Hopeful signs of progress however are emerging. In July of 2009, Taliban forces launched a series of coordinated suicide attacks on government installations in Gardez and an outpost near Jalalabad, which are have become an increasingly utilized tactic by anti-government forces. Unlike in previous incidents however, the attack was largely thwarted by ANP and other Afghan security force personnel, preventing the attackers from inflicting high casualties which marked similar attacks. One USAID official claimed that 'The good news from my end is that the execution of these attacks were so poorly done and decisively defeated in the early stages that the Afghans have a right to be proud', a fact he claims gave him hope for the future.²

One incident does not make a trend, but there are hopeful signs emerging, green shoots which must be nurtured by further reform. Drawing on the recommendations in this report should ensure that such successes are no longer newsworthy, but simply part of the everyday success of the ANP.

² <<http://www.csmonitor.com/2009/0721/p06s04-wosc.html>>

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Appendix A: Literature Review

Lessons from the existing literature

International police and security sector reform has gained increasing attention from policymakers over the last two decades. Since the 1990s, efforts to reform, reconstruct and transform local and national policing systems by the international community, have been undertaken in many countries, from East Timor to El Salvador, Namibia to Northern Ireland. The increasing breadth of police reform missions has been matched by an expansion of the type of police reform missions. Conceived during the Cold War primarily as capacity-building exercises to buttress client regimes, the peace dividend offered by the post-Cold War security environment allowed a radical expansion in the range of police reform missions. 'Lighter' advisory missions in Namibia have been supplemented by large, comprehensive executive operations in places like Kosovo. Police reform has been reconceptualised, perceived as an important element within international efforts to assist failed or failing states, secure the consolidation of emerging democracies, and promote the secure environment considered necessary for socio-economic development. Most importantly, it is now considered an essential ingredient for post-conflict recovery.

A rising number of actors are engaged in this topic, with the United Nations the most important and largest provider of assistance. Since 1992, the UN alone has authorised more than a dozen international police missions, while the total strength of CIVPOL forces has increased to nearly 9,000. But the field is growing more diverse, crowded by an array of non-governmental organisations, bilateral donor governments, and private sector companies. Interest has been matched by considerable action and investment. The total amount spent on such assistance is often impossible to estimate in any reliable way even in bilateral assistance missions. Performed by more than one department and under many programmatic headings, police reform is rarely consolidated under one item in governmental budgets. With many qualifications it has been estimated that the United States alone currently spends about US\$750 million a year on

programs that contribute to developing police forces abroad.¹

The state of the existing literature

Out of SSR's shadow: the rise of police studies?

Police reform's rise up the global security and development agenda and the increasing recognition of its importance to a varied set of international challenges was not matched by academic interest. Until recently there existed a curious dearth of research concentrating specifically on the subject. Assessing the state of the literature in 2001, Rachel Nield and Melissa Ziegler concluded that the academic study of international police reform was sparse.² Explanations vary, but for Tor Tanke Holm and Espen Eide the subject suffered because it fell between two academic pillars, 'the overly military focus of traditional international relations research on the one side and, on the other, the more alternative approaches of the peace research community, which has tended to reject the importance of effective state power.'³ As such, police reform remained relatively neglected, demoted to a mere subsection of more general development issues.⁴ In particular the subject was and still is, subsumed within research and analysis of security sector reform. Often the terms 'police reform' and 'SSR' are used interchangeably.⁵ Partly this is due to the current vogue for security sector reform as a concept, as well as continued ambivalence over the exact definitions of the two terms. But it is also a product of the similarity between international

1 David Bayley, 'Police Reform as Foreign Policy', *Australian and New Zealand Journal of Criminology* (Vol.38, No.2, August 2005).

2 The Washington Office on Latin America Report, 'Peace to Governance: Police Reform and the International Community', August 2002, p.7.

3 Tor Holm and Espen Eide, 'Introduction' in Tor Holm and Espen Eide, *Peacebuilding and Police Reform*, 2000, p.2.

4 The Washington Office on Latin America Report, *op. cit.*, p.7.

5 For example see DCAF Report, 'Police Reform in Post-Colonial States' Working Paper Series No.36, 2002.

police reform efforts in post-conflict societies and the SSR agenda which emerged within policy circles in the late 1990s in recognition of the need for a broader approach to security assistance. The overall objective of SSR, as defined by the DAC, is to 'create a secure environment that is conducive to development, poverty reduction and democracy'.⁶ In much police reform literature, the aims are identical.

Despite the subsuming of police reform within broader discourses of SSR, the former still often lacked systematic attention. Although the police are conceptually and semantically included in security sector reform the issues are obfuscated by a myopic focus on the military. Consequently there has been 'little growth in knowledge about policing within the policy community concerned with SSR, nor an increased sense of how the police matter in SSR and how policing affects the human security of a population.'⁷ It is arguable that any progress made in remedying this situation was undermined following the attacks of 9/11, with the war on terror refocusing attention on traditional 'hard' security doctrines and issues.

In recent years however police reform is increasingly an issue to be studied in and of itself.⁸ Eight years after Nield and Ziegler highlighted the meagre pickings of police reform research, the growing importance of the police to a wide range of international policy issues has engendered an exponential growth in academic interest, confirmed by the rising number of journals and articles dedicated to the topic.⁹ A majority of this literature has taken the form of country case studies, histories of specific reform programs which describe and explore the approaches, reforms and

outcomes adopted by intervention powers or the international community. Notable examples include the International Crisis Group reports which have concentrated on the reform of police institutions in countries worldwide. Less common, but still notable are monographs and articles which focus on one or more specific elements of police practice and reform. Dominant topics include the principles behind democratic policing,¹⁰ human rights,¹¹ and external or internal accountability mechanisms.¹²

Even less frequent are the relatively few studies that adopt a comparative perspective, exploring the commonalities and differences between reform programs in different countries with the ultimate goal of extracting lessons to be learnt.

The global police policy community

Until recently, much of the literature on police reform was provided by the scholarly community, and a rather minor community at that. Police studies was described as 'a relatively lonely furrow ploughed by only a few academics.'¹³ Before the early 1990s, the literature was largely confined to the field of comparative criminology. Since then, as discussed earlier, the concept and practice of police reform has shifted from technical assistance aimed purely at capacity-building, to deeper more fundamental reforms. Consequently, scholars representing a diverse set of academic communities, from peacekeeping and development studies to international relations and human rights, have informed the myriad debates

10 Eds Nathan Pino and Michael Wiatrowski, *Democratic Policing in Transitional and Developing Countries*, 2006.

11 Susan Burgerman, '(Why) Is Police Reform an Emerging Issue for Human Rights Advocates?', Paper presented at the annual meeting of the International Studies Association, Le Centre Sheraton Hotel, Montreal, Qubec, Canada Online, <http://www.allacademic.com/meta/p_mla_apa_research_citation/0/7/3/2/2/p73228_index.html> accessed 23 March 2009.

12 Aandrew Goldsmith and Colleen Lewis, *Civilian Oversight of Policing: Governance, Democracy and Human Rights* (Hart, 2000).

13 Gordon Peake and Otwin Marenin, 'Their reports are not read and their recommendations are resisted: the challenge for the global police policy community', *Police Practice and Research* (Vol. 9, No. 1, March 2008), p.61.

6 See Organisation for Economic Co-operation and Development, *Security System Reform and Governance*, DAC Guidelines and Reference Series, Paris: OECD, 2005, p.16.

7 DCAF Report, 'Restoring Policing Systems in Conflict torn Nations: Process, Problems, Prospects', Occasional Paper 7, 2005, p.29.

8 Despite this, it would be foolish to disregard security sector reform literature.

9 For example, *Policing and Society* and *Police Practice and Research* are some notable examples.

associated with reforming police institutions. Similarly as the issue has caught the attention and resources of the international community, research has emerged from the diffuse actors who are now engaged in the policy or practice of police reform, including national governments, international civil servants, policymakers, research institutes, think tanks, NGO's, IGO's, and (very positively) current and former police officers.

Collectively this group of people and organisations has been termed the 'global police policy community' (GPPC). The term is slightly misleading however. This transnational policy community may be global in outlook, scope and footprint, but it is principally a western intelligentsia populated overwhelmingly by Europeans and North Americans. The role and contribution of non-western members of the GPPC should not be underestimated. Rama Mani's contributions to police reform and rule of law theory are rightfully recognised throughout the community. Unfortunately she is the exception rather than the rule. The leading authors on police and security sector reform are a small group of prolific western writers, led by scholars such as David Law, Otwin Marenin and Alice Hills to name just three. It is this geographically quite narrow community which shapes the discourse and practices of security sector and police reform.

Theoretical underpinnings

The preponderance of North American and Europeans in the GPPC is reflected in the heavy Eurocentric bias which forms the starting point of much police reform analysis. Security sector reform for example, which informs many of the debates within police reform emanates largely from Western centre-left discourses on foreign policy, security and development. Western experience and models inappropriate outside of a very specific socio-economic and cultural context, argues Rocklyn Williams, have motivated police reform, from the form and function of security institutions, 'to the application of human resource management policies that are at odds

with national and institutional culture.'¹⁴ Many international missions frame the vision and end-state of reform as the policing model found in most Western democracies. This Eurocentrism has been left largely unchallenged. According to Graham Mathias, the international police reform community has 'in the main, not chosen to invite learning from other countries.'¹⁵

This is symptomatic of a larger under-theorisation present in the literature. Expansion in the quantity of research exploring the multifaceted complexities of trying to change such complex institutions, has not been equalled by similar growth in theoretical quality. Marenin may argue that the GPPC is at the stage in the reproduction of knowledge about policing 'that necessitates a shift from the academic discipline labelled police studies to the more inclusive field of studies of policing'¹⁶, however there is still much research to be done. The theoretical architecture underpinning police reform has largely evaded critique. Police reform discourse is replete with fashionable terms and shorthand concepts. But what do buzzwords such as 'political will', 'community', and 'capacity-building' actually mean? Many scholars have expressed confusion over these vague, unspecified concepts. This lack of intellectual reflexivity is even expressed in the poor attention paid to defining basic concepts of 'security', 'reform' and 'reconstruction' which remain amorphous and unclear. Whose security, for example, is meant to be increased through reform? It is a broadly accepted assumption that the population of the recipient society is the focus of most, if not all police reform missions. David Bayley has questioned this assumption; international police reform, he argues, is often geared towards challenges of transnational crime, from international terrorism to money laundering

14 Roderick Evans, 'Donor Perspective on Security Sector Reform as a Governance Issue' paper prepared for The 5th International Security Forum in Zurich, October 2002, p.10

15 Graham Mathias, as quoted in DCAF Occasional Paper 7, *op. cit.*, p.46.

16 Otwin Marenin, 'Implementing Police Reforms: The Role of the Transnational Policy Elite' in Eds Andrew Goldsmith and James Scheptycki, *Crafting Transnational Policing: Police Capacity Building and Global Policing*, Oxford, p.181.

and illegal drugs. He concludes that ‘assistance to police abroad is often undertaken as part of donors’ domestic crime control efforts.’¹⁷

Consequently, academic research is often based on faulty theoretical assumptions which lead to conclusions woefully inadequate for successful reform. Most obvious is the uncritical adoption of stable democracies and their reform experiences as universal, carelessly applying lessons to countries which diverge along the entire range of political, economic and social spectrums. Indeed one of the main pieces of police and security sector reform literature, the OECD’s report titled ‘Security Sector Reform and Governance: Policy and Good Practice’ consciously rejects theoretical refinement based on differing circumstances or contexts.¹⁸ Unsurprisingly the literature has been criticised for its ‘one size fits all’ approach to police reform, ignoring the dynamics reform missions can face when conducting organisational change in countries suffering from, political turmoil, economic collapse, or institutional flux.

Thankfully it appears a large part of the GPPC has ignored the advice of the OECD. As Andrew Goldsmith and Sinclair Dinnen suggest, ‘local predicaments may suffer from, rather than benefit from, universal prescriptions’¹⁹ Rama Mani’s call for the development of typologies of police reform to aid the development of approaches, tools and policies which more adequately address different circumstances has since been answered loudly. A growing body of research consciously differentiates between reform programs as a function of state context. Taxonomies naturally vary. Lilly *et al* adopt five types of country groups; consolidating democracies, lapsing or stalled democracies, transitional democracies, conflict-torn societies

and lastly states under reconstruction.²⁰ Herbert Wulf expands this list to seven.²¹ Other scholars have broadened the theoretical territory upon which police reform missions should be classified, disagreeing over what is the defining and differentiating variable. For Rama Mani, of prime importance is the status of the rule of law.²²

Welcome as these theoretical refinements are Nicole Ball has cautioned against the temptation to rely exclusively on easy categorisations, claiming that it can be ‘extremely difficult to capture the full range of responses to country situations’.²³ As an example Ball highlights Herbert Wulf’s conclusion that post-conflict societies are less able to implement reform compared to transition states, countering that ‘there is more political will to engage in SSR in Sierra Leone, an extremely weak state that is slowly emerging from over a decade of violent conflict, than in Kazakhstan, Turkmenistan and Uzbekistan combined.’²⁴ She therefore adopts a contextual approach, analysing influential frameworks such as the political, psychosocial and societal environments in which reform must take place.

Despite the promise of Ball’s insights, a dominant analytical disagreement in police reform theory continues to be the perceived cleavage between post-conflict societies and those which have not witnessed recent warfare. While some academics such as David Law subsume post-conflict societies

17 David Bayley, ‘Police Reform as Foreign Policy’, *op. cit.*

18 Organisation for Economic Co-operation and Development, *Security System Reform and Governance*, *op. cit.*

19 Andrew Goldsmith and Sinclair Dinnen, ‘Transnational police building: critical lessons from Timor-Leste and Solomon’, *Third World Quarterly* (Vol. 28, No. 6), p.1097.

20 Damian Lilly *et al*, *The Privatisation of Security and Security Sector Reform*, London, 2002.

21 Herbert Wulf, *Security Sector Reform in Developing and Transitional Countries*, Berghof Research Center for Constructive Conflict Management, 2004.

22 Rama Mani, ‘Policing in Post-Conflict Situations’, *Concept Paper for Whitehall Policy Seminar*. 2003. <http://www.ssronline.org/edocs/manir_policing_in_post-conflict_2003.pdf> accessed 1 July 2009.

23 Nicola Ball, ‘Dilemmas of Security Sector Reform: Response to “Security Sector Reform in Developing and Transitional Countries”’, <http://www.berghof-handbook.net/uploads/download/dialogue2_ball.pdf>, p.3.

24 *Ibid.*

within other taxonomies,²⁵ a growing number argue that the difference between post-conflict societies and those not weighed down by the baggage of widespread violence is the fundamental distinction requiring analysis. This dichotomous theoretical assumption now underpins much police reform literature; witness the title of a recent article which asked whether Northern Ireland was a model for post conflict police reform.²⁶ Post-conflict states purportedly exhibit a number of features distinguishing reform from other contexts, specifically a legacy of acute insecurity, extensive damage to fabric of government and governance, and oversized armed forces.

Reviewing the literature

This literature review does not restrict itself to an examination of literature concentrating on a particular reform context or typology. David Bayley's list of knowledge gleaned from past efforts to reform the police explains that the assumption behind these lessons 'is that assistance is intended to create police forces that function more democratically.' He goes on to argue that the context of these lessons are 'countries with functioning governments' and details the lessons learned from countries where government has ceased to exist or function in a separate chapter.²⁷ However, it is arguable that there exist a number of lessons which can be taken from one reform context to the next. Corruption for example, is an issue for many police forces, from post-conflict to post-authoritarian. Pay reform can be an important tool to tackle such problems, but electronic payment may not be possible in poorly developed countries lacking a widespread banking system. The differences between reform context and missions, just as much as the similarities, should not be overstated; in so doing the GPPC risks ignoring important lessons that are applicable in many circumstances. As such although the review mainly concentrates on post-

conflict literature, it also adopts a much broader perspective, drawing on debates and literature from the field of police studies as a whole. Likewise it explores the publically available research from all of the diverse actors that constitute the GPPC.

Areas of consensus

It is curious (or perhaps to be expected) given the relatively small size of academic research on police reform, that consensus is hard to find in the literature. As the range, scope and nature of police reform missions have expanded, so one should expect the areas of convergence and congruence have diminished.

Despite the lack of comparative case study research, there exist a number of papers outlining the lessons learnt from past examples of international police reform. Paradoxically these often do not concur with one another. This may be because many lessons learned are context dependent. However, it seems just as likely that this is simply a sign that academics and practitioners alike are still confused about the challenges, ingredients for success, and best approaches to reform. Despite this, there does exist a number of smaller regions where broad agreement can be found.

Technocratic and operational reform

The main area where universal consensus exists concerns the 'bread and butter' of police reform; even the literature which does not deal directly with the technical requirements of policing, acknowledge their importance in passing. First and foremost, reform must ensure the provision of adequate equipment.²⁸ In many cases, particularly post conflict situations, equipment is either woefully inadequate or non-existent. Resources provided for reform must consequently be commensurate to the task. Foreign advisers must learn however that 'sophisticated technologies, especially equipment,

25 David Law, 'The Role of International Organisations in SSR: UN, OECD-DAC, OSCE and Others' in N.Pelicarić, *Security Sector Reform in South East Europe*, 2007.

26 David Bayley, 'Post-conflict Police Reform: Is Northern Ireland a Model?', *Policing* (Vol. 2, No. 2, 2008).

27 David Bayley, *Democratizing the Police Abroad: What to Do and How to Do It*, (Washington, 2001), p.35.

28 For example, the United States Government Accountability Office report 'Afghanistan Security: Efforts to Establish Army and Police Have Made Progress, but Future Plans Need to Be Better Defined' considered equipment to be one of three main problems with the Afghan police.

may not be the most appropriate technologies.²⁹ At the most basic of levels, police forces cannot be expected to perform routine tasks if they do not have pens, notebooks and uniforms. Further up the scale however, assistance should provide physical infrastructure, such as police stations, detention cells etc. Just as important however are the provision of transportation and communications systems and the training of technicians to operate and maintain these systems. Police using personal phone cards to call each other is hardly conducive to effective policing, particularly given the often poor salaries they are paid.³⁰ Comprehensive reform of this type improves the capability of the police to conduct urban, rural and border patrol operation, investigations, and other specialised functions.

During a recent roundtable discussion at RUSI on international police reform, a panel of experts were unanimous in their agreement that payment is one of the fundamental issues for almost any reform effort. Compensation must provide a liveable salary otherwise corruption can proliferate. According to Mark Downes, police officers are often expected to uphold higher levels of integrity than average citizens. Such high expectations 'entails paying them sufficiently so that they have a choice when confronted with temptation.'³¹ More useful still, wages should be high enough to attract appropriately qualified candidates and reduce turnover.³² Wages must be viewed in societal context however. Large disparities between police and other civil servant or security sector personnel wages can sap both force morale and ranks. Furthermore, attention must be paid to the means of distribution. Adequate salaries count for little if the cream is skimmed from the wage packet at each stage of its descent down the distribution chain.

29 David Bayley, *Democratizing the Police Abroad: What to Do and How to Do It*, op. cit., p.37.

30 DCAF Occasional Paper 7, op. cit., p.51.

31 OSCE Report, 'Police Reform in Serbia: Towards the Creation of a Modern and Accountable Police Service', 2004, p.17.

32 Ylber Bajraktari et al, *The PRIME System: Measuring the Success of Post-Conflict Police Reform*, (Princeton University, 2006), p.28.

The human element: recruitment, training and performance assessment

Few deny the role technical issues play in police reform efforts. Equally however, few claim such a limited focus is sufficient. David Bayley has argued that technical tinkering does not guarantee an increase in law enforcement effectiveness. In his opinion, 'what is easiest to change – namely, technical capacity – is the least important'³³ The GPPC literature is replete with recommendations, policies and reforms beyond narrow considerations of technocratic assistance and police 'hardware', suggestions that concentrate on the human material inhabiting the organisation. For Otwin Marenin, and others, it is this human element which explains the divergence between a democratic and authoritarian police force.³⁴

Recruitment is the initial foundation upon which a police organisation is staffed with the 'right' material. A police force must be staffed by the most qualified officers. This requires transparent, objective and merit-based criteria as opposed to nepotism, ethnic or political favouritism. Such fair and rigorous recruitment can contribute to building community trust in the service.³⁵ Others have noted that police forces must represent the community they are tasked to serve. In multi-ethnic societies therefore reform must aim for quotas to ensure an ethnically integrated force.³⁶ Such measures have been suggested to tackle the question of gender equality. Agreement concerns not simply those who should be included, but groups who must be excluded. According to many scholars, a thorough vetting process to assure human rights abusers and other undesirable elements do not enter the institution is vital for the legitimacy of the police force and must be performed at the beginning of reforms but also continued from then on.

How this raw human capital is developed and

33 D.Bayley, *Democratizing the Police Abroad: What to Do and How to Do It*, op. cit., p.42.

34 DCAF Occasional Paper 7, op. cit., p.64.

35 Ylber Bajraktari et al, op. cit., p.18.

36 Gemma Collantes Celador, 'Police Reform: Peacebuilding through "Democratic Policing"?' , *International Peacekeeping* (Vol. 12, No. 3).

moulded into an effective force requires training and mentoring. Suggestions for civilian police training can vary, but a number of elements are included by the GPPC so often as to form a basic training package. These include 'crime scene investigation, handcuffing, use of force, report writing, traffic policing, weapons training, finger-printing, community policing, crowd control, election policing'.³⁷ Concurrent with the wider international reform missions characterising the post-cold war era, training is no longer perceived as a purely capacity-building tool. Police culture is at the heart of police behaviour, 'affecting all they do by shaping the interpretations of events and justifications for their work'.³⁸ It is therefore common and accepted that training should inculcate specific cultural values including professionalism, responsibility and an ethos of community service. There is a curious neglect within the literature however. At a more basic level, police must be literate and numerate.³⁹ Officers lacking a broad yet basic level of education risk relegation to sentry duty. The problems can further cascade down the criminal justice chain; lacking the ability to write reports restricts the evidence that can be used to prosecute criminals.

Literature which has concentrated on *what* to train police officers has been joined by research into *how* police should be trained. There is widespread agreement that, as Gordon Peake suggests, despite classroom training knowledge and experience requires mentoring from more experienced officers. More than this however, educating officers must take account of what the individuals being trained want; teaching essential skills or democratic, community policing values in a way alien to the working world of the police will simply be learnt, regurgitated during examinations, and then forgotten or disregarded. Training must therefore be meaningful and chime with the police officers' general worldview.

37 Eirin Mobekk, 'Post-conflict Civilian Police Training', *Journal of International Police Operations* (Vol. 4, No. 1, 2008), <<http://peaceops.com/web/v4n1/1-v4n1/5-v4n1postconflictcivilianpolicetraining.html>> accessed 11 February 2009.

38 DCAF Occasional Paper 7, *op. cit.*, p.57.

39 Informal interview with Eric Scheye.

Lastly, there is an accepted need for an effective performance system, with objective standards for judging progress. Promotions must be merit-based as opposed to one's ability to pay or one's relatives or tribal linkages. Such measures foster professionalism, but also 'help solidify organisational hierarchy within the service by placing deserving and respected officers in higher ranks'.⁴⁰ Similarly, transparency, objective standards and merit (or the lack of) must inform the issue of discipline. When codes of conduct, laws or deeply held cultural norms are violated, there must be institutional safeguards in place 'to ensure that they remain isolated and that police management quickly correct deficiencies'.⁴¹

Institutional reform and strengthening

Calls for measures which fit under the rubric of institutional strengthening have been repeated so often as to constitute a *sine qua non* of reform. Institution-building is imperative for the sustainability of the local force in the long-term. A systematic focus developing police institutions is vital for professionalisation, sustainability and institutional coherence. Representing the vast majority of police reform literature, William O'Neill argues that '[t]ools of modern management, sound administration, financial controls...are all pivotal issues'.⁴² Added to this trinity is organisational reform aimed at a clear hierarchical structure of administration and staff functions.

One facet of institutional strengthening in particular has received the greatest amount of attention; oversight structures. Comprehensive training, performance assessment and recruitment practices, while necessary, are not sufficient to guarantee a professional, rights respecting police force. As William O'Neill highlights, 'most police officers in most places know already that they are not supposed to beat or torture people, exact

40 Ylber Bajraktari *et al*, *op. cit.*, p.18.

41 HURIST Report, 'Police Reform and Human Rights', 2004, <http://www.undp.org/governance/docs/HR_Pub_PoliceReform&HR.pdf> accessed 26 February 2009.

42 International Peace Academy Report, 'Police Reform in Post-Conflict Societies: What we know and what we still need to know', *Policy Paper* April 2005, p.4.

bribes or become involved in trafficking of any kind – drugs or people. The problem is not so much ignorance of these principles, but making sure that the right incentives structures are in place to prevent them from engaging in such activities'.⁴³ Accountable police forces provide operational transparency. Moreover, mechanisms to oversee the police ensure the force is effective in its duties. Oversight encourages professionalism, making sure that the law is enforced and public order maintained with a minimum of physical force and in a manner respectful of the civil rights of the community. Consequently they engender public trust by preventing corruption and abuses of power which can have a devastating effect on confidence and support for the organisation. As such it is deemed critical that they 'must have the power and resources to do their job'.⁴⁴ Nevertheless police services are often large, diffuse organisations, which can make it difficult to implement supervision of officers in the field, severely hindering the development of effective accountability mechanisms.

Expanding the focus of reform: the rule of law

Beyond the need for technical and institutional reform of the police, consensus within the global police policy community begins to disintegrate rapidly, with one exception however. Justification for analysis focused outside the institutional borders of the police has centred on investigations into the role of the criminal justice system. There is widespread consent from academics such as Gordon Peake⁴⁵ and William G.O'Neill,⁴⁶ to organisations such as the OECD and International Crisis Group⁴⁷ amongst many others that link police reform with changes

in the other rule of law institutions. According to David Bayley, the link between police reform effectiveness and criminal justice reform 'is probably the most frequently repeated lesson derived from the assistance experience in the 1990s'.⁴⁸ So great is the consensus that it is increasingly common to see police and security sector reform hyphenated with criminal justice transformation. The UK Department for International Development and the UK government more broadly, have done much to champion a new acronym, SJSR which stands for Security and Justice Sector Reform.⁴⁹

The link between police and justice reform stems from the recognition that public safety is provided by a complex and interrelated system of agencies, from prosecutors and judges, to prisons and rehabilitation officers. Expanding police capacity is irrelevant if the justice system cannot handle the rising volume of cases. The logical consequence of this problem is that criminals apprehended by the police are released without punishment. The problem can be far more serious however. Police are hardwired to arrest criminals. Lacking justice system capacity prisoner abuse and human rights violations occur. Unsurprising then that it is widely concluded that the police cannot adequately maintain law and order until a society's justice system is re-established. A robust, co-ordinated approach to the justice sector is therefore a priority for effective police reform operations. Failing this, at the most basic level the provision of adequate financial and logistical support for justice sector initiatives is critical.

The international mission and the domestic context

Like any international mission, police reform requires extensive planning, from studies of the security, political and economic context to analyses of security actors stakeholders and so forth. Resources, both in terms of financial and human capital, must be commensurate to the task. Few would argue against the fact that practical

43 HURIST Report, 'Police Reform and Human Rights', *op. cit.*

44 International Peace Academy Report, 'Police Reform in Post Conflict Societies: What We Still Need To Know', *op. cit.*, p.7.

45 Saferworld Report, 'Policing the Peace: Police Reform Experiences in Kosovo, Southern Serbia and Macedonia', 2004, < <http://www.saferworld.org.uk/images/pubdocs/Policing%20PA2.pdf>> accessed 3 December 2008.

46 HURIST Report, 'Police Reform and Human Rights', *op. cit.*

47 International Crisis Group Latin America/Caribbean Briefing No.14, 'Justice Reform and the Security Crisis', 2007.

48 D.Bayley, *Democratizing the Police Abroad: What to Do and How to Do It*, *op. cit.*, p.42.

49 DFID Report, 'Security and Justice Sector Reform Programming in Africa', *Evaluation Working Paper 23*, 2007.

assistance is sustained over the long term. Donors must prepare for the long haul. Post-conflict police restructuring, retraining and rebuilding 'is one better measured in years rather than months.'⁵⁰ Such time scales threaten to collide with the short-termism of international missions however; in UN missions for example, by the time an officer has a tentative grasp on the invariably complex situation they are most likely preparing the ground for their successor. At senior management levels personnel turnover can also contribute to policy inconsistencies and a lack of institutional memory.

In addition to concern over the scale of assistance, 'pleas for improved cooperation and better coordination by the development community are recurring themes in country reviews, annual reports and evaluations for almost any major mainstream development programme in any country or region.'⁵¹ Timothy Donais for example has explored the inadequacies of the UN's Civilian Policing Division which is unable to project an overarching vision and institutional identity. More serious problems purportedly afflict multilateral missions, which incorporate a wide array of policing cultures, levels of competency, and moral and ethical codes. Poor coordination clouds decision-making and sends out mixed messages to recipient countries, while competition amongst actors and conflicting views about the strategies and tactics can significantly slow reform efforts, or derail the mission completely. It is therefore agreed that police reform efforts must involve close coordination, and extensive strategic planning to correctly sequence and implement reforms. The development of a cross-agency, cross-donor unified vision and implementation has been considered the most challenging aspect of reform.⁵² Consequently, it has been suggested that a voluntary approach to these matters is insufficient.

50 T. Donais, 'The Politics of Post-conflict Policing', *Canadian Journal of Police and Security Services* (December 2005).

51 Roderick Evans, 'Donor Perspective on Security Sector Reform as a Governance Issue' paper prepared for The 5th International Security Forum in Zurich, October 2002, p.4.

52 Chris Ferguson, 'Police Reform, Peacekeeping and SSR: the Need for Closer Synthesis', *Journal of Security Sector Management*, (Vol. 2 No. 3, 2004), p.9.

Despite widespread calls for well-structured, coordinated international missions, there is little agreement that a multilateral approach works best. It has been noted that the pitfalls associated with multiple donors is too great. Sierra Leone, widely considered a rare case of reform success, consisted of one major donor. According to Otwin Marenin, this was one of the three reasons why reform was relatively accomplished.⁵³

The GPPC is also largely certain that while the international mission is central to success, so too is the domestic context. The exact weighting has been subject to some debate.

There are those who argue that domestic factors can still defeat a coordinated international mission with high levels of financial, logistical and human support. However, given the large number of internationally driven police reform programs since the end of the Cold War, the prevalent bias for locating the success or failure of reform efforts with foreign donors is understandable. The formidable task of reforming the police means international assistance is crucial. The debate is minimal however. There is little to suggest that anyone sees domestic support and the domestic context as inconsequential.

Exploring the space between the international mission and the domestic context may prove most promising. Indeed concentrating on one of the other obfuscates the interrelationship and dynamics between the two. While the responsibility for undertaking reform may ultimately rely with the government and society in question, partnerships with donors can provide necessary support, expertise and resources to countries that lack them thereby facilitating rather than determining change.⁵⁴ A participative police reform model 'which prioritizes coordination among donors and with national authorities and local partners in the development of reform strategies' has recently begun to take shape. 'Such an approach provides a space in which national decision-makers can

53 DCAF Occasional Paper 7, *op. cit.*, p.69.

54 Damian Lilly *et al*, *op. cit.*

develop and invest in their own policing model... and provides a framework for a better dialogue with donors about their needs and priorities.⁵⁵ Further questions remain unanswered however. What tactics and formal structures of engagement between domestic and international stakeholders produce the most effective cooperation? What problems, like the 'Tower of Babel Syndrome'⁵⁶ arise through such a relationship and how can they be mitigated? To what extent does the legitimacy of the international mission affect the ability of a donor government to implement necessary reforms, and does the internal strength of a donor government affect the success of cooperation?

Local 'buy in', spoilers, and 'local ownership'

Many scholars have explored the influence of the donor country on international police reform.⁵⁷ Local 'buy in' is the dominant lodestar around which research has gravitated. Active support at one end of the spectrum is counterposed at the other extreme by active resistance in the form of domestic spoilers whose agendas do not include effective professional civilian policing.⁵⁸ Political will in particular has been the subject of much focus. According to David Bayley, the success of foreign assistance in reforming the police is directly proportional to the country's enthusiasm for it. Using the example of SSR in El Salvador, Stanley and Call identified domestic government 'buy

in' as one of the crucial element for success.⁵⁹ Conversely, foreign assistance has little chance against the opposition of the host government, a view supported by the Bonn International Centre for Conversion study on Armenia which argued reform foundered on the lack of acceptance by the Armenian authorities that change was necessary.⁶⁰ Consequently, intervention powers must search for foreign 'demand', and in the absence of any, must find ways 'to use leverage to generate this political commitment'.⁶¹

Research has suggested a broader collaboration and consultation must be sought from civil society groups, other local stakeholders, or indeed the wider population at large. This must take a high priority in post-conflict societies, which are often divided and still face physical resistance and very active domestic spoilers. All these actors must have confidence in the police and expectations that they will serve the public. Further details are often not clarified however. For example, what methods for changing public attitudes toward the police service have worked in the past? What policies can co-opt or overcome domestic spoilers?

Interestingly, for many scholars it is the behaviour of the police towards reform that can be the crucial variable.⁶² Often they have proved to be one of the institutions most resistant to reform, particularly if they feel that the transformation is overly focused on human rights and therefore perceived as soft on crime. 'Unless a foreign police force is seriously committed to reform,' argues David Bayley, 'it will not occur.'⁶³ Support must therefore entail active commitment rather than mere passive acceptance.

55 The Washington Office on Latin America Report, *op. cit.*, p.69.

56 The Tower of Babel Syndrome, so-called by Rodrigo Avila, currently a Deputy in the Salvadoran Assembly, refers to miscommunication and confusion between donor and recipient when multiple international actors refer to totally different responsibilities, roles and functions despite using identical generic terms. *Ibid.*, p.46.

57 For example, William Stanley and Charles Call, 'Building a New Civilian Police Force in El Salvador' in *Rebuilding Societies after Civil War*, (Boulder, Colo.: Lynne Rienner, 1996).

58 Rama Mani identifies three types of spoilers; political powerbrokers such as corrupt Interior Ministries, economic actors including crime syndicates who fear and violently protect any potential disruption to their activities, and institutional spoilers, for example, the military, who may fear a reduction of their influence within the new political dispensation. Rama Mani, 'Policing in Post-Conflict Situations', *op. cit.*

59 William Stanley and Charles Call, 'Building a New Civilian Police Force in El Salvador', *op. cit.*

60 Bonn International Center for Conversion Report, 'Security Sector Transformation in Armenia', *BICC*, 2006, <http://www.bicc.de/ssr_gtz/pdf/armenia.pdf>.

61 D.Bayley, *Democratizing the Police Abroad: What to Do and How to Do It*, *op. cit.* p.35.

62 Saferworld Report, 'Policing the Peace: Police Reform Experiences in Kosovo, Southern Serbia and Macedonia', *op. cit.*

63 D.Bayley, *Democratizing the Police Abroad: What to Do and How to Do It*, *op. cit.*, p.38.

It should be noted that there are internal debates within this literature, specifically, who are the police officers that most effectively grease the wheels of reform? Most research casts a spotlight on the police leadership.⁶⁴ Other studies have tried to refocus attention onto the rank and file. This 'bottom-up' strategy need not necessarily negate the importance of top-level leadership. Arifah *Rahmawati* and Najib *Azca* suggest a complementary approach would be most effective, where the implementation of reform from above is matched by efforts and actions originating from below, in a clear hierarchical division of labour. Alternatively, scholars such as Otwin Marenin have concentrated on the underappreciated middle ranks, arguing that an important lesson from past reform missions is the powerful role of mid-level managers.

Local 'buy in' has been joined by an additional reform mantra, chanted by academics and practitioners alike; the need to engage with 'local ownership'.⁶⁵ Essential for success is not local support for donor programmes but instead donor support for local programmes. In short, reform must be designed, managed and implemented by local actors. Of particular importance local ownership must include the police (all ranks and levels) at the very start of discussions, plans and policies. If planners decide on changes in the working routines of the police and then 'tell the police doing the job, "oh by the way, you will now do a new job and you will do it this way", that is a recipe for failure.'⁶⁶ Others agree, '[n]o plan or mission will be implemented as desired unless the motivations and views of the implementers are included in the design, advocacy and execution of reforms.'⁶⁷ There is still much analysis to be conducted however. The term is often treated as a woolly and romantic idea, with little agreement over

the exact meaning of the term. Using the example of Sierra Leone for example, Ball *et al* adopt a narrow economic definition, arguing that although reform was considered a success, valid concerns remain that the high quality of training and equipment provided by the British cannot be sustained once responsibility is returned to national actors.⁶⁸ They conclude that compatibility of new structures and mechanisms with available long-term resources is essential for sustainability. More broadly Gordon Peake and Otwin Marenin berate the GPPC for 'festooning these reports with standards and expectations...which are far beyond the capacity of local states, communities, or the police to implement'.⁶⁹

The concept of local ownership has many problems however which are not always recognised in the literature. There is a logical inconsistency in reform which aims to engage seriously with local ownership that builds on what already exists locally; 'reform, by its very nature presumes that what exists is inadequate and requires modification' notes Charles Call.⁷⁰ More serious, reform often takes place in failed states weak in government and governance. Civilian capacity to develop and lead national strategic policy-making or implementation is fragile or non-existent. Therefore it has been argued that local ownership cannot be found, but must be created.⁷¹ The OECD agrees 'if local ownership of security system reform processes is taken seriously, international support should help increase the capacity of partner country policy-makers and civil society to analyse, understand and debate their own security problems'⁷²

68 Nicole Ball, Kayode Fayemi, Rocklyn Williams and Martin Rupia, 'Governance in the Security Sector', in Nicole Ball, Nicolas van de Walle, Vijaya Ramachandram, *Beyond Structural Adjustment* (Houndmills: Palgrave, 2003).

69 Gordon Peake and Otwin Marenin, 'Their reports are not read and their recommendations are resisted: the challenge for the global police policy community', *Police Practice and Research* (Vol. 9, No. 1, March 2008), p.63.

70 International Peace Academy Report, 'Challenges in Police Reform: Promoting Effectiveness and Accountability', 2002, p.4. <http://www.ipacademy.org/media/pdf/publications/challenges_in_police.pdf> accessed 5 January 2009.

71 DCAF Occasional Paper 7, *op. cit.*, p.58.

72 OECD DAC Guidelines and Reference Series, 'Security System Reform and Governance', *op. cit.*, p.35.

64 For example, USIP Briefing, 'Reforming the Iraqi Interior Ministry, Police and Facilities Protection Service', February 2007, <http://www.usip.org/pubs/usipeace_briefings/2007/0207_iraqi_interior_ministry.html> accessed 7 January 2008.

65 Roderick Evans, 'Donor Perspective on Security Sector Reform as a Governance Issue', *op. cit.*

66 DCAF Occasional Paper 7, *op. cit.*, p.67.

67 *Ibid.*, p.57.

Disagreements

The areas of congruence and consensus in the police reform research and practice remain remarkably narrow. In general the research is marked by confusion and disagreement about reform; what are the best practices? What are the aims of reform? What approaches intervention power used. Beyond narrow questions of pay, training, professionalisation there remains widely divergent opinions about what works best and why, the challenges encountered and how they should be overcome, and the outcome of reform, what it should look like, and why such an outcome developed. The academic and practitioner literature has no clear answers about what works best. Note the expert Otwin Marenin, who argues that 'there is no common view among the donor community or donor and recipient communities on how to do reform.'⁷³ Charles Call agrees, extending the confusion to 'the most suitable instruments for advancing such reforms, or about the best models or the 'end state' of police-reform initiatives.'⁷⁴

The limits of consensus

Above it was claimed the GPPC is in widespread agreement about the fundamental requirements of technical and institutional reform. Whilst true, the consensus is superficial and masks a number of deep disagreements that reflect the confusion of the community concerning what ingredients are necessary for successful police reform. Even the most minute details are argued over. Three issues in particular exemplify the problem; training, recruitment, and oversight mechanisms.

For Otwin Marenin 'the hard part [of reform] is staffing the organisation...with the right people who have the attitudes and values and, more generally speaking, the occupational culture'.⁷⁵ Although training constitutes an established prerequisite for an effective police force, agreement over the minutiae of reform has so far eluded scholars

and donors. How long should training persist? There is passionate debate between those who advocate the importance of getting new forces out onto the streets quickly⁷⁶ and those who argue this undermines the qualitative improvement in police behaviour sufficiently and is detrimental to reform. For Eirin Mobekk it is essential that post conflict civilian police training is extended. In her opinion short training periods seriously limit the time in which to learn basic policing skills and have repeatedly led to problems, including not being able to provide a secure environment.⁷⁷ Given the limited resources available to international police missions, should reformers prioritise training towards the upper tiers of the organisations, as the International Crisis Group report on East Timor recommends?⁷⁸ What then of the rank and file? Other debates have taken place between those who believe it is important to train police what to believe, and others who claim that police are more receptive to training which tells them how to act, not think. Even training curriculums have engendered debate, with the UN placing much greater emphasis on human rights than many bilaterals.⁷⁹

Similarly, the harmony surrounding calls for 'vetting' processes which ensure human rights abusers and those unqualified to become police do not enter the new institution is soon shattered when the discussion moves on to the details of this policy. Zero tolerance policies to recruitment are common. But as Rama Mani highlights, in many societies, 'if the new police force is subjected to a rigorous vetting exercise, few if any may qualify'.⁸⁰ The same argument occurs when discussing education; how can reformers reconcile the need for high entry standards with the minimal literacy levels of societies often emerging from decades of conflict

76 Saferworld Report, 'Policing the Peace: Police Reform Experiences in Kosovo, Southern Serbia and Macedonia', *op. cit.*

77 Mobekk, 'Post-conflict Civilian Police Training', *op. cit.*

78 International Crisis Group Asia Report No.143, 'Timor-Leste: Security Sector Reform', January 2008.

79 Mobekk, 'Post-conflict Civilian Police Training', *op. cit.*

80 Rama Mani, 'Policing in Post-Conflict Situations', *op. cit.*, p.13.

73 DCAF Occasional Paper 7, *op. cit.*, p.32.

74 Charles Call, 'Competing Donor Approaches to Post-Conflict Police Reform', *Conflict, Security & Development* (Vol. 2, No. 1, 2002), p.100.

75 DCAF Occasional Paper 7, *op. cit.*, p.64.

and with little or no formal education system? Other debates concern the hurdle of nepotism or ethnic favouritism in recruitment. Placing responsibility for the process in the hands of international donors who are less likely to pander to ethnic or tribal loyalties has been touted as a possible solution. However, the former Iraqi interior minister, Falah al-Nakib argued that in Iraq the recruitment was performed by US officials, 'who didn't know who they were hiring'.⁸¹

Most ink has been expended debating the form and function of mechanisms providing oversight of police conduct, from the organisational structure of the system, to the powers vested in these institutions. The relative merits of internal disciplinary measures versus the effectiveness of external civilian review boards which ensure transparent and fair accountability have been repeated ad nauseum. For David Bayley and others, the answer is clear; 'creating effective disciplinary systems within the police should be a first-order priority.'⁸² William O'Neill agrees, 'civilian oversight itself can never substitute for good, visionary police leadership and effective internal monitoring.'⁸³ He argues that police officers can resist external oversight bodies 'interpreting it as a hindrance to effective crime-fighting.'⁸⁴ Others disagree, distrustful of the police to effectively oversee themselves. Those tired by this contentious debate, argue simply that whether internal or external, oversight bodies must be independent, objective, transparent and effective and must have the power and resources to do their job.⁸⁵ Ylber Bajraktari *et al* take this argument one step further, accepting the utility of both in a clear division of labour.⁸⁶

How broad should reform be?

81 Micheal Moss, 'How Iraq Police Reform Became a Casualty of War', *The New York Times*, 22 May 2006

82 David Bayley, 'Democratizing the Police Abroad: What to do and How to do it', *op. cit.*

83 International Peace Academy Report, 'Police Reform in Post Conflict Societies: What We Still Need To Know', *op. cit.*, p.7.

84 *Ibid.*, p.9.

85 *Ibid.*, p.7.

86 Ylber Bajraktari *et al*, *op. cit.*, p.18.

While few deny the importance of usable equipment, judicial reform, effective vetting procedures, and muscular oversight mechanisms able to root out abuses of power and institutional corruption, there is disagreement whether this should remain the focus of police reform efforts. An emerging group of scholars, consisting of scholars such as William O'Neill, Neil Cooper, Michael Pugh, and Annika Hansen amongst many others, argue that the usual suspects, of technical and organisational reform alone are inadequate for successful police reform.⁸⁷ Indeed Rachel Nield has argued that 'a conceptual problem of police reforms in Central America is the overwhelming focus on the police institution itself'⁸⁸

These scholars recognise that the police are linked to many other areas which can influence the challenges reform is meant to address, the reform process itself, and the eventual outcome of reform. Many of their suggestions are small-scale, for example the importance placed on changing not only police responsibilities but, according to Kayode Fayemi, it is of crucial importance for reform to encompass the legacies 'of violent conflict, for example the psyche of militarism that is etched in the ethos, values and actions of ordinary people in society'.⁸⁹ Others propose more ambitious undertakings, arguing that there is a pressing need to ensure police reform takes place within the context of broader state-building efforts. For Goldsmith and Dinnen, police reform has entered 'onto the stage of nation- and state-building' giving it 'a scale, priority and prominence that not only test the capacities

87 International Peace Academy Report, 'Police Reform in Post Conflict Societies: What We Still Need To Know' and Neil Cooper and Michael Pugh, 'Security-sector Transformation in Post-conflict Societies' *Working Paper No. 5, Centre for Defence Studies, London, 2002*, <<http://www.gsdc.org/docs/open/SSAJ150.pdf>>, and Annika Hansen, *From Congo to Kosovo: Civilian Police in Peace Operations* (Oxford: Oxford University Press, 2002).

88 WOLA Report, 'Sustaining Reform: Democratic Policing in Central America', *Citizen Security Monitor Series*, 2002, p.31.

89 J.Kayode Fayemi, 'Governing Insecurity in Post-Conflict States: The Case of Sierra Leone and Liberia' in Eds. A.Bryden and H.Hänggi, *Reform and Reconstruction of the Security Sector*, 2004, p.194.

of donor governments and agencies to respond adequately and appropriately but also to draw it into much larger strategic policy environments at the international level.⁹⁰ Differences aside, all have in common an understanding that reform extends beyond questions of technical tinkering with police doctrine or practice, beyond even the police as an organisation in its entirety. For them, reform cannot and does not take place inside an institutional vacuum.

One in particular holds the most promise and has gathered the most support; the role of the wider community. Conceptualisations vary, from refurbishing the police's public image to shifting 'the perception by the community of the role the police should play.'⁹¹ The rationale behind a community focused policing approach has crystallised into a distinct reform model, a radical police-civilian partnership in which local cooperation and community resources are mobilised to fight crime. Research has demonstrated that public cooperation with the police, which David Bayley defines as 'reporting crime, identifying suspects, and mitigating the social conditions that lead to crime', greatly increases police effectiveness.⁹²

Implicit within the identification of this broad range of additional factors is an idea common in security sector reform but which has failed to gain traction in the literature concentrating solely on the police; reform must be conceptualised as a holistic endeavour. Unfortunately the literature suffers from intellectual stove-piping; the compartmentalisation of knowledge as a result of entrenched academic disciplines. Caparini argues that many analysts bring a functional focus such as defence and national security, or criminal justice

to security sector reform.⁹³ Knowledge is thus not effectively integrated across disciplines thereby failing to bring the linkages between the various facets of reform into focus.

Police reform models – five blind men?

Despite the charge that police reform adopts a one-size-fits-all approach, there exist a number of different models and methodologies adopted by the GPPC. Indeed there are almost as many models of policing as there are practitioner organisations.⁹⁴ Depending on institutional background and perspective, the concept of police reform appears different; Charles Call likens it to the famous story of the five blind men feeling different parts of an elephant, each man holding an entirely different perception to the others.⁹⁵ Three separate but interrelated debates can be determined in particular; capacity-building versus democratisation, military versus citizen-oriented policing, state-based and non-state security structures.

Capacity-building versus democratisation

According to Frank Harris a distinction must be drawn between reform that seeks to increase police effectiveness 'in terms of general policing objectives (e.g. crime reduction, tackling drug abuse, maintaining public order, etc)'⁹⁶ and reform that seeks to make a police organisation more democratic. Unsurprisingly, given the central role police play in ensuring internal security, the inclusion of capacity building is often an elementary aim of reform. However, a dominant school of thought has determined the provision of security

93 Marina Caparini, 'Response to Herbert Wulf's Paper', *Berghof Research Center for Constructive Conflict Management, Dialogue Series No. 2*, 2004, <http://www.berghof-handbook.net/uploads/download/dialogue2_caparini.pdf>.

94 'Problem-based policing', crime prevention through 'environmental design', and 'situational crime prevention' are just some of the minority models whose complementary strengths and weaknesses have been discussed.

95 International Peace Academy Report, 2002, *op. cit.*, p.2.

96 OSCE Mission in Kosovo Report, 'The Role of Capacity Building in Police Reform', 2005, p.9. <<http://polis.osce.org/library/f/2643/527/OSCE-SRB-RPT-2643-EN-The%20Role%20of%20Capacity-Building%20in%20Police%20Reform.pdf>> accessed 9 February 2009.

90 Andrew Goldsmith and Sinclair Dinnen, *op. cit.*, p.1106.

91 The Washington Office on Latin America Report, 'Peace to Governance: Police Reform and the International Community', *op. cit.*, p.33.

92 David Bayley, 2001, *op. cit.*, p.40.

as *the* priority for reformers to be achieved through technical tinkering, expanded capacity, extra-legal methods to combat crime, or the constitutional enhancement of police power.⁹⁷ Criticism of this approach has highlighted how increasing the law enforcement capacity of the police does little to address deeper structural or organisational problems such as abuses of power and corruption. For Marina Caparini, capacity building 'does not serve the safety and freedom from fear of individuals and communities or the wider public interest.'⁹⁸

Sharply contrasting with those calling for short-term order are authors such as Caroline Holmqvist who affirm the centrality of longer term democratic transformation.⁹⁹ This literature displays some heterogeneity, with studies concentrating variously on effective and democratically accountable security sector governance, civilian oversight mechanisms, or the rule of law. Of growing importance is the perceived centrality of human rights, which it is argued, must be incorporated into all operating procedures, recruitment practices, and personnel management.¹⁰⁰ Over the last decade such disparate but related factors have crystallized into a distinct model of reform known as 'democratic policing'. David Bayley has summarised the fundamentals; a police force accountable to law; safeguarding of human rights; with external oversight mechanisms; and giving priority to the safety needs of individuals rather than government.¹⁰¹ Criticism of this approach has

97 Carlyle Thayer, 'Between Police and Military: The New Security Agenda and the Rise of Gendarmeries', *Cooperation and Conflict: Journal of the Nordic International Studies Association* (Vol. 39, No. 1, 2004).

98 Marina Caparini, 'Response to Herbert Wulf's Paper', *op. cit.*, p.3.

99 Caroline Holmqvist, 'Engaging Armed Non-State Actors in Post-Conflict Settings', in Alan Bryden and Heiner Hänggi, *Security Governance in Post-Conflict Peacebuilding, DCAF Yearbook 3*, 2005, <<http://www.dcaf.ch/publications/kms/details.cfm?lng=en&id=18889&nav1=4>> accessed 29 March 2009.

100 HURIST Report, *op. cit.*

101 David H. Bayley, *Changing the Guard: Developing Democratic Police Abroad* (Oxford: Oxford University Press, 2006).

concentrated on the perception that democratic policing sacrifices police effectiveness on the altar of radical transformation. A democratic police force is no guarantee of improved security and some claim that controlling crime means enforcing tough policing to the detriment of democratic principles. They argue that the population too will tolerate and advocate almost any robust action if they feel threatened as arose in Haiti, El Salvador, Guatemala and South Africa.

In between the two models lies scholarship which tries to reconcile one with the other. Reflecting the human security approach underpinning much police (and security sector) reform theory, many studies explicitly emphasise this dual security and democratic perspective.¹⁰² Reform must encompass the development of both effective civil oversight and institutions capable of providing security. But can dual-minded reform be conducted concurrently or not? Security First is a paradigm that unequivocally adheres to the latter whilst recognising the long-term interdependence of 'hard' security issues and the 'softer' matters of socio-economic and political development.¹⁰³ According to Cooper and Pugh, the popularity of this paradigm was reinforced by the experience of Mali in the early 1990s where weak security forces were insufficient to control banditry and smuggling, thereby stifling socio-economic development. Consequently, a UN mission determined that security is the essential prerequisite and handmaiden of future developmental progress.¹⁰⁴ This school is subject to its own internal debates, most importantly, how should security be established? For some, Kosovo is the answer; an international police force was tasked with primary responsibility for actual

102 For example Herbert Wulf, 'Security Sector Reform in Developing and Transitional Countries', *Berghof Research Center for Constructive Conflict Management, Dialogue Series No. 2 Security Sector Reform*, 2004, <www.berghof-handbook.net/uploads/download/dialogue2_wulf.pdf> accessed 15 June 2009.

103 Marina Caparini and Otwin Marenin 'Introduction', in Marina Caparini and Otwin Marenin, *Transforming Police in Central and Eastern Europe*, (London, Transaction Publishers, 2004).

104 Cooper and Pugh, *op. cit.*

policing which may represent 'a model for future instances where an existing police apparatus has either departed or is deemed so compromised that it is not an option'.¹⁰⁵ One academic has even broached the topic of a 'global gendarmerie' of officers that could quickly deploy to situations as and when needed.¹⁰⁶

An increasingly prominent position questions whether the gulf dividing the two models of police reform is as wide as commonly assumed.¹⁰⁷ They argue, convincingly, that effective crime fighting actually requires a democratically-oriented police force respectful of human rights. There is no evidence that extralegal methods produce more effective policing. In fact, there is some evidence to the contrary. A study by the US Customs Service revealed that discriminatory policies like racial profiling can actually hinder police effectiveness.¹⁰⁸

Militarised, paramilitary or citizen-focused policing

Related but still distinct from the debates over security versus democracy are questions concerning the form, function and relationship of the police vis-à-vis other security institutions. It is axiomatic in a large section of police reform and SSR theory more broadly that a clear distinction must be drawn between the institutions and duties of the police and those of complementary security institutions, most notably the military.¹⁰⁹ Responsibility for internal security should lie with the former, while the latter focuses its energies externally. Many are of the opinion that police involvement in counter-insurgency or conversely, military participation in weeding out criminals and smugglers blurs this

most fundamental of distinctions.¹¹⁰ Caution against institutional overlap and spatial responsibilities is matched by concern that the form and function of the police must be radically different to its military cousin. The police, it is argued, must be de-militarised, transformed into public security officers rather than a force organised and acting more like military contingents. As Nathan Pino has argued, heavier weaponry, less restrictive rules of engagement, heightened arrest, interrogation and detention powers can be dangerous, even counterproductive; 'the use of paramilitary police can result in force being used inappropriately and can alienate a population from the police who should seek to serve them'.¹¹¹

At times, those advocating a definitive split between different security institutions seem almost ideological in their position. Those of a more practical persuasion have considered the beneficial role a blurring of the police/military distinction could have in the immediate aftermath of a crisis. Others go still further, highlighting the unique circumstances presented by complex insurgencies. Clear boundaries between internal and external security do not reflect the realities of the conflicts in Iraq and Afghanistan. Is it possible to maintain distinct security institution roles and responsibilities when confronted by such insurgencies, and is such an approach useful? For Mark Sedra the answer is clear:

'Although the police is traditionally responsible for maintaining internal security, a police force in Afghanistan, even one that is well trained and equipped, would be incapable of overcoming the challenge posed by some of Afghanistan's warlords and spoiler groups. The army will be needed to bring the most powerful warlords to heel and to eradicate the last vestiges of the Taliban and al Qaeda. Only after these threats have been removed can the army return to its barracks and the police assume

105 Saferworld Report, *op. cit.*, p.23.

106 Alice Hills, 'International Peace Support Operations and CIVPOL: Should there be a Permanent Global Gendarmerie?', *International Peacekeeping* (Vol. 5, No. 3, Autumn 1998).

107 Melissa Ziegler and Rachel Nield, *From Peace to Governance: Police Reform and the International Community*, (Washington D.C.: Washington Office on Latin America, 1998), <[http://www.wola.org/media/police_reform_report\[1\].pdf](http://www.wola.org/media/police_reform_report[1].pdf)>.

108 WOLA Report, *op. cit.*, pp.9-10.

109 See for example, Chris Ferguson, *op. cit.* and Rama Mani, 2003, *op. cit.*

110 Afghanistan Research and Evaluation Unit, 2007, *op. cit.*

111 N.Pino and M.Wiatrowski, 'Introduction' in Eds N.Pino and M.Wiatrowski, *Democratic Policing in Transitional and Developing Countries*, 2006, p.2.

its conventional task of keeping the peace.¹¹²

Despite his belief that the police and military must be separate, Nathan Pino recognises that in post conflict environments, the safety of the police as they perform their duties can be one of the most critical issues. 'In response to perceived security threats to themselves and to the wider community, the police may increasingly assume the functions and attributes of a paramilitary organisation with the increased capacity to use force'.¹¹³ In this situation, some scholars have highlighted the benefits of a varied police force which incorporates gendarmeries as well as more regular police forces;¹¹⁴ the presence of such a model would free the police to concentrate on criminal justice enforcement.

This space between police and military is important but woefully under-theorised. The separation between the two security institutions has been applied too literally, affecting theory as well as practice. Rama Mani proposes a radical theoretical separation, criticising the frequent use of the label SSR which encompasses both police and military institutions.¹¹⁵ In so doing, a number of questions concerning the inter-relationship of reforms in the security sector remain unanswered. In post-conflict societies for example, demobilisation of security forces not only requires attention to the exacerbation of arms proliferation and violent crime but also raises the question of what to do with demobilised combatants. A convenient option often appears to be the police; what then of the problems inherited through a militarised police mentality? Academic ignorance of the space and interaction between military and police may be changing however. A recent International Crisis Group report on security reform in East Timor

112 Bonn International Centre for Conversion Brief 'Confronting Afghanistan's Security Dilemma: Reforming the Security Sector', 2003, p.6.

113 Nathan Pino and Michael Wiatrowski, 'Introduction', *op. cit.*, p.4.

114 C.Thayer, *op. cit.*

115 Rama Mani, 'Contextualising Police Reform: Security, the Rule of Law and Post-Conflict Peacebuilding', *International Peacekeeping* (Vol. 6, No. 4, Winter 1999).

repeated the tenet of security sector reform that the lines between military and police should not be blurred but noted that the Timorese police have not been given the resources, training and backing to fulfil their role effectively, therefore 'national leaders have been too ready to call in the army when disorder threatens'.¹¹⁶

Bringing the (non)state back in

Moreover, what is meant by policing? It has been argued that conventional notions of policing have lost theoretical credibility, challenged by the increasing inability of the state to provide for everyone's security or the rise of corporate, private and community based security systems.

In recent years there has been a wider conceptualization of policing and justice models.¹¹⁷ According to Marenin, the most radical shift has seen thinking diverge from the idea of 'policing as work done by an authorized agency of the state which executes out the state's legitimate monopoly of force'.¹¹⁸ This stands in sharp contrast to the more common perspective which assumes that reform should aim to restore the states monopoly on the legitimate use of force. Scholars and practitioners such as Eirin Mobekk and Otwin Marenin counter that security and justice provision is a complex field upon which many actors are engaged, 'each having diverse bases of authority for their capacity to use force, being engaged in a large variety of practices, and being motivated by organizational cultures which differ widely among groups and providers'.¹¹⁹ Bruce Baker and Eric Scheye in particular argue that effective service delivery is as important as state capacity-building. Providing services is one element of reform. Just as important is the issue of access to those services. Donors therefore need to ask, who can and actually is providing security and justice and can reform support these alternatives? In Honduras community groups were formed to

116 International Crisis Group Report, 'Timor-Leste: Security Sector Reform', *Asia Report No. 143*, 2008.

117 See in particular, D.Bayley and C.Shearing, *The New Structure of Policing*, Washington, 2001.

118 DCAF Occassional Paper 7, *op. cit.*, p.35.

119 *Ibid.*, p. 41.

monitor security ‘as an alternative to traditional police in regions without police presence.’¹²⁰ While it is considered a general rule that these can be incorporated into reform as they have legitimacy in terms of community support, other non-state providers including private or corporate security agencies therefore cannot. Otwin Marenin provides a useful caveat to both sides of the debate. The proposition that the continuance of non-state actors having the capacity to use force is an impediment to reform ‘is most valid at the beginning stages...but much less so at later stages.’¹²¹ He suggests that at the beginning the goal should be to disengage non-state security forces from the provision of security. Afterwards, the goal changes; ‘the issue is how to re-articulate non-state actors back into a cohesive and comprehensive national security sector and police reform strategy and process.’¹²²

The incorporation of non-state actors into police reform has ramifications beyond simply the model of policing to be adopted and the actors involved. It suggests the many established disagreements over technical and institutional reforms such as oversight and accountability measures must be broadened, further widening the disparity between consensus and clash in the police reform literature. Take for example, the need for oversight mechanisms. It is not even clear how state-based security organisations should be supervised, without even considering the different perspectives that would arise concerning who should oversee non-state security providers and what structures would be suitable to do so.

Models or principles?

To date no single doctrinal model has emerged as hegemonic, either in theory or practice. Fierce debate continues to characterise discussions of the merits and disadvantages of these divergent models. According to Professor Charles Call this should not surprise us, the use of numerous models is in fact appropriate given the diverse situations facing recipient countries and the

distinct approaches that demands.¹²³ Correct as this assessment is, Call fails to recognise that debate often centres on the appropriateness of wildly divergent models to similar situations. The problem is therefore symptomatic of the general confusion which permeates the GPPC about what works best in police reform. Indeed scholars often only seem certain of one thing; reformers must have a clear concept of what model they would like to institute. For Rodrigo Avila, former chief of the Salvadoran National Civil Police, this was one of the significant mistakes of the Salvadoran reform effort which led to ‘inefficient and disjointed reform efforts.’¹²⁴

Recently even this certainty has been questioned. There are tentative shifts in the focus of the debate, from what reform model works best, to whether the very idea of reform models is most suitable. What is possible to transfer and what should be transferred are not necessarily entire monolithic models, but principles of good policing. ‘Rather than developing a specific model of policing, reform efforts should focus on the fulfilment of four basic, non-negotiable principles: representativeness, semi-autonomy, integrity, and transparency.’¹²⁵ If adopted, this fruitful approach suggests far more flexible reform missions than the use of rigid models.

Key Lacunae

While the existing literature offers a wealth of useful lessons about which there is broad consensus, as well as potentially valuable lessons which require further analysis and insight to resolve the manifest debates, there are also distinct and often disappointing shortcomings.

The security context: the inadequacy of the post-conflict typology

As noted in the last section disagreements continue to plague the literature concerning what taxonomies and theoretical refinements are appropriate to improve the analysis of police reform missions.

120 WOLA Report, *op. cit.*, p.25.

121 DCAF Occasional Paper 7, *op. cit.*, p.63.

122 *Ibid.*

123 WOLA Report, *op. cit.*, p.15.

124 *Ibid.*, p.46.

125 DCAF and IISS Workshop Report, <http://www.dcaf.ch/polref/Geneva_250401/Report.pdf> accessed 13 May 2009.

A logical theoretical evolution from considering the importance of post-conflict environments to police reform efforts is to reflect on the dynamics between reform and societies still wracked by violent conflict. Surprisingly this has been almost universally ignored. Partly this is because there are few cases studies to draw upon. The growing realisation that police reform is crucial to success in Iraq and Afghanistan has made consideration of such cases urgent. To date even the fundamental question of whether reform of security institutions is possible when confronted by widespread violence has rarely been asked. Those who have tentatively tackled this question do not inspire confidence. For Herbert Wulf the answer is a resounding no.¹²⁶ Susan L Woodward agrees arguing that 'SSR requires an external environment of relative security'.¹²⁷ Both examples too easily dismiss a serious discussion of the specific impediments to reform and why they cannot be overcome. There is much that remains unexplored in this area. What are the unique difficulties that arise when trying to reform security institutions which are already stretched by serious security challenges? Is there a minimum level of internal and external security required to galvanise domestic demand for police and military reform? Will reform of the police and security sector more generally have less of an anti-militarist tilt if insecurity is low?

In short, there are likely to be a number of defining features that characterise police reform within the context of ongoing conflict. These would have a profound effect on the best practices needed to successfully change police forces in those countries. For example, while a high premium is placed on disarmament, demobilisation and reintegration of former combatants, judicial capacity-building to permit for transitional justice, curbing the proliferation of small arms and light weapons, and clearance of anti-personnel landmines in post-conflict examples of security sector reform, not all of

them are necessarily suitable for conflict situations, let alone reform activities in developmental and post-authoritarian contexts.

Sui generis reform

Developing an understanding of police reform in the context of ongoing conflict would greatly aid the development of reform practices that adequately reflect the needs and requirements of this specific context. However, although taxonomies have undermined a one-size-fits-all approach to police reform, they too have been applied as generic packages which are assumed to be universally applicable to particular contexts. According to Marenin, 'it has become accepted in the reform community that models cannot be bought off the shelf and implanted unchanged into new contexts. Yet that is the temptation by familiarity with models which have worked well in their contexts, and frequently done.'¹²⁸ It has been suggested therefore that these models should not become fixed methodologies applicable to every situation, be it post-conflict, transitional or post-authoritarian. Rather, they should be the starting point, rather than end-point of analysis, helping to 'develop a repertory of comparable cases sharing similar characteristics, and facilitate[ing] the process of adapting a wide set of tools to particular situations.'¹²⁹

A growing collection of academics reject even this measured perspective; each police reform situation, they argue, remains *sui generis*. Reform does not involve colouring in a blank slate, 'memories remain and attitudes continue and will place limits on what can be done.'¹³⁰ Concepts common in policing are often subject to diverse meanings and interpretations, which can only be understood within the unique context in which reform progresses. He recommends that police must be attuned to the micro-nuances of context; from the past experiences of crime, to the colour of a policeman's uniform, even down to the names of notoriously corrupt police units. For instance, 'what does restoring the rule of law mean,'

126 Herbert Wulf, *op. cit.*

127 Susanne Woodward, 'In Whose Interest is Security Sector Reform? Lessons from the Balkans', in Gavin Cawthra and Robin Luckham, *Governing Insecurity: Democratic Control of Military and Security Establishments in Transitional Democracies*, (London: Zed Books, 2003).

128 DCAF Occasional Paper No. 7, *op. cit.*, p.76.

129 Rama Mani, 2003, *op. cit.*, p.3.

130 DCAF Occasional Paper No. 7, *op. cit.*, p.84.

ask Goldsmith and Dinnen ‘in countries like Solomon Islands, where the vast majority of ‘citizens’ continue to live beyond the regular reach of tenuous urban-based formal justice systems?’¹³¹

Disappointingly, this call for sensitivity to local idiosyncrasies appears little more than ritualised lip service. Chris Ferguson’s article on peacekeeping and SSR is emblematic of the problem. Like many of his contemporaries, he claims that ‘it is vital for the local leadership to be included to maximise the understanding of the local context throughout the planning stages.’¹³² Just two pages earlier however Ferguson claims with some certainty that amongst the various models of policing available to international reformers, ‘community-based policing provides the appropriate relationship between police and community for building trust and providing feedback.’¹³³ David Bayley provides the necessary antidote to Ferguson’s universalism; while community policing can produce a highly constructive police-public partnership in democracies such as the US, the same does not hold for authoritarian countries, where it can be used ‘for co-optation and top-down regimentation’. Similarly, he argues ‘mobilizing neighborhoods to share policing responsibilities with the police, which has become popular in established democracies, can be very dangerous in countries polarized by race, language, religion and ethnicity.’¹³⁴ This lacunae is therefore at best a hindrance to successful police reform and at worst detrimental to the security and well-being of the local population.

What then of comparative police reform studies? Accepting that police reform is always *sui generis* nature of reform, are lessons learned from one mission applicable to another? This issue has not been satisfactorily addressed. Briefly however, attention to local conditions need not negate the usefulness of lessons from one reform program informing another. Rather it provides a warning against universalism; reform missions will never be identical, but similarities can exist in particular mission areas, such as corruption.

It is important then that lessons are applied after careful consideration of local context, and where necessary adapted accordingly. Sean DeBlicek may be correct in his attempt to move away from the idea of best practice therefore, questioning whether a ‘best fit’ approach would be more relevant.¹³⁵

The role of culture and history

Terms such as culture, tradition and history are not often associated with discourses of international police reform. A question rarely asked is whether institutional, judicial or police reforms are rooted in the cultural milieu of the country. This deficiency in the literature manifests itself most clearly through the contentious debate over the relationship between policing and human rights. It has been argued forcefully that police reform must adhere closely to universal principles of human rights. Proposals include ‘translated summaries of the core UN human rights principles for policing’.¹³⁶ In sharp contrast are those who fear concentrating too heavily on human rights will interfere with the importance of fighting crime. During this back and forth debate, no one has yet interrupted to question what the term ‘human rights’ mean to the local population, or whether those rights which both sides automatically consider universal, are entirely appropriate regardless of country or society.

The problem stems partly from the narrow core competency of those engaged in police reform; practice and theory remain the preserve of those immersed in criminal justice. CIVPOL missions for example, are manned by professionals who, while capable in their home policing environments, are not area or country specialists. Most will resort to models and structures with which they are familiar. Consequently, while the need for historical and cultural sensitivity is often stated the topic is rarely broached with any degree of depth or understanding. As an example, little analysis has explored how international actors, whose default setting is national-level institution-building, ‘might draw on the insights of anthropologists of particular societies to strengthen, rather than to undermine,

131 A. Goldsmith and S. Dinnen, *op. cit.*, p.1096.

132 Chris Ferguson, *op. cit.*, p.9.

133 *Ibid.*, p.7.

134 David Bayley, 2001, *op. cit.*, p.37.

135 S. DeBlicek, ‘Social Capital, Fear and Police Legitimacy: Measuring community Based Policing in Albania’, *Journal of Security Sector Reform Management* (Vol. 4, No. 3).

136 International Peace Academy Report, 2005, *op. cit.*, p.4.

local forms of conflict resolution, justice or policing.¹³⁷ David Bayley wholeheartedly agrees, noting that 'police reform cannot be left to police experts, but must involve area specialists, social scientists, and historians.'¹³⁸

A small but growing number of the GPPC, such as Tony Pfaff, Charles Call, Neil Cooper and Michael Pugh and are attempting to rectify this deficiency. The latter two for example have stressed that police and security sector reform must be deep-rooted in the specific historical and cultural soil of the recipient country, the final outcome of reform reflecting societal norms rather than proving unrecognisable to the population.¹³⁹

Cultural attentiveness is more than simply a normative matter. The failure to adapt programs to historical tradition and practice is one of the major problems with police reform. Programs may fail to utilise locally specific strengths beneficial to the reform mission such as the ability for traditional justice systems to temporarily or more permanently fill geographical gaps in national-level justice institutions. Moreover local idiosyncrasies impeding reform efforts can be obfuscated. Witness the growing literature detailing gender as a core reform component.¹⁴⁰ While ethically desirable (from the point of view of this author at least), few have considered the practical repercussions of transplanting gender-equal policing models into countries with different ethical codes and cultural practices. Tonita Murray recently claimed that she has 'not come across policewomen in a Muslim country who have done the same range of duties as policewomen in the West.'¹⁴¹

Cultural dissonance between donor and recipient countries has been largely overlooked. Bridging

137 Charles Call, 2003, *op. cit.*, p.107.

138 David Bayley, 2001, p.37.

139 Neil Cooper and Michael Pugh, *op. cit.*

140 For example UNDP Policy Briefing Paper, 'Gender Sensitive Police Reform in Post-Conflict Societies', 2007. <http://www.undp.org/cpr/documents/gender/Gender_Sensitive_Police_Reform_Policy_Brief_2007.pdf> accessed 21 March 2009.

141 T.Murray, 'Gender and Police Reform in Afghanistan', *Intercultures Magazine*, January to March 2008.

such differences will require a great deal of research. Promising in this regard are nascent South-South exchanges and research networks in which ideas and experiences from economically, politically or culturally similar countries contribute to a more realistic assessment of what can be achieved in different circumstances. In this regard policing models from Pakistan and Bangladesh, which both have women only police stations may be more appropriate for Afghanistan than Germany or Canada. Similarly, at a practical level, measures such as police mentoring may be more effective if conducted not only by expert police, but also by police from similar backgrounds. It has also suggested that 'Marriott Brigades' (short-term experts) are inadvisable, 'foreigners assigned to produce change abroad must reside in country for substantial periods of time'.¹⁴²

Social context and human behaviour

A dominant feature of most international police reform studies is an examination of the police as a discrete and separate institution from the broader social environment in which it is situated. Attention is focused on the mechanistic development of security-specific institutions. Issues of funding, recruitment and training are undeniably important, but so too is the societal context in which these institutions are being (re)formed and will operate. Consequently, social dynamics, which often generate the very shortcomings that reform is intended to tackle, often remain unaddressed. Consider corruption; Goldsmith and Dinnen note that from a western governance perspective corruption is a 'dysfunctional practice'. Their analysis of Solomon Island SSR leads them to conclude that it may be viewed more ambivalently 'in societies where kinship or ethnicity remain more important sources of identity and allegiance than citizenship of a modern state'.¹⁴³ Social interactions and human motivations are also factors that must be studied to understand the implementation of reform. As a corollary, such a perspective is required to understand the outcome of reforms. Abuses of power and police impunity exemplify this

142 David Bayley, 2001, *op. cit.*, p.43.

143 Andrew Goldsmith and Sinclair Dinnen, *op. cit.*, p.1096.

well. Cases where the police have been allowed to get away with murder, rape, extortion and so forth, are so often addressed purely as a disciplinary problem.¹⁴⁴ In Afghanistan such an approach, though necessary, is not sufficient; abuses of power are intimately related to tribal loyalties and sectarian divisions.¹⁴⁵

An important exception however concerns police and security sector reform in multi-cultural societies. The problem of unequal ethnic representation within police institutions has been highlighted by numerous recent studies, most notably Gordon Peake.¹⁴⁶ His research into Serbian, Macedonian and Kosovar police reform leads him to forcefully conclude that fair ethnic representation of police forces is of the utmost importance; it contributes to building trust between the police and community, serves a strong symbolic value in fragmented post-conflict societies and undermines a culture of self-interest and impunity that can exist when ethnically uniform forces exist in multi-ethnic countries. He notes however that in Southern Serbia, the presence of Albanian officers in the police has not increased trust in the institution. Deep distrust among the Albanian population was not conducive to immediate changes of attitudes and in many ways the task has just begun; safeguarding this achievement will require deep and sustainable institutional police reform, rather than the short-term measures undertaken so far in Macedonia.

The politics of police reform

Although police reform has broadened its remit in recent years, covering institutional reform and wider state-building efforts there is still a tendency in the literature to ignore the politics of police reform. The term police reform is often taken too literally, adopting a blinkered focus on the institution of the police alone. Especially in post-conflict and post-authoritarian situations the police have little experience of political neutrality. They have been used to serve the interests of elites; suppressing

political rivals, co-opted in battles for control of the government, and used to determine the results of electoral campaigns. As such the politics of police reform appears crucial, starting with their de-politicisation. Getting political and local leaders to relinquish operational control over the police is an important part of the reform equation.

Although police forces should be non-partisan, they cannot be apolitical.¹⁴⁷ Quite the reverse, they are intimately political. Police institutions are embedded within, produced by, and in turn perpetuate certain power relations. Police and security sector reform can therefore prove a potent political tool. Donor support strengthens not simply the police but also the power of the recipients of that aid. Consequently, the political influence of other voices in government weakens, ultimately upsetting the balance of political power in a country. Reform involves not just technical tinkering or bureaucratic organization (which are difficult enough) but often the challenging mission of ‘transforming power relations in a society’.¹⁴⁸

The lack of analysis investigating the links between police reform and power relations is a serious analytical deficiency argues Eboe Hutchful.¹⁴⁹ The few studies that briefly touch on the manifold connections between politics and police reform support this claim, with politics affecting reform, from beginning to end, often limiting or diverting the implementation and outcome of reform. Analysing the Macedonian police, Gordon Peake concluded that ‘an entrenched culture of politically partisan decision-making throughout the country’ continued to intrude on policing despite the conclusion of reform efforts.¹⁵⁰ As such, for Otwin Marenin,

147 DCAF Occasional Paper No.7, *op. cit.*, p.57.

148 International Peace Academy Report, 2005, p.2.

149 As quoted in Nicole Ball and Dylan Hendrickson, ‘Trends in Security Sector Reform (SSR): Policy, Practice, and Research’, paper presented at a workshop on New Directions in Security Sector Reform, Peace, Conflict and Development Program Initiative, International Development Research Centre, Ottawa, 3-4 November 2006 revised 27 January 2006, <http://www.ssrnetwork.net/document_library/detail/3278/trends-in-security-sector-reform-ssr-policy-practice-and-research>.

150 Saferworld Report, 2004, *op. cit.*, p.22.

144 International Peace Academy Report, 2002, *op. cit.*

145 Arvyn Baker, ‘Warlords Toughen US Task in Afghanistan’, *Time*, 9 December 2008.

146 Gordon Peake, 2004, *op. cit.*

changes to the police matter little if the political lines of authority between the police and institutions in control of them are not transformed. Reform will simply be captured.¹⁵¹ It has been persuasively argued therefore, that the police cannot be conceptualised as a black box; 'without an understanding of the dynamics of decision-making, internal structural, operational and personal constraints, or operational and organizational cultures within the black box, there is little capacity to predict what will happen when particular reforms are advocated, suggested and imposed nor what leverage can be utilized to promote reforms nor what obstacles will impede progress.'¹⁵²

As such, it would appear analytically remiss, as well as practically unwise to ignore the political context of reform. As Dinnen and Goldsmith claim, '[w]hile domestically it has always been a mistake to pretend that policing can be a neutral, apolitical practice, at the international level to pretend similarly is an even grosser and more dangerous conceit.'¹⁵³

Normative reform and the search for operationalisation

From refining the typologies which inform police and security sector reform analysis, to the development of police models which are not based on unquestioned acceptance of Eurocentric assumptions, there exist a number of fruitful theoretical research avenues for police and security sector reform scholars to explore. Ironic then that a major criticism which can be levelled at the literature (and police assistance missions more broadly) is an overreliance on macro-level and over-theoretical models. Setting aside for a moment those technocratic studies which limit their analysis to questions of funding and equipment, the remaining international police assistance literature is dominated by theoretical paradigms and calls for the normative transformation of police institutions. Inculcating international criminal justice standards are the thin end of the wedge; a brief glance at the burgeoning literature on democratic policing

demonstrate the problem clearly. The literature and debates within it play out on a rather abstract level of analysis which does not provide much guidance for policy, priorities of implementation, or how to sequence reforms. This is particularly confusing given that 'although the primary purpose is not directly operational, the research strives for some form of policy relevance.'¹⁵⁴

Reforming the police requires policy decisions and choices of increasing specificity as the reform effort descends from strategic goals to the process of implementation. It is widely accepted, for example, that professionalising the police is an essential part of tackling institutionalised corruption. Chris Ferguson argues that 'a change in the working culture [is necessary] if reforms are to prove permanent'. But while he argues cultural change must be facilitated and cannot be glossed over, Ferguson then fails to heed his own advice, glossing over the specific policies, programmes and management challenges that would achieve the goal of a professional police force.¹⁵⁵ Marenin is therefore correct in arguing that the reform literature provides only the most general guidelines of what to do in practice, vague statements such as 'be aware of local contexts', 'advice which has no specific practical policy implications. In the absence of more detailed guidelines on what should be done and, more importantly, how the process should be done, implementation is left to the ingenuity, wisdom (or lack thereof), and the technical and people skills of implementers.' Eirin Mobekk agrees, argues that 'local ownership is currently at the top of the agenda in policy circles dealing with international policing. Nevertheless, it has only haphazardly been translated in practice in policing missions'.¹⁵⁶ How can these abstract ideas and aims be crafted into clear, concrete, and useable policies and operational representations?

To date there exist few realistic plans which

151 DCAF Occasional Paper No.7, *op. cit.*, p.37.

152 *Ibid.*

153 Andrew Goldsmith and Sinclair Dinnen, *op. cit.*, p.1106.

154 Gordon Peake and Otwin Marenin, *op. cit.*, p.6.

155 Chris Ferguson, *op. cit.*

156 DCAF Occasional Paper 9, 'Identifying Lessons in United Nations International Policing Missions', 2005, p.25.

operationalise the ideals of a new police model.¹⁵⁷ It has even been argued that broad security and police reform projects are becoming increasingly difficult to operationalise due to the difficulty in developing the innovative tools and instruments which can effectively address the interrelated complexities involved in such programmes; 'Experts with such wider skill-sets required to support these interventions do not naturally gravitate towards each other (i.e. development economists and military reform experts)'.¹⁵⁸ Only Otwin Marenin has comprehensively addressed some of the requirements for implementation. He argues that to be effective, reform must include an implementation framework with four phases; pre-engagement analysis, design and planning, implementation management, and evaluation/feedback.¹⁵⁹

The atmosphere of unreality resulting from the literature's abstract debates and lack of implementation advice is compounded by recommendations which are impractical and unreasonable. Academic and policy-based research is littered with standards and norms such as non-discrimination and transparency which may be desirable but are not realistic for societies with little experience of a modern democratic police force and which may have suffered the turmoil of recent warfare, political turmoil or authoritarian government. For Gordon Peake and Otwin Marenin, it is 'optimistic in the extreme to seek to achieve in a quick, short and under-resourced effort changes that which even existing democratic police forces struggle to get right'.¹⁶⁰

The lack of empirical data

One remedy for the lack of attention paid to issues

157 The main exception is the development in 2006 of the OECD-DAC Implementation Framework for SSR (IF-SSR) which offers practical guidance on the full range of security sector reform priorities.

158 A.Fitz-Gerald and S.Jackson, 'Developing a Performance Measurement System for Security Sector Interventions', *Journal of Security Sector Management*, Vol. 6, No. 1 (March 2008), p.3.

159 DCAF Occasional Paper No. 7, *op. cit.*, p.71.

160 Gordon Peake and Otwin Marenin, *op. cit.*, p.9.

of implementation would be to systematically canvass those on the front line of international police reform. Unfortunately this has not been the case. A 2004 article on police reform included the caveat that the study could not pretend to be comprehensive 'since there has been enormous activity in this field, much of it, unfortunately, undocumented and impossible to retrieve unless the right person involved can be found to recount his/her experience'.¹⁶¹ The most underused experts, David Bayley argues, 'are the practitioners themselves...The people who do assistance work, both at home and abroad, know a great deal about what works and what doesn't, but this knowledge is not being captured'.¹⁶² Gordon Peake concurs; reform practitioners constitute an important reservoir of opinions and views and must be utilised.¹⁶³ Integrating these perspectives may not be enough however. The majority of reformers lack operational experience of the police. Dubbed 'outsider outsiders', 'they have the hardest job in trying to get a real understanding of how the police operate'.¹⁶⁴ More important therefore, may be the views and opinions of the police being reformed, a group utilised even less than those reforming the institution. Ghana was recently used as an example of police reform in a DCAF article for the simple reason that 'the views of lower level police officers on the conditions of their work, are almost impossible to find for other post[-conflict police] forces'.¹⁶⁵

The failure, so far, to utilise valuable expertise is symptomatic however of a much broader deficiency plaguing the literature; the lack of a strong empirical base drawn from careful evaluation of prior experiences. There is minimal data available for research and analysis. Charles Call has noted that during the 1990s serious data on the impact of police reforms was notably absent.¹⁶⁶ The situation has changed little. By 2005 there existed only

161 HURIST Report, *op. cit.*, p.3.

162 David Bayley, 2001, *op. cit.*, p.76.

163 Saferworld Report, 2004, *op. cit.*, p.42.

164 Gordon Peake and Otwin Marenin, *op. cit.*, p.61.

165 DCAF Occasional Paper No.7, p.50.

166 Charles Call, 2003, *op. cit.*, p.100.

two examples of public opinion surveys geared specifically towards generating information about public perceptions of the police; one in Bosnia and Herzegovina, and the other in Kosovo.¹⁶⁷

Without a strong empirical base providing a solid foundation upon which the theory of police reform can be built, policymakers and academics have been unable to ascertain which policies and programs achieve the largest qualitative difference in the character of policing.¹⁶⁸ As such, decision-making during police reform efforts remain ad hoc, with wheels reinvented and valuable time wasted. Models have been influenced more by ideological imperatives rather than best practices. Matthew Jones has highlighted the curious American tendency to advocate decentralised community policing despite the lack of evidence within the United States itself 'that such a structure is truly successful across the spectrum of states and municipalities, let alone in a country with a political culture that is unlike our own.'¹⁶⁹

Success or failure: the search for effective measures

'Reform without reliable information' argues Etannibi Alemika 'is similar to treatment without diagnosis'.¹⁷⁰ The lack of empirical information and the tendency to base decisions on ideological assumptions raises the important question of whether the diagnosis of reformers is correct and consequently whether the medicine of reform is suitable. Rather surprisingly, academics and policymakers alike have largely shied away from questioning the effectiveness of police reform missions. Research has 'focused more on

what international organisations have done, and the constraints they face,' according to Charles Call, 'than on systematic evaluation of reform processes.'¹⁷¹ For this reason an International Peace Academy report considers measuring success to be one of the topics the GPPC still needs to know more about.¹⁷²

A recent survey of international policing missions and research found an absence of systematic and comprehensive measurement tools and concluded that success and failure were defined in a highly arbitrary nature. The few measures of effectiveness identified by the review were unrefined, with donors currently relying on anecdotes or other ad hoc qualitative judgements. Unsurprisingly, given the broad range of police reform programs individual perspectives and biases of those engaged in police reform have weighed heavily on the measures selected. For instance, 'a human rights non-governmental organisation (NGO) might find a reform effort to be successful if effective accountability methods have been put into place and reports of rights abuses have significantly decreased. A donor more concerned with creating a technologically modern and professional force might consider that very same reform effort to be a failure if the command structure remains inconsistent and the officers technically incompetent.'¹⁷³

Attempts to develop more rigorous, quantifiable measurement systems have explored the possibility of focusing on the output of police officers recruited, numbers trained, and equipment offered. In their report, Ylber Bajraktari *et al* highlighted the example of a UN performance review of law enforcement in East Timor in 2002-2003. Almost without exception, the measures of progress are output numbers.¹⁷⁴ But such quantitative methodologies are flawed, conflating technical outputs with the aims and desired outcomes of reform. They mask core issues at the heart of police reform, such as the quality of the police trained, reductions in crime, or increases

167 International Peace Academy Report, 2005, *op. cit.*

168 David Bayley, 'Police Reform as Foreign Policy', *op. cit.*

169 Matthew Jones, 'Review of *Changing the Guard: Developing Democratic Police Abroad*', *Public Administration Review* (Vol.67, No.3). <http://www.politicalreviewnet.com/polrev/reviews/PUAR/R_0033_3352_277_1007578.asp> accessed 16 June 2009.

170 IDASA and Japan International Cooperation Agency Report, 'Police Reform & Democratisation Conference' March 2007. <www.idasa.org.za/%2FgbOutputFiles.asp%3FWriteContent%3DY%26RID%3D1951&ei=2vOiSu1SjMn5BsPxdsP&u sg=AFQjCNG519zYCe5AbuV3qzJWCZNEGsbYkQ> accessed 7 November 2009.

171 Charles Call, 2003, *op. cit.*, p.102.

172 International Peace Academy, 2002, p.11.

173 WOLA Report, *op. cit.*, p.16.

174 Ylber Bajraktari *et al*, *op. cit.*

in the democratic credentials of the police. Indeed, most importantly, Laura Chinchilla, former Minister of the Public Security in Costa Rica argues that outputs do not adequately reflect whether the community feels safe.

Simply put, the international community currently lacks a systematic means to effectively monitor the successes and failures of the police reform efforts they support. Nevertheless more work is required, and it is pressing that academics engage with these thorny issues and rigorous attempts are made to flesh out an understanding that is acceptable to the majority. Neither a wholly quantifiable or qualitative approach is suitable. The central issue of public safety would appear to substantiate the identification of public perceptions of the police as a core focus of measurement. However, to improve public safety it is first required to attend to the numbers of police recruited or the stations built; these provide the basis upon which more qualitative progress can be built. Clearly then a successful approach would eschew either extreme, successfully marrying both quantifiable and qualitative, objective and subjective measures. Charles Call has commendably attempted this approach in order to assess the phenomenon of security.¹⁷⁵

There are a number of mainly intellectual difficulties preventing the development of measures of effectiveness. Police reform often touches on issues that are difficult to measure. One example concerns change in the management style of the organisation, measurement of which is understandably difficult. Likewise, the individual autonomy and discretion that is inherent in the nature of an officers' work makes it difficult to monitor change. There are also questions surrounding whether a universal set of measurement indicators is appropriate given the diverse environments in which reform is conducted, and the specific local dynamics which reform interacts with. Although Mark Sedra's identification of five measures he considers universal appear

promising¹⁷⁶ it is likely that each case requires individualised performance indicators related to factors such as the previous state of the police or the levels of corruption. It must be acknowledged therefore that measuring police reform success will be highly context specific. Moreover, it may be important before settling on indicators, to set realistic goals. There is often a disconnect between the normative ideals of police reform and the economic, political and social realities of donor countries which can lead to unreasonable expectations and elevated benchmarks. It may be more appropriate therefore to establish measures that are based on what is realistically attainable. Developing measures of success will therefore not be simple. Indeed this is supported by the recent reconceptualisation away from a state-centric notion of policing and the adoption of the principle that policing can be engaged in by many actors; 'measures and indicators of success and failure of reforms will have to be more complex than is currently done and include all policing actors.'¹⁷⁷

While these intellectual difficulties are important, the first hurdle to tackle is more political. It is arguable that donors have a vested interest in measures focused on outputs rather than outcomes. Donors may not want their programs measured, only the fact that the reform efforts are delivered, not whether they were a success or failure. The scholars that have tentatively begun to explore these questions have few conclusions to cheer the donor community. Otwin Marenin, Gordon Peake and Timothy Donais all agree that the record of international efforts to reform police institutions, particularly in post-conflict societies, has been modest at best, with the latter labelling CIVPOL the under-achievers of international peace-building missions. Undoubtedly there have been successes. Significant, sustainable change has been achieved in countries such as El Salvador, Mozambique and

176 The five are security, politicization/factionalization, economic sustainability, rule of law and local ownership. Mark Sedra, 'The Search for Security: SSR in Post-Taliban Afghanistan' The 2005 Cadieux Leger Lecture. <<http://www.international.gc.ca/cip-pic/fellowship-bourse/sedra2.aspx?lang=eng>> accessed 19 April 2009.

177 DCAF Occasional Paper No.7, p.41.

175 Charles T. Call, *Constructing Justice and Security after War* (Washington, D.C.: United States Institute of Peace Press, 2007).

Namibia, to name just three. But to date the GPPC has been unable to expand these sporadic successes into a consistent standard of accomplishment, markedly improving the democratic credentials, professionalism or effectiveness of the host country police forces. Part of the blame must lie in the absence of a clear understanding of how to carry reform out as demonstrated by the disagreements which marks the literature.

Summary

Although the literature exploring police and security sector reform is broad, considerable political, practical, conceptual and strategic work still needs to be carried out. Continuing debate over typologies, appropriate police models and factors such as the importance of domestic/international actors suggest that the literature is confused despite the claims of some scholars that a broadly accepted policy framework has been established. This is unsurprising given the lack of detailed empirical data, comparative perspectives and measures of effectiveness. Indeed the literature remains highly normative and best practices are

often ideologically driven rather than based on what has proven most successful. Concurrently, there is a notable absence of policies and plans to operationalise police reform. Clearly there is an urgent need to address the lack of understanding of how to successfully conduct police reform.

Despite these deficiencies, the literature covers a wide range of reform missions, all of which provide examples of previous strategies, challenges, contexts and opportunities on the road to successful police and security sector reform. These factors have negatively and positively influenced the efforts of the international community and donor countries to reform their police institutions and provide examples of reform practices which suggest good or cautionary practice. Despite the mixed bag of police reform efforts, success or failure, all provide lessons that need to be absorbed, understood and exploited in order to reform the improve the ANP. Therefore, in the next section five examples of reform will be mined to identify certain approaches, tactics and strategies which might prove useful for the reform of the Afghan police.