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Policy and Practice for Developmental
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DEVELOPMENTAL LEADERSHIP PROGRAM

State of the Art **1**

Security and justice: towards politically informed programming

Shivit Bakrania

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The Developmental Leadership Program (DLP) is an international research initiative based at the University of Birmingham, and working in partnership with University College London (UCL) and La Trobe University in Melbourne.

DLP aims to increase understanding of the political processes that drive or constrain development. Its work focuses on the crucial role of home-grown leaderships and coalitions in forging legitimate institutions that promote developmental outcomes.

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The 'State of the Art Paper' series

Our SOTA series aims to lay the groundwork for future DLP research by setting out what existing research evidence and development practice tells us about the politics of development in key areas.

These papers survey the literature, with three aims:

- to clarify what is already known about an issue and the policy implications of that research evidence;
- to suggest areas for further investigation by identifying knowledge gaps;
- to guide future DLP research, ensuring that it is problem-focused, useful and innovative.

To ensure the rigour, validity and utility of these papers, they are peer reviewed internally and externally by both academic and policy or programming experts.

We hope that the SOTA papers will also be useful to other researchers and commissioners of research, and to policymakers and practitioners.

Acknowledgements

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1.0 Introduction

This 'State Of The Art' paper summarises the state of knowledge on security and justice, with a particular focus on politics, power and leadership. The emphasis here is on policy and programming, exploring the implications of existing research on donor assistance. The intention of this paper is to identify existing research frontiers, the gaps in knowledge, and promising areas of future research.

Security and justice are key development issues because they are priorities for poor people. They are also associated with a number of development outcomes, including the prevention of conflict, accountable and effective states, and economic growth. Donor countries also see security and justice assistance as critical elements of the statebuilding agenda, particularly in post-conflict, fragile and transitional contexts, and therefore vital to their own national security and economic interests.

There is a wide-ranging consensus amongst academics and practitioners that security and justice are intrinsically political. **When providing assistance in this sector, donors are engaging with the fundamentally political nature of the state.** This paper therefore sets out to explore what the literature tells us about the politics of security and justice programming. It also aims to capture recommendations and approaches towards a more politically nuanced approach to donor programming in this area.

What are security and justice?

Security and justice are key functions of the state and core components of state-society relations. The OECD-DAC (2011) provides a definition of each.

Security refers to 'the capacity to centralise the legitimate use of force in order to protect the population and territorial integrity from internal and/or external threats'. The deployment of security can impact on other aspects of state capability. This includes security actors enforcing the rule of law, protecting citizen rights and supporting the state to collect taxes and generate revenue. However, security can also be mobilised in a manner detrimental to citizens through bias, repression, violence and human rights violations (OECD-DAC, 2011: 33).

Justice is 'connected to the state's capacity to rule "through" the law. It reflects the state's capacity to contain and resolve conflict; to adjudicate through the independent, impartial, consistent, predictable and equal application of the law; and to hold wrongdoers to account. The justice system is a key component of the accountability dimension of state-society relations'. Furthermore, in contexts where security and justice assistance is directed, 'notions of justice and conflict resolution need to allow for the notion of "legal pluralism". This sees value in acknowledging, understanding and working with existing informal rules and mechanisms of conflict resolution rooted, for instance, in community justice, which are seen as legitimate by the local population, and which can support the emerging rule of law' (OECD-DAC, 2011: 33).

Security and justice, therefore, are partially overlapping concepts (GFN-SSR, 2010) and are linked as part of the rule of law, which can be seen as an overarching principle to guide security and justice programming (Agrast *et al.*, 2013). DFID (2007: 10) describes how they overlap:

> 'Security and justice … refer to values and goals (e.g. freedom, fairness, personal safety) as well as to the various institutions established to deliver them (e.g. defence forces, police, courts). An environment where the rule of law is respected and security bodies are under the control of civilian authorities will help people feel safe and secure and encourage them to claim their rights as citizens. Conversely, where there is no effective and accountable national security structure, violence can permeate society and injustice can prevail.'

The evolution of the security and justice agenda

- During the Cold War period, security assistance from the major powers was a tool used primarily to foster strategic relationships with allies, including military-led governments, rather than to promote democratic governance.

- The end of the Cold War, and the geopolitical landscape that this brought about, allowed donors to discuss the linkages between security and development and the role of development assistance in strengthening security in developing countries.

- In the early 1990s, the donor focus was primarily on military spending. This changed in the late 1990s, as governance became embedded into the development agenda, allowing for discussions on security sector governance and developmental collaboration with security actors.

- The late 1990s also saw the emergence of the human security agenda. At the same time, democratic transitions, notably in South Africa, enabled the emergence of civil society discussions and demands from pro-reformers for people-centred approaches to security and democratic governance. This influenced and helped to define the security sector reform (SSR) concept.

- SSR emerged on the donor agenda through its championing by DFID, who produced a SSR policy note in 1999 and became a main proponent of assistance in this area. The OECD-DAC also became a leading player in helping to define SSR policy and practice, producing numerous guidance papers including the OECD-DAC *Handbook on Security System Reform*.

- As it became evident that security and justice were inextricably linked, the UK government decided to deal with the security and justice sectors as a whole. This is reflected in DFID policy documents such as the 2007 practice paper on *Security and Access to Justice for the Poor*, and the 2009 *DFID White Paper,* which underlines the importance of security and justice in promoting peace and state-building in fragile and conflict-affected states.

Source: Ball (2010: 29-35)

The terminology associated with security and justice programming is complex, contested and has evolved over time. The terms **security sector reform and security system reform (SSR)** are used by a number of donors and international institutions. Other terms in usage include **security and justice sector reform/justice and security sector reform, security sector transformation, security sector governance, security and justice development/justice, and security development.** Whilst these terms represent different views of 'what is to be changed and how' (Ball, 2010: 36), their objectives are essentially synonymous with those provided by the OECD-DAC's *Handbook on Security System Reform*:

- 'Establishment of effective governance, oversight and accountability in the security system.
- Improved delivery of security and justice services.
- Development of local leadership and ownership of the reform process.
- Sustainability of justice and security delivery.' (OECD-DAC, 2007a: 21).

These objectives underscore the influence of the human security agenda on contemporary approaches to security and justice programming. This advances a people-centred notion of security, which recognises that security for individuals extends beyond traditional notions of state security to broader political, social and economic issues that contribute to well-being and a life free from risk (Ball, 2010: 32).

Key texts that comment on the political nature of security and justice

Albrecht, P. & Kyed, H.M. (2010) *Justice and security – when the state isn't the main provider*. DIIS Policy Brief, December 2010. Copenhagen: Danish Institute for International Studies.

Baker, B. (2010) 'Linking State and Non-State Security and Justice', *Development Policy Review,* 28:5, 597-616

Domingo, P. & Denney, L. (2012) *The politics of practice: security and justice programming in FCAS.* London: ODI.

Donais, T. (2008) Understanding Local Ownership in Security Sector Reform. In T. Donais (Ed.) *Local Ownership and Security Sector Reform*. DCAF Yearbook 2008. Geneva: Lit Verlag.

Egnell, R., & Haldén, P. (2009) 'Laudable, ahistorical and overambitious: security sector reform meets state formation theory', *Conflict, Security & Development*, 9:1, 27-54.

OECD-DAC (2007a) *Handbook on Security System Reform: Supporting Security and Justice.* Paris: OECD

OECD-DAC (2007b) *Enhancing the Delivery of Justice and Security*. Paris: OECD.

UNDP (2012) *Informal Justice Systems: Charting a course for human rights-based engagement.* New York: United Nations Development Programme.

The importance of security and justice

Security and justice are associated with a number of outcomes, including the prevention of violent conflict, accountable and effective states, economic growth and service delivery (Stewart, 2004; DFID, 2007; Cox, 2008; Denney, 2013a; Roseveare, 2013). As such, security and justice are perceived by donors as 'fundamental to achieving development outcomes' and vital for donor countries' own national interests (AusAID, 2011: 13). Security and justice are priorities for poor people, as evidenced by a number of studies, most notably the World Bank's *Voices of the Poor* report (Narayan *et al.*, 2000). More recently, the United Nations Development Group's *A Million Voices* report conceded that security and justice are key missing elements from the Millennium Development Goals (MDGs) (UNDG, 2013).

Security and justice are also considered to be critical elements of the international statebuilding agenda (Domingo & Denney, 2012; Jackson, 2011a), with security being perceived as especially important for development in 'countries recovering from conflict or making transitions from authoritarianism, fragility or collapse' (Sedra, 2010a: 16).

Scope and research questions

Security and justice are core functions of the state, central to state-society relations (OECD-DAC, 2011: 33), and are deeply political and contested (OECD-DAC 2007b: 18). Moreover, donor assistance in this area has a deeply political and ambitious goal: 'to ensure that security and justice are provided in a manner consistent with democratic norms, human rights principles and the rule of law' (OECD-DAC, 2007a: 28).

Whilst the importance of a politically nuanced approach to security and justice is widely recognised in current policy, there is a gap between policy and practice. Donor programmes continue to emphasise technical approaches that focus on strengthening state security and justice institutional capacities. At the same time, evidence of programming leading to improvements in citizens' security and justice is limited.

The core argument advanced in this paper is that **when providing security and justice assistance, donors are engaging with the fundamentally political nature of the state**. The paper sets out to capture what the literature tells us about the following questions:

- How do politics and power intersect with the provision of security and justice?
- What are the politics of security and justice programming?
- How can donors work more politically and effectively in the area of security and justice assistance?

The very broad scope of the subject matter means that these research questions are necessarily general. The paper further explores gaps in the existing research and proposes avenues for further investigation.

2.0

Key findings

On the political nature of security and justice

There is a wide-ranging consensus in the literature that security and justice are fundamentally political.

- **Security and justice are core functions of the state, central to state-society relations, and are deeply political and contested** (OECD-DAC 2007b; OECD-DAC, 2011). The processes of negotiation amongst elites are central to determining whether security and justice institutions protect elite interests or provide services to the wider society. The breadth and fragmentation of ruling coalitions and the distribution of a state's revenue base determines the incentives for fair, effective and responsive provision (Berg, 2012).

- **The provision of security and justice is multi-layered**, with a range of state and non-state actors operating at different levels. Many of these actors are associated with each other; they have varying degrees of autonomy from the state, and differing interests (Baker & Scheye, 2007). The relationships, linkages and tensions between different actors are key to understanding the nature of politics and power in security and justice provision. In most contexts, state law provides for official forms of collaboration. There may also exist various forms of unofficial collaboration. Linkages may also be negative: non-state actors may pose a threat to the authority of state institutions, resulting in competition over jurisdiction stretching to opposition or hostility (UNDP, 2012).

- **The nature and control of decision-making processes can determine the responsiveness of provision to the needs of citizens**. In many fragile and conflict-affected states, history, power relations and societal structures affect the responsiveness of security decision-making processes (Hendrickson, 2008). Nepotism, patronage and corruption tend to exclude segments of the population (CSDG, 2008: 16), whilst secretive cultures hinder inclusive consultations and strategic processes (UN, 2012).

- **Despite acknowledging the importance of a politically nuanced approach to programming, donor assistance remains overly technical and state-centric**. Academic and practitioner debates suggest that a policy-practice gap contributes to the ineffectiveness of security and justice programming and the lack of success stories (Sedra, 2010a).

- **At the same time, it is evident that donors face challenges that hinder the extent to which they can work more politically.** These include dilemmas inherent in applying the principle of local ownership, such as reconciling the normative basis of security and justice programming with national and community-level norms and traditions. Achieving a better fit of programming with context, in a manner that enhances provision for citizens is a key political challenge for donors (Donais, 2008).

Principles for politically nuanced policy and programming

The literature proposes several general principles and approaches towards a more politically nuanced approach. These revolve around how donors can **manage the tensions between the interests of political elites and citizens, and better consider the political dynamics of recipient countries in policy and programme design.** Proposed approaches include:

- **Engaging with elites** in a negotiated partnership and ensuring that programming aligns with their interests (Donais, 2009; van Veen & Derks, 2012).

- **Understanding and acknowledging local realities and power relations**, the starting point for which is a deep understanding of the local context (Egnell & Haldén, 2009; Kyed, 2009).

- **Negotiating the politics of legal pluralism**, ensuring that support for state and non-state actors are linked, and being aware of the political role that donors play when encouraging such linkages (Domingo & Denney, 2012; Kyed, 2011).

- **Ensuring that practitioners have competencies for working politically,** including appropriate levels of contextual knowledge and locally relevant skills (Peake, 2009).

- **Ensuring that assistance is realistic, pragmatic and flexible**, with a gradual approach to reform rooted in political realities rather than 'perfect' reforms that attempt to recreate western institutions (SU, 2014).

- **Robust programme design, monitoring and evaluation**. Programmes should be based upon valid and accurate theories of change, which are continually monitored and adapted to reflect changes in the political environment (OECD-DAC, 2012; Carlazzoli & White, 2013).

Evidence gaps

The evidence base for security and justice programming is weak and normative, presenting recommendations with little empirical evidence about what works. The review of the literature highlighted specific evidence gaps on:

- The role of leadership in security and justice programming.
- Evaluations of donor engagement with legal pluralism and multiple actors, and on what forms of donor engagement can produce beneficial outcomes for citizens.
- How security and justice programming can coordinate with other areas of development assistance that might affect the development of security and justice institutions.
- How security and justice programming can learn from approaches to working politically in other development sectors.

3.0

Methodology

This paper draws on existing published and grey literature. As part of the document selection, efforts were made to ensure that a range of perspectives were represented, including academic, practitioner, policy and southern perspectives. The search strategy comprised of the following key steps:

- Precedence was given to material published within the previous five years to represent current debates and thinking, but seminal and widely cited publications were not excluded. Research from a wide range of countries and regions was consulted, including, among others, sub-Saharan Africa, where the most substantial body of evidence and analysis exists, and the Asia-Pacific region, where important lessons can be drawn from the diversity of experiences with security and justice programming.

- The search strategy used pairwise combinations of nine key words: 'security sector reform', 'justice reform', 'security and justice', 'rule of law', 'politics', 'power', 'leadership', 'working politically', and 'ownership'.

- Google, Google Scholar, Scopus and Informaworld, all widely recognised search engines, were consulted. The websites of donors, as well as several known and credible organisations in the field of security and justice, were examined for relevant documentation. These included the GSDRC, the Geneva Centre for the Democratic Control of Armed Forces (DCAF), the Overseas Development Institute (ODI), the Centre for International Governance Innovation (CIGI), the International Development Law Organisation (IDLO), and the OECD-DAC.

- A first pass of the literature revealed a number of core issues pertaining to the politics of security and justice. These formed the basis of an initial outline, which was reviewed by two senior experts for relevance and clarity. The feedback on the outline determined the structure of this paper and the basis for a more refined document search.

- The relevance of documentation was determined by examining the titles, abstracts, contents and conclusions for relevance to the research objectives. Those deemed appropriate were consulted further.

- Several further judgments were made in assessing the quality of documents. Those that were published by credible organisations, written clearly, and which had conclusions supported by the research presented were prioritised.

- For reasons of accessibility, large volumes such as published books have been excluded, except where available electronically.

4.0

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The literature
& evidence

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The fundamentally political nature of security and justice

There is a consensus in the literature that the provision of security and justice is fundamentally political. Jackson (2011a) contends that they 'sit at the very centre of what states are' (p. 1804). The OECD-DAC (2007b) state that security and justice are public goods, but are deeply political and contested, and their delivery is 'wholly dependent upon local contexts, institutional capacities, popular demands and leadership' (p. 18), with 'local political and community leadership, at various levels, a key variable' (p. 11). They are different to other public goods because the state itself may be responsible for creating insecurity and injustice through direct harm to citizens, and through exploitative and predatory practices (p. 17).

The literature examines the political nature of security and justice in terms of their centrality to state-society relations, the multi-layered nature of provision, and the political nature of decision-making.

Security and justice as central features of state-society relations

Security and justice can determine the nature and quality of state-society relations. Provision that is responsive to the needs of citizens is fundamental to establishing trust, confidence and legitimacy. However, this is a challenging prospect where the state has limited presence and control across its territory. In many cases, such as in some fragile and conflict-affected contexts, security forces may be dysfunctional, armed forces may in reality function as disparate militias, and state security forces may be viewed as a threat by citizens (OECD-DAC, 2011: 68). Where the state is thin and lacks infrastructural power, a number of power-wielding actors will exist alongside the state (Egnell and Haldén, 2009). Therefore, in many of the settings where security and justice assistance takes place, a range of actors provide security and justice as part of a multi-layered system.

Security and justice are also intimately related to resource and power allocation. Domingo and Denney (2012) state that security and justice 'contribute to giving substance to (political) rules and agreements about resource and power allocation, and to ensuring that such rules become binding and enforced' (p. 5). Historically, elites have dominated the organisation and use of security and justice institutions, and have used them as instruments of power, to impose and enforce decisions, to maintain control and to generate political, social or economic rents (van Veen & Derks, 2012).

The processes of negotiation amongst elites are central to determining whether security and justice institutions protect elite interests or provide services to the wider society. Berg (2012) draws on state formation theory to suggest that the breadth and fragmentation of ruling coalitions and the distribution of a state's revenue base determines the incentives for fair, effective and responsive provision, and the constraints on executive power. Narrow coalitions built around tribal or ethnic ties allow leaders to generate political support by providing benefits to small and privileged groups of supporters. Institutions are likely to be dominated by a particular group and used to serve their interests (pp. 10-11). States with access to concentrated sources of revenue, including natural resources (such as oil and minerals) and foreign aid, tend to distribute revenue through exclusive networks to generate loyalty and maintain power (pp. 9-10). In contrast, a broad and fragmented elite without a concentrated source of revenue is forced to negotiate with rival parties, build strong institutions to extract revenue, and distribute services widely to broaden its support base (p. 12).

The multi-layered nature of security and justice provision[1]

Whilst a distinction is often made between 'state' and 'non-state' actors, in reality, legal pluralism[2] produces hybrid or mixed legal environments where the lines between actors are blurred (Roseveare, 2013). Many of these actors are associated with each other, but act at different levels; they have varying degrees of autonomy from the state, and differing interests (Baker & Scheye, 2007). Zurstrassen (2011) describes how in the Maluku and Aceh Provinces of Indonesia, village-level government authorities, local customary actors and/or local religious actors are dominant in dispute resolution. In contrast to the state/non-state dichotomy, these actors are described as 'being on a spectrum where legitimacy is derived from various sources, such as the law, local government recognition and community legitimacy'. For Zurstrassen, this 'better represents the complexities of dispute resolution processes, where multiple actors and their sources of legitimacy overlap and interact' (p. 107).

Scheye (2009) describes this multi-layered reality of provision as 'a jumble of networks that substitute and compensate for the dearth of state-provided goods and services' (p. 19). They possess authority because they deliver public goods and services, and have political legitimacy because 'they represent the needs and interests of those to whom they provide public goods' (p. 19). In contrast, state actors may lack popular legitimacy because they are located far from communities, dispense culturally inappropriate forms of justice, are expensive and do not speak the local language (Derks, 2012). Furthermore, state institutions may be captured by political interests and may discriminate against segments of society (Desai *et al.*, 2011).

The relationships, linkages and tensions between different actors are key to understanding the nature of politics and power in security and justice provision. Baker (2010) suggests that political realism on the part of states, and the knowledge that linkages with non-state actors will increase their legitimacy, are incentives for pursuing such connections. Links will rarely be the preferred option for governments, who prefer to monopolise provision and centralise control. However, linkages may prevent non-state actors from acting independently and bring them under some semblance of control.

A UNDP study on informal justice systems[3] states that: 'Pluralism can engender tension in the different sources of legitimacy existing within a state, ranging from legitimacy based on elections, lineage, local authority or on religious faith and learning' (p. 30). The study discusses the models used to manage the agreement by which non-state actors provide security and justice as part of pluralist legal systems. It maintains that in most contexts, there will be certain functional linkages, where state law provides for official forms of collaboration (including appeals procedures, referrals, division of labour, advice and assistance). There may also exist various forms of unofficial collaboration. Moreover, there are often instances where norms, rules and procedures overlap, based on interaction and coexistence over time. Linkages may also be negative: non-state actors may pose a threat to the authority of state institutions, resulting in competition over jurisdiction stretching to opposition or hostility (UNDP, 2012).

The study also illustrates how the connections between different security and justice actors have clear political dimensions. Official recognition may imply approval. But it also allows the state to regulate and control non-state provision, and to assert the legitimacy of its own institutions. Cultural or religious exceptions may be written into state law where the political elite relies on the allegiance of traditional and religious authorities to maintain its power base. At the same time, non-state providers may draw on state recognition to assert their own authority (UNDP, 2012).

Attempts to codify and regulate customary law are one way the state can attempt to assert its authority over non-state actors. Chopra and Isser (2011) recount how in South Sudan, a policy of codification has been pursued by the state to incorporate the norms and values of customary heritage into legislation, to harmonise the many systems of customary law, and to ensure its equal and predictable application. However, according to the authors, empirical research suggests that codification is likely to favour those in power and disadvantage the vulnerable, especially women. Furthermore, chiefs may favour codification because it increases their stature and authority. Reducing customary law to a written code reduces its flexibility, and thereby reduces the space for contestation and adaptation for vulnerable groups, including women.

Unofficial forms of collaboration can equally produce political tension. In Vanuatu, the legitimate scope of state and customary *kastom* law has never been formalised and is subject to continuous negotiation. The state relies heavily on the *kastom* system, but is reluctant to contribute resources, or to engage in any substantial power sharing with chiefs. At the same time chiefs have called for legislative recognition of their powers. Some have attempted to co-opt state power and enforce their authority by incorporating features of the state system, recording their *kastom* laws as by-laws (Forsyth, 2011).

In addition to the state asserting its superior authority, Kyed (2009) adds two further layers of politics. The first is political party interests in non-state security and justice providers: legal pluralism is used by political parties during democratic transitions to boost political power at the expense of the opposition. The second is local-level contestations over authority, between the local police and chiefs, for example, where the police may feel threatened by the local legitimacy of the chiefs.

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1   Whilst this section contains a mixture of examples from sub-Saharan Africa and the Asia-Pacific, it should be noted that the most significant literature on customary provision, including on the role of chiefs, is on sub-Saharan Africa. For further sub-Saharan African examples in the literature cited in this paper, see Denney (2013b) for coverage on Sierra Leone, Lubkemann *et al.* (2013) for coverage on Liberia, and UNDP (2012), which contains coverage of Malawi, Niger and Uganda. Given the important role of traditional leadership in some Asia-Pacific countries, this is an area where more research may be valuable.

2   Roseveare (2013) defines legal pluralism as 'the existence of multiple sources of law (both state and non-state) within the same geographical area. Although the rule of law is often represented as law being made and administered by the state, a growing body of literature suggests that the provision of a range of different legal and quasi-legal security and justice mechanisms creates choices for individuals, communities, and even the state itself.' (p. 39).

3   The study is based on a comprehensive literature review and case studies of Malawi, Niger, Papua New Guinea and Uganda.

Kyed (2009) also notes how political motivations may result in the establishment of new, or the revitalisation of old, 'hybrid' institutions,[4] such as community policing councils and community courts in Mozambique. Rather than state-recognition of existing non-state legal orders, these represent an expansion of the non-state domain alongside existing providers, such as chiefs, with considerable but often ambiguously defined overlaps in their roles and jurisdiction. This can initiate new forms of contestation over authority or exacerbate existing ones. Evans *et al.* (2011: 27) for example, describe how local chiefs see hybrid courts in the Solomon Islands, Papua New Guinea and Vanuatu as a threat to their own authority and power, and discourage individuals from taking their disputes there.

Local provision can also be subject to elite capture and co-option. Evans *et al.* (2011) note how hybrid courts in the Solomon Islands, Papua New Guinea and Vanuatu are likely to have been co-opted by politicians and local government actors to further their own objectives. The extent of co-option can range from an unofficial person issuing court forms or wearing a court uniform, to whole courts being presided over by incorrectly nominated or elected local government officials (Evans *et al.*, 2011: 27).

The political nature of decision-making

The nature and control of decision-making processes can determine the responsiveness of provision to the needs of citizens. Bodies that can contribute to decision-making within a framework of democratic governance include: the executive; national security advisory bodies; legislative/parliamentary committees; government ministries; customary and traditional authorities; financial management bodies; and civil society organisations (OECD-DAC, 2007a).

A key issue regarding responsiveness and accountability relates to the ability of civilians to exercise leadership through democratic oversight. According to Born *et al.* (2003), parliamentary involvement in security decision-making (through reviewing draft laws, providing consent or suggesting changes) is essential for ensuring public support, accountability and legitimacy.[5] However, control of the security decision-making process is often elitist, personalised and secretive. Nepotism, patronage and corruption tend to exclude segments of the population (CSDG, 2008: 16), whilst secretive cultures hinder inclusive consultations and strategic processes (UN, 2012). Consequently, coordinating and oversight structures may be weak or marginalised by the executive (Bearne *et al*, 2005; CSDG, 2008).

Hendrickson (2008) argues that in fragile and conflict-affected states, history, power relations and societal structures affect the responsiveness of security decision-making processes. Where the central state is not fully developed, or where the state does not have a monopoly over security provision, the understandings of security are often extremely contested amongst different interest groups. Drawing upon comparative research from Nigeria, Uganda and Sri Lanka, Hendrickson outlines a number of common features of security decision-making in such contexts.

In all cases, the failure of the state to protect all of its citizens and to develop equitable arrangements for power sharing among different ethnic interests has diminished its legitimacy amongst excluded groups. As such, policy processes have not been able to respond to the multiple and conflicting security demands of different social, ethnic and political groupings. In the case of Nigeria, the emergence of non-state security actors can be attributed to this lack of state responsiveness to certain groupings. Moreover, these actors represent powerful centres of security decision-making and authority (Hendrickson, 2008: 27-28).

Elite consensus on aspects of national policy is undermined by a lack of political integration, which excludes some oppositional political groupings and limits responsiveness to policy proposals from other segments of society (Hendrickson, 2008: 29). The secretive and centralised nature of security decision-making limits citizens' ability to voice their security needs and to influence policy processes (p. 33). Furthermore, civil society channels, such as well-developed political parties, trade unions or pressure groups, are limited. All of this provides elites with autonomy in decision-making (p. 30), with a tendency for individual parties, state institutions, or even individuals to dominate decision-making processes (p. 34).

Demands for security provision are locally orientated. This increases the prominence of local elites (including traditional rulers) because they convey interests to state authorities. However, local communal claims are often easily dismissed by ruling national elites, especially within a context of intense intergroup competition (Hendrickson, 2008: 30).

The politics of security and justice programming

There is a consensus among authors that security and justice programming is a complex and political process. Harborn and Sage (2010: 6) argue that 'security and justice are extremely 'interventionist' instruments reaching the core of state and society and such proposals from the outside confront sovereignty at its most robust'. On the political economy of security and justice assistance, they state that 'interventions result in local winners and losers…shape the rules of the game and affect the distribution of rights and resources. They can become vehicles for rent seeking, political mobilisation, and generating further fragmentation at the local or national level' (p. 9).

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4   Hybrid institutions are defined by Evans *et al.* (2011: 1-2) as quasi-legal systems that 'possess many non-state hallmarks, yet also have a legislative basis and incorporate a degree of state engagement…While often operating independently of the state, they are constrained by a legal framework that governs their operation'. They may also be subject to a degree of state oversight, interact with external state agencies, and receive some, albeit often limited, state assistance.

5   This can be interpreted as a liberal view of accountability. An alternative is for citizens to seek accountability by having the right to access local customary systems including chiefs. Scheye (2009), for example, argues that partner countries may not be inclined and/or may not have the capacity to increase accountability through strengthening civilian oversight. Instead, there may be 'shorter' routes to accountability through ensuring that local provision corresponds to local needs, which can compliment other institutional accountability initiatives.

There is also recognition that security and justice programming has ambitious objectives. Egnell & Haldén (2009: 33-34) contend that security and justice policy documents provide far-reaching objectives, with clear connections being made with statebuilding. These ambitions extend far beyond improving the capacities and efficiencies of institutions in post-conflict or fragile contexts. Rather, the emphasis on democratic principles and human rights norms implies a transformation of these countries into other kinds of polities.

The policy-practice gap

The importance of a politically nuanced approach, including engagement with the multiple layers of security and justice provision, is widely recognised in current policy.[6] However, evidence of programming leading to improvements in citizens' security and justice is limited. Academic debates suggest that a policy-practice gap contributes to the ineffectiveness of security and justice programming. In a review of an academic and practitioner debate on the future of security and justice programming, Sedra (2010a) concludes that there is widespread agreement on the need for following the principles espoused in policy documents such as OECD-DAC's *Handbook for Security Sector Reform*.

Donor assistance has largely taken a technical approach with an emphasis on strengthening state security and justice institutional capacities. Resources have been directed towards implementing reforms of state institutions based on idealised western templates of how security and justice should be delivered (OECD-DAC, 2007b), which have proved especially inappropriate in fragile and conflict-affected states (SU, 2014).

Recent donor reviews of security and justice assistance highlight the lack of success that overly technical and apolitical approaches have had in improving service delivery for citizens. AusAID (2012: 48) admits that its law and justice programming has focused on state institutions and capacity building without necessarily changing the quality and delivery of justice services. The European Commission finds that the overall impact of its security and justice assistance has been difficult to measure because of an emphasis on state institutional capacity building (EC, 2011). The World Bank concludes that the outcomes of its justice assistance have been uneven due to a lack of political analysis, resulting in unrealistic aims and project designs insufficiently focused on the actual needs of citizens (WB, 2012).

For many authors, a fundamental problem resides in the very conceptualisation of security and justice programming, which is unrealistic and does not reflect local political realities. Such arguments represent a critique of the orthodox state-centric approach taken by donors.

Critiques of state-centric approaches

Albrecht and Kyed (2011: 4) maintain that most international donors are 'still invested in the establishment or reform of formal state institutions based on a Euro-American state-centric model of law and bureaucratic structures'. For them, it is unrealistic to assume that the Euro-American state model of a centralising authority can be achieved within a generation or two in the majority of the world. This is especially the case where the state does not have a monopoly over violence, where it may never have controlled its entire territory, and where multiple sources of authority exist (p. 13). The World Bank's *World Development Report 2011*, reinforces this position, stating that it has taken a generation for the 20 fastest reforming countries in the 20th century to achieve basic governance transformations in areas such as corruption, military involvement in politics, and the rule of law (WB, 2011). Therefore, to expect rapid political transformations in the contexts where security and justice assistance is directed is unrealistic.

Authors question whether such political transformations are desirable. Baker and Scheye (2007: 507) contend that the issue is not of rebuilding a state, but of creating a sustainable one. Most fragile and conflict-affected states are political entities that do not resemble the western state 'grounded in a separation of state and civil society, public and private goods' (Scheye, 2009: 17). For Albrecht and Kyed (2011: 15), an empirical analysis of the actual realities of security and justice provision shifts the focus from 'who ought to be providing security and justice' to 'what works' for citizens, which is in many cases not the state. For Kyed (2011) this implies a fundamental shift in how statehood is conceptualised by donors, implying a coexistence of state and non-state provision.

The literature acknowledges that most donors officially recognise the legal pluralist reality and the need to adopt a multi-layered approach, including balanced support for state and non-state provision.[7] However, donor approaches to legal pluralism are seen by some as rhetorical. Support to non-state actors continues to be ad hoc or treated as an entry point for statebuilding based on normative and idealised western templates (OECD-DAC, 2007b; Desai *et al.*, 2011). Kyed (2011: 6 -7) argues that in many situations, donors support state attempts to limit the jurisdiction of non-state actors, or try to adjust customary systems according to rule of law and human rights norms to make them operate more like the state.[8] Typical activities include sensitising traditional leaders to state law, or harmonising customary practices with western law through processes such as codification. These efforts

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6   See for example the OECD-DAC's *Handbook on Security System Reform* (OECD-DAC, 2007a) and the UN's *Integrated Technical Guidance Notes on Security Sector Reform* (UN, 2012), which both emphasise the political nature of SSR.

7   See Kyed (2011), Albrecht and Kyed (2011) and Desai *et al.* (2011) for further coverage on how non-state actors and legal pluralism have increasingly been incorporated into donor policy.

8   A common assumption is that non-state actors are greater human rights violators than the state. However, state actors can also violate human rights, and the provision of security and justice at all levels can be discriminatory against women and vulnerable groups (Albrecht & Kyed, 2011; Denney & Domingo, 2013). The UNDP (2012: 97) state that a lack of human rights compliance by non-state actors is no reason in itself for donors not to work with them, any more than it is a reason not to work with a failing state justice system.

tend to be 'driven by concerns for uniformity and standardisation' (p. 8) with the objective of creating a 'unified justice system under the regulation of a familiar sovereign authority' (p. 9). Ultimately for Kyed, with this approach, donors are supporting the political motivations of states to assert their authority and monopoly and thereby to create a form of 'weak legal pluralism'.

Technical interventions fail on a political level

The evidence suggests that overly technical interventions fail to address the underlying political dynamics that influence whether security and justice is provided in the interests of elites or citizens. Furthermore, donor assistance has a political impact, and may reinforce political inequalities and/or undermine the political conditions for reform (Jackson, 2011a; Kyed, 2011; Berg, 2012).

Technical programmes, which often concentrate on building the capacities of individuals and institutions, assume that individuals will use their newly acquired skills to instigate change. However, individuals are only likely to apply these skills if there are political incentives to do so, and 'such programmes rarely address the political basis for why a police officer, civil servant or legislator might be motivated to shift from supporting a narrow political faction to serving the public' (Berg, 2012: 15).

Giustozzi (2011) states that the impact of armed forces reform, including attempts at increasing professionalism, institutionalisation, and the development of civilian oversight mechanisms, depends on complex processes including the political environment. These environmental factors include the cohesion of political elites and the aims and ambitions of political leaders. Political elites often do not see reform as attractive. The reform and professionalisation of state agencies, including the armed forces, may pose threats to leaders with limited public support or where the composition of the armed forces does not reflect the wider social structure. Moreover, unwelcome or unfeasible reforms can often result in the political manipulation of the reform process itself. In Afghanistan, political elites attempted to maintain control over army reform processes by influencing appointments and creating factional networks within the army.

A lack of political understanding means that even well-intentioned programmes can undermine longer-term security and justice service delivery objectives. Jackson (2011b) argues that donor assistance alters power structures, and the politics arising from these structures play an important part in the outcomes of assistance. Citing evidence from Sierra Leone, Jackson describes how donor-supported decentralisation efforts have rejuvenated local democratic structures, but have created tensions, rivalries and alliances between local councils and chiefs. This has resulted in unpredictable justice provision for citizens, meaning that the outcomes of state and local courts can be influenced in favour of local elites and to the detriment of the powerless.

Lubkemann et al. (2011) describe how in Liberia, donor supported post-war justice reform efforts from 2003-2009 contributed to creating a 'justice vacuum', despite seemingly 'progressive' intentions to improve justice delivery according to human rights norms. The approach taken was dismissive of non-state actors and privileged state institutional capacity building. It also pursued the extension of the jurisdiction of formal courts over customary provision. This ultimately undermined the effectiveness of the customary system without providing an alternative for citizens. The formal system, including formal courts and police, was susceptible to corruption by elites and came to be viewed by many as a source of injustice.

The challenges and dilemmas of working politically

Part of the challenge in closing the policy-practice gap may reside in clarifying exactly what 'working politically' means in practice for security and justice assistance. For Domingo & Denney (2012: 2), 'working politically' could be interpreted as two different but equally valid approaches:

- **Understanding local and national politics better**: to achieve a better fit of programming with context and to enable effective support for transformative change towards inclusive security and justice provision.
- **The purposeful and strategic leveraging of donors' political influence**: to facilitate reforms potentially resisted by local elites.

However, it is evident that donors are faced with challenges that hinder the extent to which they can adopt either of these approaches. In particular, the literature identifies a number of dilemmas associated with the **principle of local ownership** and **political will.**

Local ownership is recognised as a fundamental principle of security and justice assistance.[9] True local ownership requires donor support for domestic initiatives, not vice versa. Initiatives that are not driven by domestic actors are unlikely to reflect local needs or dynamics, to be implemented properly, or to be sustained (Nathan, 2007: 4). However, in practice, most programming has been externally driven by donors, and ambiguity persists around whose political agendas are prioritised and who the local owners should be (Donais, 2009).

Whose politics and agenda count?

A fundamental dilemma for donors lies in the tension between the normative basis of security and justice assistance and local realities. As Jackson (2011a: 1810) states, values of democracy, good governance, gender equality and human rights norms may not be shared by local actors, who may not want all of these things. Therefore, the political will for reform may be lacking at local or national levels if it is not in the interest of local elites, if security and justice actors are responsible for human rights violations, or if there is a contradiction between donor aspirations and local political realities (Galletti & Wodzicki, 2011). In this sense, promoting local ownership may mean promoting norms that conflict with international standards (Panarelli, 2010).

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9   Local ownership is cited by the OECD-DAC as a key objective of SSR (OECD-DAC, 2007a: 10), whilst several of the guiding principles in the United Nation's Secretary-General's report on SSR relate to local ownership (UNGA, 2008).

Reconciling international norms with local realities, or achieving a better fit of programming with context, in a manner that enhances provision for citizens, and that is seen as locally legitimate is thus a key political challenge for donors (Donais, 2008).

Donors' domestic political environments influence policy and programming priorities. Therefore, another tension lies in which political context drives programmatic choices – the international donor agenda or local security and justice priorities (Domingo & Denney, 2012).

A number of studies cite Afghanistan as an example where SSR programming has been driven by international donor security priorities rather than citizen security and justice needs.[10] Sedra (2013: 374-376) describes how there has been little effort to nurture local ownership or build political consensus. Activities have been implemented with the support of particular elites, the Northern Alliance jihadis and western-orientated technocrats, who were selected on the basis of political expediency and shared interests, and were not representative of Afghan society as a whole. Sedra argues that relying on these particular local owners may have complicated efforts to instigate a legitimate and locally owned SSR process. Consequently, many Afghans perceive parts of the security and justice architecture as illegitimate foreign impositions.

For Donais (2009: 122), the difficulties of resolving these dilemmas have led 'to the emergence of an understanding of local ownership that is less challenging to the normative principles of donor-defined SSR, in this vision locals are asked, and expected to "take ownership over" what remains a primarily externally driven process'. The debate on ownership is often reduced to locals influencing externally generated activities or buying into externally imposed architectures rather than defining the process themselves (Martin & Wilson, 2008).

Which locals?

Donais (2009: 119-120) argues that technocratic and state-centric approaches to programming have often focused on national governments as the sole local owners, on the assumption that they posses the authority and legitimacy to enact reforms. However, the lack of truly representative government in countries where assistance is often directed means that national political elites are not the only relevant local owners.

Local ownership is possible at each of the multiple layers of security and justice provision (Scheye, 2008), and different owners have competing visions and priorities (Panarelli, 2010). In addition to national and local political elites, owners may include the security leadership and actors, non-state actors, economic elites, civil society, and non-organised and non-represented people (Mobekk, 2011: 233–234).

Authors distinguish between different manifestations of local ownership. Mobekk (2011) differentiates between 'minimalist', which is restricted to buy-in from formal institutions, and 'maximalist', which refers to broader societal participation in the planning, management and implementation of programmes. Donais (2009), whilst recognising that maximalist approaches are more inclusive and participatory, contends that such conceptions of ownership tend to 'underestimate the extent of social fragmentation within societies…whilst overestimating levels of non-state expertise in and engagement with security issues' (p. 120).

As such, there are dilemmas involved with choosing local counterparts, and those who wield power and authority may not be supportive of reforms or may act as spoilers. Often, donors will work with accessible local elites or western-educated counterparts, which may produce results that match donor preferences, but do not truly represent local concerns (Martin & Wilson, 2008; Hansen & Wiharta, 2007).

Citing evidence from UK-supported SSR in Sierra Leone, Berg (2012) argues that an over-reliance on a narrow political elite can contribute to their political dominance, and reduce the political space for broader reform. He states that:

> 'the UK's focus on supporting the president and a small circle of advisors eventually led to a political backlash…Efforts to involve the Parliament in reforms were abandoned early on, and the opposition party felt excluded from the benefits of assistance…The [new] government elected in 2007 started out much more suspicious of UK-assistance, and took steps to solidify its ethnically based party network that undermined some reforms to the security sector. For example, partisan officials were placed at senior levels, UK-supported institutions were marginalised, and accusations surfaced of political pressure and manipulation of the security forces for partisan ends' (p. 28).

Furthermore, whilst Jackson and Albrecht (2010) state that there were advantages to the UK government working with a narrow group of capable people in Sierra Leone, they concede that there were also risks. In particular, what happens if they move on, or become politicised?

The Timor-Leste experience with SSR is another example of limited local ownership.[11] Sahin and Feaver (2013) describe how UN-assisted SSR following the 2006 eruption of violence was driven by a mandate that provided a very narrow definition of ownership. Sahin and Feaver argue that for the UN, 'the process of negotiating with the government as to how NGOs and other social owners might have been included into the implementation process would have been difficult to negotiate', partly due to time pressures to approve the UN's mandate but also because of strained relations between UNMIT and the national government (p. 1070).

Political pressures in donors' home countries concerning funding, accountability and value for money further limit the extent of local ownership. Tight programme timelines and budget cycles mean that the long-term process of building inclusive local ownership is

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10   See Guistozzi (2008), Donais (2009) and Panarelli (2010) for further coverage.

11   See also Scheye (2009), Donais (2009) and Berg (2012).

seen as a luxury (OECD-DAC, 2007a). Furthermore, an increased focus on value for money means that donors might not be willing to fully engage with multiple local owners, particularly if there are human rights concerns, because it is perceived as risky behaviour and clashes with the principle of 'do no harm' (Albrecht & Kyed, 2011). Denney (2013b) for example, notes how such concerns have limited DFID's engagement with chiefs in Sierra Leone, despite widespread recognition within DFID of chiefs' crucial role in local security and justice provision.

How can donors work more politically and effectively?

Recognising that the control and provision of security and justice are deeply political, the literature proposes some principles and approaches towards more politically nuanced programming. Generally, these revolve around the ways in which donors can:

- Manage the tensions between the security and justice (service delivery) interests of the population and the political interests of elites.
- Ensure that the political dynamics of recipient countries can be better integrated into policy and programme design.

Engaging with elites

For Donais (2009), effective programming involves a negotiated partnership with political elites, which has a number of implications. In line with the principle of local ownership, local elites retain agency in reform processes, and therefore hierarchical donor-recipient approaches to programming are inappropriate. Knowledge and information flows are bi-directional, and donors have much to learn from local actors about the domestic political context. In particular, it is important to engage with local elites in a discussion about how democratic principles and human rights norms driving security and justice objectives can be reconciled with local traditions and norms (p. 125).

According to van Veen and Derks (2012), a key challenge for security and justice programming lies in how donors address the tension between the interests of the population and those of elites. For them, donors generally disregard elite interests, but security and justice programming that is perceived as threatening to elite interests is likely to fail.

Ensuring that programming aligns with or appeals to the interests of elites in terms of building legitimacy, generating financial resources and improving their international reputation, may allow donors to engage more productively and realistically. This may involve supporting basic improvements in service delivery that citizens care about and that do not threaten elites. Elites are more likely to support initiatives if they can claim responsibility for positive change to their advantage – for example, as part of the political competition for votes and influence. It may also entail working with parts of the security and justice system to improve public revenue streams. Examples include reviews of laws and regulations to increase foreign investment, or providing greater clarity on land rights to stimulate taxable investment. Furthermore, a country's international reputation can be used as an entry point for engagement (van Veen and Derks, 2012: 90 – 91). The OECD-DAC (2007a: 134) states that security elites often see their participation in international peace support operations as beneficial.

Understanding and acknowledging local realities and power relations

It is important for donors to understand and acknowledge the political and power relations at the core of security and justice provision. A starting point for this is a better understanding of the political context.

Egnell & Haldén (2009) emphasise the need for a historical 'thick-description' of country contexts, with more attention given to the understanding the structures of states, societies and polities in order to better understand the possibilities of success in any given context. For Berg (2012: 30), this entails an analysis of the political trajectory of a country to understand the conditions that have shaped the development of security and justice institutions.

In pluralistic legal systems, it is especially important for donors to understand the various layers of politics and acknowledge the asymmetrical power relations amongst different providers and between providers and citizens (Kyed, 2009). In particular, there is a need for programming to be grounded in a valid evidence base that takes account of citizens' perspectives (including women and vulnerable groups), the roles of different actors, local power dynamics and linkages (Albrecht & Kyed, 2010).

The OECD-DAC (2007a) advocates an inception phase in programming to allow donors to develop their understanding of local owners and power relations (OECD-DAC, 2007b). As part of this, gender and conflict analysis are considered important tools for programme design, both to facilitate greater understanding of local contexts and to ensure that donors 'do no harm' through upsetting local power balances (DFID, 2012; OECD-DAC, 2012).

Multi-layered approaches

Donors find it difficult to work across multiple layers of security and justice provision, assessing the complex power relationships and understanding the political risks (Albrecht & Kyed, 2010; OECD, 2010). The literature emphasises that addressing this challenge requires compromise. This entails linking support for state and non-state actors, and ensuring that efforts to improve local service delivery and state functioning occur in conjunction with each other (Derks, 2012; Domingo & Denney, 2012).

Recipient governments may oppose support for non-state actors and donor support in this area may risk intensifying power struggles (Derks, 2012). However, donors can facilitate change through political negotiation with local elites. This requires not treating state and non-state actors as discrete categories, and focusing on ways of better linking the variety of security and justice

providers at all levels (Albrecht & Kyed, 2010).

The issue of how donors can encourage linkages between different layers of provision is addressed by a number of authors. Baker (2010: 598) argues that 'links already exist…and that these links are worth strengthening for the sake of delivering security and justice to the South's poor'. Nielsen (2011) contends that encouraging linkages between state and community-based justice actors in Afghanistan can help build the legitimacy of both state and non-state actors.

At the same time, donors need to be aware of the political role they play when encouraging linkages. Donor initiatives may serve to subordinate non-state provision to state interests to the detriment of service delivery at a local level. In a review of approaches suggested by practitioners and academics, Kyed (2011) emphasises the importance of mutually supportive linkages between different actors as opposed to a hierarchical approach. Forsyth (2011) offers an example of such an approach in Vanuatu, where 'state actors can be positively influenced by and kept in check by non-state actors' (p. 196). Forsyth's approach emphasises analysing the extent and nature of linkages between different security and justice actors/institutions within a given country, including external actors that provide material and organisational resources. This analysis then forms the basis for small-scale locally based initiatives that can be aligned with existing indigenous initiatives, or the creation of new linkages that promote an efficient sharing of resources and social capital (p. 201).

Individual competencies for working politically

The political sensitivity of security and justice programming requires finding the right people with the appropriate contextual knowledge and skills. This is often not the case. Donor staff may have substantive knowledge of local contexts and may not be able to achieve substantive change within their tenure. Peake (2009) describes how in Timor-Leste, international personnel brought in to support reform processes were recruited for short durations and had limited knowledge of the local politics, history and languages. These problems are often exacerbated by the involvement of layers of consultants who have technical expertise, but are unaware of the political landscape of the countries that they work in (Giustozzi, 2008).

Practitioners require certain competencies to be able to work politically. Scheye (2009) argues that donor personnel 'need to be well trained, first to calibrate dynamic shifts in power. Second, they will need to be able to negotiate the intricacies of implementation to accommodate the rational self-interests of the various, oft-times competing, stakeholders as balances of power fluctuate' (p. 22).

Organisational competencies for working politically

There are also questions about the ability and competency of donors and development agencies to work politically and engage with the multi-layered nature of provision. Development agencies' political, bureaucratic and statist nature curtails their ability to engage in a more politically nuanced manner (Denney, 2013b). Donors are answerable to their home constituencies, and engaging with certain actors may be perceived as too risky or in conflict with 'do no harm' principles (Albrecht & Kyed, 2011).

Part of the solution may lie in country offices being clearer about programming objectives and how these are reconciled with donor countries' domestic political objectives (Domingo & Denney, 2012). Associated with this is the need for donors to establish a communication strategy in their home countries to raise the awareness of the advantages of a multi-layered approach (Albrecht & Kyed, 2010).

Realism, pragmatism and fl xibility

To expect change in short time frames is unrealistic (WB, 2011). However, there is a tendency for external actors to overestimate their abilities to transform different socio-political contexts along the lines that security and justice objectives prescribe (Jackson, 2011a). It is important to identify goals that are specific, realistic, achievable and pragmatic, without being overly ambitious (OECD-DAC, 2007a). The focus should be on a gradual approach to reform, with pragmatic 'best fit' solutions rooted in political realities rather than 'perfect' reforms that attempt to recreate western institutions (Schnabel, 2009; SU, 2014).

According to Hansen and Wiharta (2007), this may involve trade-offs for donors, for example making concessions with regards to locally driven initiatives. This may challenge what donors consider as best practice, but may be more practical, affordable and suited to local conditions, as well as in keeping with the principle of local ownership.

The implications for programme design, monitoring and evaluation

There are several implications for programme design in complex environments. Robust design, monitoring and evaluation are important because programmes often need to adapt to evolving political dynamics (OECD-DAC, 2012). Accurate and valid theories of change (ToCs) are based upon empirical evidence, local knowledge and up-to-date analysis (Stein & Valters, 2012). ToCs are important for monitoring and evaluation processes. They can provide feedback on whether programmes are likely to achieve the desired changes, and whether the context is evolving as anticipated. ToCs are also useful for monitoring assumptions to help determine if the right factors and dynamics were considered in the initial design or if unforeseen changes have occurred in the environment, or if there are gaps in the strategy to bring about change (Corlazzoli & White, 2013).

5.0 Evidence gaps

A key problem for improving the effectiveness of security and justice programming lies in the fact that the evidence base is generally weak. Much of the literature is normative, presenting recommendations with little empirical evidence about what works (Bakrania, 2014). Roseveare (2013) states that the available evidence is useful for demonstrating the different dimensions of security and justice but is not suited to demonstrating the efficacy of interventions. 'Exemplar' cases that have realised and implemented the fundamental principles of security and justice assistance as described in policy documents are rare (Sedra, 2010b: 102). In general, there is not a 'clear sense of what should be done, how it should be done, by whom, in what order, or how success may be determined' (Desai *et al.*, 2011: 243).

This is further compounded by what Jackson (2011a) describes as a limited collective knowledge about how interventions can bring about the types of transformational changes described in policy documents. In the complex environments where security and justice programming takes place, change is multi-directional and unpredictable, data is limited, and the attribution of results and causal relationships is difficult to establish (OECD-DAC, 2012).

Downes and Muggah (2010) reason that the lack of empirical evidence is not surprising given that reform is a long-term process and impacts take decades (if not generations) to be realised. They also attribute the weak evidence base to the fact that security and justice as a concept is relatively new, but predict that the evidence base should improve over time as the concept evolves.

A review of the literature also highlighted a number of specific evidence gaps.

The role of leadership

There is some recognition of the role of leadership in policy documentation but empirical analysis on the role of leadership in security and justice programming is lacking.

The OECD-DAC (2007a) recognises the role of the political leadership in enacting and bringing about reform and transforming organisational cultures. Scheye (2009: 9) describes how a series of projects in Pakistan, Colombia and Afghanistan attribute their effectiveness to the active involvement of the local political leadership. At the same time, he states that programming has generally overlooked leadership as a crucial variable (p. 10). Van Veen and Derks (2012) concur, stating that 'the role of leadership and leadership coalitions…seems to be under-researched, under-programmed and under-funded' (p. 88). Whilst the importance of civilian leadership to oversight and accountability is recognised in the literature, there is little analysis on the specific factors that might influence the ability of civilians to exercise leadership in security and justice matters, or how donors might support this. Furthermore, much of the literature on civilian oversight is overly focused on idealised cases of what should happen, rather than analysing or explaining what actually happens within given political contexts.

Evaluations of donor engagement with multiple actors

Whilst security and justice is a relatively new concept, recognition by donors of the need to adopt a multi-layered approach is yet more recent. As a result, 'there are few high-level evaluations and reviews that assess progress and pitfalls' (UNDP, 2012: 143). There is some evidence on the forms of networks and interaction that exist across the multi-layered security and justice system,[12] but evidence is limited on the types of interaction that can produce beneficial outcomes for citizens, and how donors can best support this. This may stem from the fact that there is 'scant understanding of the links by the development community and in particular by those engaged in police and justice reform programmes' (Baker, 2010: 601).

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12   Refer to the earlier section on 'The multi-layered nature of security and justice provision' in this paper.

Coordinating with other development sector programmes

Berg (2012) contends that more attention is needed on programming in other development sectors that might affect the development of security and justice institutions. These include programmes aimed at 'coalition-building, political competition social reconciliation, and diversifying revenue sources' (p. 30).

Part of the challenge here may be that donors find it difficult to coordinate and apply a comprehensive approach across the security and justice sector, let alone coordinating across other areas of development programming. The UK Government's experience demonstrates that difficulties arise because of the different mandates and priorities of departments (development, defence and diplomacy) involved in security and justice programming (DFID, 2010).

Nevertheless, the question of how security and justice programming can be coordinated with other areas of development assistance is an under-researched area.

Learning from other development sector programmes

A useful avenue of enquiry, and one which is not explicitly dealt with in the literature reviewed, is whether there are practical lessons on working politically from other development sectors that can be applied to security and justice programming. Security and justice programming faces specific and unique challenges, stemming from the intensely political nature of security and justice provision, and the 'do no harm' dilemmas that donors face when engaging with security and justice actors (Domingo and Denney, 2012). Therefore, a supplementary investigation into the feasibility of applying lessons on working politically from other development sectors could also be useful. The application of political economy analysis (PEA) is one example; thus far, discussions in the security and justice sphere have rarely drawn on wider experiences of the use of PEA.

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Conclusion

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This paper explores and unpacks the political nature of security and justice provision and of security and justice programming by donors. It finds widespread consensus on the inherently political and contested nature of security and justice provision. Moreover, security and justice programming is acknowledged as being an explicitly political, ambitious and transformational endeavor. Therefore, the key argument advanced by this paper is that when providing assistance in this sector, donors are engaging with the fundamentally political nature of the state.

Key findings

- **Security and justice are core functions of the state, central to state-society relations, and are deeply political and contested.**
- **The provision of security and justice is multi-layered.** The relationships, linkages and tensions between different actors operating at different levels are key to understanding the nature of politics and power in security and justice provision.
- **The nature and control of decision-making processes can determine the responsiveness of provision to the needs of citizens.** In many fragile and conflict-affected states, nepotism, patronage and corruption tend to exclude segments of the population, and hinder inclusive decision-making
- Despite acknowledging the importance of a politically nuanced approach to programming, **donor assistance remains overly technical and state-centric.** This is widely referred to as the 'policy-practice gap'.

The policy, practitioner and academic literature proposes numerous principles and approaches towards enabling donors to work politically. These revolve around the ways in which donors can manage the tensions between the interests of political elites and citizens, and ensure that the political dynamics of recipient countries can be better integrated into policy and programme design. Proposed approaches include:

- **Engaging with elites in a negotiated partnership.**
- **Understanding the context** and acknowledging local realities and power relations.
- **Negotiating the politics of legal pluralism**, ensuring that support for state and non-state actors are linked.
- **Ensuring that practitioners have competencies for working politically.**
- **Ensuring that assistance is realistic, pragmatic and flexible.**
- **Ensuring robust programme design, monitoring and evaluation.**

It is interesting to note, though, that principles such as 'understanding the context', and 'realistic, pragmatic and flexible approaches' have been espoused for some time in successive policy and academic documents, and yet donor approaches remain overly technical and insufficiently political.

This raises questions as to whether there are more fundamental factors that prevent donors from working politically in the area of security and justice. Is it possible for donors to reconcile the political and normative objectives of security and justice programming with local norms and traditions? To what extent can donors allow local actors to own the process, especially in complex environments characterised by unstable politics, corruption and violence (Marquette, 2012)? These are incredibly difficult and complex tensions that donors have yet to come to grips with. Furthermore, does the liberal political and statist nature of donors and development agencies allow them to effectively engage with the multi-layered politics of recipient countries?

Evidence gaps

These problems are compounded by the fact that the evidence base for security and justice programming is weak and normative, presenting recommendations with little empirical evidence about what works. The review of literature highlighted specific evidence gaps on:

- The role of leadership.
- Evaluations of donor engagement with legal pluralism and multiple actors.
- How security and justice programming can coordinate with other areas of development assistance.
- How security and justice programming can learn from approaches to working politically in other development sectors.

Donors accept that changes are required in their approaches to programming. For example. the World Bank and European Commission both recognise the need to improve the design, monitoring and evaluation of security and justice programmes, and to adopt flexible and strategic approaches that respond to the needs of the poor and that reflect local realities (WB, 2012; EC, 2011). However, whether donors can respond to the lessons learned from previous programming and apply a more political approach is not yet clear.

References

Agrast, M.D., Carlos Botero, J., Martinez, J., Ponce, A., & Pratt, C.S. (2013) *The World Justice Project: Rule of Law Index 2012-2013*. Washington D.C.: The World Justice Project.

Albrecht, P. & Kyed, H.M. (2010) *Justice and security – when the state isn't the main provider.* DIIS Policy Brief, December 2010. Copenhagen: Danish Institute for International Studies.

Albrecht, P. & Kyed, H.M. (2011) Introduction: Non-state and Customary Actors in Development Programs. In P. Albrecht, H. M. Kyed, D. Isser & E. Harper (Eds.) *Perspectives on Involving Non-State and Customary Actors in Justice and Security Reform*. Rome: International Development Law Organisation / Danish Institute for International Studies.

AusAID. (2011) *Effective Governance: Thematic Strategy November 2011.* Canberra: Australian Agency for International Development.

AusAID. (2012) *Building on Local Strengths: Evaluation of Australian Law and Justice Assistance*. Canberra: Australian Agency for International Development.

Baker. B., & Scheye, E. (2007) 'Multi-layered justice and security delivery in post-conflict and fragile states', *Conflict, Security & Development, 7:4*, 503-528.

Baker, B. (2010) 'Linking State and Non-State Security and Justice', *Development Policy Review*, 28:5, 597-616.

Bakrania, S. (2014). *Security, Safety and Justice: Topic guide*. Birmingham, UK: GSDRC, University of Birmingham.

Ball, N. (2010) The Evolution of the

Security Sector Reform Agenda. In M. Sedra (Ed.), *The Future of Security Sector Reform*. Ontario: The Centre for International Governance Innovation.

Bearne, S., Oliker, O., O'Brien, K. A., & Rathmell, A. (2005) *National Decision-Making Structures and Security Sector Reform*. Cambridge: RAND Corporation.

Berg, LA. (2012) 'Guns, Laws and Politics: The Political Foundations of Rule of Law and Security Sector Reform', *Hague Journal on the Rule of Law*, 4, 4-30.

Born, H., Fluri, P., & Johnsson, A. B. (2003) *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*. Geneva: DCAF.

Corlazzoli, V., & White, J. (2013a) *Practical Approaches to Theories of Change in Conflict, Security and Justice Programmes: Part 2: Using Theories of Change in Monitoring and Evaluation*. London: DFID / Search for Common Ground.

Chopra, T., & Isser, D. (2011) 'Women's Access to Justice, Legal Pluralism and Fragile States'. In P. Albrecht, H. M. Kyed, D. Isser & E. Harper (Eds.) *Perspectives on Involving Non-State and Customary Actors in Justice and Security Reform*. Rome: International Development Law Organisation / Danish Institute for International Studies.

Cox, M. (2008) *Security and Justice: Measuring the development returns.* London: Agulhas.

CSDG. (2008) *State Responsiveness to Public Security Needs: The Politics of Security Decision-Making: A Comparative Study of Nigeria, Sri Lanka and Uganda*. CSDG Papers No. 11. London: Conflict, Security and Development Group, King's College London.

Denney, L. (2013a) *Consulting the evidence: How conflict and violence can best be included in the post-2015 development agenda*. London: ODI.

Denney, L. (2013b) 'Liberal Chiefs or Illiberal Development? The Challenge of Engaging Chiefs in DFID's Security Sector Reform Programme in Sierra Leone', *Development Policy Review*, 31:1, 5-25.

Denney, L. & Domingo, P. (2013) *A problem-focussed approach to violence against women: the political-economy of justice and security programming.* London: ODI.

Derks, M. (2012) *Improving security and justice through local/non-state actors: The challenges of donor support to local/non-state security and justice providers*.

Desai, D., Isser, D., & Woolcock, M. (2011) 'Rethinking Justice Reform in Fragile and Conflict-Affected States: The Capacity of Development Agencies and Lessons from Liberia and Afghanistan'. In H. Cissé, D.D. Bradlow, & B. Kingsbury (Eds.) *The World Bank Legal Review Volume 3: International Financial Institutions and Global Legal Governance*. Washington D.C.: The World Bank.

Domingo, P. & Denney, L. (2012) *The politics of practice: security and justice programming in FCAS*. London: ODI.

Donais, T. (2008) Understanding Local Ownership in Security Sector Reform. In T. Donais (Ed.) *Local Ownership and Security Sector Reform*. DCAF Yearbook 2008. Geneva: Lit Verlag.

Donais, T. (2009) 'Inclusion or Exclusion? Local Ownership and Security Sector Reform', *Studies in Social Justice*, 3:1, 117-131.

Downes, M., & Muggah, R. (2010) 'Breathing Room: Interim Stabilization and Security Sector Reform in the Post-War Period', in M. Sedra (Ed.), *The Future of Security Sector Reform*. Ontario: The Centre for International Governance Innovation.

DFID (2007) *Explanatory Note on Security and Access to Justice for the Poor*. DFID Briefing April 2007. London: DFID.

DFID (2010) *Working Effectively in Conflict-affected and Fragile Situations - Briefing Paper C: Links between Politics, Security and Development*. DFID Briefing. London: DFID.

EC (2011) *Thematic Evaluation of the European Commission Support to Justice and Security Sector Reform*. Brussels: European Commission.

Egnell, R., & Haldén, P. (2009) Laudable, ahistorical and overambitious: security sector reform meets state formation theory. *Conflict, Security & Development*, 9 (1), 27-54.

EU (2003) *European Security Strategy: A Secure Europe in a Better World*. Brussels: European Union.

Evans, D., Goddard, M., & Paterson, D. (2011) *The Hybrid Courts of Melanesia: A Comparative Analysis of Village Courts of Papua New Guinea, Island Courts of Vanuatu and Local Courts of the Solomon Islands*. Justice and Development Working Paper Series. Washington D.C.: The World Bank.

Forsyth, M. (2011) Spinning a Conflict Management Web in Vanuatu: Creating and Strengthening Links between State and Non-State Legal Institutions. *Journal of Legal Pluralism and Unofficial Law*, 63, 179-205.

Galletti, N., & Wodzicki, M. (2011) 'Securing Human Rights: Shifting the Security Sector Reform Paradigm,' in M. Sedra (Ed.), *The Future of Security Sector Reform*. Ontario: The Centre for International Governance Innovation.

GFN-SSR (2010) *Mapping of Southern Security and Justice Civil Society Organisations and Networks*. Birmingham: Global Facilitation Network for Security Sector Reform, University of Birmingham.

Giustozzi, A. (2008) 'Shadow Ownership and SSR in Afghanistan', in T. Donais (Ed.) *Local Ownership and Security Sector Reform*. DCAF Yearbook 2008. Geneva: Lit Verlag.

Hansen, A.S., & Wiharta, S. (2007) *The Transition to a Just Order: Establishing Local Ownership after Conflict – A Policy Report*. Stockholm: Folke Bernadotte Academy.

Harborn, B., & Sage, C. (2010) *World Development Report 2011 Background Paper: Security and Justice Overview*. Washington D.C.: The World Bank.

Hendrickson, D. (2008) *State Responsiveness to Public Security Needs: The Politics of Security Decision-Making – Synthesis of Findings and Implications for UK SSR Policy*. CSDG Papers No. 12. London: Conflict Security and Development Group, King's College London.

HMG (2011) *Building Stability Overseas Strategy*. London: UK Government.

Jackson, P. & Albrecht, P. (2010) Conclusions, Issues and Themes from the Sierra Leone Security Sector Transformation Process. In P. Jackson & P. Albrecht (Eds.), *Security sector reform in Sierra Leone 1997-2007: Views from the front line*. Geneva: DCAF.

Jackson, P. (2011a) 'Security Sector Reform and State Building', *Third World Quarterly*, 32:10, 1803-1822.

Jackson, P. (2011b) 'Decentralised Power and Traditional Authorities: How Power Determines Access to Justice in Sierra Leone', *Journal of Legal Pluralism and Unofficial Law*, 63, 207-230.

Kyed, H.M. (2009) 'The Politics of Legal Pluralism: State Policies on Legal Pluralism and their Local Dynamics in Mozambique', *Journal of Legal Pluralism and Unofficial Law*, 41:63, 87-120.

Kyed, H.M. (2011) 'Introduction to the Special Issue: Legal Pluralism and International Development Interventions,' *Journal of Legal Pluralism and Unofficial Law*, 63, 207-230.

Lubkemann, S., Isser, D., & Chapman, P. (2013) 'Neither State Nor Custom – Just Naked Power: The Consequences of Ideals-Oriented Rule of Law Policy-Making in Liberia,' *Journal of Legal Pluralism and Unofficial Law*, 43:63, 73-109.

Marquette, H. (2012) 'Donors, State-building and Corruption: Lessons from Afghanistan and the Implications for Aid Policy', *Third World Quarterly*, 32:10, 1871-1890.

Martin, A., & Wilson, P. (2008) 'Security Sector Evolution: Which Locals? Ownership of What?' in T. Donais (Ed.) *Local Ownership and Security Sector Reform*. DCAF Yearbook 2008. Geneva: Lit Verlag.

Mobekk, E. (2011) 'Security Sector Reform and the Challenges of Ownership', in M. Sedra (Ed.) T*he Future of Security Sector Reform*. Ontario: The Centre for International Governance Innovation.

Narayan, D., Chambers, R., Shah, M.K. & Petesch, P. (2000) *Voices of the Poor: Crying Out for Change*. Washington D.C.: The World Bank.

Nathan, L. (2007) *No Ownership, No Commitment: A Guide to Local Ownership of Security Sector Reform*. Birmingham: Global Facilitation Network for Security Sector Reform, University of Birmingham.

Nielsen, M.L. (2011) 'From Practice to Policy and Back: Emerging Lessons from Working with Community-Based Justice Mechanisms in Helmand, Afghanistan', in P. Albrecht, H. M. Kyed, D. Isser & E. Harper (Eds.), *Perspectives on Involving Non-State and Customary Actors in Justice and Security Reform*. Rome: International Development Law Organisation / Danish Institute for International Studies.

OECD-DAC (2007a) *Handbook on Security System Reform: Supporting Security and Justice*. Paris: OECD

OECD-DAC (2007b) *Enhancing the Delivery of Justice and Security*. Paris: OECD.

OECD (2010) *The State's Legitimacy in Fragile Situations: Unpacking Complexity*. Paris: OECD.

OECD-DAC (2011) *Supporting Statebuilding in Situations of Conflict and Fragility: Policy Guidance*. DAC Guidance and Reference Series. Paris: OECD.

OECD-DAC (2012) *Evaluating Peacebuilding Activities in Setting of Conflict and Fragility: Improving Learning for Results*. Paris: OECD.

Panarelli, L. (2010). *Local Ownership of Security Sector Reform*. USIP Peace brief No. 11. Washington D.C.: United States Institute of Peace.

Peake, G. (2009) 'A Lot of Talk But Not a Lot of Action: The Difficulty of Implementing SSR in Timor-Leste', in H. Born & A. Schnabel (Eds.), *Security Sector Reform in Challenging Environments*. Geneva: DCAF.

Roseveare, C. (2013) *Rule of law and international development*. London: DFID.

Sahin, S., & Feaver, D. (2013) 'The politics of security sector reform in 'fragile' or 'post-conflict' settings: a critical review of the experience in Timor-Leste,' *Democratization*, 20:6, 1056-1080.

Scheye, E. (2008) 'Unknotting Local Ownership Redux: Bringing Non-State/ Local Justice Networks Back,' in T. Donais (Ed.), *Local Ownership and Security Sector Reform*. DCAF Yearbook 2008. Geneva: Lit Verlag.

Scheye, E. (2009) *Rule of Law in Fragile and Conflict Affected Countries: Working within the Interstices and Interfaces*. Framing Paper Produced for the World Bank Headline Seminar on Rule of Law in Conflict-Affected and Fragile Situations. Washington D.C.: The World Bank.

Schnabel, A. (2009) 'Ideal Requirements versus Real Environments in Security Sector Reform', in H. Born & A. Schnabel (Eds.), *Security Sector Reform in Challenging Environments*. Geneva: DCAF.

Sedra, M. (2010a) 'Introduction: The Future of Security Sector Reform,' in M. Sedra (Ed.), *The Future of Security Sector Reform*. Ontario: The Centre for International Governance Innovation.

Sedra, M. (2010b) 'Towards Second Generation Security Sector Reform,' in M. Sedra (Ed.), *The Future of Security Sector Reform*. Ontario: The Centre for International Governance Innovation.

Sedra, M. (2013) 'The hollowing-out of the liberal peace project in Afghanistan: the case of security sector reform', *Central Asian Survey,* 32:3, 371-387.

Stein, D., & Valters, C. (2012) *Understanding Theory of Change in International Development.* London: The Justice and Security Research Programme, LSE.

Stewart, F. (2004) 'Development and security', *Conflict, Security and Development*, 4:3, 261-288.

SU (2014) *Policing the context: Principles and guidance to inform international policing assistance.*

UN (2012) Security Sector Reform: *Integrated Technical Guidance Notes*. New York: United Nations SSR Task Force.

UNDG (2013) *A Million Voices: The World We Want.* New York: United Nations Development Group.

UNGA (2008) *Securing peace and development: the role of the United Nations in supporting Security Sector Reform*. Report of the Secretary-General, A/62/659-S/2008/39. 23rd January. New York: United Nations General Assembly.

UNDP (2012) *Informal Justice Systems: Charting a course for human rights-based engagement.* New York: United Nations Development Programme.

Van Veen, E. & Derks, M. (2012) 'The Deaf, the Blind and the Politician: The Troubles of Justice and Security Interventions in Fragile States,' *Hague Journal on the Rule of Law,* 4, 76-97.

World Bank (2011) *World Development Report 2011: Conflict, Security and Development*. Washington D.C.: The World Bank.

World Bank (2012) *New Directions in Justice Reform*. Washington D.C.: The World Bank.

Zurstrassen, M. (2011) 'Village Justice in Indonesia: Defining the "State" and "Non-State" in Dispute Resolution Processes', in P. Albrecht, H. M. Kyed, D. Isser, & E. Harper (Eds.) *Perspectives on Involving Non-State and Customary Actors in Justice and Security Reform*. Rome: International Development Law Organisation / Danish Institute for International Studies.