

DEMOCRATIC INSTITUTIONS: GOVERNANCE AND CIVIL WAR

Workshop Report

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When there is upheaval and violence—civil war, state collapse, or regime transition—the international community's standard prescription for establishing security and just governance is democracy. Enormous amounts of attention and support from the United Nations, regional security organizations, major powers, and NGOs have gone into supporting steps towards democracy in post-conflict or post-authoritarian countries. Democracy aid is also used to apply pressure to regimes that are more or less stable but illiberal, partially on the grounds that in the long run this will prevent insurgency, violence, and repression.

The mixed results of these efforts have generated questions about the relationship between democratic institutions and security:

- Are attempts to create or consolidate democratic institutions likely to cause violence?
- Is the risk of violence acceptable when compared with the dangers of supporting a given autocracy?
- What kind of democracy is most likely to succeed in post-conflict situations?
- Can the transition to democracy be made safer?
- Where conflict has already broken out, what are the minimum security prerequisites and best strategies for creating democracy?

Unfortunately, the academic and policy literature on governance and conflict is often quite general on these questions, or fails to take into account the trade-offs policymakers will inevitably face when they are trying to support both stability and democracy.

In an attempt to address these issues, the Centre for Human Security at the Liu Institute for Global Issues at the University of British Columbia and the Centre for the Study of Civil War at the International Peace Research Institute, Oslo, hosted a conference in June 2004. The meeting focused on how security interacts with governance transitions, especially international efforts to promote liberal regimes. The participants included former and current officials of the UN, national governments, and NGOs, as well as researchers specializing in civil conflict, democratic institution design, human rights law, and international peace building; all attended the meeting

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in an unofficial capacity and are not identified here. This report summarizes the discussions that took place.

Can Democratization Cause Conflict?

Autocracies and democracies are not equally stable—fully consolidated democracies are the longest lived regimes, suffer the fewest internal conflicts, and tend not to become involved in international wars with each other. Thus it should not be surprising that democracy is an official goal of many internationally negotiated post-conflict processes and of much state aid to developing nations. Recently, such policies have been called into question by those who observe that nations in the midst of transition or those that have a regime that is neither fully autocratic nor democratic—here called an "anocracy"—are often prone to instability and violence.

Mansfield and Snyder (2004) have argued that the intermediate stages of regime transition put states at increased risk of international war. In the context of an incomplete transition and limited government capacity to maintain security and/or regulate mass democratic participation, national elections can sometimes give power to nationalists and populists who then lead the country into war. Hegre et al. (2001) find that both transition and anocracy are independent risks factors for civil war. Marshall and Gurr (2004) have similarly found that anocratic regimes are short lived and have a disproportionate number of "state failure" events. Attempting to add more nuance to our understanding of anocracy, Gates et al. (2004) have developed a model of regime type based on three aspects of liberal government (open executive recruitment, degree of executive constraints, and levels of popular participation). Their results confirm that the most stable regimes are those that are fully autocratic or fully democratic along all three of those scales.

Increasingly, there is evidence that security is difficult in countries that are neither fully autocratic nor fully democratic. This suggests an empirical paradox in light of global trends in democracy and warfare. There are currently more anocracies in the world than ever before. In the 1990s, regime type was decoupled from income, and for the first time since the end of World War II large numbers of nations in the lowest-income quintiles moved away from authoritarianism. These poor, mixed-type regimes should be at very high risk for civil war, and yet most conflict-monitoring projects (Eriksson, Wallensteen, & Sollenberg, 2003; Marshall & Gurr, 2004) have found that the number of armed conflicts has recently declined. Is this a temporary reprieve? Are there features of the international system that are helping to contain conflict, or did some of these transitions include features that promoted peace in what seemed to be high-risk nations?

Meeting participants were generally in agreement that pressures for democratization are usually internally generated and impossible to ignore. Even if preventing political evolution were desirable, it is not possible, and





so the practical question becomes how to *manage* the transformation of a government in order to minimize the chances of violence and increase the likelihood that a consolidated democracy will emerge. Empirically, most nations neither undergo smooth, incremental reform (Taiwan and Mexico are exceptions) nor survive as anocracies for a long period of time (Malaysia and South Africa provide counter cases). Instead, a number of nations have see-sawed back and forth between democracy, autocracy, and violent regime change—Guatemala, Argentina, Ghana, Pakistan, and Turkey all fit this pattern. In some cases, an early attempt with liberal government seems to pave the way for the ultimate consolidation of democracy; in others, frustration with democratic experiments made “too soon” seems to provide legitimacy to authoritarians and complicate future reforms.

Sequencing

Some scholars (Mansfield & Snyder, 2004; Zakaria, 2003) have argued that the key to stable political change is sequencing of political transformation, with an emphasis on building strong political institutions before moving towards mass democratic participation. It might be possible for governments to be accountable to the international community during a period of institution building, with elections to follow at a later date. Many of Western Europe's historical transitions to democracy involved delayed electoral participation, and a number of commentators have noted the problems of introducing mass participation without having strong institutions in place (Carothers, 1999; Dahl, 1970). There have been successful democratic transitions in several socialist countries, such as Bolivia, Bulgaria, Poland, and Mongolia, perhaps due to the development of political institutions under the one-party state when full participation was not allowed.

Of course, sequencing is no guarantee of success. Every element of democratic institutionalization seems to be a precondition for all the others. In the European context, the process involved (to name just a few factors) economic development, establishment of the rule of law, gradual elimination of corruption, development of political parties, implementation of free and fair elections, and the creation of an accountable state. Where are developing countries to start? As Carothers (2003) has pointed out, building strong institutions is no guarantee that movement towards democracy will ever follow, especially if foreign aid for state building is simply captured by those who keep the current regime in place.

Moreover, is a sequence that relies on delaying mass participation really tenable as a policy option? In the past, European states had two advantages here: low political awareness among large segments of the population and a strong state that could (and did) use force to repress demands for rapid policy transformation or immediate participation. Many governments today have weaker repressive capacities and face greater popular pressure to deliver effective policy and to submit to elections if they

fail to do so. Such pressures are probably impossible to resist given changing global norms, electronic media that has broadened access to information, and the fact that many countries have already experimented with democracy at least once.

Encouraging Participation

Perhaps in the current environment, especially in post-conflict situations, it is important to consider a sequencing process that includes holding elections relatively early on, while at the same time safeguarding security and strengthening state institutions. Some delay in elections while security and limited government capacities can be re-established is required in many post-conflict settings. Other modifications to participation deserve to be studied and debated. In much of the legal and human rights literature there is strong support for excluding anti-democratic parties from elections and suppressing hate speech—and putting procedural and evidentiary requirements in place for doing so. Independent electoral bodies seem to be very important in new democracies, and partisan commissions (as in Indonesia) appear to be generally less effective than independent commissions of civil servants (as in India).

As well as considering sequencing of political transformation generally, meeting participants discussed sequencing of local and national elections. In a number of post-conflict environments, holding lower-level elections before national elections seemed to help build participation and allow groups other than old elites and warring factions to mobilize. This contrasts with the argument that local elections galvanize regional identities and risk empowering regional separatists (Linz & Stepan, 1992). An Africanist at the meeting pointed out that many conflicts also have their genesis in local elections, which are key to controlling patronage and the benefits that follow, such as municipal jobs. Wilkinson (2000) has found that local electoral competition has had divergent impacts on intra-communal and caste violence in India. In fact, the impact of local elections did not seem to be uniform based on the cases discussed, suggesting a need to identify the key factors that determine whether local elections are helpful or harmful for security and democratic consolidation.

The Role of State Building

Meeting participants agreed that a democracy cannot consolidate if the rules agreed on through the political process cannot be enacted or enforced. State strength is widely cited in empirical literature on civil violence, but it is measured by proxies (e.g., infant mortality, GDP per capita, or literacy) that do not make it clear how to prioritize development and state-building aid according to distinct capacities, such as security, the legal system, support for economic activity, or social services.

Researchers examining the history of state formation have described state structures as "instruments of violence" that gain legitimacy by resisting the urge to expropriate wealth, instead using their power to protect the economic and social interests of citizens in exchange for taxes. Bates, Greif, and Singh (2002) have proposed a series of hypotheses about when states will choose to accept the bargain of security-for-revenue, suggesting that we should expect to see more state abuses if the regime has resources, such as oil or official development aid, which make it unnecessary to cultivate a relationship with the citizenry, or if the leaders do not expect to hold power for long.

Developing Institutions

Historically, the security-for-revenue relationship played a significant role in driving the transformation of political institutions in Europe. Government finance ministers cultivated the national tax base and state bureaucracy in order to fund external wars. This became a process of bargaining between the king and parliaments, with revenues being exchanged for political powers. Many believe this does not apply to today's international system (Clapham, 1996; Jackson, 1990; Migdal, 1988; Moore, 1998). External war is far less common than it was when the European states were coalescing. Some of the mechanisms of "survival of the fittest", such as redefinition of territorial boundaries, are seldom allowed to occur under the UN system. The few regimes concerned with developing the capacity to cope with external military threats, such as South Korea, Taiwan, Israel, and Brazil, have been the most successful in their state development projects. External intervention in civil wars, such as the French military's role in Africa, limits the degree to which internal war is a force of social transformation or redefinition of the state. Also, while Europe's historical wars at times produced development benefits—sn industrial base for building weapons or a logistical network for supplying troops—today's developing nations are unlikely to experience these benefits because they do not fight their wars with locally produced technologies or large standing armies.

This analysis has led to the observation that because few developing nations face a threat to their own survival the elite has no incentive to invest in state capacity or support broad-based economic development. This can lead to states that are rentiers living off natural resources, development aid, or other perks of sovereignty; states that are patronage machines in which politicians do little more than jockey for access to those perks; or states that allow outright state predation. But a more optimistic perspective would point out that with international actors taking care of most of the security threats to small states, regimes can and should be expected to pursue state formation as a process of developing political and legal institutions.



What Kind of Democracy I: Central Government Design

Wantchekon (2004) posits that post-civil war democracy is an arbitration mechanism for resolving conflict among warring factions. This makes it somewhat different from post-authoritarian state democracy because the focus on establishing new rights and broader representation is eclipsed by attention to transforming violent competition for power into civilized competition for electoral office. In both transitional and post-conflict settings, however, democracy will only consolidate if it is not aborted by those with military power. For example, Wantchekon's empirical work demonstrates that post-civil war democracy is more likely after military victory or in the presence of external security guarantees. The proportion of government to opposition seats after the first elections also seems to be positively related to democracy, perhaps because when powerful parties win elections they are able to consolidate their de facto military control of the state.

In light of the need to pay special attention to security and the military balance of power in transitional and post-conflict situations, there has been an intense academic debate on the best kind of democratic institutions for such societies. One area of concern has been electoral systems. The two models that have received most academic attention are *consociational solutions* and *reciprocal dependence* models, while nationwide *proportional representation* has been the system implemented by almost all UN-led post-conflict missions.

Consociational Solutions

The consociational solutions model seeks to guarantee all social groups a place in government and requires a compromise between representatives from all or most factions before policy can be enacted (Lijphart, 1977; Sisk, 1996). Switzerland and Lebanon are well-known examples of this system. One specific form of consociationalism is the enactment of ethnic quotas for political representation. Used in a variety of nations, including Belgium, Cyprus, Fiji, India, Iran, and Jordan, these ethnic quota systems may resemble "grand coalition" solutions that draw set numbers of representatives from the factions in a fragmented society, as in Bosnia and Herzegovina, or require that a number of seats be set aside in a legislature otherwise split along non-ethnic lines, as in New Zealand. Most ethnic quotas designed for post-conflict situations are of the former type.

Consociationalism depends on the existence of elites willing to work together in a coalition and to act in the best interests of the groups they represent, conditions that may not hold in polarized societies. Consociationalism is also often faulted for solidifying social divisions by granting them permanent importance. And by cementing social fractionalization, consociationalism may guarantee elites relatively wide latitude as the only available representatives for their constituents. Because the voters will not (or legally cannot) cross ethnic lines, they are unable to

effectively check their leaders. Features in the design of consociationalism may make a key difference. For example, closed ethnic voting rolls and gerrymandering will tend to cement ethnic voting, while having multiple houses in the legislature and mechanisms for constitutional change may allow movement away from polarized voting. A concern with this is that ethnic quotas are hardly ever rolled back once granted—India's "temporary" set-aside seats for scheduled castes and tribes have been renewed for more than 50 years. In many cases, proportional representation may be a less convoluted and more flexible route to power sharing, with ethnic quotas more useful for the protection of tiny minorities.

Reciprocal Dependence

By contrast with consociational solutions, reciprocal dependence tries to give parties incentives to compete across social divisions. Incentives can be built into electoral systems to force candidates to gain support across regions or ethnic groups, or to encourage parties to pool their votes or strike bargains and run cooperatively (Horowitz, 1985; Horowitz, 1991). Another option is an electoral system that uses preferential ballots that allow voters to rank their choices among all candidates—variations include the alternative vote seen in Papua New Guinea and the single transferable vote used in Northern Ireland (Reilly, 2002). The stumbling block for this system is that it is often logistically complex, and by leaving power sharing likely rather than guaranteed it may not provide sufficient assurance of security and incentive for all groups to join the electoral process.

Proportional Representation

In practice, it is nationwide proportional representation that is most often implemented in post-conflict societies, in part because that system can be implemented with one ballot, no districts, no census, and little administrative capacity. However, given that post-conflict interventions now normally delay elections for at least a short period, it may be beneficial to use that time to design more sophisticated electoral systems. A major problem with nationwide proportional voting is that none of the representatives are directly responsible to local constituents. Power sharing between factions does not guarantee that the citizens within those factions have a way to hold at-large representatives accountable for local service delivery. Thus these systems do more to pacify activists interested in balancing national interests than to serve unmobilized populations, especially from poor or rural areas, dependent on basic public goods.

Parliamentary versus Presidential Government

In addition to deciding on an electoral system, new democracies must choose how to distribute power among government institutions, with the most common options being various forms of parliamentary and presidential government. Strøm, Mueller, and Bergman (2003) have written on some of



the trade-offs such choices present. A key feature of parliamentary systems (in their pure form) that contrasts with presidential, federal, or mixed-type parliamentary governments is the single chain of delegation and accountability that runs between the voter, the majority party, the prime minister, and each cabinet minister. In contrast, other systems rely on multiple or competing chains of delegation. For example, department secretaries in the United States answer to congressional committees as well as to the White House, and bills can be proposed in both houses of the legislature rather than coming primarily from the prime minister's cabinet.

A pure parliamentary system will thus have the ability to undertake swift, decisive action. Its weakness will be that ministers and executives are quite powerful, making them susceptible to corruption and allowing them to implement extreme policies. The cabinet has, in theory, an automatic parliamentary majority for any of its proposals, and the only choice left to the legislature is that between the government's plan and the status quo. If the status quo is extremely unattractive, the prime minister may be able to force through radical measures. For example, in the post-partition Czech Republic, drastic economic liberalization was rapidly pushed through the legislature. When a government is in power, there are relatively few competing institutions, although national parliamentary elections do eventually give voters a chance to oust the government. But if the opposition parties are weak or dominated by a radical fringe, then even national elections may not provide much of a check. This is especially true where non-core policy areas are concerned—for example, a government that delivers relatively good economic growth may be granted wide latitude to limit minority rights.

In developed parliamentary democracies, these problems of accountability are usually curbed by a strong party system. A powerful opposition party functions as a watchdog, and internal government party discipline limits corruption, laziness, and policy extremism in order to ensure long-term electoral fortunes and ideological coherence. And, in part because political parties are weakening in many countries, parliamentary systems are increasingly adopting non-Westminster features, such as a bicameral legislature, independent ombudsmen, or regional decentralization.

Efficiency versus Accountability

The trade-offs between efficiency in a parliamentary system and accountability in a mixed-type or presidential system will loom large for new democracies or post-conflict societies. Endless bargaining and obstructionism will be fatal to democratic consolidation. But at the same time, given that such societies probably have no strong parties to curb abuse of office or provide ideological discipline, institutional design will have to provide voters with real chances to discipline their leaders. The aid community is also increasingly interested in working with political parties, although programs have tended to focus on groups that already look like

political parties, such as pro-democracy advocacy organizations or the political wings of military organizations. This overlooks the fact that most Western political parties originated in other types of civil society bodies, such as unions and farmers' organizations.

Considering these trade-offs, meeting participants speculated on whether certain features of parliamentary government, like certain features of consociationalism designed to induce factions' compliance with the new regime, could be changed between inaugural and subsequent elections. For example, sunset clauses were provided for certain features of consociational government in post-conflict South Africa. Clearly, factions' expectations about their fortunes under democratic competition must be allowed to influence the design of political institutions. It is always necessary to strike a balance between good institutional design and the concessions required to induce cooperation from those with the power to disrupt democracy. For example, in civil-war-era El Salvador the government expected that it would lose the first free elections, but was committed to allowing them to occur. The system negotiated was fairly representative and balanced, with significant powers being granted to the opposition in part because of these expectations (Wantchekon, 2004). In another example, both RENAMO and the FRELIMO government in Mozambique resisted international pressure to create a government with broad power sharing because each party was convinced it would win the inaugural elections (Stedman, 1997).

Meeting participants concluded that there are two tools for overcoming the trade-offs between concessions to peace and design of sustainable democratic institutions. First, strong external security guarantees are needed to limit the power of those with military weight to demand concessions. Second, flexible or time-limited institutions should be designed to induce peace while looking towards a sustainable democratic future.

What Kind of Democracy II: Federalism and Ethnic Autonomy

In addition to considering the design of institutions at the centre of democracy, there is considerable policy and academic interest in whether federalism, decentralization, and partial autonomy arrangements are beneficial or harmful for societies prone to conflict. On the one hand, Nigeria suffers from significant ethnic violence, but many suggest that state federalism has kept that violence from becoming even worse. On the other hand, Yugoslavia's civil war has been described as beginning with the devolution of important powers to the states.

Origins of Federalism

Federalism (in less or more extreme forms) is usually studied as a prescription that may aggravate or ameliorate conflict. In reality, these institutions are often either legacies of colonialism that have become difficult



to reverse or are necessary concessions to a difficult fit between boundaries, demography, and power. For example, federalism may or may not be desirable for Iraq in the long term, but it seems almost inevitable that it will be embedded in the first constitution, given that the Kurds (and other groups) have both military capacity and an unwillingness to see their local autonomy curtailed. In general, a key to discussing federal institutions is the question of which features are needed to maintain democracy (or the bargain between regional and national elites), and which can be manipulated to improve democratic outcomes and stability.

In most countries, federalism is a product of ethnic heterogeneity and is almost always based on recognizing (and in some cases continually renegotiating) salient social divisions. These arrangements have the benefit of protecting minorities and allowing divergent policies on culturally sensitive topics, such as family law. They are criticized on the grounds that in the long run they reinforce and perhaps even freeze social cleavages by adding political importance to customary power arrangements. Federalism may thus set the stage for secessionism, especially in the presence of unevenly distributed wealth or natural resources. Finally, federalism can tend to ignore local diversity and migration. An enclave may use powers intended for protecting itself from the centre to discriminate against local minorities or new arrivals.

Federalism has positive features as well. Decentralization or federalism may be the best way to diffuse power beyond both national and local political elites to civil society and micro-level economic and community interests. Federal systems multiply the number of points at which citizens can influence policymakers and on which politicians compete, and may thus offer greater checks on corruption and extremism. Federal units also offer opportunities for policy experimentation. This can lead to local breakthroughs and policies that may be replicable elsewhere, but can also create controversy over whether the centre can or should transfer economic gains to other areas. For example, secessionism in Indonesia has tended to occur in relatively wealthy areas that have been disadvantaged by national redistribution programs (Tadjoeddin, 2003).

Kinds of Federalism

Determining the positive or negative role of federalism in a given context is complex. One of the factors that will determine the effects of federalism is the structure of the political party system. Parties in a federal system compete in many arenas—the result may be parties that moderate their appeals to compete at various levels, splinter parties that exist only in enclaves, and parties that participate in a variety of coalitions. For example, Indian federalism has taken different forms in part due to changes in the party system. Under Congress Party dominance, subnational leaders were disciplined through the informal dynamics of the party machine, while the era of multi-party competition in India has been marked by disconnects

between national and state parties. This has meant greater concessions to local government. It has also meant that some state parties have formulated platforms based on local patronage or identities and won legitimacy for these issues at the national level because of their role in coalition formation.

Meeting participants discussed whether it was possible to build latitude for reform or renegotiation into centre-regional relationships. In most cases, of course, it is difficult to redistribute powers once they are assigned, and it may be more practical to pay closer attention to the design of the original institutions. Participants also noted that territorial federalism is normally preferred to purely ethnic federalism. Rules for coalition formulation may tend to reward broad-based or splinter parties. Features of voting systems, such as set-aside seats for women or the impoverished, may tend to force parties to moderate their appeals to compete across multiple constituencies.

Establishing Security in a Transitional State

In a post-conflict or transitional situation, security will ultimately depend on transforming or disbanding armed factions and encouraging elites to enter non-violent competition for power. Of course, factions are often unwilling to disarm unilaterally while trusting other groups to do the same. Thus if voluntary disarmament is to succeed, regional or international forces may need to provide guarantees of security for ex-combatants and support for the implementation of a peace process. Disarmament is especially challenging if only one party to the conflict is expected to disarm completely: a rebel group's sole bargaining tool is the threat of violence if negotiations break down or the government reneges on promised concessions, and such a group can be expected to be extremely wary of promises of a non-violent role in the political process. Nonetheless, factions in a state moving towards post-war democracy must be disarmed in order to limit the ability of elites or splinter groups to challenge the outcome of the liberal political processes they have been induced to enter.

Perhaps even more important, transformation of armed factions is necessary to make the peace a meaningful one by ensuring that ex-combatants do not simply move from war to full-time banditry and criminal violence. The demobilization that provides macro-level security by taking armies away from elites can also cause micro-level insecurity by creating local crime and violence. This is especially true when elites are willing to enter into peace deals that ignore the social and economic needs of their followers. For example, the peace agreements that ended civil war in Zimbabwe ignored the issue of land redistribution, leaving many veterans destitute and vulnerable to political manipulation and incitement to violence.

Security and rule of law thus require effective demobilization, disarmament, reintegration, and repatriation (DDRR) of ex-combatants, the formation of a busy and apolitical military, the establishment of an effective police and judicial system, and a psychological transformation that comes only when

the maintenance of security convinces citizens that the peace will last. For example, in 2003 rumours of a coup spurred panicked migration out of Freetown in Sierra Leone, even though it was later proven there had never been any military threat. Thus there are phases in creating security:

- stabilization to address the war violence itself
- consolidation of peace and the implementation of effective rule of law
- capitalizing on the foregoing period of security in order to build confidence

Encouraging Reintegration

Several meeting participants suggested we should be increasingly skeptical of the centrality of disarmament to DDRR. Given the accessibility of the international arms market, the weapons supply may be inexhaustible. Disarmament is at best a political ritual aimed at confidence building. It is reintegration, which gets the least policymaker attention, and the creation of effective policing (Perito, 2003) that are ultimately most important to ensuring the welfare of citizens. Until recently, the post-conflict state was expected to fund reintegration, perhaps because it is not a natural role for the outside military experts who handle disarmament and demobilization. However, this not only guarantees that there will be insufficient resources for reintegration, it also ignores the international character of a number of recent civil wars that have drawn mercenaries, militias, and militaries from neighbouring states into the fray. In such cases, programs for repatriation and regionally coordinated reintegration require outside support.

Despite the fact that in the literature on DDRR there is a fair amount of consensus on broad recommendations such as these, DDRR is still often implemented using methods known to fail. For example, in Liberia deadly riots broke out at a DDRR facility because of insufficient capacity at the camp, and in Iraq almost no weapons have been collected using predictably ineffective buy-back programs. In a variety of settings it has been observed that offers of jobs bring in more combatants than offers of money for weapons.

There has also been little attention paid to adapting methods for DDRR to situations in which warring factions are already devoting significant amounts of time to criminal economic activities or to banditry. Such soldiers have strong motives to continue their current activities and have already developed resources and strategies to survive without their leaders. This suggests the need for greater incentives to induce reintegration. For example, dividing cabinet ministries between factions may only induce new factions to form if the original leaders cannot deliver rents downstream. Also, in a conflict characterized by resource exploitation or banditry, it will be quite difficult to ascertain the degree to which leaders control their soldiers, or to gauge whether demands for political concessions are sincere or are merely a stalling tactic by those who profit from war. For example, Joseph

Savimbi argued that he had no control over UNITA, a claim belied by the rapid end to Angola's civil war after his death. But those claims had some plausibility during his lifetime because it was known that UNITA operated from a sparsely populated rural area and engaged in diamond extraction.

Promoting the Rule of Law

The incentives offered to elites and soldiers in order to create security are often at odds with the ideals of the rule of law. The first steps towards establishing peace, such as creating a power-sharing government, almost inevitably reward the perpetrators of violence. And yet sustainable security depends on establishing a system of criminal justice, and peace plans frequently call for processes of social reconciliation, recompense for victims, and the development of a full system of human rights protections. International policymakers have also been increasingly insistent on transitional justice and the prosecution of war criminals.

Some of these aspirations have been criticized on the grounds that they create too many trade-offs with security needs. Human rights advocates have been criticized for being unwilling to work with governments to develop such protections over time and instead insisting on a full complement of protections for citizens, even in environments of extremely limited capacity and rampant insecurity (Stedman, 2001, p. 17-18). Some research has suggested that the threat of post-conflict trials may induce leaders to cling to power and thus prolong war (Snyder & Vinjamuri, 2003). It has also been suggested that trials may be misinterpreted by rank-and-file soldiers who will avoid DDRR programs for fear of prosecution. Some conference participants disputed the lessons of several of the cases discussed. For example, does the Truth and Reconciliation Commission in South Africa illustrate the importance of publicly affirming human rights (Gibson, 2004), or does the commission illustrate the importance of providing generous amnesty provisions for those who have violated human rights?

Many rule-of-law ideals—such as enshrining civil liberties or reinventing an ethnically polarized society as a rationalist polity—are quite different from practical rule of law initiatives aimed at establishing a working police and judicial system. Aid for improving micro-level security often includes training programs for law enforcement officers, lawyers, and judges; provision of financial resources to legal institutions; and work with civil society groups such as bar associations. One meeting participant argued that it is the disconnect between the ideal of establishing the rule of law as the foundation for the state and the practical business of creating a working system to deal with more mundane matters of public order that has led to so much pessimism about rule of law initiatives. Others attributed this pessimism to rule of law programs that tend to privilege formal institutions, rely on Western models, and rarely recognize local mechanisms for maintaining public order or achieving reconciliation.



Seeing through Intervention and Institutional Design Lenses

Much of the research presented at the meeting focused on the consequences of different international interventions in transitional or post-conflict settings and the various institutional designs outsiders might wish to advocate in such places. The participants also discussed the biases inherent in this approach. Looking at societies through the lens of institutional design and external interventions may create the erroneous perception that institutions are perfectible and have the potential, if designed in precisely the correct configuration, to cure all social ills. The result is a "tool kit" mentality that proposes a prefabricated package of government structures (most looking rather Western, formal, and elite-driven) for every new democracy.

This critique has vulnerabilities of its own, of course—perhaps the most important being that it is difficult to recommend any practical alternatives to working through institutions and interventions. Ad hoc solutions based on international experiences in other transitions or conflicts are very crude, are primarily channeled through the conflicting parties, and ignore local knowledge. But the only alternative may be continued turmoil.

A number of meeting participants questioned whether, despite the oft-repeated mantra "use local capacities", it was really appropriate to assume that local institutions will be unproblematic in the future. In fact, some of these institutions may lie at the root of the violence and turmoil; in a society with divided traditions, local institutions may embody patterns of inter-group domination. Some traditional practices may no longer be workable in the post-war context because of changed local economies and social arrangements. And some of the institutions and reforms that a society will need, such as economic regulations or a central bank, are not going to be found in traditional law. In some instances this has led to proposals for divided systems, such as a separate court for traditional family law, which can create problems of jurisdiction and coherence at a later date.

One participant pointed out that many of the people who design and implement aid programs are aware of the limitations and biases of their approach; the barriers to overcoming limitations and biases are not those of perception but of bureaucratic and political constraints. For example, many cite Hezbollah as an example of the kind of civil society that Western agencies ignore, but most Western aid workers in the Middle East recognize Hezbollah's social role while being fully aware of the dictates of the organization's politicians at a higher level. A similar dynamic is at fault when the Secretary-General of the UN seems to underestimate the difficulty and size requirements of a peacekeeping mission out of concern that the Security Council will not approve a more generous request (Stedman, 2001, p. 14).

How to Use the Tools We Have

The meeting concluded with a discussion of the literature that has begun to ask whether the international community must become more selective in its interventions (Fearon & Laitin, 2004; Stedman, 2001). If the tools available for outside aid are relatively fixed—because of political and resource constraints, because of the need for local political will to create real social transformation, and because of the limitations on outsiders' knowledge—perhaps international actors should work only with those countries where aid will be effective. It is becoming clearer what constitutes a "hopeless" case for democracy or peace building based on past experience, but this does not resolve the moral dilemma of sidestepping similar situations in the future. Downs and Stedman (2002, p. 66) capture the difficulty well when they compare ignoring violence and repression in nations unlikely to benefit from international interventions to a hospital turning away cancer patients in favour of those in need of orthopedic operations. They note, "where the probability of success is virtually nonexistent, there is no more to be gained by ignoring these facts in the context of peace implementation than there is in the context of healthcare."

What the meeting as a whole made clear is that we are still learning how to use the tools we have for external security guarantees:

- aid for state building
- assistance with the design of political institutions
- support for DDRR rule of law and democratic processes

Each of these tools should be refined on the basis of research and policy analysis, paying explicit attention to the interaction between security and democratic institutions.

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