UNDP BACKGROUND PAPER
FOR WORKING GROUP DISCUSSIONS

Governance in Post-Conflict Situations

United Nations Development Programme
&
Chr. Michelsen Institute
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ABBREVIATIONS AND ACRONYMS

BDP	[UNDP] Bureau for Development Policy
BCPR	[UNDP] Bureau for Crisis Prevention and Recovery
CBO	Community-based organization
CMI	Chr. Michelsen Institute
CSO	Civil society organization
DDRRR	Disarmament, demobilization, repatriation, reintegration and resettlement
DPA	[UN] Department of Political Affairs
DPKO	[UN] Department of Peacekeeping Operations
EAD	[UN] Electoral Assistance Division
IDPs	Internally displaced persons
INGO	International non-governmental organization
LDF	Local Development Fund
MDGs	Millennium Development Goals
NGO	Non-governmental organization
OGC	[UNDP] Oslo Governance Center
PKF	[UN] Peace-keeping Force
SRSG	Special Representative of the [UN] Secretary-General
SSR	Security sector reform
UNCDF	United Nations Capital Development Fund
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization

INTRODUCTION

One of the most pressing challenges currently facing the international community is nurturing democratic governance in countries emerging from conflict. From Iraq and Afghanistan to Sierra Leone and Liberia, the United Nations and development partners are engaged in exigent endeavors to bring traumatized societies from the chasm of conflict to the path of sustainable development and the realization of the Millennium Development Goals (MDGs). Rebuilding governance institutions, promoting respect for human rights and the rule of law, and fostering participatory dialogue are critical in driving forward peace-building and nation-building processes. The fourth annual UNDP-Chr. Michelsen Institute Bergen Seminar[1] seeks to analyze these issues with the ultimate goal of producing a Practice Note[2] to assist practitioners to design and implement sustainable governance programmes.

Purpose and Structure of the Paper

This paper has been prepared for the 2004 UNDP-CMI Bergen Seminar on governance in post-conflict situations. The seven chapters contained herein serve as background papers for the working group discussions to be held at the Seminar. Taken together, they form the basis of a Practice Note that will be produced in the aftermath of the Seminar. This paper analyses post-conflict governance issues and programming entry points in seven major thematic areas, as follows:

    I.   Access to Information
   II.   Democratic Dialogue
  III.   Electoral Systems and Processes
  IV.   Parliamentary Development
   V.   Decentralized Governance
  VI.   Public Administration Reform
 VII.   Justice, Security and Human Rights

This paper is utilizing a three-pronged typology identified by the Chr. Michelsen Institute to analyze different post-conflict settings and proposing governance interventions, as follows:

    a. *Self-Enforcing Cases*, in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g., post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g., Timor-Leste and Eritrea).

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[1] The seminar will take place in Bergen, Norway from 5 to 7 May 2004.
[2] A UNDP Practice Note is a short, concise document, which articulates the corporate position on topics related to UNDP's Practice areas. These include topics related to Sub-Practices and a particular Practice's service lines. Based on both country experience on the one hand, and emerging global policy trends on the other, they aim to synthesize UNDP's cutting edge thinking on an issue in user-friendly language.

b. *Mediated Cases*, in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g., Cambodia and Mozambique).

c. *Conflictual Cases*, in which one side achieves a military victory *per se*, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g., Rwanda and Afghanistan).

Each chapter of this paper includes illustrative strategic entry points for programmatic interventions in the context of each of these three post-conflict settings.

Major Crosscutting Themes

The CMI Background Paper for the Bergen Seminar discusses a number of key crosscutting issues pertaining to governance interventions in post-conflict situations, including the pace, sequencing and portfolio mix of governance interventions, trust and reconciliation, and ownership. Two other major crosscutting considerations are addressed below: (i) coordination and the role of international organizations, and (ii) security environment.

Coordination and the Role of International Organizations

Coordination of governance-related initiatives is one of the major challenges in post-conflict settings. In terms of strategic considerations, nation-building programmes in the governance area pose the most problematic and controversial quandaries for external actors, particularly in the immediate aftermath of conflict: in many cases, "national ownership" rests with representatives of previously warring factions; in others, there is no readily discernible "leadership" with whom to partner. Moreover, different external actors often have varying strategic objectives and considerations when supporting governance-related initiatives: in some cases, development partners will disagree on the pace or type of democratic reforms being introduced; in others, hegemons or regional powers seek to actually influence the outcome of constitutional and electoral processes.

In terms of tactical considerations, coordination is often hampered by the sheer number of external players seeking to play a role in nation-building and peace-building processes: from embassies and bilateral agencies to large UN peacekeeping missions and numerous specialized UN agencies and from well-funded international NGOs to grassroots-level local CSOs, multiple actors seek to assist and shape post-conflict governance development. Recent nation-building exercises have shown that tactical – not to mention strategic – coordination has a long way to go before effective rationalization of programmes and projects is achieved. Often, various UN agencies and INGOs essentially "compete" for the same donor funds, which impacts programme and project design and formulation at the expense of local contextual

necessities. In many cases, there are considerable time lags between donor and agency pledges and the actual delivery of urgently needed reconstruction resources for governance structures. Finally, with many post-conflict governments unable to handle the reporting requirements of multiple donors and agencies, and many development agencies undertaking duplicative activities, the onus is on the international community to provide meaningful, institutionalized donor coordination in close collaboration with relevant local authorities.

Coordinated resource mobilization endeavors would go a long way in shoring up post-conflict governance-related interventions. Most such short-term interventions are currently funded on ad hoc, emergency bases by donors, UN agencies and peacekeeping missions, and NGOs, with minimal coordination and usually impromptu implementation. There is a pressing need for the creation of anticipatory post-conflict trust funds with clear management, implementation and reporting procedures: donors should be willing to keep such funds filled; development agencies, acknowledging their respective strengths and weaknesses, should be tasked with and be prepared to provide select execution services on short notice.[3] Donors and agencies need to agree upon a common and fully coordinated methodology for undertaking post-crisis needs assessments. Finally, there needs to be renewed commitment to streamlining the pledging and commitment processes to ensure that funds are mobilized in the crucial immediate aftermath of peace processes.

Security Environment

The current targeting of humanitarian, electoral and other aid workers in Afghanistan, Iraq and other locations – not to mention the devastating attack on the UN's headquarters in Baghdad in August 2003 – is emblematic of a very disturbing development in post-conflict situations. Aid and development workers can no longer rely on their organizations' international, neutral and/or non-governmental status as protection from acts of violence and aggression. In several post-crisis situations, armed factions see – and act upon – benefits to be gleaned by maintaining instability and insecurity. This has profound implications for humanitarian and development agencies' ability to provide urgently needed resources and services to recovering communities and governments, with terrible repercussions for the average citizen, not least vulnerable and disadvantaged groups such as refugees, IDPs, women and children.

Donor governments need to recognize the nexus between effective post-conflict assistance and a secure environment within which agencies and NGOs can operate. This consideration has enormous implications for the size and composition of peacekeeping forces, not to mention donor governments' willingness to contribute troops and resources to such peacekeeping missions.

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[3] UNDP Administrator Mark Malloch Brown called for the creation of such a standing multilateral fund in a 19 March 2004 op-ed article in the International Herald Tribune (http://www.iht.com).

CHAPTER I: ACCESS TO INFORMATION

1. Introduction to Access to Information in Post-Conflict Situations

Ensuring and enhancing Access to Information is critical in post-conflict settings. Communities' trust in, and access to, fair and unbiased information is vital in preventing the renewal of violence and fostering sustainable peace and development. Propagating information about peace processes and reconciliation, not to mention governance and services, is of utmost importance in immediate post-conflict settings. The devastation wrought by conflict often means that information dissemination is severely limited and flawed: physical infrastructure is destroyed or damaged, media outlets are dominated by partisan interests, and society as a whole is distrustful of information. Interventions to improve Access to Information can be daunting but are vital in strengthening democratic participation, rule of law, accountability and transparency.

2. Main Issues for Access to Information in Post-Conflict Situations

2.1   Enhancing Access to Information entails more than media development assistance. While there is no disputing the need to create unbiased and effective media outlets, including public broadcasters, interventions should also focus on civic education initiatives and fostering dialogue between national and regional governing structures and communities. Information must be permitted to flow freely between officials, citizens (including minorities and displaced people), civil society and the media. The exchange of information should permit all segments of society to express their opinions and to be fully informed of developments pertaining to the political process and reconstruction.

2.2   The reality of post-conflict societies is that communications infrastructure is poor. Many media outlets lack the equipment and infrastructure they need to broadcast much needed information to the general public. While the UN or other international organizations might provide interim broadcasting support, rebuilding the national communications infrastructure, as well as developing national capacities in a sustainable way, is imperative.

2.3   Special attention should be paid to marginalized and vulnerable groups and to help them gain access to media and other outlets that voice their concerns, e.g. through public service broadcasting, civic education initiatives, community media and other channels.

2.4   Post-conflict governments are oftentimes wary of independent media outlets, civil society organizations and the free exchange of information in general. Access to Information interventions need to take into account such sensitivity and stakeholders need to be persuaded of the benefits of enhanced information flow.

2.5   Overcoming society's and specific communities' mistrust of information is crucial. Conflict and its aftermath induce low levels of trust, no matter who the sources

and arbiters of information are. Distrust of information can also be compounded by substandard journalism on the part of fledgling media outlets, no matter how wholesome their intent. Additionally, the choice of language used to convey information in both national and regional contexts can play a role in delegitimizing information for certain communities.

2.6 It is not possible to prescribe a uniform approach to the formulation of Access to Information strategies in post-conflict environments. Context is paramount and the information landscape is complex. One way to deal with this complexity is to approach the situation with a three-pronged analysis: (i) a proper analysis of the post-conflict setting; (ii) analysis of the Access to Information 'landscape' itself; and (iii) decisions on opportunities for intervention in immediate post-conflict and longer-term post-conflict contexts. Assessing Access to Information needs of the various groups in society requires undertaking a situation analysis focused around more specific questions, such as:

- What are the literacy levels of men and women and what languages are commonly spoken and understood? Should special attention be paid to marginalized groups and minorities?
- What type of media is most widely used both nationally and locally? What is the prevalence of print versus broadcast media, for example?
- Is there a core of professional and experienced journalists, both nationally and regionally? To what extent are journalists socially responsible, neutral, and peace oriented?
- What kinds of media exist? Are they Government/State, local/community, and/or private? To what extent are these captured by partisan interests?
- Does public broadcasting exist or is broadcast media controlled by the state?
- What is the level of technical infrastructure in place to support print and broadcast media?
- What mechanisms and fora exist for local communities to express opinions and influence key decision making processes? Are these dominated by powerful interests?
- What is the existing legislative and regulatory framework for Access to information (for example, right to information legislation, freedom of expression and assembly provisions, etc.)?

2.7 Finally, lessons learned from large-scale media development interventions in Cambodia, Timor-Leste, Bosnia, Afghanistan, Mozambique and elsewhere point to the crucial importance of: having a strategic approach; avoiding importing models wholesale from other countries; and ensuring effective co-ordination of efforts. In particular, experience has underlined the serious lack of coordination in post-conflict support to Access to Information in terms of (i) planning the nature of the response, (ii) mobilizing resources, (iii) deepening institutional reform, (iv) coordinating local assistance, (v) improving communications between headquarters and the field, (vi) developing local capacities, and (vii) ensuring transparency and accountability in design and implementation of the strategy.

3. Entry Points for Access to Information in Post-Conflict Situations

The nature and sequencing of responses in an immediate post-conflict situation can be very different from what is required in strengthening Access to Information over the mid- to long-term. Differences in approach are also influenced by the nature of the conflict the country is emerging from, the type of society left after the war and the nature of the peace agreement. In *self-enforcing cases*[4], it may be that the development and implementation of institutional structures such as a public broadcasting system, media and right to information regimes and independent media outlets can progress more quickly. However, while the domestic political situation enables strategies to be realized more quickly, it may also create greater demands for co-ordination of activities. In *mediated cases*, even more attention needs to be given to ensuring that the foundations are built for an inclusive media that reflects a diversity of views. The establishment of public broadcasting, as opposed to state broadcasting, is of particular importance in this regard. In *conflictual cases*, the media can play a critical role in building tolerance between ethnically and religiously diverse groups. However, in Bosnia, Rwanda and other countries, experience has shown that the media can be an extremely destructive instrument in hardening and polarizing views, attitudes and perceptions. Monitoring of the media for content that incites violence or hate against certain groups in society is an important activity to support. So too are programmes that try to prevent mainstream media outlets from falling under the control or influence of groups with extremist ideologies and violent tendencies.

3.1 Immediate Post-Conflict Assistance

There are any number of different situations and contexts immediately following the cessation of open conflict that would determine Access to Information needs and responses. These include:

- The overall stability and security of the country and the presence of international peacekeepers;
- The humanitarian situation including the specific information needs of displaced populations and victimized minorities; the humanitarian-related information needs of such groups;
- The status of peace dialogue processes, and society's and communities' ownership in such processes;

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[4] This paper utilizes a three-pronged typology identified by CMI to analyze different post-conflict settings and proposing governance interventions, as follows:

(i) *Self-Enforcing Cases*, in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).

(ii) *Mediated Cases*, in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).

(iii) *Conflictual Cases*, in which one side achieves a military victory *per se*, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

- The existence of a legitimate authority and/or arrangements for interim power sharing; and
- The affect of the conflict on human resources capacities and the condition of physical infrastructure (in particular communications).

The following interventions could be undertaken within any of the three defined conflict scenarios:

3.1.1   Facilitating the dissemination of emergency humanitarian information; for example targeted information on where and how to obtain emergency relief (information on health, food, missing family members, shelter, etc.)

3.1.2   Facilitating accurate information about the security situation (e.g. when it is safe for displaced populations to head home).

3.1.3   Facilitating the dissemination of information pertaining to peace processes (with the goal of building public trust in such processes) and reconciliation and/or justice initiatives.

3.1.4   Providing radios and broadcasting equipment and setting up temporary radio production and transmission facilities for affected populations.

3.1.5   Supporting local and international media to disseminate balanced news and humanitarian information (in some cases international radio broadcasters such as the BBC, VOA and the UN have become important interim news/information providers).

3.1.6   Helping to establish mechanisms to monitor and analyse existing news content and information sources (e.g. monitoring for partisan or 'hate' media).

3.1.7   Providing training in objective reporting and specific training for humanitarian and peace-oriented programming and reporting.

3.2 Medium to Longer-Term Post-Conflict Support

Assuming that peace processes take hold and humanitarian crises are alleviated, support for Access to Information eventually assumes a longer-term, sustainable approach, with an emphasis on human resources capacity building and institutional strengthening. There are four main areas in which to focus Access to Information initiatives, as follows:

3.2.1   *Capacity development*. Key areas of support include:
- Strengthening journalistic professionalism through specific training activities with the goals of ensuring that the media is more socially responsible, contributes to peace-building by promoting tolerance, and is gender sensitive. This includes developing the competencies of journalists and managers within

the media to collect and present unbiased and reliable information and providing training in conflict management;

- Strengthening financial and personnel management within both state and independent media – developing the capacities of media outlets to sustain themselves through market enterprise rather than relying on state or partisan interests;
- Providing technical support and equipment to civil society organizations and the media;
- Supporting civic education initiatives that promote dialogue between authorities (including police and teachers), civil society and communities, with an emphasis on promoting freedom of expression and human rights; and
- Sensitizing and training legislators, officials and the judiciary in international standards and principles concerning freedom of speech, the media and right to information laws.

3.2.2   *Institutional development.* In many post-conflict situations, countries will need to design and build institutions that are specifically charged with regulating and overseeing the Access to Information sector. These include:

- The establishment of a public broadcasting system including the creation of an independent structure for allocating licenses and frequencies for broadcast and print media;
- An independent structure for enforcing and implementing a right of access to official information; and
- Development of independent and pluralist media outlets.

3.2.3   *Legal and regulatory frameworks.* There will often be a need to reform existing Access to Information laws (e.g. right to official information, defamation, libel, sedition, invasion of privacy, hate propaganda, whistle blowing, regulation of the print media and public broadcasting, etc.) so as to widen access and promote diversity of opinion. Broadcasting reform in particular (i.e. from state broadcasting to public broadcasting) is very important for promoting a pluralist information culture. The judiciary must be in a position to understand and implement any new frameworks, and citizens and the media should understand the new rights and obligations afforded by such reforms.

3.2.4   *Communication mechanisms for vulnerable groups.* It is imperative to strengthen communication mechanisms which permit vulnerable groups to participate effectively in reconstruction and reconciliation processes. For this to happen it is important to ensure that the information needs of these groups are not overlooked and that they have access to relevant media. Appropriate responses might include ensuring the allocation of broadcasting space to community radio and supporting focused civic education initiatives. An important entry point for this area of support is through community media such as community radio outlets. UNDP's support to media development in Mozambique has shown that community radio can be an effective mechanism for enabling vulnerable groups to communicate their views (www.mediamoz.com). In many post-conflict countries in the developing world, radio is the most widely used form of media.

Annex I: Illustrative Entry Points and Sequencing for Access to Information in Post-Conflict Situations

SELF-ENFORCING[5] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Institutional Development	- Coordinate the needs assessments being undertaken by the various IGOs, CSOs and donors - Facilitate a coordinated response to priority needs identified by needs assessment (for example, technical equipment destroyed by conflict) - Provide direct reconstruction support to state/public broadcasting organisations to ensure that essential information (e.g. regarding peace processes) reaches the public - Identify appropriate operational partners with the capacity to engage effectively on mid- to long-term initiatives	- Use established links with governments (including donors and relevant counterparts) to facilitate a comprehensive media support programme implemented and funded by partners - Coordinate efforts towards the establishment of a public broadcasting system (including an independent regulatory structure for license allocation) - Encourage broader enabling conditions for the media sector though cross-programming with other possible governance related activities (access to justice/HR/public administration) - Play a role in building partnerships between peace-building organizations, the media, communities and donors
Capacity Development	- Coordinate the needs assessments being undertaken and ensure that both the capacity needs of the authorities and the media (national and local) are given primacy	- Support training for journalists focused on objective quality reporting - Support training for media personnel on management (human resources and financial management) - Support for journalist self regulation and accountability (codes of conduct, press councils) - Support initiatives (training/workshops) that sensitize officials on the importance of freedom of information and the role of independent media in strengthening democracy.
Legal and regulatory framework	- Facilitate the establishment of an interim legal regulatory framework for the media and for public broadcasting	-Encourage a focus on the development of a comprehensive legal framework for Access to Information underpinned by open media laws and progressive right to information legislation - Support for drafting and adapting media laws and regulations in line with recognized international norms.
Communication Mechanisms for Vulnerable Groups	- Provide basic radios and broadcasting equipment for immediate broadcasting of humanitarian information - Facilitate access to and reach of appropriate media (specifically broadcasting infrastructure and equipment in rural/remote areas)	- Support civic education initiatives that encourage vulnerable groups to participate in key local and national decision making processes - Support development of appropriate community media

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[5] A *Self-Enforcing* Case is one in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).

MEDIATED[6] POST-CONFLICT SITUATIONS

Strategic Entry Point	Immediate Post-Conflict	Medium-Term
Reconstruction and Institutional Development	- Coordinate the needs assessments being undertaken by the various IGOs, CSOs and donors - Facilitate a coordinated response to priority needs identified by needs assessment (for example, technical equipment destroyed by conflict) - Provide direct reconstruction support to state/public broadcasting organisations to ensure that essential information (e.g. regarding peace processes) reaches the public - Identify appropriate operational partners with the capacity to engage effectively on mid- to long-term initiatives	- Use established links with governments (including donors and relevant counterparts) to facilitate a comprehensive media support programme implemented and funded by external partners - Coordinate efforts towards the establishment of a public broadcasting system (including an independent regulatory structure for license allocation) - Encourage broader enabling conditions for the media sector though cross-programming with other possible governance related activities (access to justice/HR/public administration) - Play a role in building partnerships between peace-building organizations, the media, communities and donors
Capacity Development	- Coordinate the needs assessments being undertaken and ensure that both the capacity needs of the authorities and the media (national and local) are given primacy - Support conflict resolution sensitizing and training for journalists - Support for programming speaking directly to conflict issues, shared effects of conflict, discussion of stereotypes, promotion of tolerance, reconciliation	- Development of local capacity for programming - training for journalists focused on objective quality reporting - Support training for media personnel on management (human resources and financial management) - Support initiatives (training/workshops) that sensitize officials on the importance of freedom of information and the role of independent media in strengthening democracy.
Legal and regulatory framework	- Foster dialogue on the establishment of an interim legal regulatory framework for the media and for public broadcasting	- Foster broad based dialogue on the development of a comprehensive legal framework for Access to Information underpinned by open media laws and progressive right to information legislation - Support for drafting and adapting media laws and regulations in line with recognized international norms.
Communication Mechanisms for Vulnerable Groups	-Provide basic radios and broadcasting equipment for immediate broadcasting of humanitarian information - Facilitate access to and reach of appropriate media (specifically broadcasting infrastructure and equipment in rural/remote areas)	-Support civic education initiatives using diverse communication channels appropriate to the local environment focused especially around peace building - Support development of appropriate community media

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[6] A *Mediated Case* is one in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).

CONFLICTUAL[7] POST-CONFLICT SITUATIONS

Strategic Entry Point	Immediate Post-Conflict	Medium-Term
Reconstruction and Institutional Development	- Coordinate the needs assessments being undertaken by the various IGOs, CSOs and donors - Facilitate a coordinated response to priority needs identified by needs assessment (for example, technical equipment destroyed by conflict) - Provide direct reconstruction support to state/public broadcasting organisations to ensure that essential information (e.g. regarding peace processes) reaches the public - Identify appropriate operational partners with the capacity to engage effectively on mid- to long-term initiatives	- Use established links with governments (including donors and relevant counterparts) to facilitate a comprehensive media support programme implemented and funded by external partners - Coordinate efforts towards the establishment of a public broadcasting system (including an independent regulatory structure for license allocation) - Encourage broader enabling conditions for the media sector though cross-programming with other possible governance related activities (access to justice/HR/public administration) - Play a role in building partnerships between peace-building organizations, the media, communities and donors
Capacity Development	- Coordinate the needs assessments being undertaken and ensure that both the capacity needs of the authorities and the media (national and local) are given primacy - Support conflict resolution sensitizing and training for journalists - Support for programming speaking directly to conflict issues, shared effects of conflict, discussion of stereotypes, promotion of tolerance, reconciliation	- Development of local capacity for programming - training for journalists focused on objective quality reporting - Support training for media personnel on management (human resources and financial management) - Support initiatives (training/workshops) that sensitize officials on the importance of freedom of information and the role of independent media in strengthening democracy.
Legal and regulatory framework	- Foster dialogue on the establishment of an interim legal regulatory framework for the media and for public broadcasting	- Foster broad based dialogue on the development of a comprehensive legal framework for Access to Information underpinned by open media laws and progressive right to information legislation - Support for drafting and adapting media laws and regulations in line with recognized international norms.
Communication Mechanisms for Vulnerable Groups	-- Support monitoring of existing media for programming that incites violence against particular groups ("hate media") - Provide basic radios and broadcasting equipment for immediate broadcasting of humanitarian information - Facilitate access to and reach of appropriate media (specifically broadcasting infrastructure and equipment in rural/remote areas)	-Support civic education initiatives using diverse communication channels appropriate to the local environment focused especially around peace building - Support development of appropriate community media

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[7] A *Conflictual Case* is one in which one side achieves a military victory per se, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

Annex II: Resources and Partners

Resources

An Operational Framework for Media and Peace-building, Ross Howard, Institute for Media, Policy and Civil Society (March 2002):
http://www.impacs.org/pdfs/framework_apr5.pdf

Working with the Media in Conflicts and Other Emergencies, DFID (August 2000):
http://www.reliefweb.int/library/documents/2002/dfid_media.pdf

Framework for Change: Transforming Iraq's Media Landscape (Report of the experts' plan for democratic media in Iraq, Athens (June 2003):
http://www.internews.fr/iraq_media_conference/030624_iraq_free_media_framework.pdf

Media and Peace-building: Workshop Report, Swiss Peace Foundation/KOFF (June 2002):
http://www.swisspeace.org/publications/wp/working%20paper_01_2002.pdf

International Media Assistance: A Review of Donor Activities and Lessons Learned, Ross Howard, Netherlands Institute of International Relations 'Clingendael' Conflict Research Unit (June 2003):
http://www.clingendael.nl/cru/project/publications/pdf/Working_Paper_19.pdf

Restructuring the Media in Post-Conflict Societies: Four Perspectives on the Experience of Intergovernmental and Non-Governmental Organizations, Monroe E. Price, Co-director, Programme in Comparative Media Law & Policy, Centre for Socio-Legal Studies, University of Oxford (May 2000):
http://www.cardozo.yu.edu/cojcr/final_site/articles_notes/vol2_an/price_OV.pdf

Principles on Freedom of Expression and Broadcast Regulation, Article 19 (2002)
http://www.article19.org/docimages/1289.htm

Access to Information Practice Note, Democratic Governance Group, Bureau for Development Policy, UNDP, New York (October 2003):
http://www.undp.org/policy/practicenotes.htm (in English, French, Spanish, Russian and Arabic)

Access to Information: UNDP's engagement and a guide to key actors, Oslo Governance Centre, Democratic Governance Group, Bureau for Development Policy, UNDP, Oslo (December 2003):
http://www.undp.org/oslocentre/docsdec03/Full%20guide%20-%20single%20paged.pdf

The News Media and the Transformation of Ethnopolitical Conflicts, Dusan Reljic (2001):
http://www.berghof-handbook.net/reljic/final.pdf

Partners

Key external actors providing post-conflict support to Access to Information include:

1. Implementing Organizations

- Article 19: http://www.article19.org

- BBC World Service Trust: http://www.bbc.co.uk/worldservice/trust/

- Fondation Hirondelle: http://www.hirondelle.org

- Institute of War and Peace Reporting: www.iwpr.net

- Internews: http://internews.org

- International Media Support: http://www.i-m-s.dk

- OCHA/IRIN: http://www.irinnews.org/aboutirin.asp

- Panos: http://www.panos.org.uk

- Reporters Without Borders: http://www.rsf.org

- Search for Common Ground: http://www.sfcg.org

- UNESCO: http://www.unesco.org

2. Foundations and Academic Institutions

- Netherlands Institute of International Relations 'Clingendael' Conflict Research Unit (CRU): http://www.clingendael.nl

- Swiss Peace Foundation/KOFF: http://www.swisspeace.org

- The European Institute for the Media: http://www.eim.org

CHAPTER II: DEMOCRATIC DIALOGUE

1. Introduction to Democratic Dialogue in Post-Conflict Situations

Democratic Dialogue describes public dialogue processes with three specific characteristics related to purpose, participants and the process. The *purpose* of democratic dialogue is to address complex problems that are not being adequately addressed by existing institutions; the *participants* in the processes represent a microcosm of the system that creates the problem; and finally, the *process* is both open and inclusive, allowing the building of the trust necessary to lead to agreements for concrete action.[8]

A key challenge of democratic dialogue is to use it to help strengthen democratic governance. In order to do this, a purpose of democratic dialogue should be to define its relationship with democratic institutions; the small group of participants should focus on connecting to the macrocosm it represents; and the process of democratic dialogue should aim towards results and creating a safe space for relationship and trust building.

As the experiences in Panama, Georgia or Argentina have demonstrated, democratic dialogue has been shown to help societies and governments to transform conflicts without resorting to violence. In this sense, it complements other approaches to conflict management, such as mediation, negotiation and conflict prevention. Democratic dialogue may also be used in any stage of the conflict cycle. It can also be categorized as one of the many democratic practices that favor transparency, public participation and inclusion.

2. Main Issues for Democratic Dialogue in Post-Conflict Situations

2.1   Choosing the appropriate *participants* is a major challenge. To a great extent, the legitimacy of the dialogue will rest on the perception that the conveners are committed to bringing all voices and opinions into the conversation. Among other considerations, conveners need to choose participants representing all relevant stakeholders and interests, balanced, for example, by geography, gender, class, religion and youth. Dealing with potential "spoilers" is also a delicate issue: a dialogue process may risk losing credibility if they are included but also faces risks if they are not. It is important to manage relationships with actors excluded from the dialogue, and to find formal and informal mechanisms to involve them.

2.2   To be successful, a democratic dialogue process must be convened in a way that guarantees its credibility and ensures the right participation. Humility and respect should be the characteristic of a *convener*. The identity and purpose of the convener will affect the message that the dialogue will convey. The way a democratic

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[8] Pruitt, Bettye, (2004). *Report on the Buenos Aires Workshop on Democratic Dialogue (1-3 December 2003)*, UNDP.

dialogue takes shape resembles the expanding circle of ripples created by throwing a stone into water. It begins with one or two passionate advocates and grows through a process of networking and enrollment.[9]

2.3   A central challenge is creating an *appropriate atmosphere* conducive to building trust and relationships. Taking participants to a neutral setting away from their daily pressures can help break down tensions between participants. Inviting neutral external actors/facilitators, trusted by all parties, can help create a favorable environment for dialogue.   The venue of the dialogue may have a symbolic importance which favors the process. The venue and logistics of the dialogue must avoid reflecting existing hierarchical arrangements and create conditions for mutual understanding and equal access to information. The rules governing the dialogue must be clear and reached by consensus. Additionally, participants should be able to share testimonies. The ultimate goal is to create a safe, open and inclusive space for participants.

2.4   Establishing a *time frame* is another concern. The democratic dialogue process should have a clearly established endpoint. To keep participants engaged throughout the process, they should be involved in talking about time in terms of stages and phases. It is useful to bear in mind that planned times will likely differ from actual times and there might be tension between timeframes and achieving the desired results.

2.5   Democratic dialogue is an instrument to improve or complement, rather than replace *existing democratic institutions*. A genuine and established democracy is the best way of assuring peace and managing conflicts within society. However, where the institutions of representative democracy are weak, democratic dialogue is a necessary complement to the formal structures and processes of government. It can provide a parallel process for consensus-building around public policy and the allocation of resources, and in some cases around a shared national vision for the future. Democracy that resourcefully incorporates democratic dialogue into its decision-making processes and uses dialogue effectively and continuously to renew its political leadership and build broad-based support for reform is in a stronger position to prevent tensions from turning into open conflicts.

2.6   Every dialogue should seriously consider the issue of *outreach*. It is critical to organize the outreach process considering the needs of the dialogue itself.   Some dialogues will invite the media as participants or observers while others may choose to have closed proceedings and organize regular communications activities, sometimes through a spokesperson, which may or may not be the convener. The media might also be entrusted with the follow-up of the agreements or disseminate the outcomes of the dialogue. Other ideas for outreach may use elements of popular culture, such as sports or music, to disseminate the results.

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[9] Kahane, Adam, (2000). *Civic Scenarios as a Tool for Making History,* UNDP Civic Scenario Workshop, UNDP, November.

2.7   Finally, the question of how to move from shared understanding to *action* is a central challenge. A clear tension exists between the use of democratic dialogue as an instrument of change and the set of real interests and powers that limit what dialogue can achieve. Resources are essential to move from agreements to action. Within a democratic dialogue process it is vital to specify problems, solutions and objectives. Also, the confidence and trust building process can produce action and change. Another key consideration is the importance of involving public figures who have the power to take action.

3. Entry Points for Democratic Dialogue in Post-Conflict Situations

For more than a decade, UNDP and many other institutions throughout the world have been working with governments and civil society to prevent crises and transform conflict into consensus. In many of those countries, leaders from various sectors, using a number of dialogue methodologies tackle many of the most contentious issues of the day such as post-war reconstruction, economic development, land reform, and civil-military relations. To varying degrees, all of these initiatives have encouraged participants to move beyond politeness and formal statements, past debate and the defence of positions, and towards a deeper, more generative dialogue.

Prior to embarking on a democratic dialogue process, UNDP has to take a country's particular context into consideration. Democratic dialogue projects can been an effective tool in a range of contexts, from preventing conflict to resolving crisis, relieving post-conflict tensions and working towards long-term solutions. Each political context requires particular considerations regarding, among others, participants, conveners, facilitators, resources, methodology and venue.

In post-conflict situations, democratic dialogue efforts must focus on creating or enhancing a culture of dialogue and respect, fortifying existing democratic institutions, and working on reconciliation and trust-building among adversaries. Furthermore, efforts need to incorporate and complement a country's efforts to follow-up with the resolutions that helped to bring formal peace, such as peace agreements, truth commissions and war tribunals.

More specifically, democratic dialogue plays a role in each of the typical cases proposed in the introduction: *self-enforcing*, *mediated* and *conflictual* cases.[10] Although

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[10] This paper utilizes a three-pronged typology identified by CMI to analyze different post-conflict settings and proposing governance interventions, as follows:
(i) *Self-Enforcing Cases*, in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).
(ii) *Mediated Cases*, in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).

the context of dialogue will differ in each of those cases, the process, the tools and therefore the entry points for UNDP assistance will be similar. It is their specific content which might differ. For example, the design of the dialogue process will respond to specific situations by selecting the adequate participants and conveners (i.e., signatories of the peace agreements, winners and defeated, government and marginalized groups); the partnerships may differ; the outreach strategy might employ different mechanisms; the object of dialogue might be different (implementation of a peace agreement, long term scenarios, immediate power-sharing agreement between parties, package of reforms, set-up of new democratic institutions, etc.) which will affect in turn the logistics and techniques for dialogue. Dialogue may manage and prevent conflict from becoming violent in all post-conflict settings and will be ultimately shaped by the specific circumstances of the country.

The specific entry points for UNDP might be organized in three phases of dialogue processes.

3.1 Preparatory Phase

3.1.1   Assemble teams of expert dialogue practitioners organized flexibly as a technical assistance unit to respond quickly and effectively to crisis and post-conflict situations and specific needs of UNDP country offices. The practitioners should be drawn from a wide range of fields including academia, foundations, development agencies and NGOs, ensuring a good variety of backgrounds and a mixture of technical and policy advisors.

3.1.2   Organize needs assessment missions to gauge the situation, evaluate previous actions and results, collect testimonies, identify interests and objectives of participants, hold bilateral meetings with institutions and leaders, share information between parties, brief facilitators and set up partnerships with national stakeholders. These exploratory missions would establish the scene to convene and implement a democratic dialogue tailored to the specific context.

3.1.3   Mapping, systematization and dissemination of good practices and lessons learned.

3.1.4   Train facilitators and leaders on dialogue tools and skills.

3.1.5   Set-up formal and informal partnerships with "legitimate" institutions and stakeholders.

3.1.6   Broker agreements and/or provide expertise on the selection of participants, facilitators and conveners and on the logistics, venue and rules of the dialogue.

(iii) *Conflictual Cases*, in which one side achieves a military victory *per se*, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

3.2 The Dialogue

3.2.1   Provide technical assistance or/and logistical support to the convenor.

3.2.2   Based on its permanent presence in the country, its good reputation and its position as an international organization, UNDP may also convene dialogues.

3.2.3   Facilitate and give advice on the "management" of potential spoilers whether they should be included or excluded, finding mechanisms to channel their grievances.

3.2.4   Participate and give assistance in creating a conducive environment to build trust and foster positive relationships. This can include taking participants to a neutral setting and encouraging informal meetings.

3.2.5   Provide strategies to organize the physical and social environment of a dialogue to address power imbalances and to establish other conditions conducive to developing an open and inclusive space.

3.2.6   Implement or give advice on the development of an outreach strategy for the general public. This includes production of materials for dissemination and set-up of alliances with the media.

3.2.7   Support, with hands-on knowledge and technical advice, the process of assigning responsibilities for follow-up.

3.2.8   Produce, systematize and share knowledge related to methodologies, lessons learned and best practices.

3.3 From Dialogue Agreements to Implementation

3.3.1   Include the agreements of dialogue into existing programming on the basis of renewed alliances.

3.3.2   Mobilize resources for the implementation of agreements from local/national and international sources.

3.3.3   Implement projects counting on its neutrality, legitimacy and experience in project management.

3.3.4   Provide technical assistance to counterparts on the best ways to manage expectations from donors, actors and the population; identify powerful actors capable of inciting change; generate a timeline, communication plan and follow-up mechanisms to ensure that commitments are carried out; and develop an outreach strategy to engage the public.

3.3.5 Provide technical assistance, broker an agreement between the actors or develop a follow-up mechanism which may report on the advance of the agreements using for example the National Human Development Reports or the MDGs reports.

Annex I: Illustrative Entry Points and Sequencing for Democratic Dialogue in Post-Conflict Situations

SELF-ENFORCING[11] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Context Analysis	- Gather team of dialogue practitioners from various backgrounds (academic, political and non-governmental) and get the right balance between technicians and policy experts - Organize an exploratory mission to evaluate context, expectations and identify the type of dialogue needed (in this situation, the scenario building methodology would be most indicated) - Share lessons learned of other similar contexts	- Support the evaluation of the dialogue initiative at mid stage to assess success and possible need to reorient the process
Partnerships and Resource Mobilization	- Set up formal and informal partnerships with institutions seen as legitimate by the people - Organize meetings with potential donors to mobilize interest and funding for the initiative	- Follow-up with donors to continue support to the initiative - Help manage expectations from donors
Technical Advice and Support	- Provide technical advice on the selection of a convener (if not already identified), and of participants - Provide technical advice on how to create a conducive atmosphere to dialogue among participants (rules of the game, venue, sharing of testimonies)	- Provide advice to adapt the process to changing contexts within and outside the dialogue
Training	- Bring trusted external facilitators to train conveners and facilitators	- Set up a training program to be incorporated into University curriculum for students and leaders
Outreach Strategy	- Identify key media actors that will help disseminate the information quickly to build momentum for the dialogue process.	- Help establish a communications strategy that ensures the involvement of the media in the process and the dissemination of the information to the public (via radio, television, the press, the Internet) - Help manage expectations from actors and the population
Implementation	- Identify powerful actors who are capable of inciting change within the dialogue process	- Make sure that the agreements specify follow up mechanisms that can report on the advance of the agreements through, for instance, the NHDR or the MDG reports

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[11] A *Self-Enforcing* Case is one in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).

MEDIATED[12] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Context Analysis	- Gather team of dialogue practitioners from various backgrounds (academic, political and non-governmental) with the right balance between technicians and policy experts - Organize an exploratory mission to evaluate context, expectations and identify the type of dialogue needed	- Support the evaluation of the dialogue initiative at mid stage to assess success and potential need to reorient the process
Partnerships and Resource Mobilization	- Set up formal and informal partnerships with institutions seen as legitimate by the people - Organize meetings with potential donors to mobilize interest and funding for the initiative	- Follow-up with donors to continue support to the initiative - Help manage expectations from donors
Technical Advice and Support	- Provide technical advice on the selection of a convener (if not already identified), and of participants - Make sure the selection process is as inclusive as possible. - Provide technical advice on how to create a conducive atmosphere to dialogue among participants (rules of the game, venue, sharing of testimonies) - If there is resistance to enter a formal dialogue, UNDP can support the creation of informal working groups around a specific sectoral issue	- Provide advice to adapt the process to changing contexts within and outside the dialogue
Training	- Bring trusted external facilitators to train conveners and facilitators	- Set up a training program to be incorporated into University curriculum for students and leaders
Outreach Strategy	- Mobilize conscience around the issue through published reports, media coverage and workshops. Make sure the information reaches the elements of society that do not feel involved in the process - Promote activities that can reduce the level of polarization in the society (youth training, sporting and artistic activities, civic initiatives, etc.)	- Help establish a communications strategy that ensures the involvement of the media in the process and the dissemination of the information to the public (via radio, television, the press, the Internet) - Help manage expectations from actors and the population
Implementation		- Identify powerful actors who are capable of inciting change within the dialogue process - Make sure that the agreements specify follow up mechanisms that can report on the advance of the agreements through for instance the NHDR or the MDG reports

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[12] A *Mediated Case* is one in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).

CONFLICTUAL[13] POST-CONFLICT SITUATIONS

Strategic Entry Point	Immediate Post-Conflict	Medium-Term
Context Analysis	- Gather team of dialogue practitioners from various backgrounds (academic, political and non-governmental) with the right balance between technicians and policy experts - Organize an exploratory mission to evaluate context, expectations and identify the type of dialogue needed - Share lessons learned of other similar contexts	
Partnerships and Resource Mobilization	- Set up formal and informal partnerships with institutions seen as legitimate by the people - Organize meetings with potential donors to mobilize interest and funding for the initiative	- Follow-up with donors to continue support to the initiative - Help manage expectations from donors
Technical Advice and Support	- If there is resistance to enter a formal dialogue, UNDP can support the creation of informal working groups around a specific sectoral issue - Provide technical advice on how to deal with potential "spoilers" of the dialogue process	- Provide technical advice on the selection of a convener (if not already identified), of participants and of the setting of the dialogue - Provide technical advice on how to create a conducive atmosphere to dialogue among participants (rules of the game, venue, sharing of testimonies)
Training	- Bring trusted external facilitators to train conveners and facilitators	
Outreach Strategy	- Mobilize conscience around the issue through published reports, media coverage and workshops. The government should be invited to participate in these workshops in order to build/strengthen their interest into the process - Promote activities that can reduce the level of polarization in the society (youth training, sportive and artistic activities, and civic initiatives at the national and local level)	- Help establish a communications strategy that ensures the involvement of the media in the process and the dissemination of the information to the public (via radio, television, the press, the Internet) - Help manage expectations from actors and the population
Implementation		- Identify powerful actors who are capable of inciting change within the dialogue process

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[13] A *Conflictual Case* is one in which one side achieves a military victory per se, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

Annex II: Resources and Partners

Resources

(The following is a list of the documentation produced by the regional project on democratic dialogue, most of which can be found on the project's temporary website: www.miempresa.net)

Arévalo, Bernardo. "Permanent Evaluation of Conflict Resolution Interventions: A Proposal". With commentaries from UNDP RBLAC. November
2003.

Balcárcel, Miguel Ángel. "Multiparty Dialogue Guatemala". Prepared for the Third Learning Workshop on Democratic Dialogue, December 2003.

Castillo, Rolando."El diálogo democrático en Panamá: los resultados de Bambito 10 años después". Prepared for the Second Learning Workshop on Democratic Dialogue, December 2002.

Democratic Dialogue Project. "Mapping Dialogue Experiences in Latin America and the Caribbean: Research Guidelines, Matrix and Proposed Variables for Study". September 2003.

Díez Pinto, Elena. "Towards the Construction of a Dialogue Typology". 2003.

Díez Pinto, Elena, Katrin Käufer and Bettye Pruitt. "Research Methodology for the Recuperation of Dialogue Cases". October 2002.

Hernández, Max. "National Accord Peru". Prepared for the Third Learning Workshop on Democratic Dialogue, December 2003.

Käufer, Katrin and Bettye Pruitt. "Dialogue as a Tool for Peaceful onflict Transformation: Experiences with a Process of Knowledge
Creation". 2002.

Noto, Gerardo. "Argentine Dialogue". Prepared for the Third Learning Workshop on Democratic Dialogue, December 2003.

Perlas, Nicanor. "Social Threefolding: Towards a New Concept and Practice of Democracy and Societal Governance". Prepared for the Second Learning Workshop on Democratic Dialogue, December 2002.

Pruitt, Bettye. ed. "UNDP Civic Scenario/Civic Dialogue Workshop:Workshop Report". 2000.

Pruitt, Bettye. ed. "First Learning Workshop on Democratic Dialogue:Workshop Report". May 2002.

Pruitt, Bettye. ed. "Second Learning Workshop on Democratic Dialogue: Workshop Report". December 2002.

Pruitt, Bettye. ed. "Reports of Learning Workshops". November 2003.

Regional Bureau for Latin America and the Caribbean. "Some Ideas on Building a Community of Practice on Democratic Dialogue and a Common Framework for Assessment". Prepared for the First Meeting of Organizations that Promote Dialogue, July 2003.

Thillet de Solórzano, Braulia. "Democracia y diálogos: desafiós para la democracia del siglo XXI". Prepared for the Second Learning Workshop on Democratic Dialogue, December 2002.

Partners
(A complete list of possible partners, a description of their activities and contact details may be found at: www.miempresa.net)

The Carter Center: founded by former US President Carter in 1982 as a policy research center associated with Emory University and linked to the Carter Presidential Library.
http://www.cartercenter.org/peaceprograms/peacepgm.asp?submenu=peaceprograms

Global Leadership Initiative (GLI): founded by members of the Society for Organizational Learning (SoL) and by partners of Generon Consulting to apply the U-Process that they have developed to create living examples of breakthrough progress on vital global challenges.
http://www.globalleadershipinitiative.org/

Inter-American Foundation (IAF): an independent foreign assistance agency of the United States government that works primarily in cooperation with private regional and international organizations.
http://www.iaf.gov/

International IDEA: works in partnerships with its members, other countries, civil society organizations in programme countries, and with a variety of international organizations to promote and advance sustainable democracy.
http://www.idea.int/

International Institute for Sustained Dialogue (IISD): an independent organization formed in 2002 in collaboration with the Kettering Foundation to further the Foundation's work in the area of sustained dialogue.
http://www.sustaineddialogue.org/

Netherlands Institute for Multiparty Democracy: established in April 2000 by 8 Dutch political parties as a response to international requests for support by political parties and ground abroad and in line with the development cooperation policy of the Dutch government.
http://www.nimd.org/

Organization of American States: Unit for the Protection of Democracy (OAS/UPD): created in 1991 as the principal body within the OAS responsible for providing assistance and support to member states to strengthen their democratic institutions and procedures.
http://www.upd.oas.org/lab/

University for Peace (UPEACE): International Peace Research and Information Center: an NGO located in Uruguay that works in close coordination with the World Peace Research Center, established in 1997 by the University of Peace and the Government of Uruguay, to develop programmes of a regional scope.
http://www.upaz.edu.uy/

WSP-International: established as a Swiss NGO operating in association with the UN, after an experimental project to identify better approaches to facilitate post-conflict reconstruction.
http://www.wsp-international.org/

CHAPTER III: ELECTORAL SYSTEMS AND PROCESSES

1. Introduction to Electoral Systems and Processes in Post-Conflict Situations

Elections have become an integral element of many United Nations peacekeeping missions over the past decade and are today a major focus of UN operations in post-conflict contexts such as Afghanistan and Iraq. In many post-conflict societies, elections represent a key step in a broader process of building political institutions and legitimate government and yet they can also be a lightning rod for popular discontent and extremist elements. A common mistake is to hold elections too soon after conflict, before national political issues have progressed and before the routines of normal peacetime politics have had time to develop. In such a situation, elections can become a focus for violence, as the groups previously engaged in combat continue their conflict via the electoral process. While elections are part of the broader process of democratization, ill timed, hurried, badly designed or poorly run elections can actually undermine that process in fragile post-conflict environments. Because of this, great attention needs to be given to the details of elections in post-conflict situations, including the context, the steps needed and the level of security surrounding the process.

2. Main Issues for Electoral Systems and Processes in Post-Conflict Situations

2.1   Although some generalizations are possible based on experience, what and how long it takes to organize credible, free and fair elections will depend a great deal on what there is to work with in the immediate post-conflict environment. There are no hard and fast rules of thumb which stipulate, for example, that every country conducting elections must run elections via a national permanent and independent electoral management body or that creating a voter registry is going to take precisely one year. These determinations depend on a variety of factors, including: the nature of the institutions that are already in place; who has the capacity and credibility to conduct elections; whether there is a pre-existing voter registry or civil register; the number of voters and their locations; whether IDPs and refugees are a concern; the number of external voters; the size of the territory; how porous the borders are; and the various forms of identification people have. There is thus no "how to" step-by-step guide to follow in providing post-conflict electoral assistance; rather, the context will be a determining factor in the type of support requested and provided.

2.2   UN electoral assistance comes in two forms, each of which has distinct characteristics. The two types are (i) major electoral missions and (ii) standard electoral assistance.

2.2.1   *Major electoral missions* require a mandate from the UN Security Council or General Assembly and are considered exceptional activities of the organization. Such missions are usually part of comprehensive peacekeeping missions that include an electoral component. These missions include the organization and conduct of elections (the UN assumes the role normally

fulfilled by national electoral authorities, e.g., Timor-Leste from 1999 to 2002); supervision and control of elections (equally rare, this type of mission has taken place largely in the context of decolonization and a Special Representative of the Secretary-General (SRSG) must certify the results of the elections and all stages of the process, e.g., Namibia in 1989); verification of electoral process (the host government remains responsible for the organization and conduct of the elections and the UN is mandated to observe and verify the legitimacy of the various stages of the electoral process and the compliance of the national electoral authorities with the electoral regulations; international observers are deployed throughout the country to follow closely all aspects of the electoral process and provide the basis for the final statement of the SRSG on the conduct of the elections, e.g., El Salvador, in 1994). There are also combinations or elements of the above, such as the current support in Afghanistan.

2.2.2   *Standard electoral assistance* is the form most such assistance provided by the UN takes today and does not require a specific mandate from the Security Council or the General Assembly. Standard electoral missions typically involve, inter alia, provision of technical assistance, support for national election monitors, support to the coordination of international observers, and so forth. It is in standard electoral missions that UNDP typically provides its maximum support as an organization focused primarily on capacity development of democratic institutions and processes. UNDP plays a singular role in the delivery of electoral assistance. Without UNDP's contribution, the UN's ability to provide electoral assistance would be severely restricted. Although the Under-Secretary-General of DPA is the designated focal point for electoral matters and provides expertise on political and technical issues through the UN's Electoral Assistance Division (EAD), UNDP's permanent field presence, country knowledge and impartiality enable it to forge strong relationships with government officials and international donors.

2.3   There are three crucial influences on post-conflict politics in most countries and any framework for electoral systems and processes support in post-conflict situations needs to take these three influences into account. They are (i) timing, (ii) mechanics, and (iii) the effect of the elections on political parties.

2.3.1   *Timing*: In general, it is better to avoid holding national elections immediately after a conflict. Instead, a period of time is needed for political consensus to build for having elections and for peaceful political routines and issues to come to prominence.

2.3.2   *Mechanics*: The mechanics of elections themselves raise many questions: who runs the elections? How are voters enrolled? What electoral formula is used? All of these decisions impact upon the type of party constellations that form and the kinds of appeals they make to voters and thus to the nature of electoral campaigning.

2.3.3   *Effect of the elections on political parties*: Particularly in cases of weak civil society, political parties are the key link between masses and elites, and play an

absolutely crucial role in building a sustainable democratic polity. The aim should be to promote the development of party organizations with real links to the community, democratic internal structures and broad, multi-ethnic programmes.

2.4   As noted above, one key lesson learned to date regarding post-conflict electoral assistance, is that ill timed, hurried, badly designed or poorly run elections can actually undermine the process of reconciliation and rebuilding in fragile post-conflict environments. Great attention therefore needs to be given to the details of elections in post-conflict countries, including the context, steps needed and level of security surrounding the process.

2.5   For UNDP, the quality of its interventions with at least a year's head start was much higher than those that had less time. Projects with shorter lead times run the risk of having to cut corners in order to meet short deadlines and can result in mistakes, higher costs of procurement, inadequate consultation time, and reducing important activities such as training. Sufficient lead-time is also important in reducing the costs of an election. Election materials will inevitably cost more and procurement options will be limited with shorter delivery time prior to the elections. Governments facing upcoming elections should be made aware that a timely request for assistance will be better managed by the UN system, resulting in more effective resource mobilization and subsequent delivery of support services. Only very limited support, if any at all, can be provided to last-minute requesting countries. No truly substantive electoral assistance is viable less than four months before election day.

2.6   Another lesson regards security, and the need for demobilization to take place before elections both to give the electorate adequate security but also to deprive would-be spoilers to take a military option if they are dissatisfied with the electoral results. Hand-in-hand with the importance of demobilization is the importance, in some contexts, of militias that have prosecuted the conflict transforming themselves into political parties that compete for power via the electoral system rather than on the battlefield. Where this transformation has been successfully effected, the former militias have managed to become broader-based institutions than they were originally and thereby part of the post-conflict political fabric.

2.7   Yet another lesson addresses the role of women in post-conflict electoral processes. Post-conflict elections in particular need to be and be seen as transparent and fair so that representation is based on popular support rather than imposed. The participation of women, as voters and candidates, in post-conflict elections is a key indicator of representation. Women constitute at least 50 percent of the voting population – often more, in post-conflict situations – and their exclusion or under-representation diminishes a post-conflict government's claims to popular legitimacy.

3. Entry Points for Electoral Systems and Processes in Post-Conflict Situations

In post-conflict elections, the first step needed is to conduct an assessment of whether there is consensus to have elections in the first place, and whether conditions on the ground are conducive to the conduct of safe and free elections. In *self-enforcing*

cases[14], there is typically consensus within society on the need to proceed with elections; additionally, in such cases, conditions on the ground usually lend themselves to the conduct of secure, free and fair elections early on. In *mediated cases*, conditions usually permit the conduct of elections in a relatively short timeframe, but attention needs to be paid to ensuring that elements in society other than the previously warring factions are permitted and resourced to form viable political parties; additionally, stakeholders should be alert for potential intimidation by former combatants newly minted as politicians. In *conflictual cases*, the premature conduct of elections can be a source of major instability: one or more major factions might repudiate the results, not to mention the electoral process itself, intimidation and violence oftentimes mark the both the registration and the vote, and conflict can resurface either during or after an election for which limited consensus exists. As such, more time, consultation and dialogue will be needed at each stage of electoral preparation.

Some electoral systems and processes service providers focus on "D-day" or the election itself, and therefore stress the human, financial and materiel resources that need to be in place to pull off a good election. Other service providers focus more on building longer-term capacities and strengthening institutions and processes before but also between elections, with a view to eventually removing the demand for assistance in this area. There are thus differences in the types of electoral systems and processes support that might be offered in the immediate post-conflict environment and those that might be offered on a more ongoing or long-term basis. This being said, however, the differences between immediate post-conflict and medium to longer-term electoral support lie not so much in different entry points (though there are some), as they do in the sequence of those entry points and details of assistance within them. Some of these distinctions are detailed below.

UNDP is currently working in approximately thirty countries to provide electoral systems and processes support. Much of this is focused on getting to "D-day" and supporting the day itself, but equally important is the growing area of work UNDP is doing between elections on ongoing civic education to familiarize citizens with their rights and responsibilities and with the features of the political system, longer-term capacity development support to electoral management bodies, and working with women as candidates and then elected representatives. These types of support fit into UNDP's larger democratic governance agenda. Some examples of UNDP entry points in terms of technical assistance before and during "D-day", many of which segue into

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[14] This paper utilizes a three-pronged typology identified by CMI to analyze different post-conflict settings and proposing governance interventions, as follows:

(i) *Self-Enforcing Cases*, in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g., post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g., Timor-Leste and Eritrea).

(ii) *Mediated Cases*, in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g., Cambodia and Mozambique).

(iii) *Conflictual Cases*, in which one side achieves a military victory *per se*, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g., Rwanda and Afghanistan).

longer-term capacity building support, are detailed in this section, while the next focuses on the longer-term capacity building support per se. As noted above, however, in conflictual post-crisis situations, external partners should be wary of facilitating the premature conduct of elections.

3.1 Immediate Post-Conflict Assistance

3.1.1 *Support to electoral systems*, or the design or revitalization of an electoral system, is particularly important for post-conflict countries or those that have experienced a rupture in the political system and need to revisit the type of system that responds best to its needs; for example, majoritarian systems versus proportional versus some combination of both. A given electoral system will not necessarily work the same way in different countries. Important determinants include the socio-political context in which it is used, such as, how a society is structured in terms of ideological, religious, ethnic, racial, regional, linguistic, or class divisions; phase/stage of the democratic process; whether there is an established party system or an incipient one, whether parties are embryonic or well formed, and whether supporters of the political parties are geographically concentrated, or dispersed throughout the territory of a country. In post-conflict elections, the question of ethnic minorities and women's representation is often a focus of concern. For example, whether quotas should be used to ensure a certain threshold of diversity, or whether the incentives for diversity should otherwise be built into the electoral or legal framework. Support for new or revitalized electoral systems is often an entry point UNDP uses in the immediate post-conflict environment to help prepare for D-day. This is often delivered in conjunction with constitutional drafting, interim legislature and other support.

3.1.2 *Support to electoral administration*, which is a priority area of assistance for UNDP, is the building of independent and permanent electoral management bodies. Support to electoral management bodies is a feature of almost all UNDP electoral assistance activities; in the immediate post-conflict context, this support can tend on building up quickly the capacity of the interim, permanent or other type of electoral body to manage the election day itself. This can focus on preparing the voters list, setting up the format for the election day count and recount of results, and coordinating the observation missions of all international observers.

3.1.3 *Support to voter registration and other processes*. This often involves support for low-cost, free and fair elections, and can take many forms, although in the immediate post-conflict context, this assistance is often focuses on voter registration. Generally, the voter registration exercise is the single most expensive administration component and can account for as much as half of the overall election budget, particularly if something new and/or complicated is envisaged. In countries such as Afghanistan, where a voter registration exercise needs to take place from scratch and there is a large number of internally displaced people, voters in other countries, disenfranchised women, etc., this is the focus of a large portion of the UN's 0 to 18 months post-conflict support and funds. In other post-conflict contexts, however, such as Iraq, extensive civil

registry and other information exists from which a voter's register can be built. Therefore, voter registration will likely take up less of the overall assistance focus.

3.1.4 *Voter education*, with a particular focus on enhancing women's role in the electoral process. As election day nears, these activities have the main goal of getting out the vote to help ensure as high a turnout as possible both to legitimize the first post-conflict election and help ensure its credibility with a presumably divided population. UNDP has helped to produce voter education materials for TV, radio, print, folk media, posters, flyers, leaflets and stickers that were distributed through government and non-government channels to create awareness and motivate voters to enlist on the electoral roll and participate in elections.

3.1.5 *Mobilization and coordination of resources*. UNDP often serves as a conduit for third-party financial resource contributions, and often coordinates donor assistance or even helps coordinate international electoral observation, as seen in many post-conflict contexts. In some countries, where there is a UN Security Council mandate, UNDP implements key portions of the electoral and governance assistance usually in close coordination with the civilian affairs component of the UN peacekeeping mission on the ground.

3.1.6 *New areas of support such as electoral disputes*. UNDP's work in this area includes reaching consensus on the legislative framework around elections and building confidence in the electoral rolls and aggregation of results processes. It is one of the entry points UNDP has used, and is using more and more, from the immediate post-conflict context through the holding of the first election.

3.2 Medium-Term Post-Conflict Support

3.2.1 *Support to electoral systems*, including political institutions and institutional reform, e.g. through design and reform of electoral systems, which can help to build links of accountability between government and the governed. UNDP uses this entry point in the immediate post-conflict environment but also in its longer-term assistance to countries that may wish to revisit their systems after the first post-conflict elections are held, as in the case of a country such as Mali.

3.2.2 *Support to electoral administration*, which is a priority area of assistance for UNDP, involves, over the longer-term, the building of independent and permanent electoral management bodies. This assistance takes the form of institutional strengthening; assistance for legal reform; professional development programmes; greater public information and outreach capacity; and resource management. As noted above, support to electoral management bodies is a feature of almost all UNDP electoral assistance activities, and is in many cases part of a larger programme that provides assistance to the electoral management body in the inter-election period in preparing and maintaining voters list, in conducting civic education and in inputting to civil registry and other public administration processes. Longer-term support to electoral

administration also can tend to focus on support to local, as opposed to presidential or legislative, elections.

3.2.3   *Support to voter registration and other processes*. This often involves support for low-cost, free and fair elections, and can take many forms in the medium to long term, although typically assistance is focused on issues of election planning, monitoring and budgeting, and voter registration and civil registry support. In some post-conflict countries, such as Cambodia, UNDP has also supported the evolution, in the longer-term, from a periodic register to a permanent or continuous one.

3.2.4   *Voter education*, in the medium- to longer-term, aims to raise awareness and highlight the rights and responsibilities of citizens inherent with a functioning democratic society. In the immediate post-conflict, post-election environment, voter education is often transformed into more of a civic education focus (see below).

3.2.5   *New areas of support* such as political parties and ongoing civic education. UNDP's work in this area includes involving political parties in electoral list validation; and in conducting ongoing civic education. Bringing political parties into the electoral and political processes and ensuring ongoing civic education, often effectively linked to peace and reconciliation initiatives, are particularly salient for post-conflict settings.

Annex I: Illustrative Entry Points and Sequencing for Electoral Systems and Processes in Post-Conflict Situations

SELF-ENFORCING[15] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Electoral Systems	- Design or revitalization of electoral system - Consideration of ethnic or other minorities in system - Sequencing of legal framework, constitution, referenda, elections, etc.	- Revision of the electoral system - Institution of quotas to enhance women's participation - Enhancing the link between the elected and those they represent
Electoral Administration	- Establishment of interim, permanent or other kind of electoral body - Basic capacity development support aimed at smooth coordination and execution of the election - Logistical support to plan, budget, etc. for election - Coordination of international observers	- Building longer-term capacity for electoral administrators - Support to local elections - Professional development, outreach capacity, public information functions - Maintaining voter's lists and civil registry data - Civic education functions in inter-election period, if relevant
Voter Registration	- Production or revision of voter registry - Enabling process of registration, particularly among internally displaced persons, refugees, women, etc.	- Revision of voter registry - Evolution from periodic list systems to permanent registers - Linkages between voter registry and civil registry
Voter Education	- Emphasis on importance of voting, particularly among potentially disadvantaged groups - Emphasis on the mechanics of voting, particularly if a new system is being used	- Raising awareness of citizens' rights and duties in a society - Transformation from voter education to civic education in the post-election environment
Resource Mobilization and Coordination	- Conduit for third-party financial resource contributions - Coordination of international electoral observation, as required - Liaison with UN peacekeeping missions civilian affairs component	- Is done in the longer-term but often folded into larger democratic governance programme support within the country programme
New Areas	- Electoral dispute resolution – both involving the legal context pre-elections and contention around results post-election	- Support to political parties in the electoral and political processes Support for ongoing civic education in the inter-election period

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[15] A *Self-Enforcing* Case is one in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g., post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g., Timor-Leste and Eritrea).

MEDIATED[16] POST-CONFLICT SITUATIONS

Strategic Entry Point	Immediate Post-Conflict	Medium-Term
Electoral Systems	- Design or revitalization of electoral system - Consideration of ethnic or other minorities in system - Sequencing of legal framework, constitution, referenda, elections, etc.	- Revision of the electoral system - Institution of quotas to enhance women's participation - Enhancing the link between the elected and those they represent
Electoral Administration	- Establishment of interim, permanent or other kind of electoral body - Basic capacity development support aimed at smooth coordination and execution of the election - Logistical support to plan, budget, etc. for election - Coordination of international observers - Special attention to monitoring pre-election campaigning, with a view to stemming intimidation	- Building longer-term capacity for electoral administrators - Support to local elections - Professional development, outreach capacity, public information functions - Maintaining voter's lists and civil registry data - Civic education functions in inter-election period, if relevant
Voter Registration	- Production or revision of voter registry - Enabling process of registration, particularly among internally displaced persons, refugees, women, etc.	- Revision of voter registry - Evolution from periodic list systems to permanent registers - Linkages between voter registry and civil registry
Voter Education	- Emphasis on importance of voting, particularly among potentially disadvantaged groups - Emphasis on the mechanics of voting, particularly if a new system is being used	- Raising awareness of citizens' rights and duties in a society - Transformation from voter education to civic education in the post-election environment
Resource Mobilization and Coordination	- Conduit for third-party financial resource contributions - Coordination of international electoral observation, as required - Liaison with UN peacekeeping missions civilian affairs component	- Is done in the longer-term but often folded into larger democratic governance programme support within the country programme
New Areas	- Supporting the formation and viability of parties other than those that were previously factions/combatants in the preceding conflict - Electoral dispute resolution – both involving the legal context pre-elections and contention around results post-election	- Support to political parties in the electoral and political processes Support for ongoing civic education in the inter-election period

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[16] A *Mediated Case* is one in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g., Cambodia and Mozambique).

CONFLICTUAL[17] POST-CONFLICT SITUATIONS

Strategic Entry Point	Immediate Post-Conflict	Medium-Term
Electoral Systems	- Promoting dialogue on the design or revitalization of electoral system - Consideration of ethnic or other minorities in system - Sequencing of legal framework, constitution, referenda, elections, etc.	- Revision of the electoral system - Institution of quotas to enhance women's participation - Enhancing the link between the elected and those they represent
Electoral Administration	- Fostering dialogue on the establishment of interim, permanent or other kind of electoral body	- Basic capacity development support aimed at smooth coordination and execution of the election - Logistical support to plan, budget, etc. for election - Coordination of international observers - Building longer-term capacity for electoral administrators - Support to local elections - Professional development, outreach capacity, public information functions - Maintaining voter's lists and civil registry data - Civic education functions in inter-election period, if relevant
Voter Registration	- Planning voter registry process	- Production or revision of voter registry - Enabling process of registration, particularly among internally displaced persons, refugees, women, etc. - Evolution from periodic list systems to permanent registers - Linkages between voter registry and civil registry
Voter Education	- Emphasis on importance of voting, particularly among potentially disadvantaged groups	- Emphasis on the mechanics of voting, particularly if a new system is being used - Raising awareness of citizens' rights and duties in a society - Transformation from voter education to civic education in the post-election environment
Resource Mobilization and Coordination	- Coordination of dialogue and voter education processes	- Conduit for third-party financial resource contributions - Coordination of international electoral observation, as required
New Areas		- Electoral dispute resolution – both involving the legal context pre-elections and contention around results post-election - Support to political parties in the electoral and political processes - Support for ongoing civic education in the inter-election period

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[17] A *Conflictual Case* is one in which one side achieves a military victory per se, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g., Rwanda and Afghanistan).

Annex II. Resources and Partners

Resources

Post-Conflict Elections: War Termination, Democratization and Demilitarizing Politics, Terrence Lyons, George Mason University (February 2002): http://www.gmu.edu/depts/icar/Work_Paper20.pdf

Democracy and Deep-rooted Conflict: Options for Negotiators, Peter Harris and Ben Reilly, International IDEA (1998): http://www.idea.int/publications/democracy_and_deep_rooted_conflict/home.htm)

Electoral Choices for Divided Societies, Matthijs Bogaards, University of Southampton (April 2001): (http://www.essex.ac.uk/ecpr/events/jointsessions/paperarchive/grenoble/ws13/bogaards.pdf)

Electoral Systems and Their Goals: A Primer for Decision Makers, Donald Horowitz, Duke University (January 2003): (http://www.cic.nyu.edu/pdf/E6ElectoralSystemsHorowitz.pdf)

To Craft Democracies: An Essay on Democratic Transitions, Giuseppe di Palma, Berkeley, University of California (1990).

UNDP's Electoral Support Retrospective: 10 Years of Experience, BDP, UNDP, New York (February 2001).

Gender and Electoral Assistance, UNDPKO Draft Chapter of Gender Resource Package (due to be published in 2004).

Partners

UNDP maintains partnerships on elections within the UN system, including with the Electoral Assistance Division (EAD) of the Department of Political Affairs (DPA) (www.un.org/Depts/dpa/ead/eadhome.htm); the United Nations Department of Economic and Social Affairs (DESA) (www.un.org/esa/desa.htm); and the United Nations Volunteers (UNV) (www.unv.org).

Over the past few years, UNDP has signed a number of Memoranda of Understanding with organizations that provide services in the electoral assistance sector. These include:

The International Foundation for Election Systems: www.ifes.org
IFES provides professional advice and technical assistance in promoting democracy. Working in over 100 countries, it lends its expertise in elections, rule of law, governance and civil society.

International IDEA: www.idea.int
International IDEA was established to promote sustainable democracy worldwide, engaging in a wide variety of activities designed to advance democracy and to improve the quality of democratic governance, nationally and internationally.

The National Democratic Institute for International Affairs (NDI): www.ndi.org
NDI calls on a global network of volunteer experts, providing practical assistance to civic and political leaders advancing democratic values, practices and institutions. NDI works in every region of the world to build political and civic organizations, safeguard elections, and to promote citizen participation, openness and accountability in government.

Other actors in the field include:

- Electoral Institute of Southern Africa: www.eisa.org.za
- Association of Central and Eastern European Election Officials, ACEEEO: www.aceeeo.org
- The Office for Democratic Institutions and Human Rights, OSCE: www.osce.org/odihr
- The International Republican Institute (IRI): www.iri.org
- The Westminster Foundation for Democracy: www.wfd.org
- The Carter Center: www.cartercenter.com

CHAPTER IV: PARLIAMENTARY DEVELOPMENT

1. Introduction to Parliamentary Development in Post-Conflict Situations

In a democratic political system the parliament is the authoritative institution for the expression and resolution of policy conflict. The parliament has an important role to play in creating a national consensus around commonly held values and goals through national policy dialogues. This means that the institution is vital for peace-building and conflict prevention, but requires that the institution is both representative and accountable to the people. The structure and management of legislative systems is also a crucial factor in the process of peace-building as it involves the mechanics of the distribution of political power.[18]

2. Main Issues for Parliamentary Development in Post-Conflict Situations

The main issues and challenges that typically influence parliamentary development in the early post conflict period are:

2.1   Executive dominance. In newly independent and transition countries especially, the legislature is often dominated by a more powerful and well-resourced executive comprised of members of groups often with military support. This legislative-executive balance of power significantly limits the scope, powers, and ability of the parliament to live up to the full potential of its role as an independent mediator, oversight, lawmaking and representative body.

2.2   Lack of dialogue among parties, lack of trust, and political space. In the early post-conflict period, especially in newly democratic or former one-party states, the parliament is often unable to perform the functions necessary for securing peace due to a lack of trust among parties, a perceived lack of relevance, a lack of public confidence in the independence of the parliament, and the lack of a political culture which recognizes the legitimacy of parliament to broker a broad based national dialogue.

2.3   Institutional design and internal features which reinforce conflict. Newly created legislative bodies, or those that have been dominated by a single party and sidelined over an extended period of time typically have limited capacity, immature internal institutional structures (rules of procedure, committee structure, procedures, etc.) and often a unicameral system which can provide less scope for power counterbalances. This means that those instruments which are the ones most effective at instituting power sharing are too blunt or under-developed to operate effectively.

2.4   Temporary legal status. While in some post-conflict settings, a national conference is convened to agree upon and establish the interim institutional arrangements for transition, but often the legal status, duration, roles and responsibilities of the legislature is not fully recognized pending the completion of a

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[18] For the purposes of this paper, Parliamentary Development refers to assistance to legislative institutions (including, among others, national assemblies and congresses).

constitutional revision process. As such, the legal status and powers of the legislature are weak which detracts from its ability to legitimately function even with a limited mandate.

2.5   *Electoral system*. In many post-conflict situations, the electoral process, laws or institutions which brought the parliament into being are contested by one or a number of parties. In such situations, the lack of acceptance of the parliament by dissenting parties and the reluctance of the opposition to engage forcefully yet constructively prevents the parliament from performing its core functions. An electoral system is perceived as unfair will result in the parliament becoming the object of conflict rather than the body capable of managing it constructively.

2.6   *Poor representation of women and minorities*. Members of parliament traditionally have come from elite and politically powerful families or interests. The degree of inclusiveness of the poor, minorities and women is one measure of potential for the institution to fully represent competing interests in society, a measure which is often very low in newly democratic countries and those emerging from conflict.

2.7   *Capacity and resource constraints*. Even when parliaments have become more independent in their role on paper, severe capacity and resource constraints and competing post-conflict reconstruction priorities often leave them unable to strengthen and consolidate their role, effectiveness and public image. The level of priority given to representative political institutions is often very low on the donor reconstruction agenda.

2.8   *Limited data and information availability*. Typically in post-conflict settings there is very little basic data and information available on the capacity, resources, functioning of parliament and, if there is, the information reflects a pre-conflict political and institutional reality which is significantly different than that which has emerged in the post-conflict setting.

2.9   *Little experience with elected and representative institutions*. While some post conflict countries have very mature democratic institutions and cultures, for others the parliamentary history and experience is a much more recent one. This can be the case both in relation to national level elected and representative bodies as well as local, and municipal assemblies.

3. Entry Points for Parliamentary Development in Post-Conflict Situations

In post-conflict settings, the first step needed is to conduct a rapid assessment of the capacity, context and credibility of representative institutions to determine the nature and extent of initial support. In *self-enforcing cases*[19], there is typically consensus within

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[19] This paper utilizes a three-pronged typology identified by CMI to analyze different post-conflict settings and proposing governance interventions, as follows:
(i) *Self-Enforcing Cases*, in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).

society on the role of parliament and; additionally, in such cases, conditions on the ground usually lend themselves to the conduct of neutral capacity support early on. In *mediated cases*, conditions usually are conducive and political space does exist in a relatively short timeframe to support a constituent assembly or newly elected legislature, but attention needs to be paid to ensuring that elements in society, political parties and interest groups other than the previously warring factions are permitted and resourced to interact effectively with and within the legislature, and that the institution builds early credibility as a representative and open body. This means that more time is needed in any activity involving dialogue and discussion among parties. In these cases, inclusion and broad-based acceptance of interventions will need to take priority over rapid results. In *conflictual cases*, the conduct of elections was likely to have been a source of major instability and can therefore result in the formation of a parliament which does not have a sufficiently broad base of support or legitimacy. If one or more major factions repudiate the results, or boycott the legislature after an election, consensus around the role and function of the parliament will be limited. As such, more time, consultation and broad- based dialogue will be needed at each stage of parliamentary support.

3.1   Immediate Post-Conflict Assistance

3.1.1   *Initial assessment and diagnosis*. In a pressured post-conflict setting, where data on political institutions is likely to be very limited, it is often difficult to judge whether supporting the parliament or transitional assembly will result in strengthening a simply weakened parliament or whether it will help the executive to cloak its control over a rubber-stamp parliament and indirectly support undemocratic practices. A well-targeted initial assessment which analyzes the local institutional and political context carefully should be undertaken as a first step to determine the potential for successful support.[20]

3.1.2   *Establish role and mandate of legislative branch*. In some early post-conflict situations, a transitional administration will first establish a constitution drafting, revision and consultation timetable and process which will establish the precise constitutional role and mandate of the parliament and its powers vis a vis the executive branch. In others, an appointed constituent assembly will assume legislative functions until it is replaced by a duly elected body. Whichever is the case, assistance to help establish the structure, role and mandate of the temporary and permanent representative bodies is a critical entry point which serves to help stabilize parties and promote transparency and dialogue. Key

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(ii) *Mediated Cases*, in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).
(iii) *Conflictual Cases*, in which one side achieves a military victory *per se*, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).
[20] Questions to be covered in initial and comprehensive parliamentary assessments are available in the UNDP Practice Note on Parliamentary Development available at:
http://www.undp.org/policy/docs/policynotes/parliamentarydevelopment.pdf

structural issues include: bicameral systems vs. unicameral as a means of instituting a balance of power, expanding the size of the parliament to include seats for previously excluded groups, quota systems, and the administrative structure of the legislative bodies.

3.1.3   *Assess representational function: minority and women's representation, parliamentary outreach and citizen access*. Any initial assessment should include a determination of status and measures to optimize the quality of representation, particularly vis-à-vis minority groups and women. Follow-up interventions should strengthen access through public mechanisms such as public hearings, citizens' forums with ad hoc or permanent commissions, the establishment and strengthening of women's caucuses, party caucuses, and e-access measures of MPs and committees.

3.1.4   *Identify and support top priority legislative issues.* Depending on the specific context and post-conflict situation there will be a few issues on the policy and legislative agenda requiring immediate action. These often include human rights legislation related to minority protection, property laws that effect particular parties to the conflict, electoral legislation related to a forthcoming electoral process. Irrespective of the specific priority, attention to advancing those issues in a manner that rewards resolution will both serve to advance national priority legislation as well as promote cooperation among various parties/groups.

3.1.5   *Infrastructure, equipment and information technology*. Many requests for this type of support come from parliaments in countries emerging from a conflict situation or where a dominant executive has ignored the budgetary needs of the parliament for many years. As a result many parliamentary development programmes supported by the international community, including UNDP, have focused initially on providing badly needed infrastructure and equipment to new and post-conflict parliaments. While this an important early intervention, attention should be placed on carefully assessing and integrating this support into the broader strategy to ensure that inputs relate directly to parliamentary process and functional results rather than serving purely infrastructure related outputs.

3.2 Longer-Term Post-Conflict Support

3.2.1   *Confirm structure and rules of procedure*. Assistance to design, promote and approve the operational mechanisms which the parliament uses to mediate conflicting interests is a key post-conflict entry point. Such mechanisms include the house rules, procedures by which legislation is proposed and decided, floor arrangements and other such design issues which have a direct bearing on power sharing.

3.2.2   *Review and confirm committees' composition, structure and procedures*. Committees are an entry point with considerable potential in a post-conflict environment since they are a key venue for consideration of issues and, due to

their lower visibility, useful forums for promoting meaningful debate, compromise and power sharing among factions. Priority support should be given to committee system design, composition, leadership structure and procedures.

3.2.3 *Capacity and technical support for core functions*. Training, technical and material support for MPs, staff and key committees (i.e. budget, human rights, and defense for security sector oversight) can help initiate or restart some of the most basic parliamentary functions. Since the needs here are likely to be numerous and long-term in nature, attention should be placed on prioritization of interventions giving preference to those activities which can yield early and tangible dividends of peace. Examples might include the establishment of cross-party commissions, multi-party-backed reform of key legislation, visible public hearings with broad based participation, and training of MPs across parties, for example by regional parliamentary organizations.

3.2.4 *Parliamentary administration*. The parliamentary administration is a key professional anchor and facilitator of the newly re-established parliamentary process. Interventions to strengthen capacity and independence of the parliamentary secretariat include: ensuring and advocating for adequate and independently controlled parliamentary resources (e.g. staff and administrative and operational budgets), strengthening the function and operations of the Secretary General's office, and strengthening member services such as access to information and library services.

4. Key Issues in Programme Design, Formulation and Implementation

4.1 *Implementation arrangements, counterparts and partners within parliament*. Broad-based political support is necessary for success in designing and implementing parliamentary development programmes, especially in post-conflict situations. Political leadership will likely change (owing to elections, parliamentary votes of no confidence, etc.) at some point during the implementation of a parliamentary development programme. Such changes in political leadership can cause a shift in objectives and priorities or affect the level of commitment to the programme. Relationships should therefore be developed with a range of members of parliament and staff leaders. This also ensures greater ownership of programme outcomes over the long term.

One way to help to ensure continuity and stability of leadership is by helping to establish – or by working with an existing – multipartisan modernization or reform committee to steer or manage the programme. Such a committee will foster greater ownership of the programme and institutionalize project outcomes since it serves as a forum where multiparty representation can engage in discussions on parliamentary development.

4.2 *Timing of parliamentary projects*. Timing can be a critical factor in the implementation of a successful parliamentary development effort. Many programmes are initiated following the inauguration of a new parliament. In emerging democracies or in post-conflict situations, a programme can benefit from a nation's post-electoral

enthusiasm for democratic development. Programmes should avoid being co-terminus with the subsequent general election in order to minimize the politicizing effect of campaign process on the parliament.

Timing of activities is especially important for projects that involve training of parliamentarians. Training for recently elected parliamentarians should be provided within the first year of their term of office for this training to have an impact during their tenure. This is especially true when parliamentarians have no previous experience and there is no institutional memory of rules and procedures.

All parliaments will experience a flat period of activity when they are not in session and/or when members are visiting their constituencies, participating in election campaigns or supporting party members in regional elections. It would be difficult to conduct member training or arrive at important decisions during this time. However, a flat period does present an opportunity to work with the parliamentary administration, which will have time to devote to training, administrative reorganization and other activities that are difficult to undertake while the parliament is in session. This seasonal demand cycle should be built into the design of any parliamentary development project, especially one that targets staff and member training.

4.3   *Partnering with Regional Parliamentary Organizations*. A number of specialized institutional partners such as the IPU have successfully supported a large number of parliaments in the early post-conflict period. In addition to leading international actors, the efficacy of regional organizations of parliamentarians in post conflict settings is particularly noteworthy. Regional parliamentary organizations such as the SADC-PF have begun to play a role in supporting those national efforts of member states and helping to mediate regional disputes and mitigate the cross-border aspects of intra-state conflict. Such organizations often provide a neutral political space for dialogue out of country but, given their regional character, have a deep contextual understanding and good local networks of expertise.

Annex I: Illustrative Entry Points and Sequencing for Parliamentary Development in Post-Conflict Situations

SELF-ENFORCING[21] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post Conflict**	**Medium Term**
Institutional Structure, Mandate, Role	- Consultative dialogue on constitution or national conference to confirm role, mandate, structure of legislative branch	- Develop guidelines or rules of procedure for passage of laws and regulations, increase legislative influence on policy and budget, i.e. through committees
Quality of Representation	- Assess and confirm parliamentary outreach and citizen access constraints and opportunities - Integrate specific assessment of gender and minority access and representation - Model assessment guidelines, ToRs included in UNDP practice kit	- Strengthen access and outreach through supporting public hearings on priority issues, citizen's forums with parliamentary committees, advocacy and interest group activities; e-access between MPs and constituents; strengthening party and women's caucuses in particular
Capacity Development: - *Legislative function* - *Oversight function* - *Administrative/ operational capacity*	- Conduct initial assessment of parliament's capacity development priorities across all functions. Model ToRs are available in the UNDP practice kit - Early task-based training opportunities across parties. Regional parliamentarians as advisors - Identify administrative priorities, infrastructure and training needs - Supply basic operational material to secretariat, core committees	- Provide MPs, key committees (i.e. budget, defense, human rights) and staff with training and support; establish codes of conduct; improve administration and physical infrastructure - Priorities and strategy situationally driven but should place upfront some activities which demonstrate early visible benefits of cross party collaboration - Advocate and ensure adequate administrative and operational resources and independent control. Strengthen secretariat's capacity and independence, member services

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[21] A *Self-Enforcing* Case is one in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).

MEDIATED[22] POST-CONFLICT SITUATIONS

Strategic Entry Point	Immediate Post Conflict	Medium Term
Institutional Structure, Mandate, Role	- Consultative dialogue on constitution or national conference to confirm role, mandate, structure of legislative branch. Special attention to formal and informal cross-party dialogue	- Develop guidelines or rules of procedure for passage of laws and regulations, increase legislative influence on policy and budget, i.e. through committees. Monitor broad based participation
Quality of Representation	- Assess and confirm parliamentary outreach and citizen access constraints and opportunities - Integrate specific assessment of gender and minority access and representation - Model assessment guidelines, ToRs included in UNDP practice kit	- Strengthen access and outreach through supporting public hearings on priority issues, citizen's forums with parliamentary committees, advocacy and interest group activities; e-access between MPs and constituents; strengthening party and women's caucuses in particular. Encourage and monitor diverse participation and openness of dialogue
Capacity Development: *- Legislative function* *- Oversight function* *- Administrative/ operational capacity*	- Conduct initial assessment of parliament's capacity development priorities across all functions. Model ToRs are available in the UNDP practice kit - Early task-based training opportunities across parties. Regional parliamentarians as advisors - Identify administrative priorities, infrastructure and training needs - Supply basic operational material to secretariat, core committees	- Provide MPs, key committees (i.e. budget, defense, human rights) and staff with training and support; establish codes of conduct; improve administration and physical infrastructure. Ensure multi-party involvement - Priorities and strategy situationally driven but should place upfront some activities which demonstrate early visible benefits of cross party collaboration - Advocate and ensure adequate administrative and operational resources and independent control. Strengthen SG's office capacity and independence, member services

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[22] A *Mediated Case* is one in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).

CONFLICTUAL[23] POST-CONFLICT SITUATIONS

Strategic Entry Point	Immediate Post Conflict	Medium Term
Institutional Structure, Mandate, Role	- Consultative dialogue on constitution or national conference to confirm role, mandate, structure of legislative branch. Attention on cautious pace, full participation and strong negotiation skills	- Develop guidelines or rules of procedure for passage of laws and regulations, increase legislative influence on policy and budget, i.e. through committees. Special attention to power sharing methods and rules
Quality of Representation	-Assess and confirm parliamentary outreach and citizen access constraints and opportunities. Identify risk issues for renewed conflict and one party dominance -Informal civic forums to encourage multi-party cooperation in parliament -Integrate specific assessment of gender and minority access and representation - Model assessment guidelines, ToRs included in UNDP practice kit	- Strengthen access and outreach through supporting public hearings on priority issues, citizen's forums with parliamentary committees, advocacy and interest group activities; e-access between MPs and constituents; strengthening party and women's caucuses in particular. Entrench methods that guarantee broad based participation to minimize imbalance and potential conflict
Capacity Development: *- Legislative function* *- Oversight function* *- Administrative/ operational capacity*	- Conduct initial assessment of parliament's capacity development priorities across all functions. Model ToRs are available in the UNDP practice kit - Early task-based training opportunities across parties. Regional parliamentarians as advisors. Ensure all parties in parliament benefit not just largest ones - Identify administrative priorities, infrastructure and training needs - Supply basic operational material to secretariat, core committees	- Provide MPs, key committees (i.e. budget, defense, human rights) and staff with training and support; establish codes of conduct; improve administration and physical infrastructure. - Priorities and strategy situationally driven but should place upfront some activities which demonstrate early visible benefits of cross party collaboration - Advocate and ensure adequate administrative and operational resources and independent control. Strengthen SG's office capacity and independence, member services

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[23] A *Conflictual Case* is one in which one side achieves a military victory per se, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

Annex II: Resources and Partners

Resources

Parliament as an Instrument for Peace, Occasional Paper Series 8, AWEPA (2001):
http://64.124.46.12/documents/OPSNR8.pdf

Democracy and Deep-Rooted Conflict: Legislatures for Post-Conflict Societies, International IDEA (1998):
http://www.idea.int/publications/democracy_and_deep_rooted_conflict/ebook_chapter4_5.html

Strengthening Parliamentary Oversight of the Security Sector in Transition Countries: An Inventory of Actors, Hans Born, DCAF, Geneva (2002):
http://www.dcaf.ch/pcaf/

Post-Conflict Reconstruction: Task Framework, AUSA/CSIS (May 2002):
http://www.csis.org/isp/pcr/framework.pdf

Parliamentary Development Practice Note, Democratic Governance Group, Bureau for Development Policy, UNDP, New York (April 2003):
http://www.undp.org/policy/docs/policynotes/parliamentarydevelopment.pdf

Organizations Providing Legislative Development Assistance (handbook available on the UNDP intranet Knowledge Connection web site):
http://cfapp1.undp.org/main/surf [24]

Partners

Over the past few years, UNDP has signed a number of Memoranda of Understanding with providers of parliamentary development services. They include:

- The Inter-Parliamentary Union (IPU), which is the international organization of Parliaments of sovereign States (http://www.ipu.org);
- The International Institute for Democracy and Electoral Assistance (International IDEA) (http://www.idea.int);
- The National Democratic Institute for International Affairs (NDI) (http://www.ndi.org);
- The American Bar Association (ABA)/UNDP International Legal Resource Center (ILRC), created as a result of a partnership formed in February 2000 between the ABA and UNDP. The mission of the ILRC is to provide a legal resource capability to service UNDP global governance programmes and country-office projects supporting legal reform and democratic institution building:

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[24] Click on "Parliamentary Support Network" under "Knowledge Networks". Then go to "Resources" and click on "Reports & Papers". Includes a survey of institutions and service providers working in the legislative sector, and provides descriptions of their services as well as contact details.

(http://www.abanet.org/intlaw/ilrc).

Other providers of parliamentary development services include:

Associations of Parliamentarians/Legislators:

- Assemblée parlementaire de la francophonie: (http://www.francophonie.org/apf)
- Association of European Parliamentarians for Africa (AWEPA): (http://www.awepa.org)
- Commonwealth Parliamentary Association (CPA): (http://www.comparlhq.org.uk)
- Parliamentarians for Global Action (PGA): (http://www.pgaction.org)

Foundations and Academic Institutions

- Center for Legislative Development (CLD): (http://www.albany.edu/cld)
- Friedrich Ebert Foundation: (http://www.fes.de)
- International Republican Institute (IRI): (http://www.iri.org)
- Jean-Jaurès Foundation: (http://www.jean-jaures.org)
- Konrad Adenauer Foundation: (http://www.kas.de)
- Westminster Foundation for Democracy (WFD): (http://www.wfd.org)

Non-academic Institutions that Implement Parliamentary Assistance Programmes

- Africa Leadership Forum: (http://www.africaleadership.org)
- Center for Legislative Development (CLD), Philippines: (http://www.cld.org)
- Parliamentary Centre, Canada: (http://parlcent.ca)

CHAPTER V: DECENTRALIZED GOVERNANCE

1. Introduction to Decentralized Governance in Post-Conflict Situations[25]

Under peacetime conditions, decentralized governance, carefully planned, effectively implemented and appropriately managed, can lead to significant improvement in the welfare of people at the local level, the cumulative effect of which can lead to enhanced human development. The key to human development-friendly decentralized governance is to ensure that the voices and concerns of the poor, especially women, help guide its design, implementation and monitoring. For development and governance to be fully responsive and representational, people and institutions must be empowered at every level of society – national, provincial, district, city, town and village. Decentralised governance entails the empowering of sub-national levels of society to ensure that local people participate in, and benefit from, their own governance institutions and development services. Institutions of decentralization, local governance and, by extension, urban/rural development, must bring policy formulation, service delivery and resource management within the purview of the people. These institutions should enable people, especially the poor and the marginalized, to exercise their choices for human development.

In post-conflict situations, societies are institutionally weak: they are socially fragmented, psychologically fractured and physically devastated, requiring efforts to simultaneously restore people's confidence and satisfy their basic need for water, waste disposal, food, jobs, health services, education, income and security. Post-conflict situations usually entail weak central government, if any at all. Service provision to the citizenry is minimal at best. A decentralized network of local institutions and individuals, often linked to humanitarian operations, can often be an opportunity to re-establish government services, mobilize communities, further democratic processes and demonstrate the responsiveness of public institutions.

2. Main Issues for Decentralized Governance in Post-Conflict Situations

2.1   In post-conflict settings, as in others, decentralized governance initiatives are not a panacea. On the one hand, the implicit reallocation of power and resources that decentralization implies can generate, reignite or intensify power struggles, thus leading to further chaos or conflict. On the other hand, without appropriate accountability mechanisms, abuse of power, corruption, and capture by elites are a risk. Conflicts may also arise when reforms fail to address issues of social inclusion, particularly vis-à-vis ethnic and religious minorities, and respect for local customs and traditions. These challenges are added to those facing all decentralized governance initiatives: poor capacities, poor culture of participation, and lack of economic viability to secure mobilization of resources, among others. These and other risks can be minimized if decentralized initiatives and capacity development efforts fit within the overall national post-conflict peace-building and reconstruction strategies.

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[25] UNDP BDP's practice area is formally called Decentralisation, Local Governance and Urban/Rural Development (DLGUD).

2.2   Renewed or enhanced service delivery is one of the main demands of communities in the aftermath of conflict, and decentralized governance initiatives can go far in achieving this. World Bank case studies from Uganda and the Philippines have demonstrated that local officials at the county or municipal level tend to engage in less pronounced corruption and are more aware of local needs and preferences than those in higher-tier governments; however, often local officials do not have the authority, financial resources or capacity to adjust or manage service provision accordingly.[27] Where there is a functioning central authority, the potential for improving service delivery is increased through decentralized governance when certain institutional arrangements are in place, e.g., meaningful delegation of authority and fiscal transfer.

2.3   Examples from varied contexts such as Cambodia, Mozambique, Kosovo and Congo highlight the interdependence between the centre and the periphery, i.e., national versus localized governance structures and initiatives. Localized initiatives in post-conflict settings with a functioning centre, whether in the form of a coalition government or an external transitional authority such as the UN, tend to be more successful than in situations where there are weak national state institutions.[28] Whereas a functioning centre is important for development of local governance, the politics of central-local relations is key in determining local outcomes. This condition is even more pronounced in a post conflict setting; the nature of the peace settlement and power-sharing agreements, and the rivalry and search for political to control the state will greatly influence the extent to which local structures of conflict mediation and interest balancing.[29]

2.4   Well-designed, multi-faceted responses at the local level, operating in tandem with other administrative tiers, and targeted to engage individuals, institutions and societies in participatory local development and reconstruction, can serve as building blocks in bottom-up development of normalcy in post-conflict situations.

2.5   Post-conflict situations are not characterized by smooth transition into democratic approaches and often there could be efforts by local elites and leaders to capture power and exercise ruthless authority over marginalized groups. Post-conflict efforts need to promote effective participatory mechanisms and mobilize people around common needs such as water, sanitation, waste disposal, jobs, shelter, land tenure and so forth. The control of local institutions exerted by various ruling factions,

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[26] *The Role of Participation and Partnership in Decentralised Governance: A Brief Synthesis of Policy Lessons and Recommendations of Nine Country Case Studies on Service Delivery for the Poor*, Robertson Work, UNDP BDP (2002).

[27] *Decentralization and Governance: Does Decentralization Improve Public Service Delivery?* Satu Kahkonen and Anthony Lanyi, World Bank (2001).

[28] UNDP's Area Development Approach (ADA) has achieved success in strengthening local governance by providing for an umbrella framework that allows multiple interventions to take place at various administrative levels and tiers (e.g. CARERE in Cambodia and PRODERE in Central America, as well as in Sudan and Afghanistan).

[29] See e.g. *Local Governance Approach to Social reintegration and Economic Recovery in Post-Conflict Countries*, Susan L. Woodward, New York, 2002 and *Strengthening Democratic Governance in Conflict Torn Societies: Civic Organisations, Democratic Effectiveness and Political Conflict*, Richard C. Crook, Brighton, 2001.

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and the political relationships between tiers of the administration will determine not only the pattern of participation emerging but in many cases it may lead to important limitations of local authorities to reach out with services in areas within their jurisdiction. Whereas, the specific obstacles will to a large extent depend on the type of post-conflict situation (see below), there is in many cases a risk that the rural areas most heavily affected by the conflict may not be reached.

2.6   Often, local administrative structures cease to function in areas most directly affected by conflict. The extent to which sub-national democratic institutions – the organizations of local government as well as the democratic systems and procedures – are functioning during and after the conflict will be a key determinant for the post-conflict strategies and the type of assistance required for recovery. Often, the lowest tiers of local government will be in the front line of fighting between warring factions and will cease to function. In Nepal, for example, the majority of the 3,913 Village Development Committees have been destroyed or been abandoned. In such situations, the local governments will in the immediate post-conflict period not be in a position to resume activities.

2.7   In such situations with limited capacity of local governments, various types of local institutions and individuals, including traditional leaders, could serve as logical partners for localized initiatives. Engaging leaders from differing factions in localized initiatives can serve to promote multi-partisanship and contribute to peace-building. Investing in capacity development and institutional strengthening of local institutions and individuals is critical to building and strengthening local governance processes.

2.8   Fostering decentralized governance requires thorough analysis of local contexts; such analysis should be sensitive to local traditions and customs and at the same time should take into account efforts to enhance national governance. A three-pronged approach is a useful way of formulating a baseline assessment: (i) a comprehensive analysis of the post-conflict setting; (ii) specific analysis of local governance structures and customs; and (iii) opportunities for interventions in the immediate post-conflict stage and in the longer-term. A baseline assessment of local governance specific needs (disaggregated for urban and rural areas) should study issues such as:

- Existing policy and legislative frameworks for decentralization and local governance;
- The number and type of administrative tiers in the country and their precise functions; the administrative and political nature of existing local authorities; the presence of other existing local institutions such as CSOs, traditional community-based structures (e.g., *Shura, Sanduqs,* etc.), special interest groups (e.g., women's groups, youth groups, etc.), NGOs, trade associations, and so forth; identification of local leaders and their roles in the communities concerned;
- The relationship between existing localized governance structures and other levels of administration;
- The institutional and human resources capacities of local authorities and other local institutions, actors and leaders;
- Mechanisms for people's participation (including traditional forms of community participation); and

- Existing planning and service delivery mechanisms for various segments of the population.

2.9   One model of intervention applied by UNDP in countries with weak central institutions with low ownership of equitable, sound policies, has traditionally been that of the "Area Development Schemes" which were first designed and implemented in Sudan in 1986-87 and have subsequently evolved through a process of corporate learning as they been implemented in other countries such as Central America (PRODERE) and Cambodia (CARERE). Important design modifications have respond to local conditions[30]. The Local Governance Model draws on the lessons learned from UNDP's Areas Based Development experience and provides an umbrella planning and management framework and delivery mechanism under which a number of different interventions can take place supported by a variety of different organizations. There are a number of areas in which UNDP can assist:

2.9.1   *Creation of capacity:* A key first step is to focus on developing capacity among official government institutions or traditional institutions of government at the village or district level with a view to creating an effective planning and delivery mechanism.   The objective is to establish the capacity at this level to plan and manage development activities that are identified, planned, resourced and managed in a participatory manner. Where traditional cultural practices exclude particular groups from decision-making, UNDP assistance has been used to leverage broader participation in decision-making bodies including economically disadvantaged groups or displaced groups living in the community. For example, in the case of Sudan, the programmes focused at the outset on the development of community-based decision-making systems expanding on traditional village committees and other traditional institutions such as village "*sanduqs*"[31], thereby creating capacity to manage local development. In order to ensure that any entrenched traditional power structures were not further reinforced, these committees were expanded to incorporate other members, including women and minority tribal groups[32]. National and international UN Volunteers were mobilized to help develop capacity for effective planning and management. NGOs and CBOs constitute an important component of this effort. In the case of CARERE in Cambodia, UNDP, in partnership with ILO, created a network of national NGOs (ACLEDA) to manage small credit schemes and the development of micro-enterprises at the local level in the absence of any formal lending institutions with outreach capacity. These national NGOs were composed of individuals drawn from the local community as well as returning refugees with a view to facilitating resettlement and reintegration objectives.

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[30] In addition to Cambodia, Central America and Sudan, area development programmes have since been implemented in Afghanistan, Bosnia and Herzegovina, Angola, Myanmar, Mozambique and Somalia.
[31] Literally translated as village "chests" or treasuries, these systems of managing communal finances were built upon to enable the management of small credit schemes that were administered along the Grameen Bank model.
[32] Recent evaluations show that women have actively participated in decision-making in most of the Area Development Schemes in Sudan. Participation across tribal and communal lines, however, has been more difficult to achieve.

2.9.2   *Ownership:* An emphasis on community ownership of development activities is critical. In addition to ensuring participatory planning, many activities can include local contributions of resources either in cash or in kind. Labour-based Public Works in partnership between the UNDP and the ILO has been a good example of this. Under such projects, local communities are organized and participate in labor-intensive rehabilitation and reconstruction of essential infrastructure (feeder roads, irrigation schemes, schools, etc.)

2.9.3   *Resourcing development activities:* Providing adequate resources for local level development activities is another critical area. Resources come in the form of expertise, technology and funds. Local development funds, in the form of block grants that are more directly managed by community organizations for credit, small infrastructure projects and other development activities, have been used successfully in Cambodia for example.

2.9.4   *Links to the central administration:* In Sudan the original design for the project entirely excluded the central and provincial government authorities. This placed considerable financial stress on the *Sanduqs* that were forced to subsidize the cost of essential all essential services as the government withdrew its support to the area development scheme areas. Local governance schemes, while retaining management control in the hands of local communities as much as possible, must link to official government structures as they exist or emerge.

3. Entry Points for Decentralized Governance in Post-Conflict Situations

In *self-enforcing cases*[33], decentralization and local government development can take place with minimal risk of renewed conflict. The government and its development partners, once agreement is reached on the nature of decentralized governance, can introduce reforms with minimal threats to the newfound stability. The main challenges in such cases, as seen in situations such as Timor-Leste and Eritrea, tend to revolve around the lack of capacity of both national/local civil servants and the CSOs/CBOs that need to represent communities' interests. By and large, however, the departure of the former regime and society's support for the government in such settings permits relatively far-reaching reforms to take place with minimal disruptions.

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[33] This paper utilizes a three-pronged typology identified by CMI to analyze different post-conflict settings and proposing governance interventions, as follows:
(i) *Self-Enforcing Cases*, in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).
(ii) *Mediated Cases*, in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).
(iii) *Conflictual Cases*, in which one side achieves a military victory *per se*, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

Mediated cases, like *conflictual cases*, are significantly more challenging. Decentralised governance initiatives involve alterations in the allocation of powers and resources, which, in a fragile peace, can bring about the renewal of conflict. In some cases, undertaking extensive decentralization and local public administration reform runs the risk of entrenching the existing incumbents (including former combatants) and administrative power structures. However, focusing on local service delivery mechanisms can lay the ground for formal reforms once normalcy has been achieved and a return to conflict unlikely.

Similarly, in *conflictual cases,* the obstacles to effective decentralized governance are daunting: coherent implementation is usually politically and practically difficult to achieve, either because the reach of central government is still tenuous in many areas, or because it would upset the political peace. However, improvements in the performance of local authorities could help weaken support for the conflict; additionally, strengthened governance in local communities can form the basis for building a peacetime administration. Here, again, the cautions of the *mediated cases* should be heeded.

3.1 Immediate Post-Conflict Assistance

In the initial stages of a post-conflict situation, it is useful to focus on service delivery that can help meet basic humanitarian needs as well as lay the foundation for legitimate participatory processes and institution building at all levels, in particular at the local and community levels. The following short-term measures are examples:

3.1.1   Enabling local authorities to proactively lead localized recovery and social reintegration.

3.1.2   Promote fiscal transfer to local authorities for localized recovery and social reintegration activities.

3.1.3   Instituting participatory local planning and budgeting procedures in the local authority and building capacity for demand-driven, socio-economic local development and social integration activities.

3.1.4   Developing the capacity of local NGOs, CBOs and other local institutions for participatory development in post-conflict situations.

3.1.5   Establishing grant facilities to fund local NGOs and CBOs, including traditional organizations and interest groups (such as women's groups, youth groups, etc.), to promote dialogue and participatory local initiatives in the areas of water supply and sanitation, rural road building, small irrigation schemes and the like, as well as activities to foster reconciliation and social reintegration.

3.1.6   Establishing micro-credit schemes to promote income-generating activities among poor and marginalized groups such as women and youth.

3.1.7   Strengthening the capacity of sectoral state administrative units to provide technical assistance, legal control and local performance appraisal.

3.2 Medium-Term Post-Conflict Support

There are three major strategic entry points for longer-term support and assistance, namely: (i) creating an enabling framework at the national level in support of decentralized governance; (ii) promoting participation and community-led development; and (iii) developing local capacity at individual, institutional and systemic levels for local development and social reintegration.

3.2.1   Creating an enabling framework at the national level in support of decentralized governance:
- Constitutional recognition and autonomy for local authorities;
- Legislative and legal frameworks for decentralization, including mechanisms for fiscal transfer and devolution of financial powers;
- National decentralization strategy sensitive to rural and urban contexts;
- Local Governance Act;
- Enabling legislation for administrative reforms, regulations and procedures;
- Law empowering NGOs, CBOs and traditional forms of participatory mechanism; and promoting micro-macro linkages to inform national policies; and
- Laws regulating public-private partnerships.

3.2.2   Promoting participation and community-led development:
- Citizen participation (including returnees and other residents) in setting priorities and budget allocation for local service provision and development;
- Legislative frameworks enabling communities to organize themselves for collective action;
- Leadership training for human development.
- Establishing facilities to fund NGOs, CBOs and other groups for participatory infrastructure reconstruction such as schools, health centers, rural roads, irrigation channels and the like, as well as social reintegration activities; and
- Access to information, public records and meetings.

3.2.3   Developing local capacity at individual, institutional and systemic levels for local development and social reintegration:
- Developing the capacity of local authorities for participatory and transparent governance and in analyzing, planning and monitoring localized demand-driven, socio-economic development;
- Developing local authorities' capacity to expand local revenue base;
- Enhancing capacity to undertake measures for community security and social reintegration;
- Strengthening skills to promote partnership among local actors;
- Strengthening local officials' management and coordination skills;

- Promoting measures to build public confidence and social reintegration through non-violent conflict resolution mechanisms and physiological healing; and
- Developing the capacity of relevant agencies at the regional and national levels to provide financial and technical support to local authorities.

Annex I: Illustrative Entry Points and Sequencing for Decentralized Governance in Post-Conflict Situations

SELF-ENFORCING[34] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Resources, Financing and Investment Mechanisms	- Rapid financing facilities (e.g. UNDP Area Based Programme, UNCDF's LDF, LIFE, etc.) to promote service delivery, etc. - Promote fiscal transfer from central to local authorities	- Funding facilities to fund NGOs, CBOs and other groups for participatory service delivery, infrastructure reconstruction and social reintegration - Developing local authorities' capacity to expand local revenue base - Develop framework for sharing of revenues between central government and tiers of local government
Planning and Budgeting Structures and Processes	- Instituting participatory local planning and budgeting procedures	- Citizen participation in setting priorities and budget allocation for local service provision - Developing the capacity of local authorities for participatory and transparent governance and in analyzing, planning and monitoring localized reconstruction and development
Institutional Strengthening	- Developing capacity of local authorities to engage in priority service provision and participatory development - Strengthening the capacity of sectoral state administrative units to provide financial and technical support, etc. to local administrative structures	- Strengthening local officials' management and coordination skills - Developing the capacity of relevant agencies at the regional and national levels to provide financial and technical support to local authorities - Enabling legislative and legal frameworks for political, administrative and financial decentralization and devolution sensitive to urban and rural contexts
Community Participation	- Developing capacity of local authorities, NGOs, CBOs and other local institutions for participatory development - Legal framework enabling communities to organize and to empower CBOs, NGOs and traditional forms of participatory mechanisms	- Developing leadership capacity for community-led participatory local development - Enhancing local capacity to undertake measures for community security and social reintegration - Strengthening capacity to promote partnerships among local actors

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[34] A *Self-Enforcing* Case is one in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).

MEDIATED[35] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Resources, Financing and Investment Mechanisms	- Rapid financing facilities (e.g. UNDP ABD Programme, UNCDF's LDF, LIFE, etc.) to promote service delivery, etc. - Promote fiscal transfer from central to local authorities	- Funding facilities to fund NGOs, CBOs and other groups for participatory service delivery, infrastructure reconstruction and social reintegration - Developing local authorities' capacity to expand local revenue base - Develop framework for sharing of revenues between central government and tiers of local government
Planning and Budgeting Structures and Processes	- Pilot participatory local planning and budgeting procedures	- Citizen participation in setting priorities and budget allocation for local service provision - Developing the capacity of local authorities for participatory and transparent governance and in analyzing, planning and monitoring localized reconstruction and development
Institutional Strengthening	- Developing capacity of local authorities to engage in priority service provision and participatory development - Strengthening the capacity of sectoral state administrative units to provide financial and technical support, etc. to local administrative structures	- Strengthening local officials' management and coordination skills - Developing the capacity of relevant agencies at the regional and national levels to provide financial and technical support to local authorities- Enabling legislative and legal frameworks for political, administrative and fiscal decentralization sensitive to urban and rural contexts
Community Participation	- Developing capacity of local authorities, NGOs, CBOs and other local institutions for participatory development - Legal framework enabling communities to organize and to empower CBOs, NGOs and traditional forms of participatory mechanisms	- Developing leadership capacity for community-led participatory local development - Enhancing local capacity to undertake measures for community security and social reintegration - Strengthening capacity to promote partnerships among local actors

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[35] A *Mediated Case* is one in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).

CONFLICTUAL[36] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Resources, Financing and Investment Mechanisms		- Rapid financing facilities (e.g. UNDP's ABD Programme, UNCDF's LDF, LIFE, etc.) - Funding facilities to fund NGOs, CBOs and other groups for participatory service delivery, infrastructure reconstruction and social reintegration.
Planning and Budgeting Structures and Processes		- Piloting citizen participation in setting priorities and budget allocation for local service provision - Developing the capacity of local authorities for participatory and transparent governance and in analyzing, planning and monitoring localized reconstruction and development
Institutional Strengthening	- Developing capacity of local authorities to engage in priority service provision and participatory development	- Strengthening local officials' management and coordination skills - Strengthening the framework for tiers/units of governance and the mandate/coordination - Developing the capacity of relevant agencies at the regional and national levels to provide financial and technical support to local authorities - Enabling legislative and legal frameworks for political, administrative and fiscal decentralization sensitive to urban and rural contexts
Community Participation	- Developing capacity of local authorities, NGOs, CBOs and other local institutions for participatory development	- Developing leadership capacity for community-led local development - Legal framework enabling communities to organize and to empower CBOs, NGOs and traditional forms of participatory mechanisms - Enhancing local capacity to undertake measures for community security and social reintegration - Strengthening capacity to promote partnerships among local actors

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[36] A *Conflictual Case* is one in which one side achieves a military victory per se, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

Annex II. Resources and Partners

Resources

UNDP, *Decentralized Governance for Development: A Combined Note on Decentralization, Local Governance and Urban/Rural Development (Draft),* New York, February 2004

Sam Barnes and Alain Retiere, *Peace-building from the ground up: A case study of UNDP's CARERE Programme in Cambodia 1991- 2000*, UNDP/Cambodia, Phnom Penh, 2001

Dirk Salomons*, Local Governance Approach to Social Reintegration And Economic Recovery in Post-Conflict Countries: Programme Options for UNDP/UNCDF Assistance,* Paper presented in the Workshop: A Local Governance Approach to Post – Conflict Recovery, New York, 2002

Leonardo Romeo, *Local Governance Approach to Social Reintegration and Economic Recovery in Post Conflict Countries: Towards A Definition And A Rationale,* Paper presented in the Workshop: A Local Governance Approach to Post-Conflict Recovery, New York, 2002

Rajeev Pillay, *Halting the Downward Spiral: Returning Countries with Special Development Needs to Sustainable Growth and Development; A Discussion Paper* prepared for IDG/BDP/UNDP, New York, 2002

Gurr TR, Monty G. Marshall, Deepa Khosla, *Peace and Conflict, 2001: A Global Survey of Armed Conflicts, Self- Determination Movements and Democracy, Centre for International Development and Conflict Management (CIDCM),* University of Maryland, College Park, 2001

Marlene Fernandez*, LIFE Programme in Colombia: An Evaluation Report,* UNDP, New York, 2000

UN- DDSMS/UNDP, Local Governance: Report of the UN Global Forum on Innovative Policies and Practices in Local Governance, Gothenburg, Sweden, September 1996

Partners

UN System

UN DESA and UNDP collaborate in many country programmes as well as in the conduct of capacity development workshops on DGD themes as part of the annual Global Forum on Reinventing Government.
http://www.unpan.org/globalforums.asp

UN HABITAT executes most of UNDP's urban programmes including the Urban Management Programme (UMP), one of the global programmes supported by UNDP.
http://www.unhabitat.org/ and http://www.unhabitat.org/programmes/ump/

The World Bank Institute and UNDP has signed an MOU outlining specific areas of collaboration and initiatives, including those related to (i) local governance, fiscal decentralization and access to information, and (ii) community empowerment. http://www.decentralization.org/Active_Pages/index.asp

Local Government Associations

- International Union of Local Authorities (with access to local government associations around the world) – UNDP has an MOU with IULA: http://www.iula.org/
- Council of European Municipalities and Regions http://www.ccre.org/docs/index.html
- International City/County Management Association http://www.icma.org
- International Council for Local Environmental Initiatives http://www.iclei.org
- World Association of the Major Metropolises| http://www.metropolis.org
- World Associations of Cities and Local Authorities Coordination http://www.waclac.org
- Sister Cities International http://www.sister-cities.org/

Resource Centers, Universities and Institutes

- Asian Resource Center for Decentralization (ARCD) http://www.decentralization.ws/
- Barefoot College (India) http://www.barefootcollege.org/html/about.htm
- Fiscal Decentralization Initiative http://lgi.osi.hu/fdi/
- Ghana Institute of Management and Public Administration (GIMPA) kadarko@yahoo.com
- Institute for Housing and Urban Development Studies- HIS, Rotterdam, The Netherlands: http://www.ihs.nl
- Institute of Public Administration (IPA), USA http://www.theipa.org/index.html
- Institute of Regional and Metropolitan Studies (Spain) http://campus.uab.es/iermb/
- International Development Department- IDD School of Public Policy, University of Birmingham, UK http://www.bham.ac.uk/idd
- Kiev-Mohyla Academy (Ukraine) http://www.ukma.kiev.ua/

- Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee)
  http://www.nispa.sk
- Open Society Institute/Soros Foundation
  http://www.soros.org/
- School of Planning and Architecture (India)
  jhansari@bol.net.in
- Taubman Center for State and Local Government
  Kennedy School of Government, Harvard University
  http://www.ksg.harvard.edu/taubmancenter/
- Universidad Privada Antennor Orrego (Perú)
  vcarrerat@yahoo.com
- University of the Philippines
  School of Urban & Regional Planning
  http://www.upd.edu.ph/
- University of the Philippines
  National College of Public Administration and Governance
  http://www.upd.edu.ph/~ncpag/
- Centre for Environmentally Sound Technology Transfer - Sichuan University
  P.R. China
  http://www.cestt.org.cn/English/

CHAPTER VI: PUBLIC ADMINISTRATION REFORM

1. Introduction to Public Administration Reform in Post-Conflict Situations

In post-conflict situations, governments are usually under tremendous pressure to demonstrate tangible improvements to satisfy the peace process, the citizenry, which has urgent and pressing needs arising from the conflict, and the donor community, on whom post-crisis countries often depend and who require concrete results on the ground, aid coordination and financial control mechanisms. However, post-conflict governments are rarely in a condition to deliver since public administration is all but incapacitated. While the temptation is high to avoid the painful reforms in a politically precarious time, and the argument is often made to focus on holding elections as a prerequisite to public administration reform, it is nevertheless important to launch the process of reform as soon as possible.

2. Main Issues for Public Administration Reform in Post-Conflict Situations

2.1   Public sector reform, including reform of the structure and functions of government at the national and local levels, along with the structure, composition, policies and size of the civil service, are all issues of central importance to the process of stabilization and peace-building itself. As the body that wields power in the day-to-day processes of decision-making and policy setting, the executive branch of government is often a focal point of contention. Exclusion from involvement in public sector institutions is one of the structural causes of conflict.

2.2   In countries in a situation of extreme political uncertainty, political considerations pervade all aspects of governance. As a consequence, it is typically an implicit objective of UNDP's public administration reform programme to de-politicize the civil service, though it is often not explicitly stated.

2.3   In countries where conflict is both protracted and sporadic, but with neither a full-fledged war or peace, typically pockets of instability remain, local and national institutions have little credibility or capacity, non-state actors (from warlords to foreign NGOs) are a prominent reality, rule of law is absent, and a large percentage of the population is displaced. On the one hand, the government neither has control over the country as a whole nor can play its role in governance of the country. On the other, the constituency that can be involved in rebuilding and strengthening the government, and bolstering its legitimacy, is limited and not representative of the population as a whole.

2.4   Considerations for public administration in post-conflict settings include, but are not limited to: (i) executive and central management; (ii) civil service management; (iii) financial resources management; (iv) local government and decentralization; and (v) private sector and civil society linkages.

2.4.1   *Executive and central management:*

- A habit of highly centralized decision making, often centred on one dominant figure; mechanisms for policy making needing to be developed from scratch;
- Weak or non-existent instruments for delegation of authority, and lack of accountability or control mechanisms;
- Public institutions oriented towards an objective other than providing services to citizens (such as winning the war, ensuring the government's retention of power, or modelled to meet the needs of a command economy);
- The basic materials for a functioning public administration missing, from offices with furniture, and writing and communication materials, to transportation;
- Poor decision-making processes, and weak monitoring systems;
- Poor coordination mechanisms, especially aid coordination;
- Poor articulation between the branches of government, particularly between the legislature and the executive, and between the policy-making branch and the line ministries, leading to an uncertain execution of policy; weak or non-existent instruments for delegation of authority; lack of accountability and control mechanisms;
- Public institutions structured vertically, with little or no horizontal links other than at the apex (e.g. in the cabinet);
- The framework of bureaucratic rules and regulations poorly documented or unavailable to the civil servant or the citizen and, where known, are burdensome or made obsolete by intervening changes in the institutional structure; and
- Involvement of the state in economic activities (public enterprises).

2.4.2 Civil service management:
- The removal of a large fraction (if not all) of civil servants with the end of hostilities (such as where they were associated with the loosing side of the occupying government);
- A highly politicised civil service, often composed of one ethnic, religious or political group;
- Civil servants' records lost, damaged or poorly maintained;
- A large overhang of 'temporary' workers used either to make up for staff lost to the army or as part of a strategy to co-opt certain segments of society;
- The commingling of military and civilian staff, for example in pension commitments;
- Pay too low to attract staff or avoid corruption-through-despair (i.e. pay below subsistence level);
- Inadequate skills among civil servants, poor definition of jobs and functions, inadequate and obsolete rules for recruitment, all highly politicised;
- Key skills absent from the country at large (such as qualified jurists); and
- An inappropriately staffed civil service (too many, too few civil servants, or inappropriately allocated civil servants, a weak or non-existent establishment control mechanism (leading to "ghost" workers for example), and usually, a lack of information about the civil service.

2.4.3 Financial resources management:
- Secure intergovernmental financial transfer mechanisms are weak or absent; and

- Inadequate or non-existent payroll and procurement mechanisms, or audit mechanisms.

2.4.4 *Local governance and decentralization:*
- The reach of government outside the main cities is weak or non-existent and post-conflict governments, understandably, are anxious to extend their reach to the entire country;
- Semi-autonomous local government structures are a key aspect of the peace-building process;
- A highly centralized structure, with incentives geared to penalize local initiative;
- Lack of consultative mechanisms at local levels; and
- Weak local administrations; poorly understood and overlapping jurisdictions.

2.4.5 *Private sector and civil society linkages:*
- A regulatory environment constricting private enterprise, including those able to provide services to government; and
- Official constraints on NGO and CSO activities.

2.5 Recognizing the political sensitivities of public administration reform is a key concern. Interventions should avoid seeming to favour any one group and upset the balance of power on which peace is predicated. It is important to bear in mind that strengthening the capacity and extending the reach of the government can often reinforce the political strength of the group in power at the expense of other factions.

2.6 A number of things can undermine efforts in Public Administration reform in post-conflict settings. Such problems often relate to one or more of the following:
- The potential lack of commitment from stakeholders, especially those who hold influential positions related to decision-making and resource allocation, and a potential resulting lack of implementation;
- Overoptimistic implementation timeframes resulting in slower than expected disbursement of donor funds;
- Poor coordination among donors, who may not share the same objectives; and
- Key stakeholders such as civil society and the media are not fully engaged.

3. Entry Points for Public Administration Reform in Post-Conflict Situations

Since post-conflict countries are characterized by severe political tensions, the basic conditions for addressing the issues of post-conflict public administrations, such as explicit political support for reform, clearly defined goals and effective communication, generally do not apply. However, this does not mean that progress on public administration reform is impossible. Rather, entry points through which a governance programme can begin and that are appropriate to each particular case must be researched and identified. These entry points can be identified on the basis of UNDP's own experiences, in consultations with local residents and authorities (where they exist), civil society, and other international agencies. However, it should be understood that often, the "entry points" for governance do not on the surface appear to be

governance-related, but rather may be a standard post-crisis recovery response, such as infrastructure repair. With the right planning, strategy, flexibility, and vision, such "recovery" programmes should lay the foundation for a longer-term governance approach. Selecting such entry points has the additional advantage of avoiding come of the political pitfalls that a more direct approach can lead to.

Whatever the entry point, interventions should be ruled by the following considerations. Firstly, the structure, nature, and scope of a strategy for a post-conflict public administration should be based in the first instance on the immediate needs for the reconstruction of a "basic" and "flexible" system of public administration – incremental steps, long-term commitment on the part of donors and agencies, and the constant renewal of government commitment and ownership are essential. Secondly, such a framework should be sufficiently flexible as a management tool in order to allow for adaptation to the policy needs of a future government. Finally, special attention should be given to the severe absorptive capacity limitations of the administration.

In *self-enforcing cases*[37], typically, there is scope to address the issues of establishing an effective and efficient public administration explicitly, directly, and with little risk of reigniting conflict. In cases such as Timor-Leste and Eritrea, as with many case of this nature, the new regime seeks to create a new public administration and civil service in place of one that has been vanquished, as in the case also of post-colonial countries. In some cases, the public administration may already be fairly well staffed, at least at the lower to middle levels of the civil service, with nationals who are likely to want to stay on under the new administration. In other cases, where the supporters of the vanquished power dominated the ranks of the civil service to a fairly low level, the loss of these individuals could leave a public administration largely devoid of staff, as in the case of Timor Leste. In the former case, there would be a greater emphasis on retraining the civil service and restructuring the public administration. In the latter cases the international community may well have to support a 'shadow' public administration of international technical advisers in key areas simply to keep the basic functions of government going while qualified nationals are trained. In these cases, the time it takes for national staff to be recruited and trained is often underestimated, and the risks of poor capacity transfer from international staff to national staff are not adequately addressed. Nevertheless, 'self-enforcing' cases often represent an opportunity to effect major changes in the structure, size and orientation of the public administration. The risk is that the new models are adopted, either in default of properly thought through

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[37] This paper utilizes a three-pronged typology identified by CMI to analyze different post-conflict settings and proposing governance interventions, as follows:

(i) *Self-Enforcing Cases*, in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).

(ii) *Mediated Cases*, in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).

(iii) *Conflictual Cases*, in which one side achieves a military victory *per se*, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

alternatives, or under pressure from donors, without the government, itself almost always in a fragile state of restructuring itself and its power structures to a peacetime existence, being able to pay the necessary attention and affording the changes legitimacy.

Mediated cases, like *conflictual cases*, are much more challenging. In most cases one party to the conflict dominates the central administration (though not necessarily the local government). Embarking on extensive reforms of the public administration can easily risk entrenching the existing incumbents and administrative power structures. Sometimes, the public administration is itself an object in the peace negotiations (as when ministries are divided up among the contenting parties). It is not usually either practical or desirable (since it could generate a new source of conflict) to attempt to introduce major reforms until normalcy has been achieved and a return to conflict unlikely. Establishing the neutrality of the civil service where possible (through training and through a politically neutral recruitment and promotions system) should be an early focus of intervention, while at the same time strengthening local governance. The choices made will, of course, depend on the nature of the recent conflict. For example, in a conflict based largely on political affiliation (such as in Mozambique), strong allegiance to one party among civil servants stands a better chance of dissipating with the end of hostilities and retraining, while a conflict based on ethnicity may be much more difficult to address. In either case, it is likely that no explicit reform of the structure of government should be attempted until at least the end of the intermediate period. Sectoral reforms, focusing on re-establishing service delivery and regulatory performance in health, education, public works, etc. can lay the foundation for broader reform later on.

Not surprisingly, in *conflictual cases* the public administration could be even more the object of political contestation than in the other two, as in Rwanda. However, depending on the case, an improvement in the performance of the new public service that is readily appreciable to the public at large, could help weaken support for the conflict. While a move towards some form of decentralized administration is clearly desirable, this may be politically and practically difficult to achieve, either because the reach of central government is still tenuous in many areas, or because it would upset the political peace. Here, again, the cautions of the mediated cases should be heeded.

In almost all post conflict cases, *civil service pay* will be a major concern, whether simply because wages are untenably low, as in Mozambique, or because there is no physical mechanism to pay civil servants, as in Afghanistan. In many cases, civil servants have gone unpaid for some time. At the same time it is usually impossible to establish the identity, rank, and numbers of legitimate civil servants. Particularly in cases where civil servants have not been paid, finding a solution to this problem trumps all other concerns. In these cases a temporary, and often imperfect, system is unavoidable, and should be combined with a plan for developing a more permanent solution.

Some specific examples of post conflict assistance that could afford and entry point into public administration reform include the following. These examples are by no means exhaustive, and are merely intended to provide an overview of the range of opportunities that may exist, depending on the status of the conflict itself.

3.1 Immediate Post-Conflict Assistance

3.1.1   Identifying priorities for a community's infrastructure repair or humanitarian assistance by facilitating an inclusionary decision-making process.

3.1.2   Working through local councils or municipal planning committees to identify rehabilitation needs, thereby building their capacities.

3.1.3   Supporting reconciliation efforts through community mechanisms, inclusion of ethnic minorities (when possible) into reintegration/ rehabilitation processes, etc.

3.1.4   Supporting reintegration programmes that enable ex-combatants, IDPs and refugees to return to their homes sustainably.

3.1.5   Creating or strengthening local and national institutions that address the needs long-term of the displaced, ethnic minorities, etc.

3.2 Medium-Term Post-Conflict Support

3.2.1   Supporting and including civil society (including human rights groups, private sector, women's associations and youth councils).

3.2.2   Addressing the development/institution building dimension of rule of law (including the judicial and security sectors).

3.2.3   Strengthening the capacities of local, regional and national authorities and institutions through training and relying on local expertise.

3.2.4   Supporting public administration building or reform through upstream policy advice on legislation.

3.2.5   Facilitating decentralization by providing technical and budgetary support to municipalities.

3.2.5   Introducing or strengthening ICTD as a tool to promote good governance.

3.2.6   Instituting economic revitalization programmes that support the immediate economic/income needs while creating a larger enabling environment for governance.

Annex I: Illustrative Entry Points and Sequencing for Public Administration Reform in Post-Conflict Situations

SELF-ENFORCING[38] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Public Sector Institutional Framework	- Identify unmet institutional needs for structuring major government functions - Identify training needs; educate executive leaders and staff about principles of responsible government - Support in management of donor rehabilitation funds - Support local governments in the delivery of emergency services	- Establish ministries and independent agencies, including specifying organization and lines of authority - Develop and decentralization policy, including oversight mechanisms, fiscal transfer mechanisms, lines of authority and local level legislative structures. - Creating or strengthening local and national institutions that address the needs long-term of the displaced, ethnic minorities, etc.

Civil Service	- Undertake census of remaining civil servants
	- Identify needs
	  - Encourage diaspora with needed skills to return
	  - Recruit international technical assistance for key posts for which national staff are unavailable
	  - Introduce emergency payment system
		- Select and train indigenous civil servants;
		- Establish transparent entry, promotion, and retirement systems.
		- Determine structure and affordable size of civil service taking into account existing local capacity.
		- Introduce new pay and career structure

Revenue Generation	- Identify sources and design a workable, efficient system that is able to generate revenue for government services (built on the foundation of a maintenance fund for infrastructure, or in-kind community contributions, for example)	- Implement plans for revenue generation, banking, customs, taxation, and financial services; create capacities to manage budget and personnel issues
Infrastructure	- Identify Physical infrastructure of executive branch rehabilitation needs	- Improve physical infrastructure of executive branch (i.e. buildings, libraries, information systems, and office equipment)
New Areas	- Introduce central procurement board - Introduce human rights, ombudsman for nationalities, or ministry for gender	- Introduce human rights commission or ombudsman for minorities

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[38] A *Self-Enforcing* Case is one in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).

MEDIATED[39] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Public Sector Institutional Framework	- Identify unmet institutional needs for structuring major government functions - Support management of donor rehabilitation funds - Support local governments in the delivery of emergency services	- Launch a participatory process for a long-term government institutional reform programme - Develop and decentralization policy, including oversight mechanisms, fiscal transfer mechanisms, lines of authority and local level legislative structures - Create or strengthening local and national institutions that address the needs long-term of the displaced, ethnic minorities, etc.
Civil Service	- Undertake census of existing civil servants - Identify training needs; develop training	- Establish transparent entry, promotion, and retirement systems. - Determine structure and affordable size of civil service taking into account existing local capacity
Revenue Generation		- Identify sources and design a workable, efficient system that is able to generate revenue for government services (built on the foundation of a maintenance fund for infrastructure, or in-kind community contributions, for example)
Infrastructure	- Identify Physical infrastructure of executive branch rehabilitation needs	- Improve physical infrastructure of executive branch (i.e. buildings, libraries, information systems, and office equipment)
New Areas	- Supporting reconciliation efforts through community mechanisms, inclusion of ethnic minorities (when possible) into reintegration/ rehabilitation processes, etc.	

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[39] A *Mediated Case* is one in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).

CONFLICTUAL[40] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Public Sector Institutional Framework	- Identify unmet institutional needs for structuring major government functions - Support management of donor rehabilitation funds - Support local governments in the delivery of emergency services	- Launch a participatory process for a long-term government institutional reform programme - Develop and decentralization policy, including oversight mechanisms, fiscal transfer mechanisms, lines of authority and local level legislative structures. - Create or strengthening local and national institutions that address the needs long-term of the displaced, ethnic minorities, etc.
Civil Service	- Undertake census of existing civil servants - Identify training needs; develop training	- Establish transparent entry, promotion, and retirement systems. - Determine structure and affordable size of civil service taking into account existing local capacity
Revenue Generation		- Identify sources and design a workable, efficient system that is able to generate revenue for government services (built on the foundation of a maintenance fund for infrastructure, or in-kind community contributions, for example)
Infrastructure	- Identify Physical infrastructure of executive branch rehabilitation needs	- Improve physical infrastructure of executive branch (i.e. buildings, libraries, information systems, and office equipment)
New Areas		

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[40] A *Conflictual Case* is one in which one side achieves a military victory per se, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

Annex II. Resources and Partners

Resources

Conflict Prevention and Post Conflict Reconstruction: Perspectives and Prospects, World Bank (1998):
http://www-unix.oit.umass.edu/~educ870/PostConflict/resources/Colleta-PostConflict-Rcnstrctn-98.pdf

Public Administration and Management Innovation in Developing Countries, Dr. John-Mary Kauzya, UNPAN (December 2002):
http://unpan1.un.org/intradoc/groups/public/documents/un/unpan007003.pdf

World Bank site and portal to info on poverty reduction in post-conflict countries:
http://lnweb18.worldbank.org/ESSD/sdvext.nsf/67ByDocName/ConflictAnalysisPovertyReductionStrategyPapersPRSPinconflict-affectedcountries

Partners

Stockholm International Peace Research Institute: http://www.sipri.se

Center for Strategic and International Studies: http://www.csis.org

Institute of Public Administration: http://www.theipa.org/news/news.html

CHAPTER VII: JUSTICE, SECURITY AND HUMAN RIGHTS

1. Introduction to Justice, Security and Human Rights in Post-Conflict Situations

Access to justice, security and human rights are central to sustainable peace and stability in any context, let alone post-conflict settings. Conflicts, whether internal or cross-border, invariably lead to the erosion of the civil, political, economic, social and cultural rights of the populations caught in their midst. Specific violations vary with each conflict, but they often include violations of civil rights such as the right to life (unjustified killings), to physical integrity (physical injury, enforced disappearances, arbitrary arrest and detention and torture), and to freedom of movement; political rights such as freedom of speech, of association and of assembly and the right to political participation; economic, social and cultural rights such as the right to property (through loss by destruction or temporary deprivation as a result of internal displacement), to work, to an adequate standard of living, to a family, to freedom of information, etc.

In such situations, where there is no justice or where there is only unequal access to justice, violent conflict is likely to re-emerge. Indeed, many conflicts are rooted in the real or perceived breakdown of justice where individuals and groups are not able to obtain a fair remedy for their grievances; where political, legal and institutional biases marginalize segments of the population such that they resort to violence. Even where the justice system *per se* may not be the cause of the conflict, with the continuation and the escalation of the conflict over time, the judicial and legal system generally becomes less able to cope with the injustices of war, thus compounding the perception that the judicial establishment is either unable or unwilling to fulfill the demands for justice. As such, any attempts to facilitate a process of moving from conflict to democratization and/or peace, if they are to be successful, must take into account the causes of the conflict including the absence of an effective justice and human rights mechanism that allows the aggrieved to claim their right to redress. To be sure the success or failure of UN peacekeeping missions has often hinged on whether a preparatory process involving issues such as criminal justice and human rights protection has been implemented.

Finally, there needs to be a holistic approach to security sector reform (SSR) that ensures (i) sustainable disarmament, demobilization, repatriation, reintegration and resettlement (DDRRR) of former combatants, (ii) development of democratic, law-abiding police services and armed forces, including appropriate civilian oversight mechanisms, and (iii) necessary linkages between the judicial system, the police service and the prison service.

2. Main Issues for Justice, Security and Human Rights in Post-Conflict Situations

2.1   *The demand for immediate justice and the protection of human rights is often well beyond the capacity of post-conflict administrations, resulting in a further erosion of credibility and public confidence in the justice and human rights systems.* In many post-conflict countries the destruction of the justice system and of human rights promotion,

protection and oversight mechanisms is so complete that providing a palpable sense of justice and human security for people, both those who have been victims of the conflict and those who seek justice redress for violations committed after the conflict, is a monumental undertaking. The human resources of the system – judges, prosecutors, defence attorneys, administrators, police officers, prison guards, human rights institutions and civil society organizations – have either fled or been killed. Similarly, the physical infrastructure – courtrooms, prisons, police stations and other offices – has been destroyed.[41] The pressure for quick results can lead to the placement of incompetent persons in positions of authority within the justice and human rights protection system who either do not understand or will not comply with the law or with human rights principles. Such a situation would only contribute to greater social and political instability and the disregard for the rule of law. In fact, in many post-conflict countries, justice systems, legal frameworks and human rights protection mechanisms are viewed with suspicion even before the conflict; they are seen either as perpetuating impunity and therefore contributing to the causes of conflict, or simply weak and impotent. In a post-conflict setting, it is natural that demands will be made for swift accountability and justice by those who have suffered in the conflict. Thus, it is of critical importance that public faith in the justice and human rights system is restored quickly without leaving room for the return to extra-judicial measures such as vigilantism and "mob-justice" or "victors' justice" or massive human rights violations. But at the same time, it must be a system that is credible, effective and efficient, observing prescribed legal procedures, dispensing justice and providing human rights protection equally and equitably.

2.2   *The call for immediate results can detract from long-term reform and capacity building.* The pressure exerted not only by local populations, but international organizations to deal with issues of accountability for crimes committed during the conflict can dominate the national agenda in the justice and human rights sector in post-conflict settings. While it is important that this and the issue of legal imbalances that either caused or contributed to the conflict are addressed as a matter of national priority, it is also vital that these endeavors are seen as part of a cohesive national strategy to develop a legal framework that upholds international human rights norms and standards and as an attempt to build capacity of the local institutions to supply justice remedies. Efforts must be made to reconcile the need for immediate results with long-term structural reform efforts. States undergoing transition following a conflict must not only focus on addressing human rights abuses and war crimes of the past, but also concentrate on re-establishing the rule of law and the justice system, addressing social injustice, restoring distributive justice and preventing the recurrence of large-scale human rights abuse.[42]

2.3   *Institutional and political barriers impede the effective coordination of external assistance thus preventing a holistic approach to reform.* Coordination between key institutions is a prerequisite for effective legal and judicial reforms and human rights protection. The justice sector has to be considered as a system, building and strengthening each institution, but also ensuring effective coordination among these

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[41] *Peace and Justice,* 1998 Stanley Foundation.
[42] Mani, R. 2002, *Beyond Retribution: Seeking Justice in the Shadows of War.*

institutions. A holistic approach goes beyond merely strengthening adjudication mechanisms. It also focuses on improving access to these institutions especially by the disadvantaged; ensuring the establishment of a sound legal basis; and the institution of adequate enforcement mechanisms. Such an approach would involve numerous entities: from the executive to the legislature and from the judiciary to civil society. The constraints of a post-conflict setting would naturally limit such an ideal approach to change and reform, but even in those difficult circumstances it would be necessary to ensure that the criminal justice and human rights protection systems addressed as one, rather than piecemeal. The support provided to the ministry of justice, the courts, the prosecutors, the public defenders, the police, the prisons, human rights institutions must be simultaneous and balanced. Failure to do so would not only lead to the less than optimum use of resources, but also a situation where those entering the criminal justice system are likely to fall through the cracks and thus be subject to serious human rights violations.[43]

However, coordination in post-conflict settings is no easy task. Often there is no functioning state and therefore no prevailing institutions in the justice and human rights sector. These must be reconstituted from scratch. Of course this also means that there are no existing mechanisms of coordination between institutions. Even if such did exist prior to the conflict, the period of transition would more than likely require the significant revision of procedures for coordination and collaboration. Furthermore, unlike in other sectors, coordination between justice and human rights sector institutions can be further complicated by the need to respect the constitutional independence of the institutions that function within it.[44] The impetus to collaborate may be even less if the heads of these institutions belonged to different factions during the conflict.[45]

Finally, the lack of coordination amongst donors in post-conflict assistance can be especially damaging vis-à-vis the justice and human rights sector. Not only can it lead to a fragmented and discordant approach to training and other capacity building measures, but it could result in a dangerous clash of doctrine, culture and language[46] and an unworkable hybrid legal system ending in confusion and chaos.

2.4   *Post-conflict justice reforms tend to focus on the formal institutions at the expense of national human rights institutions, traditional justice, customary law and civil society organizations*. The need to prioritize spending and the urgency to establish a functioning criminal justice system often dictate a concentration on the formal justice sector and related institutions whereas traditional mechanisms which are used by, and are more accessible to, a vast majority of the population tend to get ignored or

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[43] Timor-Leste's prisons have been flooded with persons whose detention orders had long-expired because of the lack of coordination between the courts, the prosecutors, the public defenders and the prisons.

[44] The courts, independent Attorneys-General or prosecutors and the Ministries of Justice and Interior and national human rights institutions such as human rights commissions.

[45] For example, Afghanistan.

[46] Chris Mburu, 2001 *Challenges Facing Legal and Judicial Reform in Post-Conflict Environments: Case Study from Rwanda and Sierra Leone,* http://www4.worldbank.org/legal/ljr_01/doc/Mburu.pdf.

sidelined.[47] Similarly national human rights institutions and other quasi-judicial bodies are viewed, at best, as of secondary importance. Likewise, though civil society advocacy and oversight[48] remain an imperative for successful justice and human rights efforts, political sensitivities of the post-conflict government and the tentative nature of a transition administration may prevent the active inclusion of civil society in justice and human rights programmes. Furthermore, the conflict setting itself may have weakened the ability for civil society to advocate for meaningful reforms. Yet, it would be a mistake to concentrate technical cooperation on state institutions alone. National capacity is the product of synergies and interaction between different actors. This is particularly so in a post-conflict country where building a consensus with a wide range of stakeholders is paramount.

2.5   *The introduction of imported models can impede national ownership and result in unsustainable systems*. While adhering to international human rights norms and standards, post-conflict justice and human rights sector reform must be locally owned and locally designed with appropriate levels of external support. Such assistance should not seek to promote a particular legal or human rights system, but consider all systems in search of strengths in each system and that are appropriate to the local context. To the extent possible and without compromising on human rights, the development of a judicial system should be on the strengths of existing systems in the country and with the full participation of a wide range of national stakeholders.

2.6   *SSR activities need to include DDRRR initiatives and the development of democratically governed police services and armed forces.* DDRRR is a critical activity to ensure the sustainable re-entry of former combatants into society, thus removing a major potential source of disgruntlement and instability. DDRRR could throw up several quandaries that need to be studied and resolved on a case-by-case basis (e.g., should ex-combatants or their widows and offspring receive special treatment; and what are the most effective programmes for reintegrating former fighters into mainstream society?) SSR also involves developing – often from scratch – police services, and where appropriate, armed forces, which need to be built upon democratic foundations with respect for the rule of law. Rebuilding such institutions involves vetting personnel for previous rights violations, providing human rights training, developing sound administrative and management capabilities, and contributing to overall institutional strengthening and capacity development. In many cases, attention needs to be paid to ensuring peaceful coexistence, and indeed cooperation, between post-conflict police services and armies; tensions between these two institutions can prove fatal to peace and confidence-building measures. SSR interventions also need to support linkages between the police service, the judicial system's composite parts (courts, prosecutors and public defenders) and the prison service. Several recent post-conflict settings such as Timor-Leste, Afghanistan and Kosovo have seen police development taking place in a vacuum, i.e., almost entirely apart from efforts to build and improve judicial systems.

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[47] Rwanda and its *gacaca* system was a notable exception.
[48] For example, bar associations, NGOs, academic institutions and the media.

3. Entry Points for Justice, Security and Human Rights in Post-Conflict Situations

In all cases, entry points in the justice and human rights spheres should, wherever possible, emphasize access to justice for all, including the displaced, the poor, women and other disadvantaged groups. While many immediate post-conflict interventions may focus on short-term capacity building, infrastructure rehabilitation and transitional justice initiatives, focusing on the rights and access to justice of the poor and other underprivileged people in the mid- to long-term is critical: if justice is not present for all, then it is not present at all. A long-term commitment on the part of donors and agencies, and the constant renewal of government and civil society commitment and ownership are essential.

In *self-enforcing cases*[49], there is typically scope to address the issues of establishing an impartial and competent judiciary explicitly, directly, and with little risk of reigniting conflict. In countries such as Eritrea and Timor-Leste, the new regime – or UN transitional authority – sought to create a new judicial order. In some cases, there may already be qualified legal professionals and jurists, at least at the lower to middle levels. In other cases, where the supporters of the departed former occupier dominated the judiciary and the civil service, the loss of these individuals could leave the justice sector virtually devoid of qualified staff, as in the case of Timor-Leste. In the former case, there would be a greater emphasis on retraining and restructuring the judiciary. In the latter case, the international community may well have to provide judges, prosecutors, public defenders and technical advisors in key areas simply to keep the basic functions of the courts going while qualified nationals are trained. In these cases, the time it takes for national staff to be recruited and trained is often underestimated, and the risks of poor capacity transfer from international staff to national staff are not adequately addressed. Nevertheless, 'self-enforcing' cases often represent an opportunity to effect major changes in the structure, size and orientation of the courts. The risk is that the new models are adopted, either in default of properly thought through alternatives, or under pressure from donors, without the government, itself almost always in a fragile state of restructuring itself and its power structures to a peacetime existence, being able to pay the necessary attention and providing legitimacy to the changes.

Mediated cases and *conflictual cases* are much more challenging. In most cases one party to the conflict dominates the central administration and thus exerts enormous and partial influence on the development of the judiciary. Early interventions should focus

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[49] This paper utilizes a three-pronged typology identified by CMI to analyze different post-conflict settings and proposing governance interventions, as follows:
(i) *Self-Enforcing Cases*, in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).
(ii) *Mediated Cases*, in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).
(iii) *Conflictual Cases*, in which one side achieves a military victory *per se*, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

on capacity building, for example through technical assistance, and encouraging moves to promote the neutrality of the judiciary. Oftentimes, it is not usually either practical or desirable (since it could generate a new source of conflict) to attempt to introduce major reforms until normalcy has been achieved and a return to conflict unlikely. Accountability for human rights violations committed during the preceding conflict may be difficult to achieve, given likely amnesty agreements in the peace settlement and the power of former combatants in the new governing structures.

Below are a variety of entry points for post-conflict assistance in the justice and human rights arenas. These examples are by no means exhaustive, and are merely intended to provide an overview of the range of opportunities that may exist, depending on the status and nature of the conflict and its aftermath.

3.1 Immediate Post-Conflict Assistance

3.1.1   *Rapid assessment and diagnosis*. The immediate needs of a post-conflict country relating to justice and human rights can vary significantly depending, *inter alia,* on whether an acceptable legal and institutional framework is in place; whether trained and experienced personnel are available within the country; whether the physical infrastructure exists; whether weaknesses of the justice and security sector was among the causes of insecurity and instability; and most importantly whether laws and institutions are themselves under contestation and therefore need to be considered as part of a political solution to the conflict. Such assessments should encompass both formal and informal justice mechanisms, particularly examining the role of traditional structures in enhancing access to justice where formal institutions are not available to a majority of the population.

3.1.2   *Rebuilding the capacity of local human rights organizations*, institutions and agencies and supporting them to investigate, document and report instances of killings, physical injury, enforced disappearances, arbitrary arrest and detention, torture, etc.

3.1.3   *Supporting national human rights awareness campaigns,* e.g. through the broadcast of human rights-related information and messages on the radio, television and other mass media.

3.1.4   *Developing selection, vetting and recruitment process criteria and providing human rights training to law enforcement officers, prison administrators and the judiciary.* This may require the purging of personnel who are tainted by past human rights abuses.

3.1.5   *Identifying high-priority human resource management and administrative skills needed within each institution and providing the necessary support either through short-term training or additional personnel.*

3.1.6   *Reviewing and revising relevant sections of the penal code and the criminal procedure code* to ensure due process and other human rights of all people –

particularly vulnerable groups – are protected and international human rights standards upheld. A particular area of concern tends to be pre-trial detention, especially where large numbers of person accused of crimes committed during the conflict are detained. Revisions must be followed with swift training of core cadre in the criminal code and the criminal procedure code. (A model criminal procedure and criminal code has been developed by the United States Institute of Peace and the Irish Center for Human Rights in cooperation with the UN High Commissioner for Human Rights).

3.1.7   *Facilitating coordination between institutions that comprise the criminal justice system.* The lack of coordination between the police, the courts, the prosecutors and the prisons can often result in people "falling through the cracks" and being illegally detained for extended periods.

3.1.8   *Ensuring physical access to courts.* This may be particularly difficult where the conflict has wiped out the human and physical resources in the sector. Therefore training of core personnel, the rehabilitation of essential infrastructure and the provision of basic equipment are usually a high priority. Furthermore, in countries where security concerns still prevail and the conflict continues in certain areas, it will be even more difficult to establish independent and effective judicial structures. Innovative solutions appropriate to the particular setting such as mobile courts or facilitating transport and/or protection to judges, prosecutors, defense counsel, victims and witnesses may need to be considered.

3.1.9   *Providing legal services and human rights protection to returning refugees and internally displaced persons.* Such assistance may range from creating an awareness of basic human rights such as housing and citizenship rights to obtaining records and facilitating registration.

3.1.10 *DDRRR and vetting of former combatants.* Successful DDRRR can remove a major source of potential instability posed by disenfranchised former combatants. Additionally, vetting of perpetrators of serious crimes is a crucial step forward when re-establishing national police services and armies.

3.2 Medium-Term Post-Conflict Support

3.2.1   *Training on pro-poor and pro-human rights legislation.* Justice and human rights initiatives have often used training as a successful entry point for larger reform processes. UNDP has supported training, including human rights training, to the judiciary, lawyers and prosecutors, police and prison officials, civil society and disadvantaged people themselves. Training constitutes an important entry point, but it needs to be linked to practical skills to be effective. In many cases, disadvantaged people may need knowledge on specific laws and regulations affecting them (e.g., agrarian reform), rather than generic knowledge of international or constitutional human rights. Similarly, the latter does not suffice to influence police behavior; training in rights-sensitive police investigation methods is more likely to improve police performance, e.g. by reducing over-reliance on confessions, and ensuring cases are not dismissed in court due to

legal technicalities. Active participation of target groups in choosing training methodology and content is important. Successful training programmes consistently evaluate their impact on policy orientation and attitudinal change, and identify other strategies that may be necessary (e.g., reforms in recruitment systems, improvements in working conditions, etc).

3.2.2   *Examining the potential of traditional mechanisms of justice*. Traditional systems of justice have been largely overlooked by most reform agendas in post-conflict countries. Exploring the potential of indigenous and traditional systems to enhance access to justice, particularly in post conflict contexts, and examining how they can link to formal systems and how human rights standards and principles can be introduced may oftentimes be useful entry points.

3.2.3   *Support to national human rights institutions (NHRIs)*. Strategic support to NHRIs may have spill-over effects for larger reform processes. The process of establishing national human rights institutions facilitates policy dialogue on human rights, and strengthening NHRIs may help them to play a catalytic role for reforms in other areas. Similarly, it is important that NHRIs are established with sound founding legislation and maximum legitimacy, which requires adequate constituency building and linkages with parliament. The establishment of NHRIs may not always be seen as a priority in a post-conflict setting, and the role of human rights monitoring may instead be undertaken on a transitional basis by international NGOs and agencies such as UNHCHR. Be that as it may, any international effort to monitor human rights should also simultaneously focus on developing national capacities to eventually undertake the same.

3.2.4   *Enforcement*. This is one of the most sensitive areas of justice reforms. Although insulating the police from illegitimate control by the executive and other actors is necessary for police reforms to be meaningful, these initiatives are likely to meet strong resistance by governments. At the same time, police reform remains a critical element of post-conflict justice and human rights intervention. In most cases, strategic considerations may point at alternative entry points such as the creation of independent police performance evaluation boards, establishment of independent custody visiting systems, changing/improving police training, and introducing/strengthening community policing. Facilitating strong links between the enforcement arm of the justice system with the other components can also be fruitful in ensuring that the disadvantaged do not fall through the cracks. Post-conflict scenarios are also often characterized by a risk of rising criminality, where former armed groups become active in criminal networks, sometimes as a consequence of demobilization (hence the need for effectual DDRRR). Nascent justice systems are usually unprepared to deal with this problem. Moreover, practices employed to control insurgency such as curfews and extra-judicial killings may still be used to control ordinary crime once the conflict is over. There is thus a need to prepare a police service for its civilian role to safeguard the citizenry's security in times of peace, and for initiatives that can help transform the culture of violence that may exist in police forces as a consequence of years of conflict.

3.2.5   *Establishing property rights*. A critical entry point in post-conflict justice and human rights relates to the clarification of titles and the recovery of registries. Real estate and land property titles may have been destroyed; oftentimes they were never registered, as a consequence of displacement or local culture and practice. In the post-conflict period such titles may be subject to conflicting claims by different people. Recovering registries, clarifying titles and supporting dispute resolution mechanisms to deal with conflicting claims can be an important entry point in post-conflict situations. The concept of registering private property may vary according to culture. Therefore representatives from local communities must participate in determining appropriate solutions.

3.2.6   *Supporting transitional justice mechanisms*. Transitional justice mechanisms – such as truth and reconciliation commissions and hybrid or international tribunals – have a crucial role to play in post-conflict settings; they assume a pivotal role in reconciliation and other peace-building endeavors. In addition to psychological benefits to victims, a truth and reconciliation commission can memorialize facts pertaining to the conflict, thereby undermining and rebutting misperceptions spread by those responsible for human rights abuses. Furthermore, such a commission can analyze institutional problems leading to the conflict so that citizens and leaders can make recommendations to deter future conflicts and abuses from reoccurring. Truth and reconciliation commissions also have a role to play in initiating and facilitating reconciliation within communities, and, in certain circumstances, at the national level. However, it is recognized that such commissions can usually only achieve enduring reconciliation if there is accountability for the most serious perpetrators of atrocities, usually in a formal justice context.

3.2.7   *Enhancing the administration of justice and increasing accountability of the judiciary*. The formal justice sector is part of the public bureaucracy with some distinctive features that make for differences of degree, not of kind, with other parts of the bureaucracy that provide citizens public services. Judges, especially those that lack experience, tend to be bad managers. At the same time, they often think that the quality of what they produce (resolutions of disputes) would be compromised if their courts were managed by anyone other than themselves. However, if courts are regarded in much the same way as health and education departments in governments, then efforts undertaken to make delivery of health and education services more responsive and efficient should also be undertaken with respect to courts. Independence of lawyers and judges notwithstanding, accountability of these public servants to the public deserves much more attention.

3.2.8   *Reforming the military in post-conflict situations.* Understandably, this represents a key challenge in the aftermath of warfare, violence and atrocities (particularly in a post-civil war context when formerly warring factions are combined into a national army). Reforms need to foster institutional and individual respect for rule of law, human rights and constitutional norms vis-à-vis the army's role, as

well as promote overall frameworks and oversight mechanisms that depoliticize the armed forces.

3.2.9   *Supporting advocacy coalitions*. Advocacy coalitions can help to foster reforms in favor of poor and disadvantaged people. They can also develop the capacities of the organizations involved, as they are able to share experiences and motivation. However, coalitions can suffer internal disagreement and frictions that can distract them from achieving their goals. On the other hand attention should be paid to the type of resistance that may be generated and by whom – recognition of rights to disadvantaged groups will of course create opposition, as it is likely to challenge engrained structures or beliefs. Miscalculation in advocacy efforts can create a line of confrontation, rather than build a bridge for dialogue.

3.2.10   *Linking actors at different levels; strengthening mechanisms and capacities for civil society participation in justice reform processes*. Coordination and networking are important capacities for effective access to justice, particularly in a context where there is a variety of agencies undertaking parallel processes of reform, or a variety of donors involved in the justice sector. Additionally, supporting mechanisms for civil society participation in justice sector reform and security sector reform can serve to enhance ongoing reform and human rights protection processes.

4. Key Issues in Programme Design, Formulation and Implementation

4.1   *Programmes need to ensure an explicit focus on poor and disadvantaged people*. Access to justice by poor and disadvantaged people has been taken for granted as a logical effect of most justice reform initiatives. However, experience points at the need to ensure an explicit focus, so that they do not fall through the cracks of justice reform processes. Disadvantaged people's concerns need to be included in programme design from the outset, so that they can influence the scope of resulting strategies. This requires assessing how people perceive justice, what obstacles they face and how they handle them. Insufficient impact of justice programmes on the most disadvantaged people risks widening existing gaps with regard to access to justice, with negative consequences for the prospects of peace and human development

4.2   *Effective justice reforms require a holistic perspective*. The justice process requires more than adjudication mechanisms; also at stake are people's access to such mechanisms, sound legal basis and adequate enforcement. Justice sector programmes need to adopt a holistic approach to address a broad spectrum of legal, social and institutional challenges. Developing capacities to claim rights but not institutional capacities to respond may expose poor and disadvantaged people to major risks, or increase social frustration and result in renewed conflict. Institutional coordination is often a key capacity that gets lost through a "piecemeal" approach. On the other hand, strengthening institutional capacity impacts on accountability, if and when accountability is demanded. Programmes will need to build capacities on both the supply and the demand side of justice, combining a range of strategies that may include strengthening legal frameworks, procedures, infrastructure, management systems and substantive knowledge, awareness, organization and networking, or

mechanisms for accountability. Oftentimes, resource and time constraints will prevent the implementation of simultaneous strategies; the key considerations are thus timing and pacing. In post-conflict settings, the priorities tend to be the criminal justice system, restorative justice and transitional justice mechanisms and the legal framework relating to property rights.

4.3   *National ownership must be the rule*. Donor support to legal reform, in post-conflict settings in particular, has the potential to cause political controversy, as the power to legislate free from external constraints is an important attribute of sovereignty. Legal reforms may be viewed as the imposition of foreign regulatory schemes that undermine the indigenous legal culture. For example, the stress on human rights may be viewed as an attempt to infuse external values into the local culture. This may be compounded by national legal professionals who have little or no understanding of international norms and standards of human rights. Therefore, it is essential that when judicial and legal reforms are undertaken in a post-conflict setting that they be done in the most consultative manner possible – educating and building consensus along the way – so that the final product is fully owned by the people of the country.

4.4   *Build on comparative advantages of formal and traditional adjudication*. "Traditional" adjudication is best suited to conflicts and disputes between people living in the same community who seek reconciliation based on restoration, and who will have to live and work together in the future. Formal justice, on the other hand, is best able to provide the legal and procedural certainty required where serious penalties such as imprisonment are regarded as appropriate, or where the parties are unwilling or unable to reach a compromise. Access to justice by disadvantaged people requires both formal and traditional systems; the way they enrich each other will necessarily vary in each context. Formal systems may sometimes need to be "informalized" to become user-friendly, and traditional systems formally recognized and set under the oversight of the courts to ensure fair and impartial justice. The two working in tandem is critical in post-conflict settings where the formal system is often in an embryonic stage and unable to handle the colossal caseload.

4.5   *Strengthen coordination of national human rights institutions (NHRIs) with the judiciary, prosecution, police and prisons*. NHRIs and other quasi-judicial institutions are not a substitute for other components of the justice system, although they can be an effective complement to them in post-conflict settings. NHRIs should be allowed to file cases in court or to have them automatically filed by the prosecution where they lack prosecutorial capacities. On the other hand, NHRIs usually have no powers to enforce their decisions; the judiciary is critical to ensure appropriate redress and prevent impunity. Linkages with police and prison institutions can expand NHRIs' access to persons in detention.

Annex I: Illustrative Entry Points and Sequencing for Justice, Security and Human Rights in Post-Conflict Situations

SELF-ENFORCING[50] POST-CONFLICT SITUATIONS

Strategic Entry Point	Immediate Post-Conflict	Medium-Term
Assessment and Diagnosis	- Capacity of personnel and state of infrastructure	- Ongoing monitoring of justice system and human rights situation
Capacity Building	- Developing selection/vetting/recruitment criteria for judiciary, police and prison staff - Human rights training for judiciary, police and prison staff - Enhancing coordination between, and management capacity for, judiciary, police and prison staff and, where appropriate, providing additional qualified personnel - Rebuilding local human rights organizations to investigate conflict-related human rights violations	- Support to NHRIs to encourage/facilitate national policy dialogue - Enhancing administration of justice and accountability of judiciary - Supporting advocacy coalitions and enhancing civil society participation in justice reform processes - Police reform (see below under SSR)
Transitional Justice	- Supporting processes and frameworks enabling establishment of a national truth, reconciliation and reception commission - Exploring and supporting linkages between formal justice institutions and traditional conflict resolution mechanisms in transitional justice initiatives	- Ongoing support to a national truth, reconciliation and reception commission, including promoting dissemination of final report and recommendations
Legislation and Procedures	- Reviewing and, where appropriate, revising penal and criminal procedure codes to ensure due process and respect for human rights, with an emphasis on pre-trial detention	- Training of justice sector personnel in penal and criminal procedure codes - Training on pro-human rights and pro-poor legislation for all actors: judiciary, prosecutors, defenders, police, prison staff, civil society and disadvantaged groups
Infrastructure and Equipment	- Rehabilitating essential judiciary, police and corrections infrastructure	- Sustainably providing equipment and software to enhance efficiency and coordination
Security Sector Reform	- DDRRR of ex-combatants; vetting of police and military personnel - Police/army restructuring/development, including mgmt. and admin. - Human rights training; community-based policing initiatives	- Coordination and linkages between judiciary, prisons and police - Establishment of independent oversight/evaluation entities - Depoliticization of police service and armed forces - Reform of police and army budgets
Traditional Conflict Resolution Mechanisms	- Exploring potential of traditional mechanisms to enhance access to justice for the poor, women and other disadvantaged groups	- Institutionalizing relevant linkages at both national and local levels

[50] A *Self-Enforcing* Case is one in which one side is overwhelmingly victorious, usually with the defeated party territorially displaced (e.g. post-colonial or separation situations); there is typically substantial consensus in society about political developments in the aftermath of the cessation of hostilities (e.g. Timor-Leste and Eritrea).

MEDIATED[51] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Assessment and Diagnosis	- Capacity of personnel and state of infrastructure - Extent to which failings of justice and sectors contributed to conflict - Whether laws and institutions are contested and considered part of peace settlement	- Ongoing monitoring of justice system and human rights situation
Capacity Building	- Developing selection/vetting/recruitment criteria for judiciary, police and prison staff - Human rights training for judiciary, police and prison staff - Enhancing coordination between, and management capacity for, judiciary, police and prison staff and, where appropriate, providing additional qualified personnel - Rebuilding local human rights organizations to investigate conflict-related human rights violations	- Support to NHRIs to encourage/facilitate national policy dialogue - Enhancing administration of justice and accountability of judiciary - Supporting advocacy coalitions and enhancing civil society participation in justice reform processes - Police reform (see below under SSR)
Transitional Justice	- Supporting processes and frameworks enabling establishment of a national truth, reconciliation and reception commission - Exploring and supporting linkages between formal justice institutions and traditional conflict resolution mechanisms in transitional justice initiatives	- Ongoing support to a national truth, reconciliation and reception commission, including promoting dissemination of final report and recommendations
Legislation and Procedures	- Facilitating dialogue between former factions and groups to think about and draw up legislation - Reviewing and, where appropriate, revising penal and criminal procedure codes to ensure due process and respect for human rights, with an emphasis on pre-trial detention	- Training of justice sector personnel in penal and criminal procedure codes - Training on pro-human rights and pro-poor legislation for all actors: judiciary, prosecutors, defenders, police, prison staff, civil society and disadvantaged groups
Infrastructure and Equipment	- Rehabilitating essential judiciary, police and corrections infrastructure	- Sustainably providing equipment and software to enhance efficiency and coordination
Security Sector Reform	- DDRRR of ex-combatants; vetting of police and military personnel - Police/army restructuring/development, including mgmt. and admin. - Human rights training; community-based policing initiatives	- Coordination and linkages between judiciary, prisons and police - Establishment of independent oversight/evaluation entities - Depoliticization of police service and armed forces - Reform of police and army budgets
Traditional Conflict Resolution Mechanisms	- Exploring potential of traditional mechanisms to enhance access to justice for the poor, women and other disadvantaged groups	- Institutionalizing relevant linkages at both national and local levels

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[51] A *Mediated Case* is one in which two or more previously warring factions agree to a peace settlement, which typically includes agreement on subsequent political development; however, mistrust usually remains, and, moreover, other elements of society are unable to voice their concerns, given the dominance of the previously warring factions (e.g. Cambodia and Mozambique).

CONFLICTUAL[52] POST-CONFLICT SITUATIONS		
Strategic Entry Point	**Immediate Post-Conflict**	**Medium-Term**
Assessment and Diagnosis	- Capacity of personnel and state of infrastructure - Extent to which failings of justice and sectors contributed to conflict	- Ongoing monitoring of justice system and human rights situation
Capacity Building	- Developing selection/vetting/recruitment criteria for judiciary, police and prison staff - Human rights training for judiciary, police and prison staff - Enhancing coordination between, and management capacity for, judiciary, police and prison staff and, where appropriate, providing additional qualified personnel - Rebuilding local human rights organizations to investigate conflict-related human rights violations	- Support to NHRIs to encourage/facilitate national policy dialogue - Enhancing administration of justice and accountability of judiciary - Supporting advocacy coalitions and enhancing civil society participation in justice reform processes - Police reform (see below under SSR)
Transitional Justice	- Supporting processes and frameworks enabling establishment of a national truth, reconciliation and reception commission - Exploring and supporting linkages between formal justice institutions and traditional conflict resolution mechanisms in transitional justice initiatives	- Ongoing support to a national truth, reconciliation and reception commission, including promoting dissemination of final report and recommendations
Legislation and Procedures	- Facilitating dialogue between factions and rival groups to think about and draw up legislation - Reviewing and, where appropriate, revising penal and criminal procedure codes to ensure due process and respect for human rights, with an emphasis on pre-trial detention	- Training of justice sector personnel in penal and criminal procedure codes - Training on pro-human rights and pro-poor legislation for all actors: judiciary, prosecutors, defenders, police, prison staff, civil society and disadvantaged groups
Infrastructure and Equipment	- Rehabilitating essential judiciary, police and corrections infrastructure	- Sustainably providing equipment and software to enhance efficiency and coordination
Security Sector Reform	- DDRRR of ex-combatants; vetting of police and military personnel - Police/army restructuring/development, including mgmt. and admin. - Human rights training; community-based policing initiatives	- Coordination and linkages between judiciary, prisons and police - Establishment of independent oversight/evaluation entities - Depoliticization of police service and armed forces - Reform of police and army budgets
Traditional Conflict Resolution Mechanisms	- Exploring potential of traditional mechanisms to enhance access to justice for the poor, women and other disadvantaged groups	- Institutionalizing relevant linkages at both national and local levels

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[52] A *Conflictual Case* is one in which one side achieves a military victory per se, but there is no comprehensive peace settlement to resolve the very issues that led to and exacerbated the conflict. The risk of renewed hostilities is high (e.g. Rwanda and Afghanistan).

Annex II   Resources and Partners

ABA-UNDP International Legal Resource Center (ILRC): formerly the Legal Resource Unit, the ILRC was established in December 1999, based upon the common commitment of the American Bar Association (ABA) and the UNDP to support and promote good governance and the rule of law around the world. Its mission is to provide legal resource capability to service UNDP global governance programs and projects supporting legal reforms and democratic institution building.
http://www.abanet.org/intlaw/ilrc/

International Development Law Organization (IDLO): has signed an MoU with UNDP on providing joint technical assistance; has experience in training judges and prosecutors in Timor-Leste and Afghanistan among other places.
http://www.idli.org/

Open Society Justice Initiative: formerly the Constitutional and Legal Policy Institute, the OSJI has worked with a number of judicial training centers.
http://www.justiceinitiative.org/

Reports on the Former Judicial System Assessment Programme (JSAP) (United Nations Mission in Bosnia and Herzegovina)
http://www.unmibh.org/news/jsaprep/index.asp

Law and judicial reform in post conflict situations: a case study on the West Bank & Gaza, the World Bank
http://www4.worldbank.org/legal/ljr_01/doc/lerley.pdf

Legal and judicial reform, the World Bank
http://www4.worldbank.org/legal/leglr/

States Without Law: The Role of Multilateral Intervention to Restore Local Justice Systems, 1995, International Centre for Criminal Law Reform and Criminal Justice Police and the Canadian Centre for the 50th Anniversary of the United Nations.
http://www.icclr.law.ubc.ca/Publications/Reports/States.pdf

Chris Mburu, 2001 *Challenges Facing Legal and Judicial Reform in Post-Conflict Environments: Case Study from Rwanda and Sierra Leone*
http://www4.worldbank.org/legal/ljr_01/doc/Mburu.pdf

Fundacion para el Estudio y Desarrollo del Derecho (FESPAD) – El Salvador
http://fespad.org.sv/portal/html/index.php

Instituto de Estudios Comparados en Ciencias Penales de Guatemala (ICCPG) – Guatemala
http://www.iccpg.org.gt/

Organization for Economic Cooperation and Development (OECD) Development
Cooperation Directorate (DAC) Network on Conflict, Peace and Development
Cooperation
http://www.oecd.org/dac/conflict

International Center for Transitional Justice (ICTJ)
http://www.ictj.org/

United States Institute of Peace (USIP)
http://www.usip.org/

UN Office of the High Commissioner for Human Rights (OHCHR)
http://www.unhchr.ch/

OHCHR: Human Rights in Development
http://www.unhchr.ch/development/

OHCHR: Human Rights and the MDGs
http://www.unhchr.ch/development/mdg.html

OHCHR: Resource Database on Rights-Based Approaches to Development for
Development Practitioners in Asia-Pacific
http://www.un.or.th/ohchr/database/database.asp

UNICEF: "Rights and Results"
http://www.unicef.org/rightsresults/index.html

UNICEF: Children's Rights
http://www.unicef.org/publications/index_pubs_rights.html

UNICEF Innocenti Research Centre in Florence research project on the application of
human rights instruments aims to improve understanding of child rights issues and
support the full implementation of the Convention on the Rights of the Child (CRC)
http://www.unicef-icdc.org/research/IIS/IIS.html

The United Nations System Staff College (UNSSC) has a human rights and
peacekeeping in development project
http://www.unssc.org/unssc1/

UNDP-OHCHR HURIST (Human Rights Strengthening) Programme
http://www.undp.org/governance/hurist.htm

UNDP: BDP Democratic Governance Group website on Human Rights
http://www.undp.org/governance/humanrights.htm

UNDP: Promoting Democracy through Justice Sector Reform
http://www.undp.org/governance/justice.htm

UNDP: BCPR Security Sector Reform & Transitional Justice website
http://www.undp.org/erd/jssr/index.htm

UNDP: "Security Sector Reform and Transitional Justice: A Crisis Post-Conflict Programmatic Approach"
www.undp.org/erd/jssr/docs/jssrapproachfinal.DOC

UNDP: Conference on Justice and Security Sector Reform, "Coherence, Cooperation and Comparative Strengths" (Oslo, 10-11 April 2003)
www.undp.org/erd/jssr/oslo/jssr_conference_report.pdf

UNDP: Fifteen Years of Judicial Reform in Latin America: Where We are And Why We Haven't Made More Progress
http://www.pogar.org/publications/judiciary/linn2/