Chapter 10

Building Local Capacity for Maintaining Public Security

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1   Introduction

There has been a growing recognition that crisis management operations must address issues of law and order from the outset and that establishing the rule of law is a critical requirement for long-term security and stability. The breakdown of the rule of law and the inability of a state to provide security for its citizens is regarded as perhaps the clearest symptom of state failure, which is at odds with its formal sovereignty as an internationally recognised state.[1] Therefore, an increasing number of actors at an increasing number of occasions have taken it upon themselves to (re-)establish the rule of law as a critical requirement for successful state-building after conflict. The concept of Security Sector Reform is the most comprehensive effort to date to chart and systematise all the elements that need to fall into place for a functioning rule of law and how an international intervention might contribute to a reform process. As the field is both young and sweepingly comprehensive, there are still a number of gaps that will have to be filled with more refined approaches. One of these gaps concerns implementing local ownership through institution and capacity building at the back end of a police organisation.

Before stepping into the analysis, it is helpful to clarify central terms as they are used in the context of this paper. I take the rule of law to mean adherence to a specified set of rules that govern society and that

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[1]   Stephen D. Krasner (2004), "Sharing Sovereignty. New Institutions for Collapsed and Failing States", *International Security*, Vol. 29, No. 2 (Fall 2004), p. 88.

embodies human rights. The rule of law is a wide notion that encompasses several elements. First and foremost, it entails public security, which is provided by the police. The rule of law also presumes a functioning, fair and predictable judicial and penal system. Together with the police these two dimensions make up the triad of the administration of justice. A reform of police forces alone is of little value if it is not matched by similar efforts to create an impartial, effective and trusted judicial system, where criminals – once caught – can be brought to trial and justice. The need to deal with these two dimensions for the rule of law to be meaningful has been generally acknowledged and is referred to as security sector reform. While I fully accept the imperative of addressing the triad, this paper nonetheless focuses on police forces. The final element of the rule of law – and a key factor for the success of a security sector reform effort – is what I term a rule of law culture among the population, which implies that the rule of law has been generally accepted as the guiding principle for the organisation of relations between the state and society and for interaction within society. In addition, the rule of law culture is demonstrated through the specific oversight function that it performs over public security and the judicial system.

Within public security, it is useful to distinguish institution and capacity building from law enforcement and public order.[2] Regardless of whether the responsibility for law enforcement rests with local or international police forces, the international effort will have to engage in or support capacity and institution building from the outset. Only by putting these long-term pieces of the puzzle in place, will the rule of law be sustainable. Unfortunately, none of the international contributors appear to have a clear understanding of how to resurrect the institutions of

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[2] For the purposes of this paper, institution building is distinct from capacity building in that the former focuses on organisational structures and the latter on the skills required of the staff to make the organisation work effectively. The Collins Dictionary of Sociology defines an institution as "an established order comprising, rule-bound and standardised behaviour patterns" and institutionalisation as "the process, as well as the outcome of the process, in which social activities become regularised and routinised as stable, social-structural features." Collins Dictionary of Sociology (1991), p. 324f.

public security, especially in a post-conflict setting.[3] Efforts to build capacity, as well as most research to date, have gone into developing and later assessing operational police personnel. There is, however, a growing understanding that police forces require effective management and administration to be functional and sustainable. The present paper reviews different institutional functions for both operational police personnel and the administration and management of the police organisation and the capacity needed to fulfil these functions. What makes institution building even more difficult is that the demands of public order may be in direct contradiction to the principles that underlie local ownership.[4] This paper will not discuss issues related to providing public order in the immediate post-conflict phase, but concentrate on the long-term question of institution and capacity building.

Perhaps the most crucial element in the establishment and maintenance of the rule of law after conflict – local actors – has been neglected further. Local ownership is acknowledged as crucial to effective peace-building but there has been little exploration of what this means in practice for international efforts in post-conflict situations. In the context of this paper, local ownership is both process and outcome. As an outcome, building local capacity and the institutions in which capacity will be applied is the equivalent of implementing local ownership by providing the means to sustain the rule of law. However, local ownership is meaningless, if one builds local capacity and institutions that are wholly inappropriate for the society in question. Therefore, local ownership must also be seen as a process that determines the outcome. The question then is how and when local input is secured in the process of building institutions and the concomitant capacity to run them.

The paper first explores the determinants of the international-local balance by reviewing the factors that affect the degree to which international actors assume authority. It goes on to illustrate varying degrees of international intervention, i.e. from support to substitution

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[3]   James D. Fearon and David D. Laitin (2004), "Neotrusteeship and the Problem of Weak States", *International Security*, Vol. 28, No. 4 (Spring 2004), p. 37.

[4]   Renata Dwan and Annika S Hansen (2005), "Public Order, Rule of Law and Local Ownership – Precondition or Paradox?", (forthcoming).

missions. The paper then briefly introduces different strategies for implementing the principle of local ownership and sketches some critical dilemmas that arise during implementation. In the second half of the paper, three main areas of institution and capacity building in which local actors will have to engage are identified and the paper suggests how and when a transition to local leadership takes place. It should be noted at the outset that I do not imply that there will be a transition from international to local authority in each and every case. On the contrary, it will become clear in the discussion of strategies that a more differentiated view is necessary and that, in many instances, there should be local leadership. At the same time, it is obvious that the context, which is being examined in this paper, i.e. a crisis management operation in a post-conflict setting, presupposes an international presence of some sort that is engaged in institution and capacity building.

2   The International - Local Balance

2.1   Factors in Determining Degree of Intervention

The main factors for determining the degree of intervention – from monitoring to substitution – are the status quo at the outset, the conflict situation, the local political context and the international political commitment.

A relatively straightforward factor is the condition of local structures and forces, reflected in the following questions: is there a police force? What is its legacy? What is its relation with the population/how does the population perceive the police force? What are the material conditions, i.e. what kind of equipment does it have? To what extent is it being paid? For contributors of police assistance it is always worth considering whether existing structures can meet the public security needs, before launching new ones.[5] The security forces, including the police, the military, special forces, border police, intelligence services, and other

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[5]   International Alert (2002a), "Supporting and Enhancing Community-based Peacebuilding", *Global Issues Policy Notes,* No. 1, November 2002.

professionals in the justice and penal system, including judges and other court staff, prosecutors, corrections staff, administrators, are the guardians of public security and the rule of law. They are the counterparts of the international presence when it comes to joint policing, training and institution and capacity building. Other armed groups are important where they rival the rule of law, i.e. where the population prefers to pursue justice through informal mechanisms. In addition to the degree of international involvement, the conditions of public security also affect the scope of institution and capacity building required and the process of how and when to engage local actors.

Details of the particular conflict area and situation will also influence the intrusiveness of the international operation. These, of course, will also be decisive for the condition of local structures as described above. The level of violence in the preceding conflict, as well as the causes and the duration of fighting are naturally important factors. The existence of rival armed groups – including their size, armament and popular support – will affect the public order situation, but will also affect the design and strategy for (re-)establishing a local police force: will there have to be a demobilisation and reintegration effort that affects recruitment and structure of the nascent police? In the same way, an important question is what legal or judicial traditions exist and how they affect, for instance the structure of a court system. In addition, other factors, such as size and accessibility of the territory, degree of urbanisation and economic situation have to be taken into account. Clearly, deciding whether to enforce law and order in the Democratic Republic of Congo (DRC) raises different issues than the same deliberation does in the context of Kosovo.

With respect to the social and political context of public security, the term local ownership is often used very generally without a clear understanding of all the actors that may usefully be involved in a peace process and establishing both public order and the rule of law. A differentiated view is necessary, since the existing capacity and 'maturity' to assume responsibility – as they are perceived by the international intervention – are factors in determining the degree of intrusiveness. Among local actors we can distinguish between (1) the

population in its various organisational forms, i.e. the citizen, civil society and the business community, and (2) the authorities, i.e. the political leadership, the civil service and local government mechanisms.

Interacting with the population will be most important with regard to developing an understanding of the rule of law. The individual citizen is a prime target for any effort to maintain public order and to rebuild public security capacity, in that it is the citizen's perception of his/her security situation and his/her willingness to use the formal judicial system that is the foundation for the system's viability. This extends to members of the business community who will be making investment decisions based on their assessment of the security situation. Civil society, including NGOs (human rights and other advocacy groups), media, religious groups, labour unions, accordingly, can play many different roles, most importantly in creating awareness, voicing public preferences and in holding the security system accountable.

The political context is, of course, critical to public security. At the level of the state or central government, political leaders, including the government and political parties, are the primary points of contact for an international intervention. Except in extreme cases, such as humanitarian interventions or similar operations, consent is still the guiding principle for international efforts. This is both a question of principle and practicality. If genuinely pursuing local ownership, it is counterproductive to completely disregard the principle of sovereignty. Moreover, in the face of opposition at the highest political levels, it is unlikely that any international effort to maintain public order or build sustainable public security arrangements can succeed.

The traditional requirement of consent becomes qualitatively different, when the government is weak or dysfunctional. Jarat Chopra and Tanja Hohe therefore suggest moving away from consent as something exclusively bestowed by government authorities, but to view it as a question of broad local support. They argue in favour of taking local government mechanisms, such as Council of Elders, warlords, chiefs or

mayors, into account.[6] As the mechanism for governance, they have a critical role to play in developing and applying public security policies at a local level. However, the hallmark of a society governed by the rule of law is that the rules are independent of politics and that the same rules apply to all. While it is important to bring on board local government mechanisms, they should not be allowed to weaken these basic principles. In deciding the degree of authority that the international presence should assume, one should ask whether there are representative/effective political authorities and to what extent they control their territory or wish to control it.

Within all and any of these groups of actors, there may be "spoilers" that seek to derail the stabilization process.[7] Spoiler activity may be triggered by different issues or may take place at different stages of the process. In the same way, reform constituencies – that international interventions are frequently called upon to support – can be fluid and cut across the categories of actors identified above.

A final factor – and most likely the decisive one, regardless of the objective needs of a conflict area – is the international political commitment translated into the willingness to take on full substitution and to provide the resources necessary to carry out the mandate. In those cases, where the international intervention gradually slides into a state- and thereby institution building role, the lack of bureaucratic capacity to run the country, is an important factor.[8] Krasner adds that the collapse of state functions may take place precisely because of an international invasion, as witnessed in Afghanistan and Iraq.[9] Besides other obvious factors of national interest in assuming authority, such as a concern for Weapons of Mass Destruction (WMD) or transnational organised crime, there is a debate in principle on the need for local ownership versus the benefits of imposition.

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[6]   Jarat Chopra and Tanja Hohe (2004), "Participatory Intervention", *Global Governance* Vol. 10, Iss. 3, Jul-Sep 2004, p. 290f.
[7]   See Stephen J Stedman (1997), "Spoiler Problems in Peace Processes", *International Security,* Vol. 22, No. 2, pp. 5-53.
[8]   Fearon and Laitin (2004), p. 23f.
[9]   Krasner (2004), p. 90.

The debate centres on the usefulness and desirability of the international authority. The development towards greater international authority in transitional societies arose with the recognition that the underlying political concerns rather than the symptoms of a conflict would have to be addressed to consolidate peace. Due to the fact that the local governments were not representative, weak or dysfunctional, the international intervention assumed greater responsibility.[10] Simon Chesterman, who has written extensively on transitional administrations, argues that local conditions necessitate a temporary override. He describes the approach to state-building as a "mix of idealism and realism: the idealist project that a people can be saved from themselves through education, economic incentives, and the space to develop mature political institutions; the realist basis for that project in what is ultimately military occupation."[11] He further claims that "it is both inaccurate and counter-productive to assert that transitional administration depends upon the consent or 'ownership' of local populations."[12] Similarly, Michael Dziedzic maintains that local police forces are often incapable of restoring public order, participate in the violence, or threaten the international intervention force and must therefore be temporarily replaced by international security providers.[13]

In contrast, Lakhdar Brahimi has promoted an approach commonly known as the 'light footprint' which entails an emphasis on capacity building and the use of local staff and a limitation of the international presence.[14] The international intervention in Afghanistan closely followed the 'light footprint' model. Brahimi argues that "it is precisely through recognising Afghan leadership that one obtains credit and

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[10]   Chopra and Hohe (2004), p. 290.
[11]   Simon Chesterman (2003), *You, the People. The United Nations, Transitional Administration, and State-Building,* Project on Transitional Administrations Final Report, International Peace Academy, New York, November 2003, p. 1.
[12]   Chesterman (2003), p. 3.
[13]   Dziedzic, Michael J. (2002), "Policing from above: executive policing and peace implementation in Kosovo" in Renata Dwan (ed.), *Executive Policing. Enforcing the Law in Peace Operations,* SIPRI Research Report No. 16, SIPRI/Oxford University Press, Oxford, p. 35.
[14]   See for example Richard Ponzio's Afghanistan case study in this volume.

influence."[15] That, of course, renders the approach wholly dependent on the political willingness of the local actors and their ability to even formulate political preferences, which may well be non-existent in a post-conflict or collapsed state setting.[16] Along the lines of Brahimi, Amitai Etzioni believes that international interventions underestimate the costs and long-term investments involved in state-building. Instead, he proposes a more modest approach – that recognises local cultural and social preferences and that would be far more beneficial in promoting the capacity of the society in question to help itself.[17] In their critique of the OHR in Bosnia-Herzegovina, Gerald Knaus and Felix Martin go even further, arguing that the High Representative in fact undermines the budding local democracy through his use of imposition to force reform.[18] Others, such as Stephen D. Krasner, have tried to formulate a middle ground reflected in his notion of 'shared sovereignty,' which entails that a state voluntarily transfers its authority to an international guardian on specific issue areas, where it lacks the capacity to fulfil central functions itself (see more 2.4).[19]

2.2   Degrees of Intervention

The nature of local ownership and the effort that has to go into securing it vary with the extent to which the international intervention has taken on responsibility for the rule of law. The figure below illustrates the relative distribution of responsibility in different types of activities in an intervention, roughly identified as law enforcement, reform of the security sector and monitoring the performance of the security sector.

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[15]   Simon Chesterman (2002), "Walking Softly in Afghanistan: the Future of UN State-Building", *Survival*, Vol. 44, No. 3 (Autumn 2002), p. 40 (emphasis given); see also Michele Griffin (2003), "The Helmet and the Hoe: Linkages Between United Nations Development Assistance and Conflict Management", *Global Governance*, Vol. 9, Iss. 2, Apr-June 2003, p. 212f.

[16]   Chesterman (2003), p. 4.

[17]   Amitai Etzioni (2004), "A self-restrained approach to nation-building by foreign powers", *International Affairs*, Vol. 80, No. 1, January 2004, pp. 1, 4, 17.

[18]   Gerald Knaus and Felix Martin (2003), "Travails of the European Raj", *Journal of Democracy*, Vol. 14, No. 3, July 2003, pp. 60-74.

[19]   Stephen D. Krasner (2004), "Sharing Sovereignty. New Institutions for Collapsed and Failing States", *International Security*, Vol. 29, No. 2, Fall 2004, pp. 85-120.

Note that the classification is merely a tool for illustration. These are not watertight categories and these activities might well be taking place simultaneously within one international operation. If the international intervention takes on law enforcement, their responsibility for upholding the rule of law is high. In moving towards reform and monitoring, international responsibility diminishes and local responsibility increases. Somewhere in the course of a reform process, a transition takes place where the authority of the local actors outweighs that of the international presence.

At one extreme, law enforcement as a broad category entails everything from patrolling the streets, investigating crimes and arresting suspects and processing them through the judicial and correctional chain. In addition, international activity at this end of the spectrum might include designing and issuing legislation or interpreting existing laws and setting priorities for the rule of law, such as combating organised crime or reducing drug related crime. While there is a clear distinction between having executive authority and not having it, there are a growing number of examples where the international security forces share the responsibility with local forces and institutions. Haiti set the precedent for including armed international civilian police and Kosovo is an example where the international police enforced the law in joint patrols with newly educated local police officers. At the same time, the Multinational Specialised Unit (MSU), in the NATO-led Kosovo Force (KFOR), was involved in gathering information on and investigating instances of organised crime. In several other cases, courts have featured a mixture of international and local staff. As the example of Iraq demonstrates, the picture becomes slightly blurred, when severe public order challenges arise or when counterinsurgency operations are taking place at the same time.

Figure 0.1 Degrees of Intervention
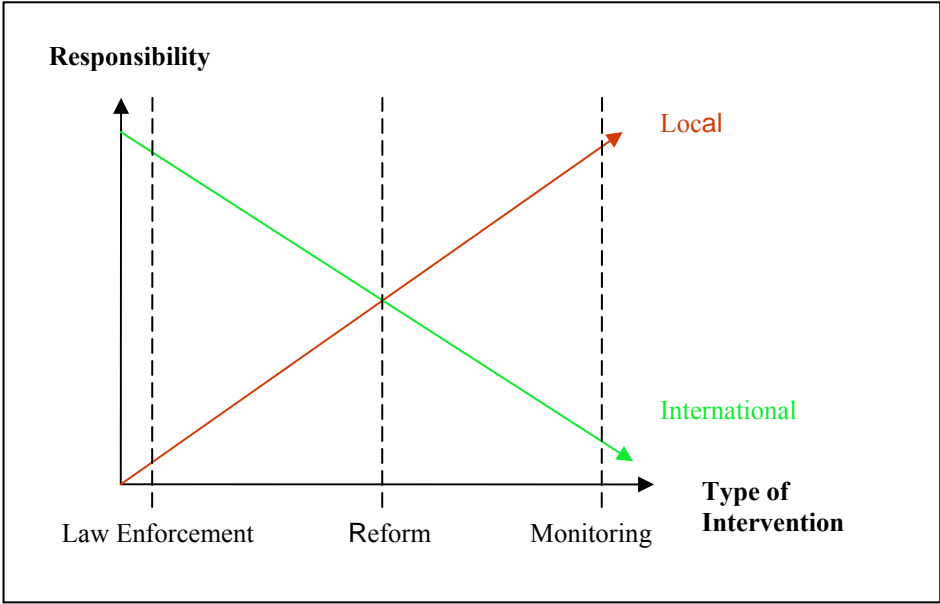
Reform of the security sector entails a reform of the organisations that have the authority to use, or order the use of force, or the threat of force, as well as those civil structures that are responsible for their management. The components of the security sector are military and paramilitary forces; intelligence services; national and local police forces, including border guards and customs services; judicial and penal systems; and the civil authorities mandated to control and oversee these agencies.[20] The level of international involvement in security sector reform ranges from establishing and/or running educational facilities, conducting training, advising on restructuring of security forces and their administrations and developing an understanding of their appropriate contributions to the security sector.

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[20] Jane Chanaa (2002), *Security Sector Reform: Issues, Challenges and Prospects,* Adelphi Paper No. 344, International Institute for Strategic Studies/Oxford University Press, London/Oxford, p. 7.

As security sector reform can entail a large measure of organisational development and design, local preferences have to be reflected and local buy-in is essential. Local ownership is particularly important as security sector reform is a highly political undertaking. The security sector is at the heart of a state's sovereignty, in that the state has a legitimate and exclusive role to exercise coercive power in order to deal with external and internal threats to the security of the state and its citizens. Reform will directly affect the distribution of power within the state and, therefore, be highly sensitive.

Whereas the international presence may still be heavily involved in setting the agenda in reform and thereby bear partial responsibility for the rule of law, they are clearly reduced to a supporting role when engaged in monitoring. The phraseology used in the European Union Police Mission in Bosnia-Herzegovina (EUPM) distinguished between 'mentoring' and 'monitoring' as two separate activities.[21] This illustrates the different degrees of involvement in the outcome of a given process: While 'monitoring' entails objective observation – and usually subsequent reporting, 'mentoring' means that the international police officer actively guides the performance of his local colleague.

2.3   *Local Ownership Dilemmas*

While there is general agreement that local ownership is essential to bringing about any kind of sustainable change, there is far less insight into how the principle is best implemented. There are a number of dilemmas that the international effort will face: (1) the dilemma of process versus outcome; (2) the dilemma of capacity and finding appropriate partners; (3) the dilemma of opposing time frames and (4) the dilemma of dependency.

The first thorny question in local ownership is the dilemma of involving local stakeholders in the process of implementing institutional reform versus allowing local actors to determine the objectives and outcome of

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[21]   Council Joint Action, 11 March 2002.

the process, especially where the desired outcome may be contrary to international standards and human rights. While lip service is often paid to the need for local involvement, in practice "Ownership […] is usually not intended to mean control and often does not even imply a direct input into political questions."[22] This dilemma becomes virtually insurmountable where there is no agreement on the overall outcome. Kosovo is perhaps the clearest example where the failure to resolve the issue of the province's status severely hampered progress in the state-building exercise. Even where transitional administrations disempower local actors, the goals of efforts to strengthen the rule of law need to be clearly defined at the outset. Chesterman suggests that the population has to accept "that power is being exercised for ends that are both clear and achievable."[23] Once agreement has been reached on a 'bottom-line,' local decision-making is unlikely to derail the reform process as a whole.[24]

Second, the international interveners have consistently struggled with identifying appropriate local partners. In many cases, this may involve a choice between effectiveness, i.e. working with those that wield the most power, and legitimacy, i.e. working with those that have either the best international standing or the greatest public support. The capacities to undertake reforms may simply be non-existent. As Gordon Peake and Eric Scheye point out elsewhere in this volume, the lack of capacity may indeed be what triggered the intervention in the first place. Or those with the most capacity to cooperate with international agencies may not be the most appropriate partners.[25] Chopra and Hohe point to two possible courses of action, namely to "either reinforce the status quo and build on it, further empowering the already strong; or replace altogether what exists with a new administrative order."[26] In the latter case, one risks embarking on an endeavour that lacks local footing, is irrelevant to actual social and political developments. It is also likely to be so comprehensive, as to be too ambitious for international funds and

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22 Chesterman (2003), p. 4.
23 Chesterman (2003), p. 3.
24 Krasner (2004), p. 104f.
25 International Alert (2002a).
26 Chopra and Hohe (2004), p. 289.

commitment over time. Or, as Eric Scheye points out, "those wielding power may well have gained ascendancy because of the war; their continued enjoyment of the prerogatives of power may be dependent on the unsavoury and often illegal methods by which they acquired it, and the legitimacy of their exercise of political authority may be at best tentative."[27]

Identifying appropriate local partners is especially problematic where different local parties disagree amongst themselves with regard to preferred outcomes.[28] Ironically, the more disagreement and potential for renewed conflict, the greater is the need for external guidance – and imposition. In his report to the Security Council, the UN Secretary General Kofi Annan identifies a particular role for 'outsiders' in ensuring the inclusion of groups that are marginalized or traditionally excluded, such as minorities or women, and that may not have made it to the table had local dynamics been left to their own devices.[29] At the same time, heavy external involvement might relieve local parties of taking responsibility and ownership for proposed solutions. Dependency becomes a matter of decision-making, when external actors make difficult decisions on behalf of their local partners.[30]

The third dilemma concerns the disconnection between the timeframes of donors and those required for institution and capacity building. Building sustainable and locally driven rule of law institutions is a long-term endeavour and often at odds with more short-sighted donor cycles. The scope of the undertaking of building capable institutions goes far beyond the limited timeframes of most interventions.[31] At times, this may also involve disharmony between 'developers' and 'peacekeepers,'

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[27] Eric Scheye (2002), "Transitions to local authority" in Renata Dwan (ed.), *Executive Policing. Enforcing the Law in Peace Operations,* SIPRI Research Report No. 16, SIPRI/Oxford University Press, Oxford, p. 104.

[28] Krasner (2004), p. 100.

[29] United Nations Security Council (2004), *The rule of law and transitional justice in conflict and post-conflict societies,* Report of the Secretary General, S/2004/616, United Nations, New York, 23 August 2004, p. 6.

[30] Richard Caplan (2002), *A New Trusteeship? The International Administration of War-torn Territories,* Adelphi Paper No. 341, International Institute for Strategic Studies/Oxford University Press, London/Oxford, p. 11.

[31] Chopra and Hohe (2004), p. 289; Scheye (2002), p. 106f.

in that the latter traditionally have much shorter timeframes for their mandates. The dilemma of timeframes also links back to the issue of identifying local partners. As Krasner points out, where there is disagreement "about the distribution of power and the constitutional structure of the new state, […] the optimal strategy for their political leaders is to strengthen their own position in anticipation of the departure of external actors. [At the same time,] local leaders who become dependent on external actors during a transitional administration, but who lack support within their own country, do not have an incentive to invest in the development of new institutional arrangements that would allow their external benefactors to leave at an earlier date."[32]

The dilemma of opposing timeframes is linked to the fourth dilemma, which has to do with the difficult balance between assistance, dependency and affordability. While international funds are needed to enable a reform process, there is a danger of creating a dependency on international assistance and creating structures that are not affordable for the society in question. Also, international military operations, especially in the UN context, are reliant on funding produced by donor conferences and other ad hoc financing mechanisms. This type of financing is inherently unsuitable for long-term institution building processes that require future funding to be reasonably predictable in order to be credible and to succeed.[33] To alleviate the implications of ad hoc'ery, the creation of a trust fund has been suggested, to be administered jointly by international and local actors.[34]

2.4   Strategies for Transition

Transitions will vary with the degree to which the international intervention has assumed responsibility for public security. There have only been two cases – Kosovo and East Timor – in which international transitional administration had full executive authority, which then

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[32]   Krasner (2004), p. 100f.
[33]   Fearon and Laitin (2004), p. 26; Krasner (2004), p. 100.
[34]   Chesterman (2003), p. 6.

needed to be handed back to local security forces and their 'back end' organisations. In most other cases, international and local actors shared responsibility in a variety of ways. Various strategies have been applied to the transition process, where local stakeholders have been brought in at different stages of the reform process, on different issues or in different geographic areas. Often, several of these transition strategies can be applied simultaneously and in the same conflict area.[35] Whatever degree of intrusiveness the international intervention enjoys, it is critical to be clear in each case as to what the term 'local ownership' means. In practice, local ownership can range from local leadership, where decision-making is squarely in the hands of the local political authorities, to local acceptance, where there is at the very least no resistance to international efforts.

Timing of Participation

The international strategy for transferring authority to local hands has – by coincidence rather than design – differed widely in different cases with regard to when local stakeholders have been approached and integrated into the process of institution and capacity building. The UN International Police Task Force (UNIPTF) in Bosnia-Herzegovina retained key decision-making power, while strengthening local capacity. When the European Union Police Mission took over in January 2003, it explicitly emphasised that local police and political authorities were now responsible for further developments – a mere seven years after the Dayton Agreement. In contrast, Afghan leaders had a much greater say in the formation of public security arrangements from the outset. Accordingly, what local ownership looks like in practice and how truly it reflects local perceptions, is a function of the stage in which local actors enter the reform process. I have identified four main stages: (1) Fact-finding and 'diagnostics;' (2) planning and design (setting parameters and priorities); (3) programme development (developing projects and ensuring that efforts are cohesive); and (4) project implementation and

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[35] Writing exclusively about an executive policing context, Eric Scheye developed a similar approach, where he distinguishes between three types of transition: Cocoon-Butterfly model, a functional transfer and a geographic transfer. Scheye (2002), p. 109-117.

sustainability (implementing reform projects and building institutional capacity).

It has been recommended but seldom implemented that local organisations take the lead in the 'diagnostics' phase, i.e. are involved in the process of defining the problem. For instance, the Secretary General's report to the Security Council emphasised the need to integrate local views in the early stages when a 'reform vision' is developed.[36] Others have argued that comprehensive engagement at the earliest possible stage prevents politicisation of the reform process.[37] Ideally, the diagnostics phase should begin before a conflict has ended. This entails, however, that the process of identifying needs and charting preferred options for the rule of law is likely to be linked to ongoing negotiations towards a peace agreement. Even while a conflict is ongoing, international organisations and potential bilateral contributors now more frequently establish contact with the diaspora communities. While laudable in principle, these consultations also have limitations, in that the diaspora community may no longer have the same perception of a given conflict situation as the population in the conflict area.

Local involvement in a phase where strategy and priorities are determined implies that local actors define solutions and outcomes for the diagnosed problems. This points back to the dilemma of process versus outcome and the need for clarity on an overall strategy and outcome.[38] At the same time, the debate surrounding the affirmative stance versus the light footprint returns, in that strong international leadership reflects its perception that the society in question is not capable – in terms of skills or maturity – of defining and leading its own reform process. As indicated above, the diagnostic phase is likely to be influenced by ongoing peace negotiations and the peace agreement might well include specific provisions that stipulate structure, size and composition of the new or reformed police. Depending on the degree to which an outcome is stated in an agreement, the focus of participation might shift to developing the programmes necessary for implementation.

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[36] United Nations Security Council (2004), p. 6, 7.
[37] Chopra and Hohe (2004), p. 292.
[38] Krasner (2004), p. 105; Caplan (2002), p. 18.

When local stakeholders are only brought in at the stage of programme development or actual implementation, i.e. defining how to bring about the proposed solutions and outcomes, there is a danger that the main parameters have already been set by outsiders. There may still be room for reflecting local preferences in the precise implementation of the overall strategy, but the role of local actors may also be reduced to fine-tuning. In the worst case, integrating local stakeholders into the reform too late produces frustration and undermines the sustainability of a reform process.

Issue of Participation

Another strategy for transition may be for the international intervention to assume responsibility in specific issue areas only. Stephen D. Krasner launches the notion of "shared sovereignty" which he sees as a legitimate and practicable compromise between the 'light footprint' and full-scale transitional administration. He suggests "arrangements under which individuals chosen by international organizations, powerful states, or ad hoc entities would share authority with nationals over some aspects of domestic sovereignty."[39] In other words, sovereignty can be transferred to external actors in certain areas or on certain issues. There have been examples of this in several state-building operations, such as the mixture of international and local police officers in Kosovo or the 'office by office' transfer from international police to the East Timor Police Service (ETPS).[40] Another example is Sierra Leone where a British Police Commissioner headed the local police forces in a transitional period. The European Commission uses a twinning model in its capacity building efforts. In this model, professionals from the EU are assigned to work side-by-side with, for instance, a high-level ministerial official and advise the official on the execution of his/her duties.

A difficulty that has become apparent in the strategy of transferring responsibility by issue is getting the balance right between local and international authority. The political frustration and subsequent lack of participation in Kosovo must be seen in light of the fact that UNMIK

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[39] Krasner (2004), pp. 89, 108, 113, 119.
[40] Scheye (2002), p. 120.

retained control over key areas thereby 'emasculating' the Kosovo government.[41] Relying on individuals or small contingents in strategic positions where they guide the young organisation also requires coordination, so as to ensure that the various parts of the organisation follow a cohesive approach. Scheye warns of the inconsistency that can arise when multinational staff rotates frequently.[42] In order to counteract these fluctuations, it would be beneficial for the international presence to rely more on civilian staff, who may have greater expertise in management and administrative functions and who can be hired with longer contracts than seconded police personnel. This is particularly true for institution and capacity building, which are typically processes that extend over longer periods of time.

Geographic Areas

Finally, another strategy that has been applied to transferring authority is based on a regional approach. In addition to low levels of crime and other forms of violence, Scheye lists the following variables that influence decisions to transfer responsibility in certain geographic areas: "(a) the ability of the international community to control the area in question, (b) the development of local political structures to ensure balance in the creation of local governance, and (c) political agreement by the local parties on the suitability of chosen sites."[43] An inherent danger in the geographic transfer approach is that of promoting uneven developments within a territory. This danger acquired a whole new dimension in the security arrangements as they have evolved in Afghanistan. The UN mission to Afghanistan is limited to Kabul, so that national contributors have taken on various tasks elsewhere in the country on a voluntary basis. Some of the different Provincial Reconstruction Teams (PRTs) engage in varying forms of police and judicial reform and run a serious risk of creating a disjointed and dysfunctional judicial system. In the case of Afghanistan, the motivation for choosing this particular strategy is in part based on security concerns, but more so on the willingness of individual contributing countries to

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[41] Report by Kai Eide (2004).
[42] Scheye (2002), p. 113.
[43] Scheye (2002), p. 116.

assume that particular role in the PRTs. ARTEMIS, the EU operation in Bunia (DRC), is another example of a security role in a small and clearly delineated geographic area. ARTEMIS was, of course, concerned with public order and not involved in institution or capacity building.

3　　Areas of Institution and Capacity Building

3.1　Law Enforcement Versus Institution Building

Police assistance has evolved dramatically in the last fifteen years. Most importantly, it takes place in a variety of different contexts and is led by different donors: The classic approach was through agents of the security sector, such as, law enforcement agencies and Departments of Justice provided training in law enforcement skills to their colleagues in other countries. It is still this kind of assistance that receives the majority of US funds in the field of police assistance.[44] The approach was mainly motivated on the grounds of stemming the tide of crime, drugs or terrorism flowing in from unstable neighbourhoods. This was also a driving force behind the heavy involvement of European police agencies in the Balkans and beyond.

Since the end of the Cold War, civilian police have increasingly been deployed as a component of an international peace operation. From being a haphazard addition, civilian police have become a strategic tool in pursuit of a sustainable peace process.[45] The desire to build effective and democratic local police forces has become an increasingly central goal in peace operations. In the context of peace operations then, the contributors were motivated by a desire to enhance stability and prevent future or recurring conflict by building or reforming local security structures.

[44] Robert M. Perito (2002), *The American Experience with Police in Peace Operations,* The Lester B. Pearson Canadian International Peacekeeping Training Centre, Clementsport, Canada; David H. Bayley (2005), *Changing the Guard. Developing Democratic Police Abroad,* Oxford University Press, New York, forthcoming.

[45] Annika S Hansen (2002), *From Congo to Kosovo: Civilian Police in Peace Operations,* Adelphi Paper No. 343, International Institute for Strategic Studies/Oxford University Press, London/Oxford, p. 9.

With the rise of the notion of security sector reform and its inherent links to questions of good governance, the development community has also joined the police assistance game. Their starting-point was very much linked to questions of human rights and democratisation. Therefore, their predominant concern has been to prevent abuses by police forces and – to a more limited extent – promote police forces as a central component, indeed as guardians, of a democratic state.

All these approaches meet at the question of building sustainable capacity and institutions, and yet, this area has been shamefully neglected. Most assistance has targeted the front end of the security forces, i.e. the cop on the beat, through training, equipment, restructuring and subsequent performance assessments. The front end of policing is critical for the local perception of the rule of law, in that it is in the police forces that the population encounters the rule of law on a daily basis. However, in order to be sustainable in the long-run, police organisations need an administrative and managerial apparatus.

The reasons for the past focus on the front end are manifold. The visibility and immediacy of impact is one reason. The police are the face of the rule of law and, therefore, have a primary role in driving forward a transition to a society governed by the rule of law. More importantly, though, donors have long considered technical assistance, such as training in specialised skills, as easy and non-political. This is far from the truth, in that any assistance to police or other security functions of the state affects a state's internal distribution of power and is thereby highly political. In the past, international contributors to police aid have been wary of tying normative conditions to their assistance. This is especially true of cooperation between professional law enforcement agencies, where abstaining from political messages bought access to local security forces, and in the context of peace operations, which were traditionally based on impartiality.

In contrast, democratic governance is now accepted and promoted as an absolute requirement for any assistance to security forces in a third

country.[46] A contributing factor to this development has been the evolution of peace operations towards more forceful and more intrusive interventions since 1990, culminating in the transitional administrations in Kosovo and East Timor. In addition, the collapse of the Soviet Union and the proclaimed 'end of history' removed any competition to democracy, as the preferred, the most viable and the most humane system of governance. The trend was reinforced by the arrival in the security field of the development community, which also promoted democratisation programmes and grass roots approaches that emphasised the needs of the population.[47]

Reform and institution building, then, involves taking a stand on normative issues, such as the need for the rule of law as the governing principle for social interaction within a democratic framework and the strong role of the population in the rule of law. This demonstrates how pivotal the question of local ownership is to the success of public security arrangements. While the importance of the public support for effective front end policing has been recognised,[48] the need to build local capacity to run the institutions of the security sector has received far less attention. Although it is recognised, such as in official UN documents that highlight the need for "laws, processes (both formal and informal) and institutions (both official and non-official),"[49] little international effort has been directed specifically at creating or strengthening such institutions.

There are three main areas of institution and capacity building in which local counterparts will have to take an active role in order to make the rule of law sustainable: reforming the security forces (the 'front end'),[50]

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[46] An exception is still the 'classic' approach that is more of an extension of domestic law enforcement abroad, such as assistance provided by the US to Colombian authorities in their fight against drug cartels.

[47] Griffin (2003), p. 201f., 207f.

[48] David H Bayley (2002), *Police for the Future*, Oxford University Press, New York/Oxford, Ch. 2.

[49] United Nations Security Council (2004), p. 12.

[50] The description of the reform of the 'front end' builds on: Annika S Hansen (2005), *Supporting the Rule of Law in War-torn Societies. Tasks and Comparative Advantages of Civilian Police and Military Forces*, FFI-Report 2005/01308, Norwegian Defence Research Establishment, Kjeller, Norway, forthcoming, pp. 32-38.

building administrative and management capacity (the 'back end') and developing a rule of law culture (the context).

3.2 *Reform of Operational Police Forces*

The reform of police forces includes training, equipping and issues of community policing, accountability and responsiveness. The main local counterparts here are the security forces, including the police, the military, special forces, border police, intelligence services and other (rival) armed groups. When it comes to accountability and responsiveness, the local police forces interact with the individual citizen and civil society. This is dealt with in more detail in sections 3.3 and 3.4.

There are two main dimensions of a reform process: a structural and a behavioural dimension or what has been called 'capacity building' and 'integrity building.' This applies to both the front and the back end of the police. The structural reform of the operational part of local police forces entails a reorganisation of police forces, including geographical deployment patterns and separation from military functions. The behavioural or integrity building reform involves changing the way in which police forces relate to the public and how they understand these relations. Behavioural training consists of human rights training, courses on democratic standards of policing and not the least field training and monitoring. The tasks that make up operational police reform can be subdivided into three stages: (1) selection, recruitment, vetting; (2) academy and field training; and (3) performance assessments, promotion and accountability. Although these stages appear chronological, they are more correctly cyclical. In a 'healthy' police organisation, all processes will be taking place simultaneously at any given time.

The first step towards establishing a new police force is to select its staff. Clearly, the type and scope of recruitment will vary according to whether a police force is being built from scratch or being revamped. Which strategy is the most appropriate depends on the specifics of each case, as each strategy – revamping versus starting from scratch – has its pros and cons. In either case, criteria need to be established for selecting or vetting personnel. It would appear natural that each population should

have a say in defining what qualities they seek in the people with whom they entrust their personal safety. However, local ownership of the selection process has seldom been implemented. In part, this was a function of timing, in that the international intervention would be under pressure to begin the process of establishing a police force due to demands of public order, but also due to donor schedules that called for immediate implementation of reform programmes. In part, the decision arose from a lack of trust in the ability of a local population emerging from a – usually divisive – conflict to be able to objectively assess who was suited as a guardian of law and order. Similarly, allowing leaders of existing security forces to select personnel for the new and improved police was feared to lead to favouritism or considered incompatible with shedding the legacy of the old force(s). Still, in cases where the prior conflict was marred by excessive violence and abuse, the public may well have a clear notion of what previous behaviour should not be tolerated and weeded out in a vetting process and its views should be reflected in the selection criteria.

Police training is a comprehensive issue and can only be sketched very briefly here. Training takes place both in academies and in the field and differs in different cases with respect to duration, frequency/repetition and content, in accordance with the extent to which recruits have prior police training and with the legacy of police-public relations.

A basic component of training is the establishment of educational institutions. They are juxtaposed between the institutional back end and the operational side of policing. Examples of training elements that serve to build capacity at the front end of the police are forensics, human rights training or weapons training and there is no reason why these technical subjects cannot be transferred to local teaching staff. Where the police have a history of oppression, there may be cause to partner the local teaching staff with international trainers in a transition period. The same is true for curricula development.

The classroom education is of limited value without subsequent field training, which gives recruits an opportunity to adjust and apply theoretical knowledge. Field training offers an opportunity for the

international staff to gauge whether the recruit is indeed suitable as a police officer. If an international intervention has been deployed to lead a reform of local police forces, it is unlikely that the local police will be left to monitor themselves in the initial field training period. It is, therefore, all the more important that efforts to set internal accountability and disciplinary mechanisms begin early on (see 3.3 below). In order to allow field training to be transferred as soon as possible, a mentoring approach by an external observer that can involve advice, co-location and joint patrols through which he/she can guide cadets and train trainers would be useful. A similar kind of oversight function is necessary in later stages when cadets have graduated and are deployed in difficult circumstances "on the beat". But the primary corrective mechanism should be mechanisms that allow for public complaints, such as are presented below (section 3.4).

The duration of training has diverged widely in the past. It can range from a few weeks, such as some courses in Haiti or Namibia, to several months in the academy and subsequent field training, such as in Kosovo. One may argue that some police forces require less training than others, but in reality the length and frequency of training courses have been entirely arbitrary or products of available funding rather than actual training needs. Clearly, the duration of training should not be subject to fluctuations and should be defined in accordance with the needs of a given local police. This is another reason why dependency of training on international funds should be reduced and instead authority handed over to local hands as soon as the necessary capacity has been created. Here, the important distinction between technical and behavioural aspects recurs: while it is possible to convey technical skills in a short period of time, conveying an understanding of the police as a public service institution takes time.

3.3   *Building Administrative and Management Capacity*

The administrative and managerial capacity for running security forces and for policy and strategy development needs to be strengthened in virtually every case. In countries transitioning from authoritarian rule,

police forces were instruments of the state and, therefore, highly politicised. In a post-conflict setting, due to a prolonged conflict or due to a lack of democratic policing traditions, the capacity to run a police organisation is often limited or non-existent. Even where there is fledgling capacity, international staff often has little faith in the organisation's ability to perform adequately.[51] When transforming itself into an organisation that serves the public rather than a particular government, the back end of the police needs to develop the capacity to define security needs and aims, as well as to identify the resources and structure required to meet the needs and aims and implement that strategy through budgetary and personnel management. Defining priorities is, of course, a recurring activity and a police organisation has to engage in regular review processes to adjust strategies to changing needs or to assess if strategies have been effective in meeting those needs. In addition, as David H. Bayley underlines, the police forces have to be responsive to the needs of the public and be held accountable through oversight mechanisms.[52] Oversight takes place within the police organisation and through external mechanisms. The external mechanisms are discussed in section 3.4 below.

The first step towards designing a strategy consists of collecting and analysing information on the public security challenges that the police face. The end result should be an assessment of the crime challenges that threaten the rule of law and/or are of concern in the opinion of the public. Crime statistics are one source of information, but statistics already require a relatively sophisticated approach to planning and assessment. In most cases, assessments of the public security situation will be more haphazard. Rather than a once in a lifetime approach, police organisations should constantly engage in or be open to dialogue, for instance through town hall meetings, with local government mechanisms, such as Council of Elders, warlords, chiefs and mayors, and with the general public. In a post-conflict context, the fact-finding

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[51] Scheye (2002), p. 104, 109.
[52] David H Bayley (1997), "The Contemporary Practices of Policing: A Comparative View" in *Multinational Peacekeeping – A Workshop Series. A Role for Democratic Policing,* National Institute of Justice, Washington DC, 6 October 1997, p. 3f., 5; Otwin Marenin (2001), "Approaches to Police Reform", Paper presented at the *IISS/DCAF Workshop on Managing the Context of Police Reform*, Geneva, 24-25 April 2001.

and strategic planning part of the process may have partly been usurped by deals made in the course of peace negotiations, in which the parties to the conflict have agreed on the nature and organisation of security arrangements.

Based on the above assessment, the management of a police organisation will have to set strategic priorities for how it wants to tackle crime and safeguard the rule of law. At a national level, political leaders, including the government and political parties, are likely to play a role in determining national policies and priorities for the police and other justice institutions. What makes setting priorities and devising strategies so difficult is the fact that priorities have to be in accordance with certain economic parameters. This is likely to involve "trade-offs between salaries, equipment, professional development and institutionalisation."[1]

Every police organisation has a limited budget that will force it to make difficult choices on priorities. This situation is exacerbated in the context of a post-conflict situation or in countries in transition. The initial post-conflict phase is often characterised by higher than normal levels of crime and instability, which in turn lead to calls for a larger police force (or more heavy-handed tactics). Even in transitions from authoritarian rule, the reform process is usually more costly than running an established shop. At the same time, the government is unlikely to have a significant tax income to even afford a police force of a more limited size. James D. Fearon and David D. Laitin therefore suggest "international support for developing local tax-collecting capability" in order to accelerate the process towards self-sufficiency in governance.[2] Moreover, governments might be under pressure from donors to cut expenses for security, especially where a country is saddled with a bloated security sector in the wake of a conflict. A major dilemma arises when it comes to the sustainability of local public security arrangements: while international funding might temporarily bridge the expense gap, there is no point in building institutions that the country in question cannot afford in the long run and it is difficult to predict the future income that will be available to finance the police.

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[1] Scheye (2002), p. 105.
[2] Fearon and Laitin (2004), p. 9, 37ff.

Strategic planning is a demanding job and any highly developed police organisation features its share of incompetent administrators. In a transitional period both replacement by international staff or twinning projects, which are based on the 'learning-by-doing' principle, are an option – which alternative is the better one will depend on the specific circumstances of each case.

Once an overall strategy has been decided upon, it needs to be translated into specific programmes and actions. Besides programme and project development skills, implementing the strategy involves managing budgets and personnel and providing administrative support. Budgetary management is a question of planning and accounting. At the same time, it is important to recognise that control over budgets is a key area in which political power holders can unduly influence operational police matters. While the positions of independent heads of police were put in place by the IPTF in Bosnia-Herzegovina, the ministers of the interior retained control over the budget, granting them effective control over operational police matters.

On the personnel side, the structure of the police force and its deployment patterns will have to be adjusted to match the approaches chosen. In addition, incentive structures and rules for promotion should reflect the basic values of a public service institution, but should also reinforce the priorities stipulated in the strategy. Another channel through which priorities will be promoted is education, such as in police academies. In some cases, academies may exist, but require reform and restructuring. In others, they may need to be created from scratch. Academy training requires the international staff to develop curricula and teaching materials, teach classes and hold exams. With regard to curricula development, there is an argument to be made – similar to the limited local input in the selection process – that the existing local capacity is limited and lacks an established understanding of the rule of law, which is fundamental in order to define learning objectives and class content. Academies themselves need to be administered and managed, but can also include training for senior management positions.

The internal oversight mechanisms have two different functions. The most dramatic is perhaps investigating and addressing police misbehaviour though disciplinary measures. Police reform will not have succeeded until a police organisation can correct itself. Tasks in this area include developing standards to assess the performance of police officers and mechanisms for reprimanding human rights violations or other misconduct. In war-torn societies, the population is often left with the impression that police and other security forces can act with impunity. In order for the reformed police to be accepted as the legitimate enforcer of the law, the cycle of impunity must be broken as soon as possible. In the same way that international staff and local managers can select, certify and promote police officers, they must have access to countermeasures, such as recourse to disciplinary procedures. Ultimately, a functioning police organisation has to have mechanisms for promotion review, auditing and accountability, in relation to police conduct, as well as to budgets and resource management.

International police officers can assist in establishing mechanisms and procedures to hold the police accountable. Still, the legitimacy and credibility of local police forces will be enhanced the greater the extent to which they are self-sufficient. In the initial stages after the local forces have taken on full responsibility for accountability mechanisms, an international oversight capacity should remain to ensure the correct and consistent application of the mechanisms, but as early as possible those processes have to be owned by local police institutions.

Another form of internal oversight is a performance review in relation to the strategy and priorities identified and the progress that has been achieved towards them. This requires mechanisms and capabilities that can make accurate assessments and analyse implications for strategy. This internal review process is necessary to reassess priorities, but also to reassess the programmes and approaches through which the police organisation sought to implement the priorities. The overall objective may still be valid, but the means may have proven ineffective.

At a lower level, performance assessments are used to review how effective police forces have been at fighting crime and at promoting the

rule of law. As above, performance assessments are all the more credible when the organisation can constructively criticise itself. This is a double-edged sword: enabling local police forces to correct themselves as soon as possible is likely to reinforce the process of internalising the values of responsiveness, fairness and respect for human rights. Transferring responsibility for self-correction can empower local police and serve to boost professional confidence. On the other hand, given the war-related or authoritarian legacy that police forces frequently embody, it may be premature to allow them to monitor their own adherence to principles of democratic policing, when they have no firm grasp of these principles and have not applied them in their police work over time. Performance assessments are also linked to external oversight mechanisms, such as independent review commissions or the like (see below).

3.4   *Developing a Rule of Law Culture*

The final area of institution and capacity building focuses on involving local civil society in fostering a rule of law culture. Returning to the distinction between structural and normative elements, the structures that need to be in place for a rule of law culture to develop are a clearly defined law that outlines the functions of the police and other justice institutions and the role of specific oversight bodies. The normative dimension then breathes life into the legal foundation. An established rule of law culture requires that the population fulfil three functions: (1) to internalise and pass on respect for the rule of law; (2) to engage with operational police forces; and (3) to act as an oversight mechanism over police behaviour and strategic priorities.

First, the population needs to internalise the values inherent in the rule of law. In other words, the population has to be convinced to enter into a new social contract with the government, in which it surrenders its right to defend itself in return for a guarantee of personal safety and equal treatment before the law from the government and its representatives – the police and justice institutions. Each citizen has to accept and promote the rule of law – and the human rights that are inherent in it – as the fundamental organising principle for society. As David Bayley points

out, the public is the most potent force in reform, in that it ensures its fulfilment in practice and passes on respect for the rule of law to its children.[55]

Efforts to spread an understanding of the rule of law will have to address the disconnection that often exists between central or national authorities and local communities. Local communities may be detached from central authorities in their daily life and function according to an independent set of rules. Promoting an understanding of a common set of rules that is to apply for the country as a whole and is the practical application of the rule of law, therefore requires that "communities have to be integrated into the process of institution building, where they live and at higher levels, in order to foster a sense of identification with the greater whole and a feeling of ownership of the alternative structure."[56] The leap of faith that is required should not be underestimated.

In the same way, institution and capacity building require a leap of faith on the part of the central authorities. The UN Secretary General describes this as "securing political space for reformers"[57] and points to the need to cultivate political support for strengthening the rule of law. For authoritarian regimes, this effectively means a reduction in power and control over central instruments of government. The attempts to wrest political control away from political parties and power holders in Bosnia-Herzegovina are cases in point.

When the public engages directly with operational police forces, it does so in order to report a crime, to assist in law enforcement, such as coming forward as a witness, and to voice its view as to the priorities of police work and the manner in which it is conducted. With regard to the former, there is clear evidence that the police are entirely dependent on the cooperation of the public in their efforts to solve crimes.[58] This, in turn, presupposes that the public believe the police to be the most effective mechanism through which breaches to the rule of law should be

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[55] Bayley (2005).
[56] Chopra and Hohe (2004), p. 292.
[57] UN SC (2004), p. 8.
[58] Bayley (2002), Chapter 2.

addressed. Responsiveness, then, is a key trait of a democratic police force, in that the police rely on being regarded as relevant to public concerns.[59] Again, the international intervention and not least the local rule of law professionals need to be in a continuous dialogue with individual citizens, civil society, local government mechanisms and the business community. And yet, a word of warning is in order: the public may well call for heavy-handed responses to high levels of crime, such as are common in the wake of civil wars, but that may be disrespectful of human rights. Therefore, while the police must reflect public concerns, their primary role remains that of the guardian of the rule of law. In that way, the police play a critical role in creating the space in which democracy can play out and thereby allow for public debates, etc., that form part of the external oversight function.[60]

Finally, the public fulfils a clearly specified function through external oversight mechanisms. These can range from parliamentary oversight, independent review commissions, through public complaints bureaus and crime hot lines to issue-specific advocacy groups. It has been argued that a functioning political system requires an active and free media. As an oversight mechanism, the media certainly plays an important role in publicising examples of police behaviour, in some cases acting as a check on methods used and providing a space for public debates on the rule of law. When proposing taxation schemes to strengthen local governance, Fearon and Laitin also suggest that taxation would be a useful tool to awaken public scrutiny and kick-start its role in holding police organisations accountable.[61]

4   Conclusions

In many societies emerging from conflict or from authoritarian rule, there is clearly a role for international involvement in capacity and institution building on both the front and the back end of a police organisation. This involvement can be intrusive to varying degrees and

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[59] Bayley (1997), p. 3f., 5.
[60] Bayley (2005).
[61] Fearon and Laitin (2004), p. 39.

range from designing a police force and determining its operational priorities to mere guidance and advice. While the lack of local capacity in the immediate aftermath of a conflict may demand an international role, a few caveats should be mentioned. First and foremost, the purpose of this paper has been to underline the need for local stakeholders to take over responsibility for running their public security arrangements as soon as possible. An appropriate axiom for international assistance is therefore always the 'train-the-trainers' and 'train-the-managers' principle. International Alert lists "investing in institutional learning" as one of their principles for community-level peacebuilding.[62] Therefore, the twinning and the shared sovereignty concepts appear to be suitable approaches for building the institutions and the capacity necessary for managing a police organisation, in that they marry the benefits of local responsibility with international guidance. An added benefit of these approaches is that they are more likely to be sustainable over longer periods of time, as they require less manpower – if more specialised – and financial resources.[63] A precondition for these approaches to succeed, however, is an insistence on high-quality, experienced international staff that can credibly communicate management skills.

A second caveat arises from the inevitably flawed nature of international interventions. Despite the best intentions, there will never be a 'perfect' assistance effort. Therefore, oversight mechanisms that can ensure the consistency and appropriateness of the international contribution are critical. As the rule of law is so central to the successful functioning of a society, oversight over international direction of the rule of law is especially important. As Klaus and Martin point out – in their discussion of the powerful OHR – "[a]ny post-conflict mission that aims to establish democratic governance and the rule of law must institutionalise checks and balances on the use of extraordinary powers at the very outset."[64]

Thirdly, in addition to oversight over the international contribution, there is a need to evaluate progress. An evaluation in turn presupposes clearly

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[62] International Alert (2002a).
[63] Krasner (2004), p. 119.
[64] Knaus and Martin (2003), p. 73.

defined goals at the outset. These have been lacking in many efforts to strengthen the rule of law after conflict. Too often, the concepts of rule of law, democratic policing or community policing are used vaguely without a clear understanding of what they entail – or even as a way in which to avoid defining a specific outcome. But specifying a desired outcome and identifying the structures and the skills required to put it into practice, are preconditions for being able to measure progress in a reform effort. International organisations have internal procedures to assess the effectiveness of their assistance but, more importantly the public in the former conflict area, such as through the media and other oversight mechanisms can conduct their own 'assessment.' This is where local stakeholders can play a decisive role in determining whether the rule of law is shaping up in accordance with their vision. Ultimately, one could argue that local ownership has been 'achieved' when formerly limited reform constituencies encompass the majority of the population in the post-conflict area. After all, the normalisation process that the term 'conflict transformation' invokes takes place predominantly in the minds of public, whose security and justice is at stake.[65]

Acronyms

CIDA	Canadian International Development Agency
DfID	Department for International Development
DRC	Democratic Republic of Congo
ETPS	East Timor Police Service
EU	European Union
EUPM	European Union Police Mission in Bosnia-Herzegovina
KFOR	Kosovo Force
MSU	Multinational Specialised Unit

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[65] International Alert (2002a); Conflict Transformation Working Group (2002), *Building Peace from the Ground Up: A Call to the UN for Stronger Collaboration with Civil Society*, CTWG, New York, August 2002.

NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organisation
OHR	Office of the High Representative (Bosnia-Herzegovina)
PRT	Provincial Reconstruction Team (Afghanistan)
SIDA	Swedish International Development Agency
UN	United Nations
UNDP	United Nations Development Programme
UNDPKO	United Nations Department for Peacekeeping Operations
UNITPF	United Nations International Police Task Force (Bosnia-Herzegovina)

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