Helpdesk Research Report: DDR and Transitional Justice

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Query: How have DDR programmes contributed to the restoration of peace and security in relation to transitional justice? What effects do DDR and transitional justice initiatives have on each other?

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Contents

Overview and Definitions

1. Disarmament, demobilisation and reintegration (DDR) and transitional justice processes often operate contemporaneously in conflict-affected societies. Disarmament involves the collection, registration, storage, and often destruction of small arms and light weapons. Demobilisation is 'the formal and controlled discharge of active combatants'. Reintegration is the long-term process whereby 'ex-combatants acquire civilian status and gain sustainable employment and income'. (DPKO, IDDRS, sec. 1.20 in Waldorf, 2009a, p 19)

2. Transitional justice as defined by the United Nations is 'the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation' (UN Security Council, 2004, p. 4). These are seen to include judicial and non-judicial mechanisms, primarily individual prosecutions, truth-seeking, reparations, institutional reform and vetting.

3. DDR programmes have been viewed in the past as technical programmes and analysed in a vacuum. In recent years, however, there has been growing acknowledgment that DDR is a 'process of social engineering' and cannot be treated in isolation of other activities in conflict-affected states (Muggah, 2010, p. 4; see also Patel, 2009a and Sriram and Herman, 2009). DDR activities have an effect on wider security sector reform and transitional justice issues (Bryden et al., 2005; Patel, 2009b). All of these processes are essential components of peacebuilding and should be considered in relationship to one another.

4. This helpdesk research report looks at the linkages between DDR and transitional justice. It first looks briefly at the contribution of DDR to stability, security and peace, followed by discussion of the 'silo approach' to peacebuilding, whereby DDR and transitional justice have traditionally been addressed separately. The complementarities of DDR and transitional justice will then be discussed, followed by sections on how transitional justice could benefit DDR and vice versa. The report closes with a look at recommendations on how to bring the two disciplines together in theory and practice.

DDR's Role in Stability, Security and Peace

5. Since the 1990s, more than 60 DDR operations have been launched: two thirds in Africa and the rest in Latin America and the Caribbean, South Eastern Europe, Central and South Asia and the South Pacific. Over a million 'combatants' have taken part in some aspect of DDR. Such programming has become a regular component of international peace support and peacebuilding architecture (Muggah, 2010).

6. DDR programmes can play an important role in 'limiting violence by disarming large numbers of actors and disbanding illegal, dysfunctional or bloated military structures' (Patel, 2009a, p. 1). They often set the parameters of the new security sector by deciding the overall number of combatants to be demobilised and thus the size of the resulting security forces; and deciding who should stay in the formal security sector (Patel, 2009c).

7. In recent years, national DDR interventions have adopted a more 'regional' or multi-country approach, in recognition of the spillover effects of armed conflict. DDR programmes have also extended the category of beneficiaries to include 'vulnerable groups' (children, women, disabled), dependents, refugees and internally displaced persons (Muggah, 2010).

8. Outcomes of DDR are influenced by context and there is no precise formula for their 'success' or 'failure' (Almeida et al., 2010). Nonetheless, some models and lessons are highlighted. Sierra Leone, for example, is considered to have had a successful DDR process and many elements of the Sierra Leone 'model' are being replicated in Liberia and Burundi, and even as far as Haiti (Weinstein and Humphreys, 2005).

9. Success in DDR programmes is often measured by the total number of combatants demobilised and the total number of weapons collected. Other measures of success include the number of ex-combatants who have benefited from targeted economic support and re-training (see Knight, 2010).

10. Weinstein and Humphreys caution, however, that success at the macro-level does not necessarily lead to success at the micro-level. Participation in DDR programmes does not necessarily result in individuals being able to reintegrate in terms of finding employment, breaking ties with their factions or gaining acceptance from families and communities. In the case of Sierra Leone, they estimate that at least six percent of fighters experienced severe problems with reintegration and that this pool of nearly 5,000 struggling fighters represents a continued threat to stability (Weinstein and Humphreys, 2005). Muggah states that while disarmament and demobilisation seem to have contributed to temporary improvements in stability and safety, the effectiveness of reintegration has not been evident (Muggah, 2009). Failure to reintegrate demobilised combatants can in turn contribute to post-conflict crime as ex-combatants transform themselves into 'violence entrepreneurs' (Bryden et al., 2005).

11. More attention needs to be given to reintegration, which often receives the least support in DDR programmes. This is in part because the disarmament and demobilisation components often use up existing funds and also because reintegration overlaps with longer-term processes of reconciliation, reconstruction, governance reforms and poverty reduction (Knight, 2010).

12. There is growing recognition that DDR alone cannot build peace or prevent armed groups from reverting to violence. Instead, it needs to be part of a larger system of peacebuilding interventions. There is thus a need to understand how DDR programmes connect with other peacebuilding processes, whether political, security or justice related (Patel, 2009b). This has been articulated in the Stockholm Initiative on DDR (SIDDR). It states that in order to maximize the contribution of DDR to a peace process, it is important to think about 'the design and implementation of such programmes explicitly in relation to the different stages of peace processes, from preparation to negotiation to implementation, and to do so in a way that makes DDR programmes coherent with other factors that impinge on the success of the peace processes. None of this will be achieved if DDR is seen mainly as a technical exercise de-linked from the dynamics of peace processes (Ministry of Foreign Affairs, Sweden, 2006, p. 14)

The Segmentation of DDR and Transitional Justice

13. While there is a growing body of research on DDR, there has until very recently been little research that explores the linkages between DDR and transitional justice. There have also been minimal efforts to practically design processes with the other in mind (Patel, 2009; Sriram and Herman, 2009). Various reasons have been identified for this lack of institutional linkage. These include differing approaches, actors and timing.

14. **Different approaches:** As noted, DDR was traditionally viewed as a technical military exercise, particularly the disarmament and demobilisation components, rather than a process connected to broader economic, justice or social transformation (Patel, 2009a).

15. **Different actors:** DDR programmes have also traditionally been designed with combatants in mind and seek to benefit ex-combatants; whereas the intended beneficiaries of transitional justice programmes are the victims of human rights violations and post-conflict communities and societies more generally (Sriram and Herman, 2009; Patel, 2009a and 2009b).

16. **Different timing:** Disarmament and demobilisation components of DDR are often initiated during a cease-fire or immediately after a peace agreement is signed; whereas transitional justice initiatives often require a new government to be in place and legislative approval, which can take months or even years (Patel 2009a or 2009b).

The Overlap between DDR and Transitional Justice

17. Despite the traditional segmentation of the two fields, there are various ways in which DDR and transitional justice processes and mechanisms overlap in practice. These include amnesty negotiations; vetting and institutional reform; and reintegration and trust-building.

18. **Amnesties and peace negotiations:** War-to-peace transitions often involve peace negotiations and peace agreements between incumbent governments and non-state armed groups. As part of this, amnesties (in various forms) aimed at the transformation of fighters into civilians may be part of DDR incentives and processes (Almeida et al., 2010). Amnesty from prosecution, while controversial, is also a mechanism of transitional justice.

19. **Vetting and institutional reform:** Vetting involves 'excluding from public service persons with serious integrity deficits in order to (re-)establish civic trust and (re-)legitimize public institutions' (Patel, 2009b, p. 12). DDR programmes are linked to security sector reform in that they determine the size of security forces, who should be integrated into formal forces and essentially who should be 'vetted'. Vetting is a core mechanism in transitional justice and aims to exclude human rights abusers from public institutions. Screening for human rights violators in security forces is thus an

important activity in DDR, security sector reform and transitional justice (Patel, 2009b; Sriram and Herman, 2009).

20. **Reintegration and trust-building:** DDR and transitional justice are considered to overlap to the greatest extent in the reintegration phase. Reintegration has economic, political and social aspects: it aims to create sustainable livelihoods for ex-combatants, to provide them with legitimate political outlets; and to rebuild social cohesion and social capital. The long-term goals of both DDR and transitional justice are thus '"broadly analogous" in that they both seek to rebuild social trust and social capital' (Waldorf, 2009a, p. 23).

21. DDR seeks to build civic trust between ex-combatants, society and the state by building confidence through transparent processes of disarming and demobilizing (de Greiff, 2009; Patel, 2009a). In turn, the social reintegration of ex-combatants into communities and civilian life depends in part on trust (Duthie, 2005). Transitional justice seeks to promote trust between victims, society and the state by acknowledging the harm that victims have suffered, through measures such as criminal prosecutions, truth-telling efforts, reparations programmes, vetting and institutional reform (Patel, 2009b; Duthie, 2005). It aims to reaffirm the importance of foundational norms and values (de Greiff, 2009).

22. In order to promote social reintegration, attention needs to be paid not only to ex-combatants, but to victims and broader host communities; and to the relationships between ex-combatants on the one hand and victims and host communities on the other. This has led to growing attention to 'community-centred' reintegration, which bridges the claims and needs of ex-combatants with those of victims and the communities in which they live. It is an alternate to individual- or ex-combatant-specific reintegration programmes that aim, for example, to provide individual employment training (Patel, 2009a; Waldorf, 2009a)

How DDR can Benefit Transitional Justice

23. DDR and transitional justice are considered integral to peacebuilding processes. Given the overlap of these two fields, it is important to look more specifically at the particular linkages between the two and the benefits that can be gained from such linkages. DDR can benefit transitional justice in various ways, such as through the promotion of stability, the use of conditionalities and the provision of information.

24. **Stability:** 'The failure to remove the weapons from the hands of fighters and re-establish legitimate state control over the legitimate use of force may undermine security and the prospects for transitional justice' (Patel, 2009a, p. 1). DDR programmes can thus contribute to stability and create an environment that is more conducive to establishing transitional measures (Patel, 2009b).

25. **Conditionalities:** Transitional justice measures and DDR programmes can be linked through the use of conditionality. The distribution of DDR benefits can be conditional upon an ex-combatant not being suspected of or charged with committing human rights abuses (Sriram and Herman, 2009). They can also be made conditional on participation in or cooperation with transitional justice measures (Patel, 2009a; Sriram and Herman, 2009; Duthie, 2005). In Colombia, for example, there were proposals for a legal framework for the demobilisation of paramilitaries that would make the distribution of benefits conditional on confession of crimes before a truth commission (Sriram and Herman, 2009). This linkage can be challenging, however, due to issues of timing. DDR benefits may be necessary in the immediate term, whereas transitional justice measures and determination of an individual's guilt or innocence can take a long time (Sriram and Herman, 2009).

26. **Sharing information:** DDR programmes are usually set up prior to transitional measures and require the gathering of socio-economic and background data from ex-combatants in addition to other information. Ex-combatants are often 'key witnesses for uncovering international crimes, command responsibility, and joint criminal enterprises' (Waldorf, 2009b, p. 109). Such information on the workings of armed groups (including the use of forced recruitment) and the causes and patterns of armed conflict can be extremely helpful to transitional justice efforts (Waldorf, 2009b, Patel, 2009a). There are concerns, however, that the sharing of information with prosecutions processes could create a large disincentive for combatants to participate in DDR programmes. It is thus important that any information shared with prosecutors should entail solely broad data rather than specific statements (Witte, 2009).

27. Non person-specific information can be especially useful to truth-telling initiatives and vetting. Information on structural dimensions and broad patterns of collective violence (without having to provide the names of perpetrators) can help to construct a historical 'memory' and understanding of the past (Patel, 2009b; Sriram and Herman, 2009; Waldorf, 2009b). Information could also lead to the location of victims' remains and to the identification of beneficiaries for reparations (Waldorf, 2009b). Vetting procedures can also benefit from information on the numbers and identity of security sector personnel, which is typically gathered during DDR registration (Sriram and Herman, 2009).

How Transitional Justice can Benefit DDR

28. Transitional justice can also benefit DDR in various ways. These include the use of targeted amnesties, the removal of spoilers, and the adoption of various processes and mechanisms that can improve the possibility of successful reintegration.

29. **Targeted amnesties:** Although amnesties remain controversial, they can be a positive tool for peacebuilding (Freeman, 2009). The application of justice could be made conditional on participation in a DDR programme (Duthie, 2005). Targeted amnesties (or reduced penalties) for

lower-level combatants or for crimes of a political nature, such as treason and rebellion, can serve as an incentive for participation in DDR programmes. Prosecutorial efforts could be focused instead on higher-level perpetrators and on international crimes of genocide, crimes against humanity and war crimes (Patel, 2009b, Bryden et al, 2005; Duthie, 2005).

30. There is insufficient evidence, however, to determine whether or not amnesties contribute to the success of the DDR process. In Mozambique, the use of amnesty is considered to have contributed to the success of the peace accords and the DDR process; whereas in Angola, the use of amnesty failed to prevent a return to violence (Almeida et al., 2010). Further, Duthie argues that a prosecutions policy in Mozambique could have contributed to reducing ongoing problems related to organised crime and distrust between groups (Duthie, 2005). Whether amnesty should be an integrated into a DDR programme depends on the context and cannot be generalized.

31. The use of targeted amnesties can in some cases benefit not only DDR but also other aspects of transitional justice. In Colombia, the Justice and Peace Law of 2005 specifically targeted the demobilisation of ex-combatants: it offered reduced prison sentences, quick parole and reinsertion benefits in exchange for disarming, demobilizing, confessing guilt, paying reparations to victims and cooperating with authorities. This has contributed to statements and confessions by demobilised paramilitaries that have provided information on mass graves and the location of disappeared persons and led to the exhumation of bodies. Confessions by ex-fighters have also triggered reports by victims who wish to give their versions of events to authorities (Witte, 2009). The Law is still considered controversial, however, as it applies to all crimes regardless of the severity and there have been efforts by civil society groups to overturn it.

32. **Removing spoilers:** DDR processes are often challenged by commanders or warlords who refuse to disarm and demobilise and constrain their combatants from doing so. In such circumstances, prosecutions of these spoilers and their removal from the situation could allow for the DDR of the combat unit or group (Patel, 2009b; Witte, 2009). Such prosecutions may have contributed to DDR processes in Rwanda, Bosnia, Liberia and the DRC (Witte, 2009). It is important to have an accompanying public information strategy that articulates clearly which kinds of cases will be prosecuted. This could reassure lower ranking combatants that the focus of prosecution is on those most responsible and reduce the risk that the former will be deterred from participation in DDR (Patel, 2009b).

33. **Reintegration:** The social reintegration component of DDR programmes is particularly challenging. It is increasingly recognised that various transitional justice processes and mechanisms can help to address these difficulties. These include individualising guilt, providing a forum to speak, reparations, and traditional justice.

34. **Individualising guilt:** Transitional justice mechanisms such as trials and truth commissions may help to individualise responsibility so that victims and communities do not perceive all ex-combatants as

equally responsible for international crimes or gross human rights abuses (Waldorf, 2009b; Witte, 2009). A survey of Sierra Leonean ex-combatants revealed that the majority of them supported the work of the Special Court for Sierra Leone as it helped to distinguish commanders 'bearing greatest responsibility' from themselves (Witte, 2009).

35. Prosecutions more generally may foster trust in the reintegration process and promote trust-building by providing communities with assurance that those who are admitted back into communities are not responsible for serious crimes under international law (Patel, 2009b). A study conducted by Humphreys and Weinstein in Sierra Leone found that the most important determinant of whether an ex-combatant was accepted by his family and his community in the reintegration process is the abusiveness of the unit in which he or she fought (Weinstein and Humphreys, 2005).

36. **A forum to speak:** Ex-combatants may be able to better reintegrate if they are given public forums, such as through truth commissions or traditional justice processes, where they can explain their actions (including possible forced participation) and apologise to victims and communities. A more comprehensive understanding of the experience of ex-combatants and their acknowledgement of harms caused may ease resistance to their reintegration (Patel, 2009b; Waldorf, 2009a). The Commission for Reception, Truth and Reconciliation (CRTR) in East Timor, for example, included a process of community reconciliation that combined traditional justice, arbitration and aspects of criminal and civil law for those who had committed 'less serious crimes'. The process included members of militias who were asked to explain their participation in the armed conflict and victims and other community members who were able to ask questions of the perpetrators (Patel, 2009b).

37. **Reparations:** DDR programmes that provide benefits to ex-combatants can cause much resentment among civilian populations, particularly in the absence of any reparations programmes. This in turn can exacerbate resistance to returning ex-combatants (de Greiff, 2009; Knight, 2010; Patel, 2009b). Reparations programmes can serve to acknowledge the violations that victims have suffered and may reduce resentment of the benefits provided to ex-combatants (de Greiff, 2009; Patel, 2009b; Waldorf, 2009a). Ex-combatants in Sierra Leone supported reparations for victims as they believed this would facilitate their reintegration into their communities (Duthie, 2005).

38. 'Community-centred' reintegration, discussed above, is a way in which attention can be paid to providing for both individual ex-combatants/victims and receiving communities. Material support here can be provided to the community at large and not just to ex-combatants (Knight, 2010). The Ituri DDR programme in the DRC, for example, provided short-term micro-finance for ex-combatants and medium-term socio-economic activities for communities. There is little information, however, about the social impact of this approach (Annan and Patel, 2009). In the case of the CRTR, discussed above, a panel of local leaders worked with victims and perpetrators to decide on reparations, which often took the form of community service as a way for the guilty party to give back to the community (Patel, 2009b).

39. **Traditional justice:** Traditional and local justice mechanisms, such as cleansing ceremonies, may be used to facilitate reintegration and reconciliation. Such ceremonies have taken place in Northern Uganda and Mozambique, for example, and were also used for the return and reintegration of former child soldiers in Sierra Leone (Sriram and Herman, 2009). Participation in these processes is seen to signify a desire on the part of the ex-combatant to be part of the community again and to take steps to repair the damage caused by his or her behaviour. The aim is to restore trust between ex-combatants and receiving communities (Patel, 2009b; Annan and Patel, 2009).

40. There are concerns, however, that such traditional processes may not conform to international human rights standards and may reinforce gender inequalities and patriarchal systems (Sriram and Herman, 2009; Patel, 2009b; Annan and Patel, 2009). There is also a danger that traditional processes may be co-opted and transformed for the purposes of transitional justice and reintegration in ways that alter them beyond recognition and delegitimize them in the eyes of local communities (C.S. comments). In addition, there is a risk that efforts to reintegrate perpetrators through such mechanisms may result in pressure for victims to engage in 'reconciliation' prematurely (Stovel and Valiñas, 2010).

Bringing Together DDR and Transitional Justice

41. 'The relationship between DDR programmes and transitional justice measures can vary widely depending on the country context, the manner in which the conflict was fought and how it ended, and the level of involvement by the international community, among many other factors' (Patel, 2009b). There are four key ways in which DDR and transitional justice can be brought together: through legal frameworks, design and implementation, sharing information, and research and training.

42. **Legal frameworks:** DDR and transitional justice can be linked through peace agreements and the rest of the legal framework, regardless of whether amnesties are involved. There are very few examples though of where this has been done. In El Salvador, the 1992 Peace Agreement called for the demobilisation of the military and the reintegration of soldiers into the newly created armed forces. Criteria for participation included a 'record of observance of the legal order, with particular emphasis on respect for human rights' (Sriram and Herman, 2009). In Colombia, the Justice and Peace Law of 2005, discussed above, is unique in having explicitly merged DDR and transitional justice by linking demobilisation benefits to justice measures (Laplante and Theidon, 2006; Waldorf, 2009a).

43. **Design and implementation:** Policy makers should consider the implications that DDR and transitional justice have on one another when designing and implementing programmes (Waldorf, 2009a). This can shape prospects for coordination (Patel, 2009a). In the case of prosecutions, for example, prosecutors could seek to prosecute military leaders and those most responsible early on

while delaying lower-level combatants until disarmament and demobilisation operations have progressed past a certain stage (Sriram and Herman, 2009). Where commanders are contributing positively to disarmament and demobilisation, prosecutors should also hold off on indicting them, while focusing on those seen to be spoilers. Cooperation between those working in DDR and transitional justice would be essential here (Witte, 2009).

44. In the case of truth-telling, truth commissions should make efforts to solicit reports and testimony from DDR programmes that could provide useful information about the conflict and its structures of violence (Sriram and Herman, 2009). In the case of Sierra Leone, for example, the National Committee for Disarmament, Demobilisation and Reintegration submitted short profiles of how the three main armed groups behaved during the demobilisation process, in addition to summary demographics of all ex-combatants. The Truth and Reconciliation Commission could have benefited from drawing out these findings in more detail (Waldorf, 2009b). In addition, truth-telling initiatives could be scheduled in communities that are receiving large numbers of demobilised ex-combatants, thus allowing them to have an immediate forum in which to tell their side of the story and to apologise (Patel, 2009b). This, in turn, could contribute to reintegration.

45. Donors for DDR programmes could consider making comparable commitments to reparations for victims (Patel, 2009b). While reparations should be an end in themselves, this can also contribute to reintegration. The Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS) call for targeted ex-combatant assistance in the short run and community-based reintegration in the long run. The Stockholm Initiative for Disarmament, Demobilisation and Reintegration similarly proposes an approach to reintegration that includes a fund aimed at reintegration of ex-combatants and another dedicated to the needs of recipient communities. Such reintegration approaches are more balanced and can provide links to reparation and aspects of reconciliation. They can provide broader benefits within communities and may lessen hostilities toward ex-combatants for receiving individual benefits (Patel, 2009b; Sriram and Herman, 2009).

46. **Information and outreach:** Outreach activities and the dissemination of information are essential for both DDR and transitional justice. In their absence, confusion can undermine programming. In Liberia, for example, many ex-combatants were not clear about the mandate of the Special Court for Sierra Leone, which is limited to crimes committed in Sierra Leone, and chose not to participate in DDR for fear of prosecution (Patel, 2009a). It is important that criminal justice initiatives are clear about what crimes and what level of suspects they are prosecuting. Recipient communities should also be the target of information and outreach such that they can ask questions about ex-combatant accountability, and be more prepared for and involved in the return of ex-combatants. Such sessions could contribute to discussion of the possibility of traditional, local justice processes (Patel, 2009b; Annan and Patel, 2009). Sharing information between those working in DDR and transitional justice can contribute to meeting the needs of ex-combatants, victims and communities.

47. **Research and training:** Integrating transitional justice and DDR into the training programmes and support materials for DDR and transitional justice practitioners, respectively, is important in helping practitioners in both fields to understand the potential effect that DDR and transitional justice measures can have on one another (Patel, 2009b). Since DDR and transitional justice have been treated separately for so long, however, there is very limited empirical research that looks at how they impact one another (L.W. comments). In order to fully understand the impacts of DDR and transitional justice and their effects on each other, more micro- and macro-level empirical research needs to be conducted.

Resources

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Additional Information

Experts consulted:
Robert Muggah (Small Arms Survey)
Ana Patel (International Centre for Transitional Justice)
Chandra Sriram (SOAS)
Lars Waldorf (York Law School)

About helpdesk research reports: This helpdesk report is based on two days of desk-based research. Helpdesk reports are designed to provide a brief overview of the key issues; and a summary of some of the best literature available. Experts are contacted during the course of the research, and those able to provide input within the short time-frame are acknowledged.