

TOPIC GUIDE ON

Justice

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About this guide

This topic guide provides an introduction to development assistance in the justice sector. As well as being an important aim in itself, an accessible and effective justice sector is essential for development in a number of ways. Security of property and protection of assets are vital to support the livelihoods of the poor. Access to legal protection can help the poor resolve disputes, and secure their rights to engage in political processes and access services. In addition, effective justice institutions can form part of the enabling environment for economic growth.

This topic guide was prepared by Joanna Crichton, Zoë Scott and Huma Haider. The GSDRC appreciates the contributions of Laure-Hélène Piron, Department for International Development (DFID) and Vivienne O'Connor, United States Institute of Peace (USIP). Comments, questions or documents for consideration should be sent to [Huma Haider](#).

About the GSDRC

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Justice – overview

The resources below place justice reform in a broad context and emphasise the importance of sector-wide working and close attention to taking into account the perspectives of the poor.

Where is a good place to start?

Carothers, T., 2003, 'Promoting the Rule of Law Abroad: The Problem of Knowledge', Rule of Law Series no. 34, Carnegie Endowment for International Peace, Washington

This paper considers the apparent lack of knowledge supporting rule-of-law projects in developing countries. There is a surprising amount of uncertainty about the rationale for rule-of-law promotion and what actually constitutes the 'rule of law'. There is limited knowledge about how system changes occur and what long-term effects specific changes will have on the development of the rule of law.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/448>

Davis, K. E. and Trebilcock, M. J., 2008, 'The Relationship Between Law and Development: Optimists versus Skeptics', New York University Law School, New York

Is legal reform always an appropriate tool for promoting development in the global South? This article argues that donors should adopt a cautious approach to investing in legal reform without further empirical study. While there are grounds for a guarded optimism about the impact of legal reform, numerous fundamental issues remain unresolved and open to debate. Empirical studies have produced consensus about the importance of institutions overall, but much less agreement about legal institutions in particular.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3162>

Leftwich, A., 2011, 'The Political Approach to the Law and Justice Sector', Think piece prepared for the Office of Development Effectiveness, AusAID

This paper argues that law and justice need to be conceptualised as institutional matters, bound up with governance and driven by political processes: law and justice need to be understood not as a 'sector', but as central to processes of institutional development and therefore of governance for development. The strategic goal in law and justice must be to help facilitate a locally appropriate and legitimate institutional order that both provides stability and allows for change. Only with this coherent overarching perspective can a donor government's aid, defence, law and diplomacy agencies coordinate their support. A long-term, integrated whole-of-government approach is needed to contextualise and shape technical law and justice assistance.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4237>

DFID's approach to the justice sector aims to promote safety for all from violence and intimidation, security of personal property and equality of access to justice. The approach, named 'Safety, Security and Access to Justice' (SSAJ), is innovative among donor organisations for three reasons. Firstly, interventions aim to strengthen links across the whole justice sector, rather than working with individual institutions. Secondly, DFID's approaches are designed from the perspective of users, particularly poor people and vulnerable groups. Thirdly, DFID uses a broad definition of the justice sector that includes non-state (or informal) justice and security systems, and takes these into account as part of a sector-wide strategy.

Department for International Development 2000, 'Justice and Poverty Reduction: Safety, Security and Access to Justice for All', DFID, London.

The aim of this policy paper is to assist DFID's mission to improve the security and welfare of the world's poorest people through improving their access to justice. It observes that the burden of crime and civil disputes falls most heavily upon the poorest and most vulnerable sectors of society who are also those least able to access the justice system. Insecurity and lack of access to justice also have a wider economic cost, as resources are diverted from social welfare into policing, revenue is lost to invisible trade, assets are damaged or stolen, and consequently investment is discouraged.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/439>

Department for International Development, 2002, 'Guidance Note: Putting SSAJ Policy Into Practice', DFID, London.

This guidance note from DFID's Governance Department helps to operationalise DFID policies. However, it warns that each case should be treated individually and that the guidelines should not be read as a manual. All justice systems are different and have many components. Justice matters to poor people. The impact of theft, for example, is more severe if the victim is poor; and a lack of access to justice fosters corruption.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/328>

Department for International Development, 2008, 'Guidance Note: Justice and Accountability', DFID, London

This guidance note illustrates the relevance of justice sector reform for promoting accountability: political accountability, bottom-up participatory accountability, and accountability within the justice sector. It provides examples of DFID programmes.

<http://webarchive.nationalarchives.gov.uk/+/http://www.dfid.gov.uk/Documents/publications/briefing-justice-accountability.pdf>

Sector-wide working

DFID emphasises sector-wide approaches to the justice sector, with a broad definition of the institutions involved. This approach spans legal and judicial reform projects, access to justice programs, and police and penal reform. There is an increasing tendency to use such approaches where appropriate, and a general commitment that interventions in particular areas must contribute to the effectiveness of the sector as a whole.

The following toolkit is a practical guide to assist with assessment of criminal justice systems (covering policing; access to justice; custodial and non-custodial measures; and cross-cutting issues) and implementation of criminal justice reform. The toolkit is continually adapted, enhanced and updated on an ongoing basis.

UNODC, 2006, 'Criminal Justice Assessment Toolkit', United Nations Office on Drugs and Crime, Vienna

<http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>

The following GSDRC helpdesk report looks at best practice and lessons learned in Sector Wide Approaches (SWAs), particularly relating to the justice sector.

Scott, Z., 2007, 'SWAs and Justice', Helpdesk Research Report, GSDRC, Birmingham

There is a good range of material on lessons learned from SWAs, primarily from the health and education sectors. Most of the resources mention the need for country ownership of the SWAP, gender mainstreaming and long-term support that is tailored to the country context. Other repeated advice is to 'go slowly', focus on capacity building and to involve the Ministry of Finance from the beginning. Two of the resources included here discuss the difficulty of introducing SWAs in a post-conflict environment like Afghanistan.

<http://www.gsdrc.org/docs/open/HD385.pdf>

The following document provides information on the Ugandan Justice, Law and Order Sector (JLOS) programme, one of the most well-established such programmes:

Sserumaga, S., 2003, 'Sector-Wide Approaches in the Administration of Justice and Promoting the Rule of Law: the Ugandan Experience', Seminar on the Rule of Law, European Initiative for Democracy and Human Rights, 3-4 July 2003, Brussels

Since the end of 1999, the Ugandan government has worked to plan and implement a medium-term reform plan for its justice, law and order sector. This paper outlines the achievements and challenges of this sector-wide approach. It also provides insight into the role of donors in such programmes.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1003>

A more local-level approach to integrating the many institutions involved in the justice system is USAID's Justice Centres approach. This model emphasises coordination of all personnel, including judges, public defenders, prosecutors, private law practitioners, police, and municipal representatives, in order to improve justice services.

Hendrix, S, 2000, 'Guatemalan 'Justice Centers': the centerpiece for advancing transparency, efficiency, due process and access to justice' report prepared for USAID

An efficient and transparent justice system is crucial to reduce corruption opportunities and impunity. Conflict tends to weaken or destroy, not only the justice sector, but the state itself, making it incapable of dealing with human rights issues. After a terrible history of genocide and human rights abuse in Guatemala, it was recognised that the justice system was flawed and that establishing a rule of law was needed. To address these concerns a new operational model – the Justice Centre – was developed. This USAID article asks how effective this initiative has been in revitalising a deficient justice system.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/425>

Perspectives of users

DFID emphasises the importance of poor people's experience of justice systems. Consultations from around the world show that civil disputes have a disproportionate effect on the poor, and that justice systems tend to be inaccessible and biased against them. Paying attention to these experiences can help to improve the effectiveness of justice sector interventions. The documents below present findings from surveys, participatory research and social audits in different countries.

Government of Uganda, 2002, 'Participatory Poverty Assessment on Safety, Security, and Access to Justice: Voices of the Poor in Uganda', The Republic of Uganda Ministry of Justice and Constitutional Affairs, Justice, Law and Order Sector

What are the constraints faced by the poor in Uganda in terms of safety, security and access to justice? How can Justice Law and Order Sector (JLOS) give "voice" to the concerns of the poor? This first ever Uganda Participatory Poverty Assessment is an initiative from the JLOS to consult the poor as end-users of justice, safety, security and order issues.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1034>

The Asia Foundation, 2001, 'Survey Report on Citizen's Perceptions of the Indonesian Justice Sector: Preliminary Findings and Recommendations', The Asia Foundation, San Francisco.

There have been few opportunities for ordinary citizens in Indonesia to participate in legal reform actions. Yet, what are their perceptions and experiences of the justice sector? This report by the Asia Foundation addresses the above question, drawing on data from a qualitative and quantitative study. The study focuses on the choices that the Indonesians make in resolving legal disputes and their familiarity with the procedures of the formal institutions. It also looks at the factors that influence the Indonesians' preference for solutions and their level of satisfaction with chosen courses of action.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/389>

Sanz-Ramos Rojo, S. 2001 'The Barangay Justice System in the Philippines: Is it an Effective Alternative to Improve Access to Justice for Disadvantaged People?' MA dissertation prepared for IDS, Brighton, UK.

Can community mediation programmes improve access to justice for everyone, including the most disadvantaged? Do they really deliver speedy, cost-effective and good quality justice through non-adversarial processes? This paper looks at the benefits of one such programme – the Barangay Justice System (BJS) in the Philippines.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/394>

Deepa, N., Chambers, R., Shah, M.K., and Petesch, P., 2000, 'Voices of the Poor: Crying Out for Change', published for the World Bank, Oxford University Press, New York

The World Bank Voices of the Poor study highlighted how in many countries, the police and the judiciary are inaccessible and persecute poor people. Experiences of the poor in different regions are summarised in Chapter 8: Anxiety, Fear and Insecurity, particularly the sections on 'crime and violence' and 'persecution by the police and the lack of justice'.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/314>

Excerpts from Genn, H, 1999, 'Paths to Justice: What do People Think About Going to Law?', Hart Publishing, Oxford, UK in 'Sourcebook on Access to Justice', Messick, R. and Beardsley, L., WorldBank Empowerment Retreat May 7-8, Washington, USA.

This book presents the results of a survey of public attitudes towards the civil justice system. The survey explored the behaviour of the public in dealing with potential legal disputes and problems, as well as potential plaintiffs or potential defendants. It identified the strategies adopted by those involved in potentially justiceable events to resolve or conclude the matter, use of courts and ADR; and the factors that propel litigants towards the legal system. It also identified structural factors, or lack of knowledge, which prevent access to the legal system where it is desired. The survey further assessed the effect of this lack of access to the formal legal system of individuals.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/484>

What other resources are available from the GSDRC?

View all justice documents from the GSDRC [document library](#).

View all justice helpdesk reports from the GSDRC [research helpdesk](#).

Further resources on justice and social exclusion, including on women, children and marginalised groups can be found in the '[human rights, gender and social exclusion](#)' section of this guide.

Additional information resources

Global Facilitation Network-Security Sector Reform (GFN-SSR)

GFN-SSR facilitates information exchange among policy-makers, practitioners and civil society organisations involved security sector reform and provides access to a range of documents on security and justice sector reform.

<http://www.ssrnetwork.net>

The Indicators in Development: Safety and Justice project is part of the Harvard Kennedy School Program in Criminal Justice Policy and Management. It aims to equip government and civil society organisations to design their own indicators, routinely assess those indicators, and use them to drive meaningful reform in the justice sector.

<http://www.hks.harvard.edu/programs/criminaljustice/research-publications/measuring-the-performance-of-criminal-justice-systems/indicators-in-development-safety-and-justice>

International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR)

The ICCLR provides analysis, research and consultation on international criminal justice policy development. It also facilitates sharing of expertise to promote good governance, rule of law, and human rights.

<http://www.icclr.law.ubc.ca/>

International Institute for Justice and Development (IIJD)

The IIJD promotes the development of an independent judiciary and access to free and fair justice systems nationally and

internationally. It provides tools for accessing national justice systems and implementing reforms.
<http://www.ijjd.org/>

Open Society Justice Initiative

The Open Society Justice Initiative, an operational program of the Open Society Institute (OSI), pursues law reform activities grounded in the protection of human rights, and contributes to the development of legal capacity for open societies worldwide.
<http://www.justiceinitiative.org/>

Eldis key issues guide on Law and Governance

<http://www.eldis.org/go/topics/resource-guides/governance/key-issues/law-and-governance>

Crime and policing

A fundamental development aim must be to protect poor people from violence and intimidation, and to secure their personal property. This requires effective state and non-state policing, as well as crime prevention and victim support initiatives. Current research emphasises citizen-centred approaches and service delivery in contrast to traditional 'law enforcement' approaches. Cooperation between state police services, civil society and non-state systems should be pursued where appropriate.

Where is a good place to start?

Clegg, I., Hunt, R. and Whetton, J. 2000, 'Policy Guidance on Support to Policing in Developing Countries', Centre for Development Studies, Swansea, report prepared for the Department for International Development

This report aims to provide policy and technical guidance on assistance to building effective and democratic police services in developing countries. Since work on policing is rarely available in these countries, the report heavily draws on developed countries' experiences, particularly the UK, the US and Northern Ireland, to provide valuable lessons for policing in developing countries.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/435>

Crime prevention

Approaches to crime prevention are often based on understanding the causes of crime, sometimes through statistical analysis, in order to design strategies for reducing 'risk factors'. One set of strategies attempts to tackle the social causes of crime, through cooperation with other governmental agencies in areas such as employment generation, poverty reduction, housing and education. Other approaches include adapting police methods, the rehabilitation of offenders and community projects to reduce the opportunities for crime in the locality.

Akpokodje, J., Bowles, R. and Tigere, E., 2002, 'Evidence-based Approaches to Crime Prevention in Developing Countries - A Scoping Review of the Literature', Department for International Development (DFID), London

What are the best approaches for crime prevention in developing countries? What is the quality and extent of research on the subject? This report comprises a literature review of the crime prevention programmes and approaches in developing countries. A total of 91 studies published between 1980 and 2002 were included. Sherman's crime prevention definition, which states that crime prevention is a result of everyday practices concentrated in different institutional settings, was used.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/988>

Frank, C., 2003, 'What Have We Learned? Social Crime Prevention in South Africa: A Critical Overview', South African Crime Quarterly, No. 6

Crime prevention is a new endeavour for South Africa and its progress has been mixed. One area of weakness is the generation and utilisation of information, which is crucial to its success. This article offers a review of developments in the policy and practice of crime prevention in South Africa and briefly discusses initiatives intended to prevent or reduce crime.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1062>

Pelser, E., 2002, 'Crime Prevention Partnerships: Lessons from Practice', Institute of Security Studies, South Africa

Predicting criminal activity is difficult, and dependent on contested theories. However, a collaborative, multi-disciplinary, multi-agency approach has been shown to work best. This book looks at some approaches taken towards the implementation of crime prevention in South Africa, and draws lessons from them. It was written for practitioners, particularly those in government and non-governmental organisations.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1023>

Focusing on crime prevention can be cost-effective in comparison to traditional law-enforcement methods.

US Department of Justice, 2000, 'Investing Wisely in Crime Prevention: International Experiences', Bureau of Justice Assistance Monograph, US Department of Justice, Washington

Crime is expensive for ordinary citizens. Prevention projects in the United States have reduced crime rates, however they are still at an unacceptable level and more needs to be done. This publication looks at ways to reduce crime in the United States and examines trends in the United Kingdom, the Netherlands, France and New Zealand.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1073>

Victim support

Victim support is concerned with making the criminal justice system more responsive to the needs of those affected by crime. It involves training for state employees, and sometimes customary leaders and NGOs, to ensure that victims are treated with respect and sensitivity. One component is support for victims in their engagement with criminal justice institutions. Another aspect is improving services for victims to respond to their immediate needs and to help with long-term recovery. Victim support can be linked to crime prevention, as some approaches seek to prevent repeat victimisation.

United Nations Office for Drug Control and Crime Prevention, 1999, 'Handbook on Justice for Victims', UNODC, Centre for International Crime Prevention, New York

Victims of crime have often been forgotten or faced 'secondary victimisation' by the criminal justice system. Should victims of crime be involved in decision making relating to their case? Is this empowering, or will it cause the victim stress and lead to unfair sentencing? Handbook looks at practical measures that address the needs of crime victims.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1075>

United Nations Office for Drug Control and Crime Prevention, 1999, 'Guide for Policymakers on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power', UNODC, Centre for International Crime Prevention, New York

Victims of crime are often forgotten as more attention is paid to ensuring due process for the defendant. This guide sets out lines of work that can be pursued by countries implementing the 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1074>

The use of restorative justice or other forms of mediation are becoming increasingly popular, with implications for how to ensure a satisfactory standard of victim support. This is a particularly important issue where victims have particular needs, such as those who have experienced domestic violence.

Dissel, A. and Ngubeni, K., 2003, 'Giving Women their Voice: Domestic Violence and Restorative Justice in South Africa', Paper presented at the XIth International Symposium on Victimology, Stellenbosch, July 2003

Does mediation in domestic violence cases take women's needs fully into account? Do the women who have taken part in mediation feel that it was successful? How can Victim Offender Counselling and mediation work with traditional authorities? This paper looks at the experiences of a Restorative Justice Initiative (RJI) in South Africa using Victim Offender Counselling (VOC) in domestic violence cases.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1001>

Community policing

There is no universal definition of community policing. Its characteristics vary considerably between countries, and the concept is continually evolving. In general, community policing involves sustained collaboration and consultation between local police and local residents. Proponents argue that it promotes accountability to local citizens, improves service delivery and combines the resources of the police, local government and local residents to ensure more effective crime reduction.

Pelser, E., 2000, 'An Overview of Community Policing in South Africa', Annex C in Policy Guidance on Support to Policing in Developing Countries, Clegg, I., Hunt, R. and Whetton J., University of Wales, Swansea

Community policing was launched in South Africa over a decade ago, yet police response to the policy remains largely symbolic. Why has it failed to transform the police service and reduce crime? This annex analyses the shortcomings of community policing in South Africa, and suggests how the initiative should be incorporated into mainstream policing policy.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/654>

Davis, R.C., Henderson, N.J. and Merrick, C., 2003, 'Community Policing: Variations on the Western Model in the Developing World', Police Practice and Research, Vol. 4, No. 3

How easily can democratic policing replace authoritarian policing? Is it possible to adapt the concept of community policing to local environments in developing countries? The case studies in this paper suggest that efforts to introduce community policing often run in to serious difficulties. They also suggest that there is no one uniform model for community policing because the local context and history are very influential on success.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1040>

Community policing may not necessarily be more democratic than traditional approaches. The article below argues that it can reproduce the inequalities, coercion and clientelism present in wider society.

Ruteere, M., and Pommerolle, M., 2003, 'Democratizing Security or Decentralizing Repression? The Ambiguities of Community Policing in Kenya', African Affairs Volume 102, No. 409, Royal African Society, pp. 587–604

Community policing strategies have been developed and applied in western countries from the 1980's, and recently adopted by developing countries. Have they been successful in addressing and solving the causes of increasing crime or have they contributed to the preservation of inequalities? This article addresses this issue in relation to Kenya, where two very different community policing projects have been implemented.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/912>

This article describes international experiences in civilian oversight as a method of monitoring police performance and discusses key challenges.

Phillips, E. and Trone, J., 2002, Building Public Confidence in Police Through Civilian Oversight, Vera Institute of Justice, New York

How can citizens know about and demand respectful and effective policing? How can public confidence in the police be built through civilian oversight? This paper summarises the views and experiences shared at an international meeting on civilian oversight in Los Angeles in May 2002. The aim of the paper is to connect the conversation in Los Angeles to a wider, ongoing process around the world calling for democratic policing and improvements in how police treat citizens.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/980>

Police reform

Out of all justice institutions, poor people often have most frequent contact with the police, either as victims of crime or as those accused of a criminal offence. Where there are authoritarian policing models and corruption, this contact can be discriminatory and repressive. As well as promoting professionalism, democratic reform of the police aims to shift the focus of policing from enforcement roles to crime prevention and service delivery. Accountability, human rights and partnerships with other agencies and civil society are emphasised.

Stone, C., 2005, 'Supporting Security, Justice and Development', Lessons for a New Era', Vera Institute of Justice, New York

An understanding of how insecurity and poverty are linked is increasingly informing development assistance. How can assistance with policing and justice be strengthened? This paper, part of a larger study commissioned by the UK government, draws together lessons from the experiences of recent UK funded policing and justice programs in seven countries: Afghanistan, India, Jamaica, Malawi, Nepal, Nigeria and Sierra Leone.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1407>

Biddle, K., Clegg, I. and Whetton, J. 1998, 'Evaluation of ODA/DFID Support to the Police in Developing Countries: Synthesis Study', School of Social Sciences and International Development, University of Wales, Swansea

This is an evaluation of DFID support to the development of efficient, effective, accountable and community-based police forces in the developing world. This report attempts to understand how DFID can achieve 'safety, security and access to justice for all' through a more inclusive and pro-active approach to policing.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/90>

Bayley, D. H., 2001, 'Democratizing the Police Abroad: What to Do and How to Do it' National Institute of Justice, US Department of Justice, NCJ 188742

This study is concerned with the accountability of police to the citizens in their country, and the degree to which the police focus on providing assistance to those citizens. It outlines a series of 87 lessons, based on a synthesis of more than 500 books, articles and documents by observers and practitioners (a bibliography of which accompanies the article). These lessons are divided among four sections: generic police reform; experiences with development assistance to foreign police forces; the role of civilian police in peacekeeping operations; and lessons for American management of police reform abroad.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/223>

South Africa's police reforms in the context of post-apartheid transition and rising crime levels are a particularly popular case study.

Shaw, M., 2002, 'Conclusion: Options and Prospects' in Crime and Policing in Post-Apartheid South Africa: Transforming Under Fire, C Hurst and Co., London

The new democracy of South Africa is blighted by high rates of crime, especially violent crime. What effect is crime having on the stability of democracy? What can be done to reverse the worsening crime trend? This chapter presents policy recommendations for structural reform in South African policing, focusing particularly on local accountability and service delivery, centralised intelligence and crime prevention.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1143>

Bruce, D., 2003, Democratic reform of the police - any lessons for Kenya from South Africa? Centre for the Study of Violence and Reconciliation, Johannesburg

How can democratic reforms best be carried out within a police force? What lessons from the experience of police reform in South Africa might be applicable to Kenya? This report argues against an over-ambitious reform agenda and suggests an approach to some

of the complexities of the process of police reform.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/985>

Additional information resources

A collection of abstracts from the **Second Slovene Criminology Conference**, held in Ljubljana in September 2003 illustrates the breadth of disciplinary and policy approaches that are engaged in crime analysis and prevention.

<http://www.ncjrs.gov/pdffiles1/nij/grants/205825.pdf>

The **United Nations Office on Drugs and Crime (UNODC)** website has a section on crime prevention and criminal justice.

<http://www.unodc.org/unodc/en/justice-and-prison-reform/>

The **International Victimology Institute Tilburg** provides an introduction to the subject of victimology.

<http://www.tilburguniversity.edu/research/institutes-and-research-groups/intervict/>

The **South African Institute of Security Studies** offers access to online publications on policing and the criminal justice system in Southern Africa.

<http://www.iss.co.za/>

Read more on criminal justice from **Eldis**.

<http://www.eldis.org/go/topics/resource-guides/governance/law-and-governance/criminal-justice>

Access to justice

Disadvantaged groups are particularly likely to face problems accessing justice institutions. These groups can be excluded because institutions are remote, slow and unaffordable, or because they are biased and discriminatory. Other barriers to justice occur when disadvantaged groups are not aware of their rights, or where justice institutions and processes are intimidating or unnecessarily complex.

Where is a good place to start?

This paper categorises the barriers that need to be addressed in order to promote access to justice.

Abregu, M. 2001, 'Barricades or Obstacles: The Challenges of Accessible Justice', in R. V. Puymbroeck, (ed) Comprehensive Legal and Judicial Developments: Towards an Agenda for a Just and Equitable Society in the 21st Century', World Bank, Washington DC

It is recognised that the poor have unequal access to justice and that this undermines the possibility of equality in society. The reasons for this situation are many. This article attempts to identify the obstacles to poor people accessing justice and to propose some ways in which these problems may be addressed.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=195>

See summary of the entire book: <http://www.gsdr.org/go/display/document/legacyid/297>

This paper explains why justice is so important for poor people and introduces a broad range of responses in the areas of legal and institutional reform and legal literacy.

Anderson, M. 2003, 'Access to Justice and Legal Process: Making Legal Institutions Responsive to Poor People in LDCs', comment paper on access to justice and legal process, paper for discussion at WDR Meeting, 16-17 August 1999.

This paper examines the issues surrounding the judicial and legal systems in developing countries. Anderson highlights the institutional obstacles that the poor face when seeking access to justice, and suggests policy responses for overcoming them.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/130>

The following book critically discusses the state of access to formal and informal justice and the availability of judicial remedies for the poor and excluded in South Asia.

Singh, A., ed., 2009, 'Strengthening Governance Through Access to Justice', PHI Learning, New Dehli

Full text: <http://tiny.cc/lpJX>

Legal empowerment

Legal empowerment is the use of law and related development activities to increase disadvantaged populations' control over their lives and thereby alleviate poverty. It involves not only spreading awareness among citizens about their rights, but also giving them the skills and opportunities needed to access institutions and services. Interventions may work across different sectors, in areas such as natural resource management or health services, and can complement good governance, poverty reduction or gender empowerment programmes.

This UNDP report focuses on the obstacles that the poor face in accessing justice and their exclusion from property, labour and business law protections. It details the legislative, regulatory and administrative instruments necessary to address their exclusion.

UNDP, 2008, 'Making the Law Work for Everyone', Volume 1, Report of the Commission on Legal Empowerment of the Poor, United Nations Development Programme, New York

How can legal empowerment reduce poverty? This report explores the relationship between poverty and access to justice. Four billion people cannot better their lives because they are excluded from the rule of law, their work and assets insecure and unprotected. A renewed anti-poverty agenda is needed to include the majority of the world's population in the systems of rights and obligations that foster prosperity.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3140>

The following two texts are general introductions to the concept of legal empowerment and explain how it differs from more conventional 'rule of law' approaches:

Golub, S., 2003, 'Beyond the Rule of Law Orthodoxy: The Legal Empowerment Alternative', Democracy and the Rule of Law Project, Rule of Law Series No. 41, Carnegie Endowment for International Peace.

The author constructively critiques much justice sector work as being too top-down, state-centred, and donor-driven. The analysis goes on to present a legal empowerment alternative, which features civil society support and identification of priorities by the users

themselves, and to offer successful examples of such approaches

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/744>

Golub, S. and McQuay, M, 2001, 'Legal Empowerment: Advancing Good Governance and Poverty Reduction', Law and Policy Reform at the Asian Development Bank.

This report considers how legal empowerment contributes to other development goals such as poverty reduction, good governance and public participation. It identifies the most effective strategies for legal empowerment and the factors contributing to their success.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/420>

Golub, S., (ed.), 2010, 'Legal Empowerment: Practitioners' Perspectives', International Development Law Organization, Rome

This book offer diverse perspectives on legal empowerment strategies, activities and research.

http://www.idlo.int/Documents/Legal_Empowerment_Practitioners_Perspectives_Book.pdf

Legal services and legal aid

Legal services for the poor include counselling and representation in court, but often are more expansively defined to include mediation, representation before non-judicial fora, assistance with the legal aspects of administrative processes, assistance provided by non-lawyers who have been trained to acquire legal knowledge and skills (paralegals), and even non-formal legal education. Legal aid refers to legal consultation or representation provided to financially needy clients at no charge, or at subsidised rates.

McClymont, M. and Golub, S. 2000, 'Nonlawyers as Legal Resources for their Communities', in Many Roads to Justice, Ford Foundation.

This chapter reviews the methods used by NGOs and CBOs supported by the Ford Foundation to enable disadvantaged populations to become more legally self-sufficient, filling legal aid voids that exist in societies with few lawyers. 'Non-lawyers' refers mainly to professional or voluntary paralegals but also to ordinary community residents who use the law collectively or individually to gain access to government services and legal processes.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/143>

Rhudy, R, 2000, 'Expanding Access to Justice: Legal Aid Models for Latin America', chapter 2 in 'Justice Beyond Our Border: Judicial Reforms for Latin America and the Caribbean', C. Biebesheimer & F. Mejia, eds, Inter-american Development Bank, Washington

This chapter analyses various models of legal aid and access to justice, considering how they might be applied in Latin America and the Caribbean. Numerous local factors will affect how particular models might be developed in a particular context with performance often depending on factors independent of the model's structure itself, including leadership, governance structures, issues related to funding and the environment within which it operates.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/452>

University legal aid clinics can enhance the quality of clinical legal education as well as increasing access to legal services. Diverse university-based and NGO approaches enable new and future lawyers to become involved in access to justice work.

McCutcheon, A. 2000, 'University Legal Aid Clinics: A Growing International Presence With Manifold Benefits', in M. McClymont and S Golub (eds.) Many Roads to Justice, Ford Foundation

This article focuses on how university legal aid clinics are being used, in many countries, to pursue social justice goals. The author also looks at the substantial benefits these clinics can offer to developing countries, if supported by legal practitioners, educators and donors.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/58>

Golub, S., 2004, 'Forging the Future: Engaging Law Students and Young Lawyers in Public Service, Human Rights, and Poverty Alleviation', Open Society Justice Initiative

It is widely proven that providing legal services to the poor enhances development in general. But how can this best be done and why is the donor community in general not funding existing initiatives? This paper advocates the use of Clinical Legal Education and seeks to fill the informational vacuum that makes it an underappreciated and under-used resource.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1140>

This document considers a range of 'good practices' developed in Africa and elsewhere in providing legal aid services in the criminal justice system.

Penal Reform International, 2006, 'Index of Good Practices in Providing Legal Aid Services in the Criminal Justice System', Penal Reform International.

Legal aid has traditionally been associated with lawyer-centred services. However, the services that the majority of African people require are often quite different. This document argues that good practice should focus on the needs of people at the beginning of

the criminal justice system, particularly, in villages, police stations, courts and prisons. Good practices can prevent unnecessary expenditure, time-wasting and further the cause of justice – without necessarily having recourse to a lawyer.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/2067>

Open Society Justice Initiative, 2004, 'Justice Initiatives: Legal Aid Reform and Access to Justice', February 2004 Issue, Open Society Justice Initiative, New York

The right to legal aid in criminal cases is enshrined in many human rights treaties and in most national constitutions and it is considered the test of a government's commitment to the rule of law. Yet few countries apply it fully and consistently. This collection of case studies provides information on experiences with legal aid in countries including Lithuania, Bulgaria, Chile and East Timor.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/914>

Public interest litigation

The legal systems in some countries, including civil law jurisdictions, allow various forms of public interest litigation. This enables concerned individuals or civil society organisations to take legal action on behalf of the general public or disadvantaged groups. The aim can be to promote social change beyond the outcome for that particular case.

Hershkoff, H. and Hollander D. 2000, 'Rights into Action: Public Interest Litigation in the United States,' in M. McClymound and S. Golub (eds.) Many Roads to Justice, Ford Foundation.

This paper draws on examples from the activities of Ford Foundation grantees in the United States during the 1980s and 90s, with particular reference to women's rights, minority rights and immigrant or refugee rights.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/2>

Dasgupta, M., 2002, 'Social Action for Women? Public Interest Litigation in India's Supreme Court,' Law, Social Justice and Global Development Review, No. 1

The Supreme Court of India has said that public interest litigation (PIL) is an effective tool for protecting the rights of the disadvantaged, especially women. However, is this really the case? This article looks at the issues surrounding the practice of PIL in India and its impact on women's rights, especially in the areas of rape, sexual harassment and prostitution.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1060>

Public Interest Law Initiative, 2001, 'Pursuing the Public Interest: A Handbook for Legal Professionals and Activists'

The role of the law in protecting social rights in the transitional societies of the former Soviet Union and Eastern Europe is still being defined. Numerous groups have formed to defend various kinds of public interest using the law, and most have faced similar kinds of hurdles. This book from Columbia University's Public Interest Law Initiative assembles their experiences and offers a guide for those starting new initiatives. It includes resources on legal aid and public legal education.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/986>

Legal and judicial reform

As well as being important for achieving accessible justice in themselves, legal and judicial reform may be vital for the success of other justice sector initiatives. The political oversight role of the judiciary means that legal and judicial reform can also contribute to other aspects of governance, such as public financial accountability or service delivery. Legal and judicial reform can include institutional and procedural reforms to promote judicial efficiency, effectiveness and independence; similar reforms in prosecutorial services, criminal defence bureaus, or other parts of a legal system; and support for professional legal education and training to enhance professionalism and impartiality. It also includes law and regulatory reforms to replace laws that do not comply with international human rights standards, are outdated, contradictory, or biased against the poor.

The following book is a useful entry point for both legal and judicial reform. Its papers include discussions on experiences to date, regional perspectives, and wider issues such as political accountability and the role of the media and civil society:

Van Puymbroeck, R. V. 2001, 'Comprehensive Legal and Judicial Development: Toward an Agenda for a Just and Equitable Society in the 21st Century', 2001 Proceedings of a global conference, World Bank, Washington, D.C., June 5-7, 2000.

Justice, law and human rights are fundamental prerequisites for economic and social development. What are the elements for a successful legal and judicial system? How can the poor be given a voice for justice? These and other questions of universal concern are addressed in this book, which presents a selection of papers discussed at a global conference on comprehensive legal and judicial development.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/297>

Here are four case studies of donor experiences with legal and judicial reform programmes in Sierra Leone, Colombia, Pakistan and Peru:

Castillejo, C., 2009, 'Building Accountable Justice in Sierra Leone', FRIDE, Madrid

What are the main challenges and opportunities in building more accountable justice institutions in Sierra Leone? This paper is based on field research conducted in June 2008 and analyses five key components of accountability – access, equality, information, oversight and participation. The primary challenge for the justice system in Sierra Leone is capacity. Across all the justice institutions there is a serious lack of funds, skilled personnel and infrastructure. Capacity building is crucial and (re-)building the capacity of justice institutions provides important opportunities to strengthen their accountability by improving oversight and information systems, addressing barriers to access and discriminatory practices, and involving citizens in decision-making.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3501>

Said, J. and Varela, D. 2002, 'Colombia - Modernization of the Itagüí Court System, A Management and Leadership Case Study', World Bank Legal and Judicial Reform Series.

What can common management techniques contribute to legal and judicial reform processes? This paper presents a case study of an innovative court management initiative in Itagui, Colombia and shows how the application of such techniques made the traditional court model more effective. The study puts the main components of the initiative in the context of international public sector modernisation standards. This case demonstrates that the application of organisational change management concepts can improve effectiveness.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1292>

Armytage, L. 2003, 'Pakistan's Law and Justice Sector Reform Experience: Some Lessons', Law, Social Justice and Global Development Journal (LGD) No.2

What is the experience of Pakistan's Access to Justice reform program (AJP)? What lessons can be learned for the emerging discourse on law and justice in development programmes? This paper analyses history, objectives, progress and lessons learnt as the AJP addresses institutional problems to improve access to justice in an element of the government's wider poverty reduction strategy.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/995>

Lawyers Committee for Human Rights, 2000, 'Building on Quicksand: The Collapse of the World Bank's Judicial Reform Project in Peru', Human Rights First

Recipient government commitment is crucial to the potential success of World Bank (WB) funded judicial reform programmes. But how can commitment be effectively assessed? This paper assesses the case of Peru and suggests that judicial independence is the most important measure of commitment. It argues that government commitment should be assessed before the Bank agrees to finance a judicial reform proposal. However, it acknowledges that commitment may be hard to determine.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1123>

The following text considers experiences with reforms to court administrative systems:

Warren, C. 2001, 'Court Administration as a Tool for Judicial Reform: An International Perspective', Institute for Court Management, Court Executive Development Program.

State and Federal Court systems in the US have undergone significant change over the past fifty years where a process of administrative innovation and improvement has taken place. In other countries this change has been more recent and they have faced similar problems. This paper focuses on court administration as a component of judicial branch reform in the US and other countries.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1080>

Measures to enhance judicial independence and impartiality include reform of judicial selection and evaluation systems and changes to career structures, terms and incentives.

US Agency for International Development, 2002, 'Guidance for Promoting Judicial Independence and Impartiality', USAID, Washington DC

This guide seeks to promote understanding of the issues surrounding judicial independence. Section 2 describes the key processes and institutional arrangements affecting judicial independence, in both positive and negative ways. Section 3 comprises six regional and national studies including Latin America, Eastern Europe, Africa, France, Italy and the United States, that expand upon important differences in culture, history, and legal systems affecting judicial independence. Section 4 is composed of four papers on specific themes relevant to judicial independence.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/305>

Hammergren, L., 2002, 'Diagnosing Judicial Performance: Toward a Tool to Help Guide Judicial Reform Programs,' paper prepared for Transparency International 9th International Anti-Corruption Conference.

This paper provides a checklist for diagnosing judicial performance. It aims to evaluate the transparency and related aspects of judicial performance and is intended to promote reform programmes. The list is composed of the characteristics believed to be critical in producing the desired patterns of behaviour. It is intended to be applied globally, and was not written with any specific legal system or tradition in mind. It aims to capture universal factors that will help identify real or potential problems in judicial

operations.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/440>

United Nation Office on Drugs and Crime, 2003, 'Report of the Third Meeting of the Judicial Group on Strengthening Judicial Integrity', Office of Drug Control and Crime Prevention, United Nations

How do stakeholders view the justice systems in Nigeria, Sri Lanka and Uganda? What can be done to address their concerns? This paper reviews the outcomes of the third meeting of the Judicial Group on Strengthening Judicial Integrity. Based on national surveys of court users and other stakeholders, it examines systemic weaknesses identified in the surveys and considers a draft code of conduct for judicial employees.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1322>

Pilot judicial reform programmes can help to develop the tools and experience to manage large scale change effectively.

Dakolias, M. and Said, J. (eds) 1999, 'Judicial Reform: A Process of Change Through Pilot Courts', World Bank Legal and Judicial Reform Series, World Bank, Washington DC

Many developing countries are giving priority to judicial reform as a necessary condition for encouraging new investment. Governments in Eastern Europe and Latin America realise that they cannot complete their economic reforms until they have made a corresponding change in laws and legal processes. This study assesses the progress of such pilot programmes in Colombia, Peru, Ukraine and Argentina.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/216>

The judicial council model for managing the appointment and promotion of judges and court administration has been lauded as helpful for improving judicial independence and impartiality and for effective court management.

Hammergren, L. 2002, 'Do Judicial Councils Further Judicial Reform? Lessons from Latin America', Rule of Law Series no. 28, Carnegie Endowment for International Peace, Washington DC

This paper attempts to draw lessons from Latin America's experience with judicial councils. It suggests that disappointments with council performance arise primarily in a failure to understand the nature of the problems under attack or the more complex mechanisms required to resolve them. Adequately designed and implemented, councils can help break institutional bottlenecks and temporarily reduce traditional forms of political interference. However, the creation of a council is no guarantee that improved practices will be introduced; in fact, the biggest difficulty in adopting a council model is the expectation that other problems will sort themselves out automatically.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/418>

The following helpdesk report looks at studies that demonstrate how politics affect justice sector reform and vice versa.

Scott, Z., 2008, 'Politics of Justice Sector Reform', Helpdesk Research Report, GSDRC, Birmingham

<http://www.gsdrc.org/docs/open/HD513.pdf>

Additional information resources

The Open Society Institute's Justice Initiative website is a legal resources database of documents and other resources, particularly on pre-trial detention and legal aid.

<http://www.soros.org/initiatives/justice>

The World Bank's Law and Justice Institutions website has introductory pages on access to Justice and legal and judicial reform and includes evaluations of World Bank projects in this area.

<http://go.worldbank.org/SK9CKPG830>

The World Bank's Justice for the Poor Programme is a research and development programme aimed at informing, designing and supporting pro-poor approaches to justice reform.

<http://go.worldbank.org/SMIKY7M600>

The online journal **Law, Social Justice and Global Development** (LDG) provides full text access to all its papers online.

<http://www2.warwick.ac.uk/fac/soc/law/elj/lgd/>

The **Southern African Legal Assistance Network** (SALAN) website provides information about the access to justice work of its 12 member NGOs operating in six countries. It also has useful information about human rights and justice developments in the region, as well as links to other sites.

<http://www.salan.org/>

Human rights, gender and social exclusion

Social exclusion describes a situation where certain groups within a society are systematically disadvantaged because they are discriminated against. Such groups are often differentiated by race, ethnicity, age, sexual orientation, religion, caste, or gender. Formal and informal processes in the justice sector can discriminate against excluded groups. Institutions may lack the technical capacity and services to address the needs of socially excluded groups, for example courts that are physically inaccessible and operate in local languages. Institutions can also have in-built resistance to tackling specific issues. Gender-based violence, for example, is often poorly understood by the police and judges and treated insensitively. Women may be treated as guilty rather than as victims.

Justice sector institutions are pivotal to the legal protection and enforcement of human rights. However, human rights are often poorly understood by those working in the justice system. Justice assistance measures can contribute to the realisation of human rights through appropriate strategies, such as tackling discrimination and addressing the barriers and vulnerabilities faced by socially excluded groups. These groups should be included as active participants in developing policies and initiatives designed to fulfill their rights. Knowledge of local contexts and the formation of broad political coalitions in support of the reforms are important in overcoming resistance.

Where is a good place to start?

This UNDP guide identifies key socially excluded groups and outlines the various obstacles they face in accessing justice. It provides guidance and recommendations on designing programmes to improve their access.

UNDP, 2005, 'Disadvantaged Groups', Chapter 6 in Programming for Justice: Access for All, A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice, United Nations Development Programme, New York

How can access to justice for disadvantaged groups be improved? This chapter explains how capacity development strategies can use a rights-based approach to specifically address the problems of disadvantaged groups and to work with them to create solutions. A holistic range of support should be provided since legal advice is often not the most pressing need of disadvantaged groups. Civil society can play an important role.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3145>

Human rights

Specific approaches and strategies are required to ensure that justice sector reform will contribute to the realisation of human rights for poor people. Justice sector interventions can assist by:

- working to ensure that human rights standards are respected by formal justice institutions (for example, by police, prisons or courts) and by non-state justice systems;
- strengthening the legal framework to address issues such as discrimination against women, minorities and other groups;
- improving people's ability to bring successful claims on issues such as the right to housing, education or healthcare;
- strengthening human rights accountability mechanisms as an integral part of the justice sector.

The following document introduces the ways in which human rights organisations and governments can further poor peoples' access to their rights, covering the justice sector among many other areas.

International Council of Human Rights Policy, 2004, Enhancing Access to Human Rights, ICHRP, Geneva

Why do so many people not enjoy rights to which they are entitled? What needs to be done beyond law and legal reform to ensure that rights and entitlements are accessible to all? This report analyses the role that institutions play in alleviating or exacerbating social exclusion. It concludes that human rights organisations need to reposition themselves to become relevant to the very poor and those who suffer systemic discrimination.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1067>

The following papers are a selection of the many documents available on human rights approaches to promoting safety, security and access to justice:

Public Interest Law Initiative, 2001, 'Pursuing the Public Interest: A Handbook for Legal Professionals and Activists'

The role of the law in protecting social rights in the transitional societies of the former Soviet Union and Eastern Europe is still being defined. Numerous groups have formed to defend various kinds of public interest using the law, and most have faced similar kinds of hurdle. This book from Columbia University's Public Interest Law Initiative assembles their experiences and offers a guide to those starting new initiatives.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/986>

Coyle, A., 2002, A Human Rights Approach to Prison Management: A Handbook for Prison Staff, International Centre for Prison Studies, London

How can human rights form an integral part of prison management? What are the common factors that constitute a model for good prison management? This handbook draws examples from all regions of the globe, setting out standards agreed by the international community, usually through the UN. The handbook shows that there is a common set of factors which, when taken together, constitute a model for good prison management. Its specific focus is those who deal with prisoners on a day to day basis.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/979>

OHCHR, n.d., Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police, OHCHR

How are international human rights standards relevant to the work of the police? How can these standards be translated into the development of skills, policies and practical behaviour and taught to law enforcement officials? This manual should be used by police educators to train law enforcement officials.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1118>

Gender and justice

In many countries, women's access to justice is obstructed by statutory and customary law that is biased against women, or is not gender-sensitive. Even where there is formal legal equality, women often face discrimination from state and non-state institutions. Structural inequalities, such as lack of time, access to resources and education, can restrict women's ability to engage adequately with the bodies that implement justice. These concerns need to be addressed in the design of justice interventions to ensure that both women and men's legal rights are realised.

Chapter four of the Asia-Pacific Human Development Report provides a good overview of the key challenges associated with reforming judicial systems to tackle problems of gender discrimination or inequality. Using case studies from a range of Asian countries, it identifies some key lessons from various efforts to address legal discrimination across the region.

UNDP Regional Centre for Asia Pacific, 2010, 'Advancing Legal Rights' in UNDP 2010 Asia-Pacific Human Development Report: Power, Voice and Rights: A Turning Point for Gender Equality in Asia and the Pacific, Colombo, pp.111-142

How can legal systems in the Asia-Pacific region be reformed to ensure that men and women receive equal treatment under the law? This report argues that despite the region's success in legislating against gender discrimination, Asia-Pacific still lags behind in the many basic issues of gender equality. Reforms must address both the overt discrimination that characterises many legal systems and the unspoken norms that limit women's rights and access to justice.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3842>

Justice reforms have often focused on economic and financial liberalisation – addressing property rights, investment law and corporate governance. The following paper argues that this focus has neglected reforms necessary to address gender equality and outlines the gaps and priorities for a gender-sensitive system.

Nyamu-Musembi, C., 2005, 'For or Against Gender Equality? Evaluating the Post-Cold War 'Rule of Law' Reforms in Sub-Saharan Africa', United Nations Research Institute for Social Development, Geneva

Has the post-Cold War rule of law reform agenda in sub-Saharan Africa advanced or impeded gender equality? This paper reviews the rule of law programme in sub-Saharan Africa. It goes on to compare the priorities of the gender justice movement with initiatives taken by governments and donors. It concludes that gender equality advocates need to challenge market-based justifications for legal arrangements that create or entrench gender inequality.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=1666>

Gender-based violence

The United Nations Declaration on the Elimination of Violence against Women (1993) defines violence against women as 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life'. There are a growing number of studies that document the magnitude and seriousness of gender-based violence; as well as shortfalls and successes in addressing such violence.

The following document examines the consequences of gender-based violence on women's health and well-being and the broader socioeconomic costs for developing countries. It also reviews initiatives from around the world designed to prevent and respond to gender-based violence, including improving access to justice and services to survivors.

Morrison, A., Ellsberg, M. and Bott, S., 2007, 'Addressing Gender-Based Violence: A Critical Review of Interventions', The World Bank Observer, vol. 22, no. 1, pp. 25-51

How can gender-based violence be reduced? How can access to justice and support for survivors be increased? This article from The World Bank Research Observer surveys knowledge of and responses to gender-based violence worldwide and highlights emerging good practices. Multiple interventions at different levels (individual, community, institutional, legal, and policy) appear to be

necessary.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3170>

The level of women's participation in government in Rwanda is unprecedented. The following document traces the successful efforts of women parliamentarians to introduce and gain support for a Gender-Based Violence bill in Rwanda.

Pearson, E., 2008, 'Demonstrating Legislative Leadership: The Introduction of Rwanda's Gender-Based Violence Bill', Hunt Alternatives Fund, Washington DC

What can be learnt from the work of Rwanda's female parliamentarians? This report reviews the literature concerning women's participation in politics. It considers the issue of gender-based violence in Rwanda and the role of women in Rwanda's government. Factors behind the successful development of the gender-based violence (GBV) law included soliciting input from constituents and maintaining close relationships with civil society. Women parliamentarians' participatory model of leadership and lawmaking has contributed significantly to improving governance in Rwanda.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3161>

Gender-based violence is often exacerbated in contexts of conflict and instability. The following case studies document the severity of gender-based violence in these contexts and the challenges in addressing the violence – in particular problems with access to justice.

Human Rights Watch, 2008, 'Five Years On: No Justice for Sexual Violence in Darfur', Human Rights Watch, New York

http://www.hrw.org/sites/default/files/reports/darfur0408_1.pdf

Amnesty International, 2007, 'Doubly Traumatized: Lack of Access to Justice for Female Victims of Sexual and Gender-based Violence in Northern Uganda', Amnesty International, London

<http://www.amnesty.org/en/library/asset/AFR59/005/2007/en/6134175b-a2bb-11dc-8d74-6f45f39984e5/afr590052007en.pdf>

The following paper suggests solutions to practical challenges in the development of indicators for programmes aiming to reduce violence against women and improve the response to such violence.

Foglesong, T., 2012. 'Aligning Indicators and Ambitions: How to Improve Indicators Used in Programs to Reduce Violence Against Women and Girls', Program in Criminal Justice Policy and Management, Harvard Kennedy School

http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/centers-programs/programs/criminal-justice/Indicators-VAWG.pdf

Access to justice

Women, along with other socially excluded groups, are particularly likely to face problems accessing justice institutions. These groups can be excluded because institutions are remote, slow and unaffordable, or because they are biased and discriminatory. Other barriers to justice occur when disadvantaged groups are not aware of their rights, or where justice institutions and processes are intimidating or unnecessarily complex.

Government of Uganda, 2002, Study on Gender and Access to Justice, The Republic of Uganda Ministry of Justice and Constitutional Affairs, Justice, Law and Order Sector

Gender has a significant influence on access to justice in Uganda. Alongside other poor and marginalised groups, women have received little protection from the justice system. This study identifies the barriers obstructing women's access to justice and recommends policies that could lead to a more equitable system.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1035>

Turquet, L. et al., 2011, 'Progress of the World's Women: In Pursuit of Justice', 2011-2012, UN Women

This report highlights the ways in which governments and civil society are working together to reform laws and create new models for justice service delivery that meet women's needs. It demonstrates how they have risen to the challenge of ensuring that women can access justice in difficult situations, including in the context of legal pluralism and during and after conflict. The report outlines ten recommendations to make justice systems work for women.

<http://progress.unwomen.org/pdfs/EN-Report-Progress.pdf>

<http://progress.unwomen.org/wp-content/uploads/2011/06/EN-Summary-Progress-of-the-Worlds-Women1.pdf>

Rodríguez, M., 2000, Empowering Women: An Assessment of Legal Aid Under Ecuador's Judicial Reform Project, Legal Vice Presidency, World Bank

The World Bank is making efforts to widen the scope of its legal and judicial reform programmes beyond strengthening institutions. Its aim is to design more holistic projects that encompass all actors and organisations with a stake in the administration of justice. This report assesses the Bank's first attempt to incorporate a programme of legal services for women into a judicial reform operation, implemented in Ecuador.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1028>

Commonwealth Secretariat, 2002, Gender Mainstreaming in Legal and Constitutional Affairs, Background Paper prepared by the Social Transformation Programmes Division, Commonwealth Secretariat for the 12th Commonwealth Law Ministers Meeting, Kingstown, St. Vincent and the Grenadines, 18-21 November 2002

What mechanisms are needed for mainstreaming gender into the legal and constitutional affairs of states? This reference manual by the Commonwealth Secretariat offers guidelines to assist governments in advancing gender equality in their countries. It suggests that gender mainstreaming in the state's legal and constitutional structures is a corollary to mainstreaming gender in development and ensuring equal opportunities and outcomes for women and men.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1350>

Women and property rights

The distribution of property rights is gendered in many parts of the world. Women are often dependent on men to inherit land and housing and to gain access to land. This subordination impacts negatively on gender equality, intra-household inequality and the bargaining power of women, and the broader socioeconomic empowerment of women. These issues, however, are largely overlooked in land reform policies and laws.

The following paper discusses the difficulties that women face in many African societies in accessing land after the death of their husbands. This problem has become especially acute with the rise in deaths from HIV/AIDS.

Villarreal, M., 2006, 'Changing Customary Land Rights and Gender Relations in the Context of HIV/AIDS in Africa', International Symposium, 'At the Frontier of Land Issues', Montpellier

What gender inequalities are resulting from prime-age adult death in countries affected by HIV/AIDS in Africa? This paper, from an international colloquium, argues that women's access to land is becoming increasingly tenuous as traditional rules and institutions break down in the face of the epidemic. This in turn heightens the risk of women contracting HIV/AIDS and perpetuating the disease. Although evidence on the conjunction of HIV/AIDS, gender and 'property grabbing' is relatively scarce, the continued viability of some societies may be at stake.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3165>

Manji, A., 2008, 'Gender, Land Rights and Democratic Governance', UNDP Democratic Governance Group

This paper discusses the importance of addressing the 'gender asset gap' in land reform and poverty reduction policies.

http://lepnet.org/sites/default/files/upload/og_files/Discussion%20Paper%20-%20Gender,%20Land%20Rights%20and%20Democratic%20Governance,%20Ambreena%20Manji%20-%20UNDP_0.pdf

This report shows how violations of women's property rights require responses spanning the whole justice system as well as other sectors:

Human Rights Watch, 2003, Double Standards: Women's Property Rights Violations in Kenya, Human Rights Watch Report, Vol. 15, No. 5

In Kenya and most sub-Saharan African countries, women's property rights are unequal to those of men. Their rights to own, inherit, manage and dispose of property are under constant attack from customs, laws, individuals – including government officials. What are the individual experiences of women in Kenya? What steps can be taken toward improving women's property rights in law and practice? This paper analyses the ways in which women's property rights are violated, the consequences in terms of poverty and abuse, as well as attempts to provide recommendations for improvement.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/982>

Women, security and conflict

Women suffer tremendously from conflict and state incapacity. Their experience of conflict, violence and repression, and their particular needs in such contexts, usually differ from those of men. Women tend to be sidelined from formal conflict resolution and peacebuilding processes, however, and post-conflict recovery and reconstruction programmes often overlook women's security needs. This compromises the inclusiveness and sustainability of peacebuilding efforts.

United Nations Security Council Resolution 1325 (2000) recognises this shortfall. It addresses the impact of war on women, mandates the protection of women and girls during and after conflict and the greater involvement of women in conflict resolution, peacekeeping and peacebuilding processes.

The following report seeks to expose the realities of the impact of violent conflict on women, to emphasise the need for protection and assistance, and to document the positive role women have played in peacebuilding and reconstruction. The key areas of focus are: violence against women; displacement; health; HIV/AIDS; organising for peace; peace operations; justice and accountability; media and communications; reconstruction; and prevention.

Rehn, E. and Johnson Sirleaf, E., 2002, 'Women, War and Peace', Independent Expert's Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building', United Nations Development Fund for Women, New York

http://reliefweb.int/sites/reliefweb.int/files/reliefweb_pdf/node-21401.pdf

The briefing below discusses the positive impact of all-female police forces as well as the benefits of making police services more generally responsive to women.

UNIFEM, 2007, 'Gender Sensitive Police Reform in Post Conflict Societies', Policy briefing paper, United Nations Development Fund for Women and United Nations Development Programme

What role can gender-sensitive police reform play in post-conflict situations? This policy briefing paper, published by UNIFEM and UNDP, argues that post-conflict contexts present important opportunities for law-enforcement reform. At the same time, the need for GSPR in practice is particularly acute during peacekeeping missions and the process of rebuilding state institutions. Key aspects of gender-sensitive police reform are discussed, drawing on findings from an inter-agency study and from programming in various countries undertaken by UNIFEM and UNDP.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3092>

Conducting a gender assessment can be a first step in transforming security sector institutions into gender-responsive institutions. The following document provides guidance on how to conduct such an assessment.

Bastick, M., 2011, 'Gender Self-Assessment Guide for the Police, Armed Forces and Justice Sector', Centre for the Democratic Control of Armed Forces (DCAF), Geneva

This self-assessment guide is a tool for assessing the gender responsiveness of a security sector institution. It comprises an eight-stage process to conduct an assessment of the institution, create an action plan to move the organisation forward, and monitor and evaluate the plan's implementation. While it can be used by other security sector institutions, it is particularly designed for use by police services, armed forces and justice sector institutions. A gender-responsive security sector institution is one that both meets the distinct and different security and justice needs of men, women, boys and girls and promotes the full and equal participation of men and women.

http://www.dcaf.ch/content/download/40997/605027/file/self_assessment_guide.pdf

The following UNODC report stresses the need to prevent women from being imprisoned unnecessarily and unfairly in Afghanistan. It also advocates for reforms of the prison system that rectify the lack of safety for women prisoners, the lack of facilities and education for children in prison with their mothers, and that address women's specific social reintegration needs.

Atabay, T., 2007, 'Afghanistan: Female Prisoners and their Social Reintegration', United Nations Office on Drugs and Crime, New York

What is the situation of female prisoners in Afghanistan? How can the government of Afghanistan and the international community promote their social reintegration? This report assesses the situation of women prisoners in Afghanistan. It argues that promoting female prisoners' social reintegration requires a comprehensive policy for women throughout their involvement with the criminal justice system.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3101>

Juveniles and justice

Juveniles may face particular social, financial, institutional and legal barriers when accessing justice. They are particularly susceptible to mistreatment and abuse by the police and other justice sector personnel. As well as interacting with the justice system in their own capacity, children and young people are also affected when parents or guardians are victims of crime or are sanctioned through the justice system. Juveniles should be afforded the same rights as adults by the justice system. In addition, they have specific needs relative to their age and vulnerability. The justice system needs to be child-sensitive. Information and support to children to assist them with claiming their rights must be provided.

Grandjean, A., 2010, 'No Rights without Accountability: Promoting Access to Justice for Children', in Legal Empowerment: Practitioners' Perspectives, ed S. Golub, International Development Law Organisation, Rome, pp. 265-283

How can policy interventions help in securing children's access to justice? Widespread acceptance of the Convention on the Rights of the Child (CRC) implies a profound change in attitudes to children, but obstacles remain for children in accessing justice. This chapter analyses initiatives targeting the 'demand-side' of justice for children. It highlights principles such as targeting the most excluded children, local ownership, and a multi-disciplinary, systemic approach.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=4176>

The vast majority of children who come into conflict with the law commit petty offences – often due to dire social, economic and political realities. The following two reports argue that efforts should be made to avoid criminalising children and to keep them out of the formal justice system.

Martin, F. and Parry-Williams, J., 2005, 'The Right Not to Lose Hope: Children in Conflict with the Law – A Policy Analysis and Examples of Good Practice', Save the Children, London

How do children end up in conflict in the law and what can be done to alleviate their plight? This report looks at children in conflict with the law in the broader context of their lives. It contains detailed case studies of community-based responses from around the

world. Care and protection systems must be improved, and children's coping strategies should not be criminalised.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3095>

United Nations Children's Fund, 2004, Justice for Children: Detention as a Last Resort, Innovative Initiatives in the East Asia and Pacific Region, UNICEF

Improving justice for children, including juvenile justice laws, policies and procedures is one of the most important strategies for enhancing the protection of children in society. But how can this best be done? This study argues for policies that use 'detention as the last resort'. It concludes that diversion not only reduces the number of children deprived of their liberty, but also decreases the rate of repeat offending by young people.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1139>

United Nations, 2008, 'Guidance Note of the Secretary-General: UN Approach to Justice of Children', United Nations, New York

This document provides guidance on ensuring that children are protected by justice systems in all circumstances – including in conflict-affected and fragile states.

http://www.unicef.org/eapro/RoL_Guidance_Note_UN_Approach_Justice_for_Children_FINAL.pdf

UNICEF/UNODC, 2007, 'Manual for the Measurement of Juvenile Justice Indicators', United Nations, New York

This manual identifies and discusses fifteen key indicators to measure the state of juvenile justice and to ensure the protection of children.

http://www.ungift.org/docs/ungift/pdf/knowledge/juveline_justice.pdf

Inter-Agency Coordination Panel on Juvenile Justice, 2005, 'Protecting the Rights of Children in Conflict with the Law', Inter-Agency Coordination Panel on Juvenile Justice

This report provides programme and advocacy experiences from member organisations of the Inter-Agency Coordination Panel on juvenile justice.

http://www.unodc.org/pdf/criminal_justice/Protecting_children_en.pdf

Additional case studies

Hamilton, C., 2007, 'Analysis of the Juvenile Justice System in Georgia', UNICEF Georgia, Tbilisi

http://www.essex.ac.uk/armedcon/story_id/000485.pdf

Morris, C., 2008, 'Developing a Juvenile Justice System in Bosnia and Herzegovina: Rights, Diversion and Alternatives', Youth Justice, vol. 8, no. 3, pp. 197-213

<http://yjj.sagepub.com/cgi/content/abstract/8/3/197>

Gender, juveniles and transitional justice

The United Nations defines transitional justice as the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These involve judicial and non-judicial mechanisms (with differing levels of international involvement, or none at all) that include individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.

The nature and consequences of human rights violations differ significantly for men, women and children. Transitional justice mechanisms, however, are often not designed to incorporate these differing perspectives – and the voices and needs of women and children are thus neglected.

Truth commissions, a key transitional justice mechanism, are established to research and report on massive human rights violations from armed conflict or under authoritarian regimes. The reports produced by these commissions often provide policy recommendations, including the provision of reparations. The following documents stress the importance of including a gender perspective in the work of truth commissions and in discussions of reparations. This would allow the documentation of the differing experiences of women in conflict, violence and repression; and could also promote an exploration of root causes of the conflict – including unequal power relations and gender inequality. It would also allow reparations to be tailored to the needs of women and to address social and economic inequality linked to gender.

World Bank, 2006, 'Gender, Justice, and Truth Commissions', World Bank, Washington

How have truth commissions (TCs) in societies emerging from conflict or repressive regimes incorporated a gender approach to their investigations of human right violations? What assistance could development actors, particularly the World Bank, provide to such an approach? This paper analyses the degree to which a gender-sensitive perspective was used in three TCs, in South Africa, Peru and Sierra Leone. It argues that a gender approach can enhance the effectiveness of reparations offered by TCs and prevent future conflicts, and that increased support from international actors might strengthen TCs' engagement with such issues.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=1982>

Rubio-Marín, R., 2006, 'What Happened to the Women? Gender and Reparations for Human Rights Violations', *Advancing Transitional Justice Series, no. 1, International Center for Transitional Justice, Social Science Research Council, New York*

What happens to women whose lives are transformed by human rights violations? This volume explores gender and reparations policies in Guatemala, Peru, Rwanda, Sierra Leone, South Africa, and Timor-Leste. It argues for the systematic introduction of a gender dimension into reparations programmes as a way of acknowledging the rights of female victims.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=2676>

The following paper evaluates progress in addressing the particular experiences of women during conflict. It argues for broader changes in peace processes and transitional justice mechanisms in order to systematically ensure gender justice.

Valji, N., 2007, 'Gender Justice and Reconciliation', *Occasional paper, no. 35, Friedrich-Ebert-Stiftung, Berlin*

How do women's experiences of conflict and transition differ from those of men? What effect does this have on transitional justice mechanisms? This paper examines assumptions held within the field of transitional justice from a gendered perspective. There is a need to move beyond a focus on individual incidents of sexual violence in conflict to address the context of inequality which facilitate such violations and a continuum of violence.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3142>

The specific needs of children have rarely been addressed in detail in the literature on transitional justice. The following paper discusses the special needs and rights of children who have suffered grave violations during armed conflict in terms of access to justice, and in the case of perpetrators, in terms of degree of accountability.

Hamilton, C. and Dutordoir, L, et al., 2011, 'Children and Justice During and in the Aftermath of Armed Conflict', *Working Paper, no. 3, Office of the Special Representative of the Secretary-General for Children and Armed Conflict, UN, New York*

The purpose of this paper is to bring more conceptual clarity to the issue of children and justice in times of armed conflict by examining relevant legal provisions, academic discussions and a number of case studies. It attempts to articulate how children who have suffered grave violations during armed conflict can access justice and how the current system deals with child victims and witnesses. It also explores the issues surrounding responsibility of children who may have committed international crimes during conflict, the nature of their accountability and where they should be placed in the spectrum between total impunity and total responsibility. The paper aims at guiding and supporting advocacy efforts to ensure that the rights and best interest of the children are protected while ensuring that justice is done.

http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_1957.pdf

The Truth and Reconciliation Commission in Sierra Leone is the first case where the needs of child soldiers have been incorporated into the design of a transitional justice mechanism.

Mann, N. and Theuermann, B., 2001, 'Children and the Truth and Reconciliation Commission for Sierra Leone: Recommendations for Policies and Procedures for Addressing and Involving Children in the Truth and Reconciliation Commission', *UNICEF National Forum for Human Rights and UNAMSIL/Human Rights*

This report offers recommendations for policies, guiding principles and detailed special procedures for the involvement of children in the proceedings of the TRC. It recommends that the special procedures be applied to all children. The TRC's role is seen as both to create an official record of what happened to children during the conflict in Sierra Leone, and to facilitate the reintegration of children back into their communities or host communities.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/541>

More resources on transitional justice can be accessed on the 'transitional justice' section of this guide.

What other resources are available from the GSDRC?

Resources on access to justice can be accessed from the 'access to justice' section of this guide.

Resources on gender and non-state justice systems can be accessed from the 'non-state justice and security systems' section on this guide.

More resources on gender and social exclusion can be accessed from the 'social exclusion' topic guide.

Further resources on human rights can be accessed from the 'human rights' topic guide.

Additional information resources

The **Asia Pacific Forum on Women, Law and Development (APWLD)** includes regional news on human rights, gender and justice issues and some online publications.

<http://www.apwld.org/>

UN Women's website includes a section on violence against women.

http://www.unifem.org/gender_issues/violence_against_women/

The website of the **International Centre of Transitional Justice** includes a section on gender justice.

<http://ictj.org/our-work/transitional-justice-issues/gender-justice>

The **International Center for Criminal Law Reform and Criminal Justice Policy** has a webpage on Juvenile Justice, which includes guidelines for the prosecution of crimes against children.

<http://www.icclr.law.ubc.ca/Site%20Map/Publications%20Page/Juvenile.htm>

Read more on juvenile justice from **Eldis**.

<http://www.eldis.org/go/topics/resource-guides/children-and-young-people/juvenile-justice>

Penal reform

Most prisons in developing countries are overcrowded with unsanitary conditions. The resources on this page explore humane and cost-effective methods to reduce congestion and improve prison conditions. These include alternatives to imprisonment for minor offences, increased focus on reparation and rehabilitation over retribution, special provision for young people in the penal system and practical methods to improve conditions such as prison farms and health initiatives.

Where is a good place to start?

Tkachuk, B., 2001, 'International Prison Policy Development Instrument', International Centre for Criminal Law Reform and Criminal Justice Policy

This detailed and comprehensive prison policy instrument is a compilation of standards and policies from national and international sources and covers everything from the transfer of keys to dealing with transsexual inmates. Policies are based on the rule of law and national and international human rights standards—mostly UN standards, such as The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/441>

Handbooks

These documents provide guidance on implementing internationally-recognised prison standards in policy and practice.

Penal Reform International 2001, 'Making Standards Work: An International Handbook on Good Prison Practice', Penal Reform International, London.

This manual lays down a road map for prison policy makers, prison staff, governmental agencies and non-governmental organisations who are concerned with prisoners to explain how the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR) can be translated into policy and practice. It draws on past views and experience relevant to improving prison conditions.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/91>

Coyle, A., 2002, 'A Human Rights Approach to Prison Management: A Handbook for Prison Staff', International Centre for Prison Studies, London.

How can human rights form an integral part of prison management? What are the common factors that constitute a model for good prison management? This handbook draws examples from all regions of the globe, setting out standards agreed by the international community, usually through the UN.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/979>

Reducing pre-trial detention

Prisoners awaiting trial account for up to 80 percent of prison populations in some countries.

Penal Reform International, 2003, 'Draft Index, Good Practices in Reducing Pre-Trial Detention', Penal Reform International, London.

How can good practice for reducing pre-trial detention be pursued? What are the lessons to be learned from Africa and elsewhere in terms of penal reform? This paper is a work in progress aimed at policymakers, penal reformers and stakeholders in the criminal justice system. It is born partly out of a call for further exchange of examples of best penal practice at national, regional and international levels, by the Ouagadougou Declaration, 2002.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1030>

Foglesong, T. and Stone, C. E., 2011, 'Prison Exit Samples as a Source for Indicators of Pretrial Detention', Program in Criminal Justice Policy and Management, Harvard Kennedy School, Cambridge, MA

This paper suggests that the effort to reduce pretrial detention in developing countries may actually be hindered by the indicator most commonly used there: the proportion of prison inmates on any given day that is not sentenced. It argues that a better indicator would be the median duration of detention. This can be developed simply and inexpensively by obtaining administrative data already collected in most prisons and jails about the people who leave detention each month.

http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/centers-programs/programs/criminal-justice/Indicators-PrisonExitSamples.pdf

Improving conditions

Prisons can be some of the unhealthiest places in society. This paper identifies basic principles and low-cost measures for improving health in prisons.

Penal Reform International, 2007, 'Health in Prisons', Penal Reform Briefing No.2

http://www.penalreform.org/files/brf-02-2007-health-in-prisons-en_0.pdf

Food in prisons is a major expense, which is often inadequately met. This article presents a good model for prison farm managements to improve prison conditions in Africa.

Penal Reform International, 2002, 'A Model for Good Prison Farm Management in Africa', Siber Ink, South Africa.

How can Prison Services in Africa improve productivity in their prison farms? In what ways can these initiatives be cost-effective, sustainable and rights-based? Prisons are not a priority spending concern for the treasury and farms appear low down the list of prison priorities. This framework is drawn from farming and management practices in eastern and southern Africa and takes the case of Malawi as its primary focus to analyse how profitability can be maximised with scarce resources.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/981>

Alternatives to prisons

These documents consider some alternatives to current prison systems, including alternative ways of managing prison services as well as alternatives to imprisonment:

Stern, V. (ed), 1999, 'Alternatives to Prison in Developing Countries', International Centre for Prison Studies/Penal Reform International, London.

Do increased levels of imprisonment bring benefits in public safety or protection from crime? Should criminal justice systems be given a higher profile when considering sustainable development and poverty reduction? This report shows that new developments in penal policy are possible. It gives examples from Africa and the Caribbean of alternatives that may lead to a criminal justice system that is more constructive, socially just and effective.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/987>

Penal Reform International 1997, 'Community Service in Practice', All Africa Conference, Zimbabwe

This study looks at the implementation of community service in Zimbabwe and shows how the scheme can be managed in a way that is both highly effective in terms of cost to government and benefit to the community. Zimbabwe's experience with the scheme proved successful. The Community Service scheme has won the support of an initially hostile general public within Zimbabwe and attracted considerable interest internationally.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/376>

Goyer, K. C., 2004, 'Incarcerating and Rehabilitating Offenders,' in Schönreich, M., Minnaar, A., Mistry, D. and Goyer, K.C., Private Muscle: Outsourcing the Muscle of Criminal Justice Services, Monograph 93, Institute for Security Studies, South Africa.

What is the role of the private sector in the South African prison system? This chapter argues that private sector support is necessary to develop successful alternatives to prisons by assisting in community service programmes and the rehabilitation and reintegration of offenders into society. The private sector can also assist in the development of a humane criminal justice system, which would ultimately lead to lower rates of crime and reduce the possibility of re-offending.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=1710>

Additional information resources

Penal Reform International is an international non-governmental organisation working on penal and criminal justice reform worldwide.

<http://www.penalreform.org/>

International Centre for Prison Studies assists governments in the provision of appropriate policies on prisons and imprisonment, and provides a range of academic resources, including the World Prison Brief.

<http://www.prisonstudies.org/>

World Prison Brief is the first online resource to offer a comprehensive database of information on the prison systems of over 200 countries. Information currently available on the site includes: the prison population of each country, the prison population rate of each country, and the number of prisons, their official capacity and occupancy level. The site also contains statistics reflecting the numbers of unsentenced prisoners, juveniles and women in prison, and a database of contacts for penal agencies worldwide.

<http://www.prisonstudies.org/info/worldbrief/>

Non-state justice and security systems

In many places, the main institutions dealing with disputes are not part of the state. Instead, these functions may be carried out by a variety of traditional, customary, religious and informal systems. Such systems can be more relevant and accessible for poor people than state institutions although they may reinforce local power inequities, patterns of social exclusion and human rights violations. It is therefore important that any support to non-state systems must pay attention to issues of accessibility and equity.

Department for International Development, 2004, 'Non-State Justice and Security Systems: A Guidance Note', DFID, London

Non-state justice and security systems deal with the majority of disputes in developing countries and are an important complement to formal state justice. What is the best way for donors and governments to engage with them? What are the policy options that increase security and justice for the poor and marginalised? This note explores this issue drawing on examples from Africa, Asia and Latin America.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/910>

Non-state justice systems include local customary leaders, such as chiefs in many African countries, community organisations, such as street committees in urban areas, and alternative dispute resolution systems. They are often the closest justice system for people living in rural areas. They also tend to address issues that are most relevant to poor people, such as land and property rights and the resolution of family and community disputes. Equality of access and human rights can be a concern as non-state institutions may discriminate against women or marginalised groups.

The issue of how donors should engage with non-state justice institutions is examined in the following three documents:

Golub, S., 2003, 'Non-State Justice Systems in Bangladesh and the Philippines', DFID, London

This paper examines non state justice systems (NSJSs) in Bangladesh and the Philippines. Lessons are identified that will assist DFID practitioners in deciding whether and how to engage with NSJSs. The paper stresses that these systems can take many forms and they produce variable outcomes in respect of equity and fairness. Importantly, certain forms of NSJSs can offer important checks and balances in poor societies, offering security for vulnerable groups.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/825>

Faundez, J., 2003, 'Non-State Justice Systems in Latin America. Case Studies: Peru and Colombia', Paper prepared for the DFID Workshop on 'Working with Non-State Justice Systems', 6-7 March 2003

Do non-state justice systems (NSJS) enhance or undermine poor people's access to justice? Can they complement formal state justice and governance systems? This paper analyses NSJSs in rural Peru and urban Columbia, concluding that they work better in rural areas due to greater community cohesion and different political contexts. Better understanding of NSJSs and their interaction with formal legal and governance systems is urgently needed.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1340>

Penal Reform International, 2001, 'Access to Justice in Sub-Saharan Africa: The Role of Traditional and Informal Justice Systems', Penal Reform International, London.

Access to Justice in Sub-Saharan Africa examines the role played by informal and traditional justice systems regarding access to justice. Examples are provided from Sub-Saharan Africa, in addition to South Asia (India and Bangladesh).

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/98>

The following two documents provide in-depth analysis of the accessibility and fairness of non-state justice institutions in Malawi and India.

Scharf, W., Banda, C., Roentsch, R., Kaunda, D., and Shapiro, R., 2002, 'Access to Justice for the Poor of Malawi? An Appraisal of Access to Justice Provided to the Poor of Malawi by the Lower Courts and the Customary Justice Forums'

To what extent do the poor have access to justice in Malawi? How can access to justice be improved in this context? This report, commissioned by the UK Department for International Development, analyses these questions with specific focus on the lower levels of the justice system - the subordinate and the traditional Courts. It suggests policy alternatives to better link formal and informal justice systems and recommends new approaches to improve overall accessibility.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1293>

Galanter, M. and Krishnan, J. K., 2004, 'Bread for the poor: access to justice and the rights of the needy in India', Hastings Law Journal Vol. 55 No. 4

At the beginning of the 1980s India introduced the Lok Adalat (People's Court) system. It was intended as a vehicle for settling disputes in a traditional manner at the grassroots level. But does Lok Adalat deserve the support it enjoys amongst politicians and judges in India? This study examines several different types of Lok Adalats. It concludes that the claim that this forum offers participants speedy, fair, deliberative justice needs serious reconsideration.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1190>

The following GSDRC helpdesk report looks at examples of alternative localised governance systems in relatively tribal environments that have delivered effective, consent-based rule of law.

Khan, S., 2007, 'Governance in tribal environments', Helpdesk Research Report, GSDRC, Birmingham

Unlike modern structures, the legitimacy of traditional leaders is not rooted in constitutions and electoral processes, but in inheritance or other historical mechanisms of leadership selection. The functions of these traditional structures can include security; dispute resolution; justice; regulation of social life and norms; small-scale community development projects; natural resource management; and social protection of the most vulnerable. Some of the mechanisms include tribal chieftains or leaders, customary courts, and participatory decision-making bodies. A key area of debate in relation to traditional and informal justice systems is whether justice can be made more accessible by encouraging such systems, by adopting or transforming some of their processes, or by facilitating a more collaborative approach between such systems and formal justice systems.

<http://www.gsdrc.org/docs/open/HD495.pdf>

Legal pluralism has become an important issue in many South American countries since democratisation and the new constitutional status of indigenous customary law.

Lee Van Cott, D., 2000, 'A Political Analysis of Legal Pluralism in Bolivia and Colombia,' Journal of Latin American Studies, No. 32, pp 207-234.

What has been the experience of implementing legal pluralism - the simultaneous existence of distinct normative systems within a single territory – in Latin America? What are the most important factors affecting the practical realisation of legal pluralism? This paper compares recent efforts in Bolivia and Colombia to implement new constitutional provisions that recognise the jurisdiction of indigenous authorities over the administration of justice within specific territorial units.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1290>

Non-state security systems include vigilante and neighbourhood watch organisations set up in local communities. Such organisations can be essential for poor people whose livelihoods are threatened by theft of private property. However, there are human rights risks where such organisations administer punishments without due process. The level of local legitimacy and inclusiveness of non-state security systems is important as they range from community groups to protection rackets and organised crime. In addition, private security companies are increasingly operating in countries where state law enforcement is inadequate, with implications for the security gap between the rich and poor.

Shaw, M., 2002, 'The Impact of Private Policing,' in Crime and Policing in Post-Apartheid South Africa: Transforming under Fire, C Hurst & Co, London, ch.6

Despite a peaceful transition to democracy, post apartheid South Africa has experienced a dramatic increase in violent crime. This trend has been met by a rapid increase in private security companies providing services to the suburban middle class. This chapter explores the nature of the private sector boom and its role in achieving justice and security in South Africa.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1142>

Despite growing recognition of the importance of local, non-state security and justice providers in reaching the poor and of the inadequacy of state systems, donors and international organisations are still hesitant to rely on non-state providers. The articles below stress that various links between state and non-state actors in the security and justice sector already exist in the South (e.g. sharing of intelligence, sharing of equipment and training, sharing of operations), and that external actors should seek to draw on and strengthen them.

Baker, B., 2010, 'Linking State and Non-State Security and Justice', Development Policy Review, vol. 28, no. 5, pp. 597-616

How extensive are links between state and non-state security and justice providers? Should such links be supported, and if so, how? This study argues that state and non-state links abound, even creating hybrid institutions. Given that state- non-state links strengthen existing systems (rather than trying to build new Western ones), they seem an appropriate approach to security and justice in the South. Security and justice provision would be transformed if programmes, recognising the multiple layering of providers, were to build bridges across those layers.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4003>

Baker, B., 2010, 'Non-state Policing: Expanding the Scope for Tackling Africa's Urban Violence', Africa Security Brief, no. 7, Africa Centre for Strategic Studies, Washington, DC

<http://africacenter.org/wp-content/uploads/2010/09/AfricaBrief-7.pdf>

The following paper discusses examples of initiatives that have drawn on the respective strengths of state and non-state legal systems, and outlines a framework of policy options for such programmes.

Toomey, L. T., 2010, 'A Delicate Balance: Building Complementary Customary and State Legal Systems', The Law and Development Review, vol. 3, no. 1, article 6

This paper argues that, given the empirical evidence on the high level of recourse to customary law, customary legal systems are

integral to development, and that both customary and state legal systems have a role to play in a functional justice sector.
One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4172>

DFID workshop papers

In March 2003, DFID held a workshop on 'Working with Non-State Justice Systems'. The background papers can be accessed below:

Reconciling Justice: 'Traditional' Law and State Judiciary in East Timor Tanja Hohe and Rod Nixon
<http://www.gsdrc.org/docs/open/DS33.pdf>

Non-state Justice Systems in Bangladesh and the Philippines Stephen Golub
<http://www.gsdrc.org/docs/open/DS34.pdf>

Non-State Justice Systems in Southern Africa: How should Governments Respond? Wilfried Schärf
<http://www.gsdrc.org/docs/open/DS35.pdf>

Review of Experience in Engaging with 'Non-State' Justice Systems in East Africa Celestine Nyamu-Musembi
<http://www.gsdrc.org/docs/open/DS37.pdf>

Non-State Justice Systems In Latin America: Peru and Colombia Julio Faundez
<http://www.gsdrc.org/docs/open/DS39.pdf>

What other resources are available from the GSDRC?

The GSDRC topic guides on 'conflict' and 'fragile states' and the 'transitional justice' section of this guide include information on non-state systems.

Additional information resources

Global Facilitation Network for Security Sector Reform
<http://www.ssrnetwork.net/>

Traditional Authority Applied Research Network (TAARN).
<http://people.ucalgary.ca/~taarn/>

Read more on traditional and customary justice from **Eldis**.
<http://www.eldis.org/go/topics/resource-guides/governance/law-and-governance/traditional/customary-justice>

Conflict-affected and fragile states

In conflict-affected and fragile states, justice systems may suffer from discriminatory practices, corruption or abuse of power by officials and failure to protect human rights - thereby exacerbating or even triggering violence and instability. Violence and/or severe state incapacity in these contexts further devastate justice systems. They suffer from poor infrastructure and insufficient human resources. Court houses and prosecutors' offices may be destroyed and prisons are often overcrowded. Judges, lawyers and police officers may be killed or may flee the country. Those remaining might be implicated in human rights abuses and may no longer be suitable to serve in the justice system. In addition, organised and other forms of crime are prevalent in conflict and post-conflict environments.

Restoring or building effective and reliable justice systems in post-conflict and fragile states is essential in preventing the renewal of violence and in state-building. There are many challenges to achieving this. Comprehensive reform across the justice system (including the legal framework, police, prisons, prosecution service, criminal defence, civil society organisations and non-state mechanisms) is required to lay the foundation for a society based on the rule of law. However, attention is usually initially focused on security organisations and criminal justice reforms without taking into account what is required for the whole system to operate. Competing priorities, constrained resources, donor influences and the need to deliver fast can militate against strategic reform.

Assistance programmes often focus more on the state rather than the population's needs. In general, the justice system may lack credibility and may not engender public trust and confidence. Lawyers and civil society groups may lack capacity and/or be unable to operate. A strong civil society is often absent; conflict destroys social cohesion, which prevents collective action to demand public goods. Traditional or other non-state justice and security systems usually persist through conflict. They are gaining increasing attention as a way of delivering justice immediately in the aftermath of conflict and in fragile states at the community level.

In addition to criminal justice reforms, it is also important to address civil-law protection, in particular property law, public administration law and family law, including child protection. For example, land and property disputes might have been a part of the conflict and often plague post-conflict states - as displacement forces people to flee their homes that are later occupied by others.

Assessment tools and guidelines

A comprehensive assessment is the first step in justice sector programming and is key to informing the design and implementation of assistance measures. Tools have been developed to assist in the design of appropriate interventions, in particular in the context of peacekeeping operations, including understanding the history of the sector and monitoring ongoing patterns of human rights violations. The following documents outline how to map justice systems and the range of potential justice interventions; monitor human rights violations; and provide assessment tools.

OHCHR, 2006, 'Rule-of-Law Tools for Post-Conflict States: Mapping the Justice Sector', Office of the United Nations High Commissioner for Human Rights, New York and Geneva

Conflicts often arise from the failure of a state's legal system to protect rights and punish perpetrators of human rights violations. This publication argues that mapping how the justice sector worked before and during conflict and how it should function if the rule of law is to take root should be a central feature of peacekeeping operations. Justice sector reform should receive immediate attention and significant resources from the very start of a peacekeeping operation.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3107>

OHCHR, 2006, 'Rule-of-Law Tools for Post-Conflict States: Monitoring Legal Systems', Office of the United Nations High Commissioner for Human Rights, New York and Geneva

Post-conflict environments suffer from devastated and often completely dysfunctional or discriminatory legal frameworks and institutions of justice. This report argues that monitoring legal systems can form a vital part of peacekeeping operations by promoting the rule of law. It provides a framework for developing a monitoring programme to analyse institutions and the justice system as a whole from which good practices can be reinforced and bad practices addressed.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3096>

United Nations Department of Peacekeeping Operations, 2006, 'Focal Areas and Activities for Technical Assistance', Chapter 4 in Primer for Justice Components in Multidimensional Peace Operations: Strengthening the Rule of Law, United Nations, Department of Peacekeeping Operations

How can technical assistance be targeted most effectively to help re-establish a judicial system following conflict? This chapter identifies ten areas for consideration. Technical assistance in strengthening the court system should emphasise criminal justice. Key civil law areas — such as land and property rights, or citizenship and national identification — will also need to be addressed where they are closely linked to implementation of a peace agreement, to causes of insecurity, or to the underlying conflict.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3136>

The Principles on Housing and Property Restitution for Refugees and Displaced Persons ('Pinheiro Principles') endorsed by the United Nations Sub-Commission on the Promotion and Protection of Human Rights, provides policy guidance on how to ensure the right to housing and implement property restitution.

http://displacementsolutions.org/files/documents/PP_English.doc

The following handbook demonstrates how to apply these principles in order to secure protection and durable solutions for refugees and internally displaced persons.

OCHA/IDD, UN HABITAT, UNHCR, FAO, OHCHR, the Norwegian Refugee Council and the International Displacement Monitoring Centre, 2007, 'Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles'

http://www.ohchr.org/Documents/Publications/pinheiro_principles.pdf

Lessons learned

The following documents draw on past experiences and interventions to outline lessons and recommendations for justice sector reform.

Samuels, K., 2006, 'Rule of Law Reform in Post-Conflict Countries: Operational Initiatives and Lessons Learnt', Social Development Papers, no. 37, Conflict Prevention and Reconstruction Unit, World Bank, Washington

What lessons have been learnt in the area of rule of law reform? This literature review provides an overview of common operational initiatives and policy approaches and synthesises the key challenges faced in fragile and post-conflict states. It concludes that, despite two decades of experimenting, the field lacks a common agreement on - the goals of rule of law reform, how different aspects should be sequenced to avoid them working against each other and what sorts of strategies are effective.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=2583>

Carlson, S. N., 2006, 'Legal and Judicial Rule of Law Work in Multi-Dimensional Peacekeeping Operations: Lessons Learned Study', United Nations Department of Peacekeeping Operations

How can programmes for strengthening the rule of law be incorporated into post-conflict peacekeeping operations? This reviews recent experience with judicial and legal programming in UN peacekeeping operations. A balanced and holistic approach to rule of law reform, which also focuses on strengthening the judicial and legal system, is needed. Achieving a coherent 'one UN approach' to rule of law peacekeeping efforts is a priority.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3169>

Baker, B. and Scheye, E., 2007, 'Multi-Layered Justice and Security Delivery in Post-Conflict and Fragile States' Conflict, Security and Development, vol. 7, no. 4, pp. 503-528

What is wrong with a state-centric approach to Security Sector Reform? This paper examines the value of an alternative approach to SSR policy, namely a multi-layered one in post-conflict and fragile state environments. It argues that there is a state-centric bias in current SSR policy and practice. This contradicts development principles of a 'people-centred, locally owned' approach in post-conflict and fragile state contexts. A more realistic and operationally sound method of attaining state-building and strengthening state capacities is imperative.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=2928>

Sherman, J., 2010, 'Criminal Justice: Security and Justice Thematic Paper', World Development Report 2011, Background Paper, The World Bank, Washington DC

How can criminal justice be strengthened in countries at risk of violent conflict? This paper examines criminal justice sector reform, relating it to research on the causes of violence. It argues that rather than focusing exclusively on state institutions – or blindly rushing to support informal systems – reform must be based on an understanding of actual demand for justice services. Donors need to improve their understanding of local contexts, address funding gaps, and improve measurement of results and outcomes. Interventions should: 1) encompass a broader range of local justice requirements; 2) seek to incorporate existing links between state and informal sectors into legislation and procedures; and 3) counter organised- and cross-border crime through multi-sectoral interventions with long-term vision.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4175>

Stabilisation Unit, 2008, 'Security Sector and Rule of Law', Stabilisation Issues Note, UK Stabilisation Unit

<http://www.stabilisationunit.gov.uk/resources/securitysectorlaw.pdf>

Stone, C. et al., 2005, 'Supporting Security, Justice and Development: Lessons for a New Era', Vera Institute of Justice, New York

An understanding of how insecurity and poverty are linked is increasingly informing development assistance. How can assistance with policing and justice be strengthened? This paper, part of a larger study commissioned by the UK government, draws together lessons from the experiences of recent UK funded policing and justice programmes in seven countries: Afghanistan, India, Jamaica, Malawi, Nepal, Nigeria and Sierra Leone.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1407>

Ismail, O. and Hendrickson, D., 2009, 'What is the Case for a Security and Justice Focus in Development Assistance Programming?: An Assessment of Existing Literature and Evidence', Prepared for DFID on behalf of GFN-SSR, University of Birmingham

This literature review focuses on perspectives and relevance of justice and security to the poor and on the importance of security and justice for meeting the MDGs. It also identifies gaps in knowledge. The review draws in large part on literature concerning conflict-affected and fragile contexts.

<http://www.ssrnetwork.net/documents/Publications/LiteratureReview/working%20paper%20literature%20review.pdf>

Williams, R. C., 2008, 'Applying the Lessons of Bosnia in Iraq: Whatever the Solution, Property Rights Should be Secured', Brookings Institution, Washington DC

This document stresses the importance of establishing property rights in situations of mass displacement.

http://www.brookings.edu/papers/2008/0108_iraq_williams.aspx

Reforming state institutions

Constitutional and legal reform

The laws in many fragile and conflict affected states are often discriminatory against the poor and marginalized and violate international human rights standards. They may also be outdated and therefore lack certain provisions that are key to protecting the safety and security of the population (e.g. definitions of organised crime or trafficking in persons; witness protection provisions, etc). Inevitably, the laws in fragile and conflict-affected states need to be reformed, especially where a new constitution has introduced provisions on human rights and the reorganisation of the justice system. In many instances, small-scale reforms have been done in the interim period after conflict pending more broad-scale reforms that significantly amend and ameliorate the entire legal framework from criminal law to civil law to public administration law.

Hart, V., 2003, 'Democratic Constitution Making', Special Report, United States Institute of Peace, Washington, DC

In this era of democratisation, constitution making plays a key role in determining the legitimacy and acceptability of new nations, particularly those emerging from conflict. This report examines recent experiences of constitution making, emphasising the emerging international consensus around the need for participatory processes. Participatory constitution making can provide a forum for reconciling divisions, negotiating conflict and redressing grievances. Process has joined outcome as a necessary criterion for legitimating new constitutions.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3167>

International IDEA, 2011, 'Constitution Building After Conflict: External Support to a Sovereign Process', Policy Paper, International Institute for Democracy and Electoral Assistance, Stockholm

Constitution building refers to processes for negotiating, drafting and implementing constitutions. It has no widely shared definition, but implies: a) founding new structures as well as re-developing existing ones as part of an ongoing process; b) developing and adding long-term value to governance and the political system; and c) including many actors. It also means taking a long-term perspective and following an overall aim or design for the 'social contract'. This paper examines the challenges and nuances of external support to constitution building, which can, it argues, be both constructive and problematic. It calls for a restrained approach to such support, based on 'invitation points' rather than 'entry points'. The quality of the process used is crucial to successful constitutional design, and the choice of process needs to be left to national actors.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=4183>

Social and political tension related to secular and religious divides has been prevalent in various parts of the world. The following article examines the concept of 'constitutional theocracy' and constitutional responses to the issue of 'religion and state'. It focuses on Egypt, Pakistan, Turkey, Israel, Nigeria, and Malaysia.

Hirschl, R., 2008, 'The Theocratic Challenge to Constitution Drafting in Post-Conflict States', William and Mary Law Review, vol. 49, no. 4, pp. 1179-1211

The influence of theocratic principles is rising around the world. This article assesses the challenges this trend creates in post-conflict political and legal development. It identifies a new form of governance, 'constitutional theocracy', that has emerged from these tensions. Constitutional courts can play a key role in preserving the secular nature of polities against growing support for theocratic governance. In spite of some institutional progress, however, further study on religion in post-conflict constitutionalism is needed to address the growing theocratic challenge.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3166>

The **Model Codes for Post-Conflict Criminal Justice** Project has created a set of model codes that could be used as tools by both international and national actors engaged in the criminal law reform process in post-conflict states around the world. They were drafted in a way that takes into account their potential cross-cultural application and use, in addition to the inevitable exigencies of a post-conflict environment.

<http://www.usip.org/resources/model-codes-post-conflict-criminal-justice>

Legal Aid and Assistance

Formal legal aid schemes are often established in post-conflict or fragile states contexts but are limited by the lack of lawyers in the country and may not be affordable. They need to be supplemented by other initiatives that involve civil society. 'Paralegal aid schemes' include the assistance of non-lawyers who can't represent a client in court but can provide advice.

Maru, V., 2006, 'Between Law and Society: Paralegals and the Provision of Primary Justice Services in Sierra Leone and Worldwide', Open Society Institute, New York

The realisation of human rights requires universal access to basic justice services. The institution of the paralegal is a powerful method for providing such services, combining legal knowledge with the creative, flexible tools of social movements. This essay, published in *The Yale Journal of International Law*, details the experiences of an experimental community-based paralegal program in Sierra Leone. It argues that paralegals can provide the requisite engagement with contextual social and legal particularities to help bridge the gap between law and society.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=2584>

Police reform

Police reform is vital to security and stability in conflict-affected and fragile states. It is also vital to broader governance reforms.

Ziegler, M. and Nield, R. 2001, 'From Peace to Governance: Police Reform and the International Community', Washington Office on Latin America (WOLA)

Despite the political risks, the positive aspects of police reform have encouraged donors to participate. Police reform can support demilitarisation and democratisation, boost economic growth, reduce poverty, and improve respect for human rights. However, case studies from Central and South America and South Africa highlight the difficulty of achieving reform where violent crime is on the rise.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/648>

The following paper stresses the importance of properly coordinating international policing, local police reform and judicial reform.

Mobekk, E., 2005, 'Identifying Lessons in United Nations International Policing Missions', Policy Paper no. 9, Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva

How can the United Nations improve its civilian policing missions? This paper reviews the experiences of UNPOL (United Nations Civilian Police) missions to identify problems in international policing, and suggest policy improvements. It argues for the integration of local police and judicial reform while remaining sensitive to existing justice mechanisms, and stresses the importance of training, accountability, institutional memory and co-ordination within international policing missions.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=1780>

The following case studies provide lessons learned and examples of best practice in police reform in conflict affected-societies.

Friedman, J. and MacAulay, C., 2011, 'Building Civilian Police Capacity: Post-Conflict Liberia, 2003-2011', Case Study, Innovations for Successful Societies, Princeton University

As Liberia began to emerge from civil war in 2003, the warring sides agreed to overhaul the discredited national police service. In the Comprehensive Peace Agreement signed in Accra, Ghana, the parties designated the United Nations as the lead body in rebuilding and reforming Liberia's civilian police capacity. In a joint effort between Liberian and U.N. police, reformers vetted and trained a new police service of more than 4,000 officers, established specialized units to combat gender-based violence and high-risk threats, improved internal accountability mechanisms, and began to reverse the sordid reputation for unlawful killings and rape the police had earned during Liberia's civil war. This case offers insights into the development of the Liberia National Police, one of the successes in post-war Liberia and an uncommon example of successful post-war police reform.

http://www.princeton.edu/successfulsocieties/content/data/policy_note/PN_id176/Policy_Note_ID176.pdf

Chris Charley, J. P. and M'Cormack, F. I., 2011, 'Becoming and Remaining a 'Force for Good' – Reforming the Police in Post-conflict Sierra Leone', Research Report no. 70, Institute of Development Studies, Brighton

This report covers the aspects of the political and institutional environment that helped engender change, as well as constraints faced by the reform agenda. It considers how the officers actually carried out the task at hand, and shares lessons as to what reform tactics worked and which were less successful.

<http://www.ids.ac.uk/files/dmfile/rr70.pdf>

Vetting

Vetting is a process whereby individuals who lack integrity and who are considered a threat to the state are excluded or removed from public office. In post-conflict contexts, vetting forms a part of transitional justice strategies. It needs to be rigorous in the security and justice sectors – to contribute to accountability and the prevention of future violations.

OHCHR, 2006, 'Rule-of-Law Tools for Post-Conflict States: Vetting - An Operational Framework', Office of the United Nations High Commissioner for Human Rights, New York and Geneva

Reforming public institutions is a core task in countries in transition from authoritarianism or conflict to democracy and peace. This publication sets out an operational framework for vetting and institutional reform. The complex challenges of transitional contexts require a comprehensive approach to institutional reform. An effective and legitimate reform strategy will situate vetting in its broader context.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3108>

Fithen, C., 2009, 'The Legacy of Four Vetting Programs: An Empirical Review', International Centre for Transitional Justice, New York

How can vetting help to improve institutions undergoing transition? This paper reviews evidence from four country case studies, highlighting the important distinctions between post-conflict and post-authoritarian transitions. It argues that while vetting cannot be divorced from its institutional context, proper planning and commitment to long-term reform can override political obstacles.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3579>

DCAF, 2006, 'Vetting and the Security Sector', DCAF Backgrounder, Geneva Centre for the Democratic Control of Armed Forces, Geneva

<http://www.dcaf.ch/Publications/Vetting-and-the-Security-Sector>

Penal reform

Prison and penal reform is an important yet often neglected aspect of justice sector reform. Necessary interventions in post-conflict societies include dealing with overcrowding; the rehabilitation of buildings; the recruitment and training of appropriate staff; the development of appropriate legislation and policies; and the adoption of a human rights approach to prisoner management. The following document provides recommendations for these and other related interventions.

United Nations Department of Peacekeeping Operations, 2005, 'Supporting National Prison Systems: Lessons Learned and Best Practices for Peacekeeping Operations', United Nations, Criminal Law and Judicial Advisory Unit, Peacekeeping Best Practices Section

What role can the establishment of humane, effective prisons have in the peacekeeping process? This study reports lessons learned from previous peacekeeping operations that have involved prison support. Although judicial and prisons components have been included in most recent peacekeeping operations, mission capacities have been insufficient. Future efforts must be not only better resourced, but also more attuned to best practices in prison re-establishment and strengthening.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3088>

Non-state justice and security systems

Traditional, customary and non-state justice systems are a feature of many conflict-affected and fragile states. They can facilitate participation and access to justice to those who are often excluded from formal systems; they are familiar to local populations; and can be quick and convenient. Such systems can also be problematic, however, as they can be discriminatory against certain groups – in particular, women or those not from the locality. In addition, there may be little oversight or referrals to judicial and other formal institutions.

Scheye, E., and McLean, A., 2006, 'Enhancing the Delivery of Justice and Security in Fragile States', Organisation for Economic Cooperation and Development - Development Assistance Committee (OECD/DAC) Network on Conflict, Peace and Development Co-operation, Paris (CPDC)

How should international actors contribute to the support of justice and security in fragile states? This paper analyses the providers, processes and objectives of fragile states' justice and security services, and reviews lessons learnt by donors in this area. It argues that international actors should take a multi-layered, context-specific approach to fragile states, developing the capacity of the state, but also enabling it to engage with non-state justice and security providers.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=2021>

The following paper addresses the strengths and weaknesses of traditional justice systems in the context of Africa, where their goals are often described as the restoration of peace and social harmony, as opposed to retributive justice.

Kimathi, L. W., 2005, 'Non-state Institutions as a Basis of State Reconstruction: The Case of Justice Systems in Africa', Paper presented at CODESRIA's 11th General Assembly, 6-10 December, Maputo, Mozambique

How can non-state justice institutions further the process of state reconstruction in Africa? This paper discusses the way in which the state can be made more responsive by incorporating non-state institutions in formal state structures. It argues for a synergy of formal and informal justice systems to enhance the advantages and minimise the disadvantages of each. Measures to improve non-formal justice should be pursued alongside efforts to decentralise and streamline formal justice structures.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3148>

Both formal and informal institutions play an important role in Afghanistan, as discussed in the following two documents. Wardak et al. (2007) argue that formal and informal justice systems are not integrated and act in isolation. They advocate for 'a hybrid model of Afghan justice' that would draw on the positive aspects of both systems. Coburn (2011) emphasises that successful dispute resolution in Afghanistan relies on a combination of formal and informal actors. He argues that informal actors such as elders and councils do not need to be strengthened as they already have the necessary skills and experience. Instead, they require the secure spaces in which to operate.

Wardak, A., Saba, D. and Kazem, H., 2007, 'Bridging Modernity and Tradition: The Rule of Law and the Search for Justice', Afghan Human Development Report, Centre for Policy and Human Development, Kabul and Army Press, Islamabad

How can justice and the rule of law be strengthened to advance human development in Afghanistan? This report highlights the links between human development and the rule of law. It makes the case for a 'Hybrid Model' of Afghan justice involving a collaborative relationship between formal and informal justice institutions.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3137>

Coburn, N., 2011, 'The Politics of Dispute Resolution and Continued Instability in Afghanistan', Special Report, United States Institute of Peace, Washington DC

The international community increasingly talks about transfer of governance and security responsibility to Afghans and about the sustainability of both. It is therefore important to have an accurate understanding of disputes that drive local instability. This paper argues that corrupt officials, local strongmen and general instability have often undermined the informal, community-based mechanisms for dispute resolution in Afghanistan. The international focus needs to be on securing a stable environment in which the elders and councils that constitute the informal sector can safely operate.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4241>

Dexter, T. and Ntahonbaye, P., 2005, 'The Role of Informal Justice Systems in Fostering the Rule of Law in Post-Conflict Situations: The Case of Burundi', Centre for Humanitarian Dialogue, Geneva

<http://www.hdcentre.org/files/Burundi%20report.pdf>

Non-state security systems include vigilante and neighbourhood watch organisations set up in local communities. Such organisations can be essential for poor people whose livelihoods are threatened by theft of private property. However, there are human rights risks where such organisations administer punishments without due process. The level of local legitimacy and inclusiveness of non-state security systems is important as they range from community groups to protection rackets and organised crime. In addition, private security companies are increasingly operating in countries where state law enforcement is inadequate, with implications for the security gap between the rich and poor.

Shaw, M., 2002, 'Chapter 6: The Impact of Private Policing,' in Crime and Policing in Post-Apartheid South Africa: Transforming under Fire, C Hurst & Co, London

Despite a peaceful transition to democracy, post apartheid South Africa has experienced a dramatic increase in violent crime. This trend has been met by a rapid increase in private security companies providing services to the suburban middle class. This chapter explores the nature of the private sector boom and its role in achieving justice and security in South Africa.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1142>

The following GSDRC report highlights literature that assesses donor support to the non-state security and justice sectors in conflict-affected and fragile contexts.

Mcloughlin, C., 2009, 'Donor Support to Non-state Providers of Security and Justice', Helpdesk Research Report, GSDRC, Birmingham

Whilst there is a growing body of literature analysing, and advocating for increased assistance to, non-state providers of security and justice in post-conflict and fragile situations, there is very little evidence available of how donors have supported these actors.

Supporting non-state justice and security is widely acknowledged to be a highly complex and controversial area which donors have historically tended to avoid. There is, consequently, very little in the way of systematic 'lessons-learned' in this area. Nonetheless, the literature points to several recommendations, which are outlined in this report.

<http://www.gsdrc.org/docs/open/HD631.pdf>

Serious crimes

Serious crimes – such as organised crime, trafficking, money laundering, corruption and terrorism – flourish in societies with weak rule of law institutions. Such criminal activity is often linked to wider social conflict through, for example, the funding of violent movements, the harbouring of war crimes fugitives, or in the case of organised criminal groups, the perpetuation or extension of their control of the political and economic sphere. Serious crimes represent a tremendous challenge to peace and stability in conflict-affected and fragile states.

UN Secretariat, 2005, 'Effective Measures to Combat Transnational Organised Crime: Working Paper Prepared by the Secretariat', Eleventh United Nations Congress on Crime Prevention and Criminal Justice, 18-25 April, Bangkok

This document outlines key sectors of illicit trafficking and organised crime as well as countermeasures.

http://www.unis.unvienna.org/pdf/05-82099_E_2_pr_SFS.pdf

The following two documents from the United States Institute of Peace identify how to address the problem of serious crimes. The first document stresses the importance of understanding the political, economic, legal and social context of serious crimes in order to effectively counter it – and outlines how to conduct such an assessment. The second document provides an overview of various institutional reforms necessary to improve the fair and effective investigation and prosecution of serious crimes, and the imprisonment of serious crime perpetrators.

Rausch, C. (ed), 2006, 'Conducting an Assessment', Chapter 2 in Combating Serious Crimes in Post-Conflict Societies: A Handbook for Policymakers and Practitioners, United States Institute of Peace, USIP Press Books, Washington, D.C.

What should be covered by an assessment of serious crime in a country emerging from conflict? How should such an assessment be conducted? This chapter provides comprehensive guidelines. The assessment should include political, economic and social factors plus capacity and challenges both within and outside of the criminal justice sector. Assessors should gauge a country's political will to address serious crime and to work with international bodies in doing so.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3160>

Rausch, C. (ed), 2006, 'Institutional Reforms', Chapter 4 in Combating Serious Crimes in Post-Conflict Societies: A Handbook for Policymakers and Practitioners, United States Institute of Peace, USIP Press Books, Washington, D.C.

How can institutional reforms aid effective investigation and prosecution in post-conflict societies? This chapter presents examples of institutional reform mechanisms, drawing from a dozen recent international interventions and covering the police, the judiciary, prosecutor services, criminal defence, and prisons. Institutional reforms to the criminal justice system in post-conflict societies are crucial in developing a fair and effective system of justice that is transparent, accountable and efficient.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3147>

Although the types of organised crime in Kosovo and Liberia differed, like in many states, they served in both cases to fuel conflict and continue to be a challenge to institution-building and peacebuilding efforts.

Teran, N. S., 2007, 'Peacebuilding and Organised Crime: The Cases of Kosovo and Liberia', Swisspeace, Bern

Combating organised crime should occur throughout the conflict continuum, from conflict prevention to post-conflict peacebuilding. This paper examines the impact of organised criminal groups on peacebuilding efforts in Kosovo and Liberia. Although types of organised crime differ in the two countries, both cases demonstrate that it presents a serious threat to peacebuilding efforts and damages the functioning of democratic institutions.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3122>

The following GSDRC helpdesk report explores the impact of organised crime on development and governance.

Haider, H., 2008, 'Organised Crime and Development', Helpdesk Research Report, GSDRC, Birmingham

Given the nature of organised crime, it is difficult to monitor and accurately measure its prevalence and economic impact. Some of the literature notes that while levels of organised crime have increased in some regions/countries and decreased in others, its global scale remains roughly the same. However, some experts claim that organised crime is on the increase at the global level, in line with financial globalisation, corruption, and the expansion of the shadow economy. Organised crime usually involves the complicity or direct involvement of the public sector; and organised criminal groups gain power and resources from the shadow economy, while also investing in it.

<http://www.gsdr.org/docs/open/HD531.pdf>

What other resources are available from the GSDRC?

More resources on justice in conflict-affected and fragile states can be accessed in the ‘[human rights, gender and social exclusion](#)’ and ‘[transitional justice](#)’ sections of this guide.

More resources on non-state systems can be accessed in the ‘[non-state justice and security systems](#)’ section of this guide.

Additional information resources

The **Global Facilitation Network for Security Sector Reform** (GFN-SSR) produces [regional topic guides](#) that provide overviews of security and justice sector reform specific to the region. They highlight key regional texts as well as country case studies.
<http://www.ssrnetwork.net/>

The **International Network to Promote the Rule of Law** (INPROL) is an internet-based knowledge network that facilitates information exchange among practitioners and experts and provides access to relevant documents, best practices, and related materials.
<http://www.inprol.org/>

The **United States Institute of Peace’s (USIP) Rule of Law Center** conducts research, identifies best practices, and develops new tools for policymakers and practitioners working to promote the rule of law. It has played a significant role in shaping the field and in advancing the rule of law in fragile and post-conflict societies.
<http://www.usip.org/ruleoflaw/>

U4 Anti-Corruption Resource Centre has an extensive online research directory on corruption issues, in various sectors, and anti-corruption strategies.
<http://www.u4.no/>

UN websites:

- United Nations Development Programme (UNDP)
http://www.undp.org/content/undp/en/home/ourwork/crisispreventionandrecovery/focus_areas/crisis-governance-rule-of-law.html
- United Nations Peacekeeping
<http://www.un.org/en/peacekeeping/>
- Peacekeeping Resource Hub
<http://www.peacekeepingbestpractices.unlb.org/>

Transitional justice

The United Nations defines transitional justice as the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These involve judicial and non-judicial mechanisms (with differing levels of international involvement, or none at all) that include individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof. The most commonly-cited examples include the South African Truth and Reconciliation Commission, or the International Criminal Court, but there are many other mechanisms in operation, as illustrated by this guide.

Transitional justice processes may have a variety of aims, such as to resolve the divisions in society caused by the human rights violations; to contribute to the healing process for victims and witnesses; to determine legal accountability; and/or to establish a historical record of the war and to educate. Wider institutional aims might be to restore the rule of law, democratise security institutions by promoting human rights, and to promote a stable peace.

There is widespread debate about whether the particular transitional justice strategy developed entails a choice between peace and justice. Some argue that while international and national criminal trials promote justice, they can exacerbate divisions and may hinder the achievement of peace. Those who face the potential for prosecution may be reluctant to lay down arms. Instead, truth commissions, which in some cases provide amnesties for perpetrators, are often thought to promote peace and reconciliation at the expense of retributive justice.

Others argue that transitional justice can simultaneously produce peace and justice. Efforts should be made to devise a comprehensive strategy that incorporates various mechanisms and approaches that can complement one another – and that can provide the greatest voice to survivors and deliver the greatest impact to local communities.

Where is a good place to start?

The following report provides an overview of the main transitional justice mechanisms and identifies some lessons learned.

United Nations Security Council, 2004, 'The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies', Report of the Secretary-General, United Nations, New York

<http://www.gsdrc.org/docs/open/SSAJ152.pdf>

The following documents introduce some of the key issues and debates in transitional justice and provide an overview of various transitional justice mechanisms and experiences with reconciliation.

Fischer, M., 2011, 'Transitional Justice and Reconciliation: Theory and Practice', in 'Advancing Conflict Transformation: The Berghof Handbook II' eds. B. Austin, M. Fischer, H.J. Giessmann, Barbara Budrich Publishers, Opladen/Framington Hills, pp. 406-430

Transitional justice is prominent in academic debates on democratisation, nation-building and state reconstruction, and has gained widespread support from international organisations. This chapter examines these debates and their practical relevance for conflict transformation and peacebuilding. It argues that not enough research has been done into the impact of transitional justice mechanisms and that therefore they need to be applied with caution. There is a need for more sustained comparative analysis and, above all, more interdisciplinary and mixed methods research on this issue.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4240>

Mobekk, E., 2005, 'Transitional Justice in Post-Conflict Societies - Approaches to Reconciliation' in After Intervention: Public Security Management in Post-Conflict Societies - From Intervention to Sustainable Local Ownership, eds. Ebnother, A and Fluri, P., Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva

The issue of transitional justice in post-conflict societies has become increasingly important in recent years. This examines forms of transitional justice. It looks at truth commissions, local courts and traditional methods of justice which have the greatest potential for local ownership. It argues that local ownership is crucial to the success of the post-conflict reconstruction process.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=1685>

Pillay, S. and Scanlon, H., 2007, 'Peace versus Justice: Truth and Reconciliation Commission and War Crimes Tribunals in Africa', Centre for Conflict Resolution, University of Cape Town

How effective have war crimes tribunals and truth commissions in Africa been in dealing with human rights abuses? What dilemmas do prosecution of or amnesty for perpetrators of war crimes pose for peace and justice? This seminar report analyses the dilemmas posed by peace without justice. When assessing transitional justice mechanisms, new governments need to consider mechanisms for reconciliation, the rebuilding of institutions conducive to a stable and fair political system and the economic resources needed to achieve these goals.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3100>

International Institute for Democracy and Electoral Assistance Handbook Series, 2003, 'Reconciliation After Violent Conflict: A Handbook', International IDEA, Stockholm, Sweden

This detailed handbook draws on reconciliation experiences from the last thirty years. A series of tools are presented which have been successfully used in reconciliation processes.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/563>

Huysse, L., 2009, 'All Things Pass, Except the Past', AWEPA - European Parliamentarians with Africa

http://www.awepa.org/index.php/en/resources/doc_download/31-all-things-pass-except-the-past.html

Designing transitional justice strategies

Local Context

The following report explores key factors influencing the effectiveness of assistance for transitional justice in conflict and post-conflict situations.

Haider, H., 2011, 'Factors Contributing to Transitional Justice Effectiveness', GSDRC Helpdesk Research Report, Governance and Social Development Resource Centre, Birmingham, UK

Many claims have been made about the positive impact that transitional justice can have on societies recovering from violent conflict. Sceptics argue, however, that many transitional justice measures can undermine negotiated settlements and exacerbate divisions. There is growing recognition of the need to engage in more systematic research on the effects and impact of transitional justice; however such empirical research is still in the early stages. Nonetheless, the literature identifies some factors which contribute to the effectiveness of transitional justice (whether supported through international assistance or domestic resources). These include: legitimacy and local ownership; government commitment; involvement of civil society; outreach; capacity building; appropriate timing; the use of a combination of mechanisms; and empirical research.

<http://www.gsdrc.org/docs/open/HD762.pdf>

The selection and design of transitional justice programmes must be unique for each country. Factors to take into account include the regime's level of legitimacy and political security, its relationship with human rights violators, the strength of opposition groups, the activities of civil society and the presence of international actors.

Fletcher, L. and Weinstein, H., with Rowen, J., 2009, 'Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective', Human Rights Quarterly, vol 31, no 1, pp. 163-220

This article questions the presumption that trials and/or truth commissions should be an early response in initiating a transitional justice process. A multi-factorial, qualitative analysis of seven case studies suggests the need for a fuller appreciation of the dynamic system in which transitional justice interventions occur. It is important to consider what the affected society wants and how a response can be tailored to the particular cultural, social, and economic contexts.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3504>

Understanding the needs and perceptions of local populations concerning transitional justice and social reconstruction is imperative to the development of a legitimate transitional justice strategy and in promoting sustainable peace. This paper from the International Center for Transitional Justice documents the views of Iraqis in addressing the legacy of authoritarian rule, political violence, armed conflict and foreign occupation.

International Center for Transitional Justice (ICTJ), 2004, 'Iraqi Voices: Attitudes Toward Transitional Justice and Social Reconstruction', ICTJ and the Human Rights Center, ICTJ Occasional Paper Series, University of California, Berkeley

How do Iraqis see the way forward in dealing with their legacy of human rights violations and political violence? What are their attitudes toward transitional justice? This survey suggests that a comprehensive and coordinated approach to social repair and transitional justice is required. Implementing piecemeal processes in transitional societies runs the enormous risk of failing to adequately address the past, arrive at the truth, achieve justice and rebuild trust.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=973>

More recently, a survey was conducted in the Eastern Democratic Republic of Congo by the Berkeley-Tulane Initiative on Vulnerable Populations, a joint project of University of California, Berkeley's Human Rights Centre and Tulane University's Payson Centre for International Development, and the International Centre for Transitional Justice:

Vinck, P., 2008, 'Living with Fear: A Population-Based Survey on Attitudes about Peace, Justice and Social Reconstruction in Eastern Democratic Republic of Congo', Berkeley-Tulane Initiative on Vulnerable Populations, Berkeley

<http://www.law.berkeley.edu/HRCweb/pdfs/LivingWithFear-DRC.pdf>

Socio-economic context is also critical to the success of transitional justice mechanisms. In South Africa, ongoing violence, forms of oppression and socio-economic disparities are undermining the realisation of goals of the Truth and Reconciliation Commission and

efforts to heal the nation. The following report from the Centre for the Study of Violence and Reconciliation asserts that unresolved trauma and anger of parents and grandparents in South Africa is being passed onto youth.

Naidu, E. and Adonis, C., 2007, 'History on Their Own Terms: The Relevance of the Past for a New Generation', Research report written for the Centre for the Study of Violence and Reconciliation, Johannesburg and Cape Town

How does the memory of traumatic, intractable conflict affect later generations, and how can reconciliation be made an integral part of this memorialising? This report argues that South Africa's younger generations have absorbed an unresolved sense of trauma and anger from their elders. The older generation, many of whom survived severe human rights violations, have not adequately reached out to youth or used the past to encourage reconciliation processes.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3138>

Inclusive processes

Transitional justice processes are as important as the choice of mechanisms. It is essential to consider the issue of who is included in and excluded from transitional justice decisions. Discussions on the design of transitional justice and the implementation of mechanisms should aim to reach the broadest population possible. This includes marginalised groups, including women and displaced populations. The voices, concerns and priorities of such groups must be heard and addressed. This can increase the potential success and sustainability of transitional justice and peacebuilding efforts.

Duthie, R., 2011, 'Transitional Justice and Displacement', *International Journal of Transitional Justice*, vol. 5, no. 2, pp. 241-261

How does transitional justice fit within broader responses to the problem of displacement? Conflict-induced displacement is an important factor in contexts in which transitional justice operates, yet displacement has received little attention in the literature and practice of transitional justice. This article argues that transitional justice can and should address displacement, but in doing so needs to take account of and establish links with other relevant actors.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=4174>

Harris Rimmer, S., 2010, 'Reconceiving Refugees and IDPs as Transitional Justice Actors', United Nations High Commissioner for Refugees, Geneva

<http://www.unhcr.org/4bbb2a589.pdf>

Valji, N., with Sigsworth, R. and Goetz, A. M., 2010, 'A Window of Opportunity: Making Transitional Justice Work for Women', United Nations Development Fund for Women

How can transitional justice processes serve women more effectively? Among the guiding principles of UN engagement in transitional justice activities is the need to 'strive to ensure women's rights'. This report examines gender equality issues in relation to prosecutions, truth seeking, reparations, national consultations and institutional reforms. It argues that post-conflict transitions provide opportunities both to secure justice and to address the context of inequality that gives rise to conflict. Normative, procedural and cultural aspects of transitional justice institutions require reform.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=4173>

Page, M., 2010, 'Improving Liberia's Transitional Justice Process by Engaging Women', The Institute for Inclusive Security, Hunt Alternatives Fund, Washington, DC

http://www.huntalternatives.org/download/1974_improving_liberia_s_transitional_justice_process.pdf

One of the frequently cited goals of transitional justice in divided societies is 'reconciliation'. This outcome is often assumed to be an automatic outcome of various transitional justice processes and mechanisms. This is unlikely to be the case, however, in the absence of specific attention to restore intergroup trust and relationships. The field of coexistence provides a framework for thinking about intergroup relations and interdependence. Lessons could be learned from this field in order to design transitional justice processes and mechanisms in a way that promotes inclusion and coexistence; and contributes to processes of 'reconciliation'.

Haider, H., 2011, 'Social Repair in Divided Societies: Integrating a Coexistence Lens into Transitional Justice', *Conflict, Security and Development*, vol. 11, no. 2, pp. 175-203

This article suggests that transitional justice could contribute more positively to the process of reconciliation, one of its core aims, by: 1) supporting and working alongside coexistence initiatives; and 2) incorporating coexistence frameworks within its own processes and mechanisms. Coexistence initiatives – such as dialogue facilitation, intergroup projects aimed at achieving shared goals, and media campaigns designed to reframe the 'other' – are essential to restoring trust, transforming perceptions and rebuilding relationships in divided societies. Unless people's lived realities are transformed, members of identify groups are likely to continue to focus on 'data' that confirm their existing beliefs.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=4178>

Outreach

Outreach programmes are an integral component of transitional justice processes. They aim to establish communication with affected communities to raise awareness and understanding of transitional justice and its mechanisms. In the absence of such programmes, there can often be a gap between the goals and actions of transitional justice mechanisms and the needs and perceptions of the society it seeks to serve.

Ramírez-Barat, C., 2011, 'Making an Impact: Guidelines on Designing and Implementing Outreach Programs for Transitional Justice', International Centre for Transitional Justice

<http://ictj.org/sites/default/files/ICTJ-Global-Making-Impact-2011-English.pdf>

Timing

Issues of timing and space are also important to consider. In Kenya, transitional justice policy is being formulated at the same time as political transformation and broader reforms of the political system and institutions. The following article argues these simultaneous efforts have resulted in the infiltration of political tensions in the transitional justice process.

Musila, G.M., 2009, 'Options for Transitional Justice in Kenya: Autonomy and the Challenge of External Prescriptions', International Journal of Transitional Justice, vol. 3, no. 3, pp. 445-464

What are the options and challenges for transitional justice in Kenya? This article argues that despite a general consensus on the need to implement transitional justice measures to address past injustices and to further reconciliation in Kenya, there is little agreement on the form these measures should take. A coherent transitional justice policy is needed in Kenya. This should take account of both political and structural violence, and tackle key issues relating to the impact of international mechanisms and norms on local options and the kind of justice mechanisms to be deployed.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3699>

Linking to other peace and security programming

Disarmament, demobilisation and reintegration (DDR) and transitional justice processes often operate contemporaneously in conflict-affected societies. Both are considered integral to peacebuilding processes. Despite the traditional segmentation of the two fields, there are various ways in which DDR and transitional justice processes and mechanisms overlap in practice. The following report examines the linkages between transitional justice and DDR and the benefits that can be gained from a more coordinated approach.

Haider, H., 2011, 'DDR and Transitional Justice', GSDRC Helpdesk Research Report, Governance and Social Development Resource Centre, Birmingham, UK

DDR programming has become a regular component of international peace support and peacebuilding architecture and DDR programmes can play an important role in limiting violence by disarming large numbers of actors and disbanding illegal, dysfunctional or bloated military structures. 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. The report discusses the complementarities of DDR and transitional justice, 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.

<http://www.gsdr.org/docs/open/HD761.pdf>

Donor approaches

Donor assistance for transitional justice mechanism has grown in recent years, but there are no shared policy framework or guidance documents. The following report of a ICTJ –DFID sponsored seminar discusses donor aid to transitional justice processes, partnership with national actors, and ways in which to contribute to effective transitional justice initiatives.

ICTJ and DFID, 2007, 'Donor Strategies for Transitional Justice: Taking Stock and Moving Forward', Seminar Report, 15-16 October, London

<http://www.gerjc.u-3mrs.fr/IEP%20XP/2.%20%20Establishing%20a%20TJ%20Process/Donor%20Strategies%20for%20TJ%20ICTJ.pdf>

The following tool has been used to inform the UN's approach to transitional justice. It stresses the importance of comprehensive processes of national consultation for ensuring that transitional justice remains focused on the rights and needs of conflict-affected people.

Office of the United Nations High Commissioner for Human Rights (OHCHR), 2010, 'Rule of Law Tools for Post-Conflict States: National Consultations on Transitional Justice', United Nations, New York and Geneva

How can national consultations support effective transitional justice programmes? This report presents national consultations as a crucial element of the human rights-based approach to transitional justice. A process of consultations ensures that there is local ownership and participation and can bolster transitional justice programmes by reigniting stalled peace processes and triggering community debate. Donors should periodically conduct consultations during the implementation of a transitional justice programme,

with a view to recalibrating it and enhancing its impact.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3841>

Impact of transitional justice

There are many assertions that are made about the importance of pursuing transitional justice and the positive impact that it can have on societies recovering from violent conflict and authoritarianism. Skeptics argue instead that transitional justice can undermine negotiated peace settlements and exacerbate divisions.

The following paper finds that there is little evidence to back up either of the claims. It advises policy makers and researchers to seek out comparative data and evidence in order to move from “faith-based” to “fact-based” discussions of transitional justice.

Thoms, O.N., Ron, J., and Paris, R., 2010, 'State-Level Effects of Transitional Justice: What Do We Know? ', *International Journal of Transitional Justice*, vol. 4, no. 3, pp. 329-354

Does transitional justice (TJ), including trials and truth commissions, strengthen or threaten societal peace in transitional countries? This paper reviews the empirical literature on the effects of trials and truth commissions on institutions and policy processes at the state level. It finds that empirical evidence of positive or negative effects is still insufficient to support strong claims. More systematic and comparative analysis of the TJ record is needed in order to advance evidence-based discussions of transitional justice impacts. Research needs to identify the conditions under which specific TJ mechanisms are most likely to have desired effects on transitional societies.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4004>

There is a limited but growing body of research that aims to explore the impact of transitional justice. The following research finds that specific combinations of mechanisms – trials and amnesties; and trials, amnesties, and truth commissions – can contribute positively to human rights and democracy. Trials can provide accountability and amnesties can provide stability, advancing democracy and respect for human rights. Truth commissions can also increase accountability by revealing systematic patterns of abuse and provide guidance for reforms to improve human rights protections. On their own, however, truth commissions can have a negative impact on human rights. Additional research is needed to determine whether commissions are successful in achieving other important goals, such as establishing an official truth about the past and giving voice to victims.

Olsen, T. D., Payne, L. A. and Reiter, A. G., 2010, 'The Justice Balance: When Transitional Justice Improves Human Rights and Democracy', *Human Rights Quarterly*, vol. 32, no. 4, pp. 980-1007

Evidence from the Transitional Justice Data Base shows that specific combinations of mechanisms – (1) trials and amnesties, and (2) trials, amnesties and truth commissions – improve human rights and democracy. These findings suggest a 'justice balance' approach to transitional justice – that trials provide accountability and amnesties provide stability. Truth commissions alone have a negative impact on human rights and democracy, but contribute positively when combined with trials and amnesties.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4165>

Olsen, T. D., Payne, L.A., Reiter, A.G., and Wiebelhaus-Brahm, E., 2010, 'When Truth Commissions Improve Human Rights', *International Journal of Transitional Justice*, vol. 4, no. 3, pp. 329-354

How, when and why do truth commissions improve human rights? This paper draws on the experiences of Brazil, Chile, Nepal, South Korea and South Africa. It concludes that although truth commissions are incapable of promoting stability and accountability on their own, they contribute to human rights improvements when they complement and enhance amnesties and prosecutions.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4001>

Memorials, museums and places of memory represent important sites where the past can be confronted; they are often considered necessary to move forward from past atrocity. The following article seeks to assess the impact of memorialisation on societies recovering from conflict. It finds that memorial sites have had various positive impacts on the young people who visited them. Whether such sites can contribute to reconciliation, violence prevention or respect for human rights is largely dependent on the extent to which they are linked to other wider mechanisms of reform.

Hamber, B., Ševcenko, L., and Naidu, E., 2010, 'Utopian Dreams or Practical Possibilities? The Challenges of Evaluating the Impact of Memorialisation in Societies in Transition', *International Journal of Transitional Justice*, vol. 4, no. 3, pp. 397-420

How can memorialisation of the past support social reconstruction or transitional justice? This study evaluates the youth education programmes of the International Coalition of Sites of Conscience in Italy, Bangladesh and Chile in order to suggest strategies for conceptualising and evaluating the impact of memorialisation. It argues that while much thinking remains to be done on how to evaluate memorialisation in societies in transition, transitional processes can make better use of the resources that memorial sites have to offer. The impact of memorial sites needs to be maximised through long-term investment, ongoing programmes and accompanying evaluation.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=4002>

Nettelfield, L. J., 2010, *Courting Democracy in Bosnia and Herzegovina: The Hague Tribunal's Impact in a Postwar State*, Cambridge University Press, Cambridge

This book examines the impact of the International Criminal Tribunal for the former Yugoslavia on democratisation in Bosnia and Herzegovina. It finds that the tribunal has made a positive contribution to the country's transition.

http://www.cambridge.org/gb/knowledge/isbn/item2713805/?site_locale=en_GB

Poverty reduction, socioeconomic development and transitional justice

The transitional justice literature focuses to a large extent on addressing past civil and political rights violations and war crimes. Whilst these issues are of fundamental importance, the publications below suggest that social and economic rights (e.g. rights to health, education, housing) deserve more attention in periods of transition.

In the following speech, the former UN High Commissioner for Human Rights argues that transitional justice mechanisms have not yet dealt with economic, social and cultural rights adequately or systematically. A comprehensive transitional justice strategy should address the gross violations that gave rise or contributed to the conflict in the first place. As part of the transition to a peaceful society, protective constitutional, legislative and institutional measures should be put in place to ensure that these violations will not be perpetuated in the future.

Arbour, L., 2006, 'Economic and Social Justice for Societies in Transition', Annual Lecture of Transitional Justice, 25 October, New York University School of Law

http://www.law.nyu.edu/ecm_dlv2/groups/public/@nyu_law_website__journals__journal_of_international_law_and_politics/documents/documents/ecm_pro_058863.pdf

The following chapter from the final report of the Commission for Reception, Truth and Reconciliation in East Timor (CAVR) reviews economic and social rights violations committed under the Indonesian occupation of East Timor, including the rights to health, education, housing and to work freely.

Commission for Reception, Truth and Reconciliation in East Timor, 2006, Chapter 7.9 'Economic and Social Rights' in Final Report

<http://www.etan.org/etanpdf/2006/CAVR/07.9-Economic-and-Social-Rights.pdf>

The following studies provide an overview of transitional justice mechanisms, explore ways in which differing mechanisms can contribute to poverty reduction, and consider the links between transitional justice and development.

Alexander, J., 2003, 'A Scoping Study of Transitional Justice and Poverty Reduction', Final Report for DFID.

The mechanisms used to address human rights violations committed during the conflict periods include criminal and civil prosecution in domestic, foreign and international courts, traditional justice processes, truth commissions, lustration/vetting, reparations and amnesties. These mechanisms are designed to achieve goals like justice, reconciliation and peace. Do they have the potential to contribute to the goal of poverty reduction? This report for the Department for International Development examines 'transitional justice mechanisms' employed in post-conflict situations, with reference to past and present examples.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=678>

De Greiff, P., 2009, 'Articulating the Links Between Transitional Justice and Development: Justice and Social Integration', Chapter 1 in Transitional Justice and Development: Making Connections, International Centre for Transitional Justice, New York

What are the links and boundaries between transitional justice and development? What can transitional justice contribute to development? This chapter argues that transitional justice promotes social integration, and it is in this capacity that it overlaps with and may serve the interests of development. Transitional justice has a norm-affirming role, and can enhance recognition, trust, and political participation, helping to strengthen inclusive, participatory citizenship. Citizenship stands in both an instrumental and a constitutive relationship with justice and with development.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3507>

Laplante, L.J., 2008, 'Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework', International Journal of Transitional Justice, vol. 2, no. 3, pp. 331-355

How can transitional justice mechanisms – in particular, truth commissions (TCs) – better accommodate socio-economic issues in order to respond to new cycles of violence in post-conflict settings? On the basis of comparative country experiences, this article argues that TCs should expand their mandates to incorporate a legal framework that views the socio-economic root causes of conflict in terms of violations of economic, social and cultural rights. By adopting a human rights-based framework, TCs can contribute to post-conflict recovery by diagnosing the socio-economic causes of conflict and helping to orient national policy agendas towards addressing poverty and the structural inequalities that lead to violence.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3701>

Truth commissions and trials

The transitional justice literature has paid most attention to truth commissions and trials, particularly international trials. The following paper provides an overview of the goals and critiques of trials and truth commissions and develops a theory of their interaction with each other.

Dukalskis, A., 2011, 'Interactions in Transition: How Truth Commissions and Trials Complement or Constrain Each Other', *International Studies Review*, vol. 13, no. 3, pp. 432–451

How do truth commissions and human rights trials interact to facilitate or constrain transitional justice efforts? How might these interactions be affected by different sequencing choices and by legacies of violence and its termination? This article outlines a theoretical framework, and suggests that holding simultaneous truth commission and trials could offer the advantages of both approaches while mitigating the disadvantages of each. However, contextual factors will be crucial.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=4239>

Truth commissions

Truth commissions are non-judicial commissions established to investigate human rights abuses, usually those perpetrated by military, government or other state institutions. They aim to facilitate reconciliation by allowing alternative 'truths' to be heard and officially acknowledged, creating a more accurate historical record of human rights abuses. Truth commissions can also provide recommendations aimed at addressing the root causes and outcomes of the conflict. Often, this involves countering inequalities in society and developing a reparations policy.

The key reference is the following book, which summarises experiences with 21 truth commissions.

Hayner, P. B., 2002, 'Unspeakable Truths: Facing the Challenge of Truth Commissions', Routledge, London

Access text via BLDS: <http://bls.ids.ac.uk/document-delivery>

Amnesty International, 2007, 'Truth, Justice, and Reparation: Establishing an Effective Truth Commission', Amnesty International, London

How can a truth commission fulfil the rights of victims of human rights violations? What powers, functions and resources are required for an effective truth commission? This paper discusses the role of truth commissions in promoting human rights and provides guidelines for establishing an effective truth commission. It shows how truth commissions can fulfil the right of victims of human rights violations to truth, justice and reparation.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3094>

A key lesson is to ensure that truth commissions are well adapted to the local context. This report from the United States Institute for Peace argues that the Truth and Reconciliation Commission (TRC) in Sierra Leone received little popular support as it was not tailored to their preferences and needs.

Shaw, R., 2005, 'Rethinking Truth and Reconciliation Commissions: Lessons from Sierra Leone', United States Institute for Peace, Special Report, no. 130

Truth and Reconciliation Commissions (TRCs), are increasingly viewed as a standard part of any national post-conflict healing process. Can TRCs contribute to social recovery? This paper investigates Sierra Leone's TRC, which began its public hearings in 2003. It examines the compatibility of the TRC with the local recovery strategy - a "forgive and forget" approach. It argues that the TRC will be more effective if it builds on established practices of healing and coexistence.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=1279>

Wilson, R. A., 2001, 'The Politics of Truth and Reconciliation in South Africa: Legitimising the Post-Apartheid State', Cambridge University Press, Cambridge

This is a very important work on transitional justice, offering a thorough examination of South Africa's Truth and Reconciliation Commission (TRC). Chapter 2: 'Technologies of Truth: The TRC's Truth-making Machine' looks at how the South African Truth and TRC worked, and how its effectiveness was limited by the way it operated and its approach to truth.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/580>

One of the key outputs of truth commissions is a comprehensive report that documents human rights violations and war atrocities – with the aims of contributing to building a collective memory and educating the public. It is also hoped that this may contribute to individual and societal reconciliation.

Truth-telling is not limited to official truth commissions. Truth telling initiatives can also be unofficial and rooted in civil society. The following paper discusses the advantages and disadvantages of official and unofficial truth projects – and the relationship between the two.

Bickford, L., 2007, 'Unofficial Truth Projects', *Human Rights Quarterly*, vol. 29, no. 4, pp. 994-1035

What can we learn from a comparison between official truth commissions and Unofficial Truth Projects (UTPs), truth-telling initiatives that emerge from civil society? This article uses case studies from around the world to examine the two approaches. While neither is superior in terms of truth recovery, they each have certain strengths. The greatest asset of UTPs is their flexibility: they are unique, creative, and appropriate for a local context.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3139>

In order for truth commissions to have an impact on societies, politicians need to be genuinely committed to the process and to provide commissions with the necessary support and resources. In addition, local populations need to be consulted as their input and support is critical. There is some discussion in the literature of the danger that truth commissions may be established unilaterally by politicians in a haphazard fashion, with the primary aim of countering external pressure for international prosecutions. This greatly undermines the potential effectiveness of truth commissions. The following article discusses these developments in Serbia and Croatia.

Grodsky, B., 2009, 'International Prosecutions and Domestic Politics: The Use of Truth Commissions as Compromise Justice in Serbia and Croatia', *International Studies Review*, vol. 11, no. 4, pp. 687 - 706

What are the effects of external pressures for international prosecutions on transitional justice in post-conflict states? This article explores the impact of the internationalisation of criminal justice on domestic transitional justice efforts. Domestic political elites may find themselves sandwiched between international pressure for justice and constituent non-elite pressure against it. The experience of truth commissions in Serbia and Croatia between 2000 and 2005 illustrates the 'compromise justice' that may result, weakening justice mechanisms and making post-conflict reconciliation less likely.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3700>

Without careful planning, truth commissions are likely to fail. The following document describes the Haitian Truth and Reconciliation Commission, which did not achieve its aims due to the absence of political will and a series of institutional failings.

Quinn, J., 2009, 'Haiti's Failed Truth Commission: Lessons in Transitional Justice', *Journal of Human Rights*, vol. 8, no. 3., pp. 265-281

Why did the Haitian truth commission fail? This article evaluates the Haitian *Commission nationale de vérité et de justice* (CNVJ). It concludes that the Commission faced many complications (including a lack of political will and funding) and numerous institutional constraints (including lack of capacity, increasing security concerns, and shortages of time and funding). The Commission was therefore unable to contribute appropriately to the acknowledgement of Haiti's conflicted past, undermining donor attempts to advance reconciliation in the country.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3893>

Although a lot of research has focused on the design and implementation of truth commissions, relatively few studies have assessed their impact on victims. The following article argues that there is little evidence to support either positive or negative claims about the effects of truth commission on victims.

Mendeloff, D., 2009, 'Trauma and Vengeance: Assessing the Psychological and Emotional Effects of Post-Conflict Justice, *Human Rights Quarterly*, vol. 31, no. 3, pp. 592-623

Do war crimes tribunals or truth commissions provide psychological relief from war-induced trauma? Alternatively, does the experience of post-conflict justice exacerbate emotional and psychological suffering? This article assesses the available evidence on the impact of transitional justice, finding little support for either salutary or harmful effects of post-conflict justice. Assumptions that formal truth-telling processes satisfy victims' need for justice, ease their psychological suffering and dampen their desire for vengeance should be questioned.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3847>

Trials

Trials can take different forms including domestic, international and 'mixed' courts and transnational criminal and civil proceedings. Their varying forms and the advantages and disadvantages of each are outlined in the scoping study by Jane Alexander above. Domestic courts refer in this context to a situation where there is no direct international intervention in the judiciary. International courts have taken the form of ad hoc, temporary tribunals – notably the International Criminal Tribunals for former Yugoslavia (ICTY) and Rwanda (ICTR) in the 1990s. In 2002 the International Criminal Court (ICC) was established to serve as a permanent international tribunal. Mixed or hybrid courts, located within the country in which the crimes were perpetrated, have been introduced as a mechanism for combining international intervention and support for the national judicial system.

The ICC has intervened in ongoing conflicts in Northern Uganda, Darfur and the Democratic Republic of the Congo, which has led to further debate about peace versus justice. The following publication explores through eight papers the impact of the ICC in conflicts in Africa.

Waddell, N. and Clark, P., eds., 2008, 'Courting Conflict? Justice, Peace and the ICC in Africa', Royal African Society, London

Is the International Criminal Court (ICC) pursuing too aggressive and disruptive an agenda in Africa, without proper priorities? This series of papers suggests that the ICC has made a promising beginning in many respects, but that its work in Africa highlights some significant weakness. According to one charge, the ICC's pursuit of justice jeopardises fragile peace deals, risking the prolongation of conflict. The papers focus on the ICC's response to several African conflicts, particularly in Uganda, Sudan and the Democratic Republic of Congo. Much depends on the Court's capacity to absorb early lessons and to demonstrate a clear role – both in its own right and in relation to other judicial and non-judicial initiatives.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3149>

For further information see the **ICC website**, including the **Rome Statute of the International Criminal Court** and the **Rules and Procedure of Evidence**.

<http://www.icc-cpi.int/Menus/ICC?lan=en-GB>

Hybrid or mixed courts are often considered to incorporate the benefits of both international and national courts. They allow for international expertise and contribute to capacity building of national legal systems. In addition, their situation in the local setting allows for greater ownership and potential impact on the population.

This OHCHR report explores the potential positive impact of hybrid courts on domestic justice systems and respect for human rights, based on experiences since 1999.

OHCHR, 2006, 'Rule-of-Law Tools for Post-Conflict States: Maximizing the Legacy of Hybrid Courts', Office of the United Nations High Commissioner for Human Rights, New York and Geneva

How can the international community help to bolster the rule of law in post-conflict states? This report argues that hybrid courts can have a positive impact on the domestic justice system of post-conflict states. If used effectively, the opportunity afforded by the establishment of hybrid courts can act as a catalyst for change in legal institutions and culture.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3097>

The International Centre for Transitional Justice has published a series of case studies on international, hybrid and domestic trials as part of its Prosecutions Programme. They present key challenges, lessons learned and guidance on setting up such institutions. The studies include:

Ivanišević, B., 2008, 'The War Crimes Chamber in Bosnia and Herzegovina: From Hybrid to Domestic Court', International Centre for Transitional Justice

<http://ictj.org/sites/default/files/ICTJ-FormerYugoslavia-Domestic-Court-2008-English.pdf>

Ivanišević, B., 2007, 'Against the Current: War Crimes Prosecutions in Serbia', International Centre for Transitional Justice

http://ictj.org/sites/default/files/ICTJ-FormerYugoslavia-Crimes-Prosecutions-2007-English_1.pdf

Perriello, T. and Wierda, M., 2006, 'Lessons from the Deployment of International Judges and Prosecutors in Kosovo', International Centre for Transitional Justice

http://ictj.org/sites/default/files/ICTJ-FormerYugoslavia-Courts-Study-2006-English_0.pdf

Perriello, T. and Wierda, M., 2006, 'The Special Court for Sierra Leone under Scrutiny', International Centre for Transitional Justice

<http://ictj.org/sites/default/files/ICTJ-SierraLeone-Special-Court-2006-English.pdf>

Reparations, memorialisation, vetting and amnesty

Reparations

Reparations refer to various measures that aim to redress past wrongs and provide compensation, rehabilitation and satisfaction for victims. These measures can be provision of goods or services or the granting of legal rights, such as citizenship and nationality. Reparations also include symbolic measures such as disclosure of truth, public apologies, memorials and monuments, and commemoration of victims. Reparations can be judicial or non-judicial and can be allocated individually or collectively.

OHCHR, 2008, 'Rule-of-Law Tools for Post-Conflict States: Reparations Programmes', Office of the United Nations High Commissioner for Human Rights, New York and Geneva

How can effective reparations programmes be conducted? What role should the international community play? This publication offers a practical guide for reparations programmes. It is important to clarify legal obligations and the moral reasons for reparations, to address the political concerns and to be aware of cultural issues. International actors should rethink their reluctance to provide financial support to reparations efforts.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3159>

de Greiff, P. de, 2006, 'The Handbook of Reparations', Oxford University Press, Oxford Scholarship Online

This handbook provides a broad overview of reparations and a series of detailed thematic and country case studies.

<http://www.oxfordscholarship.com/oso/public/content/politicalscience/9780199291922/toc.html>

Memorialisation

Memorialisation refers to a range of processes and forms of collective remembrance; it is often considered necessary to recover from past atrocity. Memorials, museums and places of memory represent important sites where the past can be confronted. Unlike other transitional mechanisms such as prosecutions and truth commissions, memorialisation can involve large numbers of people over long periods of time. It can also be initiated by both communities and governments. One of the key challenges of memorialisation is determining how to address the narrative of past atrocity. In some cases, sites avoid presenting one narrative and aim instead to promote critical thinking and debate. In other situations, memorialisation aims to facilitate reconciliation through a particular narrative and new national identity.

Hamber, B., Ševcenko, L., and Naidu, E., 2010, 'Utopian Dreams or Practical Possibilities? The Challenges of Evaluating the Impact of Memorialisation in Societies in Transition', International Journal of Transitional Justice, vol. 4, no. 3, pp. 397-420

How can memorialisation of the past support social reconstruction or transitional justice? This study evaluates the youth education programmes of the International Coalition of Sites of Conscience in Italy, Bangladesh and Chile in order to suggest strategies for conceptualising and evaluating the impact of memorialisation. It argues that while much thinking remains to be done on how to evaluate memorialisation in societies in transition, transitional processes can make better use of the resources that memorial sites have to offer. The impact of memorial sites needs to be maximised through long-term investment, ongoing programmes and accompanying evaluation.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=4002>

Vetting

Vetting is a process whereby individuals who lack integrity and who are considered a threat to the state are excluded or removed from public office and can form part of transitional justice strategies. Vetting is particularly rigorous in the security and justice sectors – as reforms of these sectors contribute to criminal accountability for past abuses and the prevention of future violations.

OHCHR, 2006, 'Rule-of-Law Tools for Post-Conflict States: Vetting - An Operational Framework', Office of the United Nations High Commissioner for Human Rights, New York and Geneva

Reforming public institutions is a core task in countries in transition from authoritarianism or conflict to democracy and peace. This publication sets out an operational framework for vetting and institutional reform. The complex challenges of transitional contexts require a comprehensive approach to institutional reform. An effective and legitimate reform strategy will situate vetting in its broader context.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3108>

DCAF, 2006, 'Vetting and the Security Sector', DCAF Backgrounder, Geneva Centre for the Democratic Control of Armed Forces, Geneva

<http://www.dcaf.ch/Publications/Vetting-and-the-Security-Sector>

Amnesty

Granting amnesty for perpetrators of human rights abuses has been justified on the grounds of promoting societal reconciliation. It may be a tactical decision where former human rights abusers retain considerable power in relation to the new regime. However, others argue that it creates impunity, encouraging the continuation of human rights violations. The advantages and risks associated with amnesty are discussed in section 4.7 of Jane Alexander's scoping paper:

<http://www.gsdr.org/go/display&type=Document&id=678>

The following article argues for a pragmatic approach to transitional justice, which does not presume that trials are the best way to prevent atrocities. Instead, it highlights the value of amnesties as a bargaining tool to negotiate peace.

Snyder, J. and Vinjamuri, L., 2003, 'Trials and Errors: Principle and Pragmatism in Strategies of International Justice', International Security, vol. 28, no. 3, pp. 5-44

How effective in preventing human rights abuses are tribunals for the perpetrators of atrocities? This article reviews recent post-conflict experiences and finds little evidence that trials successfully deter future violence. Prosecution according to universal standards risks causing more atrocities than it would prevent, because it pays insufficient attention to political realities. More pragmatic approaches based on political negotiation, selective amnesties and long-term institutional strengthening have a better chance of reducing tension and consolidating peaceful democracies.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3168>

The following articles examine the evolution of the anti-amnesty / anti-impunity norm and consider the debates concerning 'peace versus justice' (or 'amnesty versus trials' as it is often framed) arguing that greater attention should be paid to broader notions of accountability.

Pensky, M., 2008, 'Amnesty on Trial: Impunity, Accountability and the Norms of International Law', *Ethics and Global Politics*, vol. 1, no. 1-2, pp. 1-40

International criminal law is at a crossroads; how can it reconcile its desire to punish crimes against humanity with the use of domestic amnesties for achieving peace? This article argues that the International Criminal Court's attitude toward domestic legal amnesties for international crimes will determine the extent to which international law embraces its role in embodying the ideals of democratic accountability and human rights. If international law does not distinguish itself by broadening its definition of justice beyond mere retribution and punishment, it risks losing the relevance and prominence it has fought so hard to achieve.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3171>

Human Rights Watch, 2009, 'Selling Justice Short: Why Accountability Matters for Peace', *Human Rights Watch*, New York
Sacrificing justice in the hope of securing peace is often projected as a more realistic route to ending conflict and bringing about stability than holding perpetrators to account. Yet this report argues that the impact of justice is too often undervalued when weighing objectives in resolving a conflict. While there is no one formula suitable to all situations, a decision to ignore atrocities and to reinforce a culture of impunity may carry a high price.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3503>

Non-state justice systems

There is debate about the use of traditional and other non-state or informal systems in transitional or post-conflict situations. They are considered to be beneficial in that they allow for local contexts to be incorporated into the justice system; they facilitate ownership and participation; they are familiar to local populations; and they can be quick and convenient. Such systems can be problematic, however, as they are often criticised for entrenching local-level power inequalities that lead to the exclusion of certain groups.

The following documents examine traditional justice systems in Africa and evaluate how they can contribute to transitional justice and reconciliation goals.

Huysse, L., 2008, 'Introduction: Tradition-based Approaches in Peacemaking, Transitional Justice and Reconciliation Policies' in eds. Huysse, L. and Salter, M., *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*, International IDEA, Stockholm, pp. 1-22

What role does traditional justice play in dealing with legacies of human rights abuses? How can interpersonal and community-based practices interrelate with state-organised and internationally sponsored forms of retributive justice and truth telling? This report provides a comparative analysis of traditional justice mechanisms in Rwanda, Sierra Leone, Mozambique, Uganda and Burundi. Most of the countries studied combine traditional justice and reconciliation instruments with other transitional justice strategies.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3011>

Mekonnen, D., 2010, 'Indigenous Legal Tradition as a Supplement to African Transitional Justice Initiatives', *African Journal of Conflict Resolution*, vol.10, no. 3, pp. 101-122

http://www.accord.org.za/downloads/ajcr/ajcr_2010_3.pdf

Much of the literature on the use of traditional justice systems in transitional justice focuses on the gacaca courts in Rwanda. These are state-sponsored courts to try genocide cases at the local level. Inspired by traditional practices, they act as specialised grassroots courts to serve as alternatives to the formal courts.

Penal Reform International Research Team, 2003, *On Gacaca, Report IV: January 2003*, Penal Reform International .

The confession procedure has become a cornerstone of the Rwandan alternative to formal courts in dealing with the genocide. How effective is it? What are the drawbacks? This report assesses the gacaca system and argues that while it is probably the best method of speeding up the judicial process, there is a danger that it can lead to a presumption of guilt rather than a presumption of innocence. Other PRI gacaca monitoring reports can be found at www.penalreform.org.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1138>

Brouneus, K., 2008, 'Truth-Telling as Talking Cure? Insecurity and Retraumatization in the Rwandan Gacaca Courts', *Security Dialogue* vol. 39, no. 1, pp. 55-76

How does testifying in truth and reconciliation commissions affect psychological health? Is the experience healing or retraumatizing? This study presents evidence from interviews with women who have testified in Rwanda's local gacaca courts. The study finds that traumatisation, ill-health, insecurity and isolation dominate the lives of the testifying women. They are threatened before, during and after giving testimony in the gacaca.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=3016>

Ingelaere, B., 2009, "Does the Truth Pass Across the Fire Without Burning?' Locating the Short Circuit in Rwanda's Gacaca Courts', *The Journal of Modern African Studies*, vol. 47, no. 4, pp. 507-528

Are the Gacaca courts in Rwanda delivering reconciliation? This article, based on extensive field research, argues that the modern incarnation of this traditional form of justice is short-circuiting reconciliation by enforcing values and processes that run counter to established societal practices. In reality, the Gacaca courts are becoming more the tools of entrenched elites to manipulate society than a viable means of establishing truth and administering justice. As currently operating, this legal mechanism is delivering neither justice nor reconciliation and deserves closer scrutiny and greater scepticism from donors.

One-page summary: <http://www.gsdrc.org/go/display&type=Document&id=3794>

Clark, P., 2010, *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers*, Cambridge University Press, Cambridge

Drawing on more than six years of fieldwork in Rwanda and nearly five hundred interviews with participants in trials, this in-depth ethnographic investigation of a complex transitional justice institution explores the ways in which Rwandans interpret Gacaca.

http://www.cambridge.org/gb/knowledge/isbn/item2705297/?site_locale=en_GB

What other resources are available from the GSDRC?

Additional resources on gender and transitional justice can be accessed on the 'human rights, gender and social exclusion' section of this guide.

Additional resources on non-state justice and security systems can be accessed on the 'conflict-affected and fragile states' and 'non-state justice and security systems' section of this guide.

Additional information resources

Among the most useful sites are:

International Internet Bibliography on Transitional Justice

This web page includes around 2000 texts in English and German on transitional justice mechanisms, international law, history and democratisation, and a country index featuring texts from Africa (particularly South Africa), Western and Eastern Europe, Asia, the USA and Latin America. This bibliography is a joint project by the Law Faculties of the University of the Western Cape, Cape Town, and Humboldt University, Berlin.

<http://userpage.zedat.fu-berlin.de/~theissen/biblio/>

INCORE Guide to internet sources on Truth and Reconciliation

This guide includes further links to relevant academic centres, articles, news articles, and NGOs.

<http://www.incore.ulst.ac.uk/services/cds/themes/truth.html>

The International Centre for Transitional Justice

This useful website includes information on in-country assistance in Asia-Pacific, Africa, the Americas and Europe. The ICTJ newsletter, 'Transitional Justice in the News', provides regular updates on events and developments throughout the world. The entire archive can be viewed on the website.

<http://www.ictj.org/>

The International Institute for Democracy and Electoral Assistance (IDEA)

This site includes country-specific reports on a range of countries undergoing transition and the two online handbooks mentioned above.

<http://www.idea.int/>

Centre for the Study of Violence and Reconciliation (CSVR)

The CSVR's Transitional Justice Programme explores the relationship between past conflicts, reconciliation, violence prevention and justice. Its site includes discussion of these issues and links to research and intervention projects and a range of publications.

<http://www.csvr.org.za/>

African Transitional Justice Research Network (ATJRN)

The ATJRN builds the capacity of local level researchers and civil society organisations in African countries so that they can inform and evaluate transitional justice mechanisms. The site contains a variety of transitional justice publications.

<http://www.transitionaljustice.org/>

Justice in Perspective

This site provides information on transitional justice mechanisms which have been, and are currently being, undertaken or explored

in various countries. The information is prepared to provide a quick overview of the different institutions and processes and easy access to key sites.

<http://www.justiceinperspective.org.za/>

Oxford Transitional Justice Research (OTJR)

The OTJR is an inter-disciplinary network of Oxford-based staff and students working on issues of "transition" in states recovering from mass conflict and/or repressive rule. It publishes working papers and online debates.

<http://www.csls.ox.ac.uk/otjr.php>

Research Group on Transitional Justice

This research group, based at the Faculty of Law of the Catholic University of Leuven, conducts research, teaching and consultancy work in transitional justice.

<http://www.transitionaljustice.be/>

For information on some transitional justice initiatives around the world, see the following resources:

East Timor: Final Report of the Commission for Reception, Truth and Reconciliation in East Timor (CAVR)

<http://www.etan.org/news/2006/cavr.htm>

El Salvador: The report of the Commission on the Truth for El Salvador

This is the full version of the report of the Commission on the Truth for El Salvador. It outlines the commission's mandate, describes its findings, and makes recommendations for promoting peace and protecting human rights.

<http://www.usip.org/files/file/ElSalvador-Report.pdf>

Former Yugoslavia: The International Criminal Tribunal for former Yugoslavia

This official site of the International Criminal Tribunal for former Yugoslavia includes press releases, basic legal texts, and information about indictments, proceedings and judgments.

<http://www.un.org/icty/>

International: The Statute of the International Criminal Court

This UN website houses the statute of the International Criminal Court (ICC), outlines the history of proposals for an ICC and includes a section on 'public information'.

<http://www.icc-cpi.int/>

Rwanda: The International Criminal Tribunal for Rwanda

This official website includes general information about the tribunal, legal texts, details of cases, annual reports, and a newly introduced monthly newsletter.

<http://www.unictr.org/>

South Africa: The website of the Truth and Reconciliation Commission

This website includes the Final Report of the Truth and Reconciliation Commission.

<http://www.justice.gov.za/trc/>

Sierra Leone: The Truth and Reconciliation Commission

<http://www.sierra-leone.org/TRCDocuments.html>

Sierra Leone: Special Court

This page about the Sierra Leone Special Court includes useful documents on the court statute and details of indictments.

<http://www.sc-sl.org/>

Monitoring and evaluation

Justice services need to be accurately monitored and evaluated to improve the equitable delivery of justice. Effective monitoring and evaluation is difficult, but good data highlights when improvement is necessary and can ensure the success of reforms. Evaluation should be relevant to particular local contexts and use a sound evidence base to measure meaningful objectives. The resources on this page contain guidelines for developing appropriate performance indicators and monitoring techniques and approaches relevant to the justice sector.

Where is a good place to start?

Vera Institute of Justice, 2003, Measuring Progress toward Safety and Justice: A Global Guide to the Design of Performance Indicators across the Justice Sector, Vera Institute of Justice.

How can progress towards delivering safety, security and justice be measured? What are the key steps in designing a system of indicators to gauge the impact of sector reforms? This guide sets out a process that can be used to develop appropriate indicators. It is intended as a practical tool for use around the world.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/843>

Carothers, T., 2003, Promoting the Rule of Law Abroad: The Problem of Knowledge, Carnegie Endowment for International Peace

The causal relationship between rule of law promotion and economic development and democracy is not as direct as it might appear but remain donors' twin rationale for these activities. Is there a problem of knowledge concerning rule of law projects? What should practitioners know when they promote these activities?

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/448>

Legal and judicial sector

These documents provide guidance on evaluations that relate specifically to the legal and judicial sector.

World Bank, 2002, Legal and Judicial Sector Assessment Manual, The World Bank, Washington DC.

How can the rule of law be achieved? What is the best way to reform a judicial and legal system? This manual provides a tool to carry out a diagnosis of a country's legal and judicial system prior to reform. The promotion of the rule of law is distinct from other public sector reform. It requires long-term commitment, and must be approached strategically, with a holistic and complete reform programme.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/1038>

Messick, R. 2001, 'Key functions of legal systems with suggested performance measures,' draft paper hosted on the World Bank 'Legal Institutions of the Market Economy.'

This paper attempts to help reformers devise evaluation techniques that can be adapted to specific situations in different countries. The first section asks how well the legal system as a whole is performing its four key functions: the deterrence of wrongful conduct, the facilitation of voluntary transactions, the resolution of private disputes, and the redress of the abuse of government power. The second section attempts to assess how well the key institutions of the juridical system, such as the courts, the private bar, and the public prosecutors, are working.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/282>

Hammergren, L., 'Diagnosing Judicial Performance: Toward a Tool to Help Guide Judicial Reform Programs', paper prepared for Transparency International 9th International Anti-Corruption Conference.

This paper provides a checklist for diagnosing judicial performance. It aims to evaluate the transparency and related aspects of judicial performance and is intended to promote reform programmes. The list is composed of the characteristics believed to be critical in producing the desired patterns of behaviour. It is intended to be applied globally, and was not written with any specific legal system or tradition in mind. It aims to capture universal factors that will help identify real or potential problems in judicial operations.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/440>

Bakrania, S., 2009, 'Institutional Assessment of the Police and Justice Sectors', Helpdesk Research Report, GSDRC, Birmingham

This report includes coverage of a number of donor designed frameworks for assessing the policing and justice sector. According to much of the general academic and policy literature on SSAJ programmes, substantial reform of the police force is only possible when reform of the justice system is administered at the same time. However, whilst the underlying principles for the institutional assessment of policing and justice may be similar, the specific frameworks espoused by donors appear to tackle the institutional assessment of policing and justice separately.

<http://www.gsdrc.org/docs/open/HD604.pdf>

Additional information resources

Vera Institute of Justice is an independent center for policy and practice, which aims to make justice systems fairer and more effective through research and innovation.

<http://www.vera.org/>

The **Performance Assessment Resource Centre (PARC)** supports the improved evaluation of poverty-focused international development practice. The parc targets resources for developing country governments, donor agencies, recipient agencies, project managers and consultants.

http://www.iodparc.com/resource_centre.html

Donor approaches to justice

DFID's approach to the justice sector is outlined in the [overview](#) section of this guide. Issues like the accessibility of justice mechanisms to the poor, the perspectives of users, human rights and penal reform receive varying levels of attention from other donors. For example, the World Bank focuses on legal and judicial reform for the purpose of strengthening market institutions, and USAID on the 'rule of law'. Human rights are emphasised by the Ford Foundation, the European Union and the Canadian and Swedish development agencies. Policy documents and webpages are listed below. In general they show that more donors are paying attention to issues like access to justice in their approaches.

Comparative studies

Piron, L-H, 2005, Donor Assistance to Justice Sector Reform in Africa: Living Up to the New Agenda? Open Society Justice Initiative

Is donor assistance to promote justice sector reform grounded in an adequate and appropriate understanding of African realities? Does it complement or conflict with the new poverty reduction agenda? This paper outlines the history and current status of justice sector aid in sub-Saharan Africa. Justice sector aid could be a pro-poor, long term, developmental endeavour that contributes to the realisation of human rights, but only if key changes take place.

One-page summary: <http://www.gsdr.org/go/display&type=Document&id=1573>

A series of reports from the Open Society Justice Initiative examine donor and government support for criminal justice reform projects, offer recommendations for more effective investment in the field, and provide methodologies for calculating the costs and benefits of pretrial detention and legal aid. Included are a workshop report of a meeting of justice focal points in donor agencies, comparing their policies and experiences, and a global mapping of assistance to criminal justice.

Open Society Institute, 2008, 'Towards a New Consensus on Access to Justice', Summary of Workshop, 29-30 April, Brussels

http://www.soros.org/initiatives/justice/focus/criminal_justice/articles_publications/publications/justice_20081124/justice_20081124.pdf

Perlin, J. and Baird, M. I., 2008, 'Towards a New Consensus on Justice Reform: Mapping the Criminal Justice Sector', Open Society Justice Initiative

http://www.soros.org/initiatives/justice/focus/criminal_justice/articles_publications/publications/justice_20081124/justice_20081124c.pdf

African Development Bank

African Development Bank, 2009, 'Agreement for the Establishment of the African Legal Support Facility (ALSF)', AfDB

<http://bit.ly/x7xj0h>

African Development Bank, 2000, Bank Group Strategy Paper on Law for Development, African Development Bank

This paper recognises that at the base of good governance lies an equitable, effective and efficient legal and judicial system. However, a successful outcome relies on African member countries' commitment to, and implementation of, the programme. The 'intangible' impacts of such a programme are difficult to quantify. The paper acknowledges that it may take time to fully realise the impact on the poor in terms of their perception of the equity of the system, or the economic benefits of specific reforms.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/312>

Asian Development Bank

Asian Development Bank, 2009, 'ADB Technical Assistance for Justice Reform in Developing Member Countries: Evaluation Study', ADB

<http://beta.adb.org/sites/default/files/SES-REG-2009-06.pdf>

Asian Development Bank, 2004, 'Law and Policy Reform Activities in Support of Poverty Reduction', ADB

How does the Asian Development Bank (ADB) approach legal and judicial policy reform in its member countries? This report outlines its main areas of operation and priorities for the future. In line with the Bank's commitment to poverty reduction, the scope of its work in the sector has been expanded to include interventions that address wider issues of access to justice.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1033>

AusAID

AusAID's thematic strategy on effective governance includes a focus on security and justice:

<http://www.ausaid.gov.au/keyaid/gover.cfm>

Canadian International Development Agency

Toope, S. J., 1997, Programming in Legal and Judicial Reform: An Analytical Framework for CIDA

How can legal systems be evaluated? What are the indicators of a well-functioning system of justice? This study looks at how legal and judicial reform fits within the overall mandate of CIDA. It suggests that whilst it is not possible to develop an inclusively supported definition of the rule of law, there are factors which may be said collectively to define a sound and effective legal system.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/1820>

CIDA, 1996, 'Policy for CIDA on Human Rights, Democratization and Good Governance', Canadian International Development Agency, Quebec

<http://www.acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/eng/REN-218124821-P93>

European Union

The European Union (EU)'s web page on Human Rights and Democracy

<http://ec.europa.eu/europeaid/what/human-rights/>

European Instrument for Democracy and Human Rights (EIDHR)

http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

European Bank for Reconstruction and Development (EBRD) Legal Transition Programme

<http://www.ebrd.com/downloads/research/factsheets/ltf.pdf>

Ford Foundation

The Ford Foundation's web page on Human Rights:

<http://www.fordfoundation.org/issues/human-rights>

McClymont, M. and Golub, S 2000, 'Non-lawyers as Legal Resources for their Communities' in Many Roads to Justice, Ford Foundation.

This chapter reviews the methods used by non-governmental organisations and community based organisations supported by the Ford Foundation to enable disadvantaged populations to become more legally self-sufficient, filling legal aid voids that exist in societies with few lawyers. 'Non-lawyers' refers mainly to professional or voluntary paralegals but also to ordinary community residents who use the law collectively or individually to gain access to government services and legal processes. Paralegal work aims to increase critical awareness about rights and the law, the ability to assert rights and the capacity to mobilise for change.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/143>

Japan International Cooperation Agency

Japan International Cooperation Agency, 2001, 'Basic Policy for Legal Assistance of Japan,' paper for the World Bank Conference on Legal and Justice Reform co-hosted by the Government of Russia, 2001

Background on the Japanese government's approach to justice sector reform. This report discusses the purpose of Legal Assistance, and identifies important considerations which must be borne in mind when one country provides Legal Assistance to another. Legal Assistance is defined as 'extending support to developing countries in their efforts to develop their law, which encompasses support for the drafting of specific bills, the creation of various legal systems for the implementation of laws and the capacity building of legal experts and practitioners'.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/403>

Swedish International Development Cooperation Agency

Sida's Democracy, Human Rights and Equality web page:

<http://www.sida.se/English/About-us/our-fields-of-work/Democracy-human-rights-and-equality/>

Swedish International Development Co-operation Agency, 2002, 'Swedish Development Co-operation in the Legal Sector', SIDA

What are the key features of Swedish development co-operation in the legal sector? This report outlines the importance placed on judicial and legal reforms in achieving democratic governance, poverty reduction and equality. It describes international trends and makes recommendations for effective interventions, and identifies future priorities for Sweden.

One-page summary: <http://www.gsdr.org/go/display/document/legacyid/976>

United Nations Development Programme (UNDP)

UNDP web page on Access to Justice and Rule of Law:

http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/focus_areas/focus_justice_law.html

UNDP, 2004, 'Access to Justice: Practice Note', UNDP

http://web.undp.org/governance/docs/Justice_PN_English.pdf

United States Agency for International Development (USAID)

USAID's Rule of Law web page:

http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/rule_of_law/

United States Agency for International Development, 2002, Achievements in Building and Maintaining the Rule of Law: MSI's Studies in LAC, E&E, AFR, and ANE, Office of Democracy and Governance, USAID

The US Agency for International Development (USAID) implements programmes to develop the rule of law and assist the justice sector in more than 50 countries. Over the past two decades, its experience in the sector has grown, and its law and justice activities have expanded to all regions of operation. This paper takes a long-term view of USAID rule of law programmes and offers a collection of achievements linked to them.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/916>

World Bank

Overview of the World Bank's work on justice reform:

<http://go.worldbank.org/LE354RG990>

World Bank Law and Justice Institutions web page:

<http://go.worldbank.org/OESX5Q35R0>

Sage, C., Menzies, N., Woolcock, M., 2010, 'Taking the Rules of the Game Seriously: Mainstreaming Justice in Development - The World Bank's Justice for the Poor Program' in Legal Empowerment: Practitioners' Perspectives, ed S. Golub, International Development Law Organization, Rome, pp.19-38

http://www.idlo.int/Documents/Legal_Empowerment_Practitioners_Perspectives_Book.pdf

World Bank, 2003, Legal and Judicial Reform: Strategic Directions, Legal Vice Presidency, The World Bank

Sustainable and equitable economic growth and poverty reduction cannot be achieved without the rule of law. The World Bank's mission is to promote growth and alleviate poverty, which has resulted in a stronger focus on legal and judicial reform. This report outlines the Bank's activities in the sector and explains its strategic approach.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/949>

World Bank, 2004, 'Initiatives in Legal and Judicial Reform', World Bank, Washington DC

This selection of papers attempts to provide some insights on how a reform programme can be realised. The research seeks to draw lessons from the history of earlier reform initiatives. The papers range from broad, multi-country studies of efforts that lasted decades, to reviews of individual projects in a single country. They are divided according to whether the principal focus is (1) primarily historical, (2) programme strategy, (3) the efficacy of external support, or (4) targeted reviews of specific country programmes.

One-page summary: <http://www.gsdrc.org/go/display/document/legacyid/302>