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Establishing Law and Order After Conflict

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Summary

Providing security and reconstructing internal security institutions is a key component of nation-building operations. As the U.S. military's *Field Manual 3-07.31 Peace Ops* notes, these tasks are vital to establish "a secure environment" in order to "create the conditions for other political, economic, and humanitarian peace building activities."[1] They are also vital to lay the foundations for a strong and legitimate state. Consequently, this study asks two major questions: How successful have U.S. and allied efforts been in reconstructing internal security institutions? What are the most important lessons for current and future operations? To help answer these questions, we examine data from efforts to reconstruct internal security in Kosovo, Afghanistan, and Iraq. We then compare the results with data from six other cases in which the United States has helped reconstruct security institutions during nation-building missions: Panama, El Salvador, Somalia, Haiti, Bosnia, and East Timor.

Success in Reconstructing Internal Security

This study makes three main arguments. First, establishing security during the "golden hour"[2] should be the most immediate concern of

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[1] U.S. Army, Marine Corps, Navy, and Air Force, *Peace Ops: Multi-Service Tactics, Techniques, and Procedures for Conducting Peace Operations*, FM 3-07.31, October 2003, p. III-1.

[2] The golden hour refers to the critical hour following a life trauma when intervention—or lack thereof—determines the fate of the victim.

policymakers after the conclusion of major combat operations. This golden hour is a time frame of several weeks to several months, during which external intervention may enjoy some popular support and international legitimacy, and when potential spoilers may have insufficient time to organize. Key tasks include rapidly deploying international military and police forces, vetting and deploying indigenous police and other security forces, and establishing at least a temporary rule of law. Establishing security is critical in the short run to avert chaos and prevent criminal and insurgent organizations from securing a foothold in society, as well as to facilitate reconstruction in other areas such as health, basic infrastructure, and the economy. It is also important over the long run, since a state's prospects for stability depend on viable police, security forces, and justice structures that can establish order. This means dealing with the most significant internal threats. Examples include defeating and deterring insurgent groups, organized criminal enterprises such as those that facilitate drug trafficking, and local militia and warlords.

Second, past cases demonstrate that reconstructing and reforming the police and security forces are not enough to create a secure environment and protect civil liberties. Effective police and internal security forces require a functioning justice system. Arbitrary or politicized sentencing, an incompetent or corrupt judiciary, and inhumane prison conditions quickly undermine the benefits that come from better policing. A weak justice system also increases the prevalence of organized crime and can lead to a spiral of political assassinations, extrajudicial killings, and petty crime.[3] The inability to establish a viable justice system has plagued most efforts to reconstruct foreign police and security forces.

Third, our research indicates some very rough guidelines for successfully reconstructing security after major combat. They suggest that U.S.-led efforts in Iraq and Afghanistan have not met most of these minimum resource levels. Although the following levels will not

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[3] This point was made forcefully in the U.S. domestic context as far back as 1967. President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Police*, Washington, D.C., 1967.

guarantee success in establishing security, we believe that anything less would make it more difficult for outside powers to improve the security environment and rapidly reconstruct internal security institutions.

- **International troops and police.** International troop levels should be at least 1,000 soldiers per 100,000 inhabitants and international police levels should be at least 150 police officers per 100,000 inhabitants, especially when there is the potential for severe instability. These numbers are important for policing streets, defeating and deterring insurgents, patrolling borders, securing roads, and combating organized crime.
- **Domestic police.** After five years, the level of domestic police should be at least 200 police per 100,000 inhabitants. Police are important for conducting general law enforcement functions such as dealing with petty crime, as well as more specialized functions such as conducting counter-drug operations.
- **Assistance.** Total annual financial assistance should be at least $250 per capita for the first two years of reconstruction. This amount is critical to pay the high costs of such objectives as deploying military and police forces, training indigenous police and other personnel, providing equipment, and building infrastructure.
- **Duration.** Security assistance should last for at least five years. Time is critical because it can take several years to train, equip, and mentor police and other security forces, as well as to build and refurbish infrastructure. Justice systems can be extremely difficult and time consuming to build, especially in countries that have little formal rule of law when reconstruction begins.

According to our analysis, U.S. and allied efforts were most successful in Kosovo and East Timor in decreasing the level of violence and improving the rule of law. Afghanistan experienced increasing levels of violence and a slightly deteriorating rule of law. It is still too early to assess Iraq, but current data show increasing levels of violence and little change in the rule of law. The rest of the cases are either
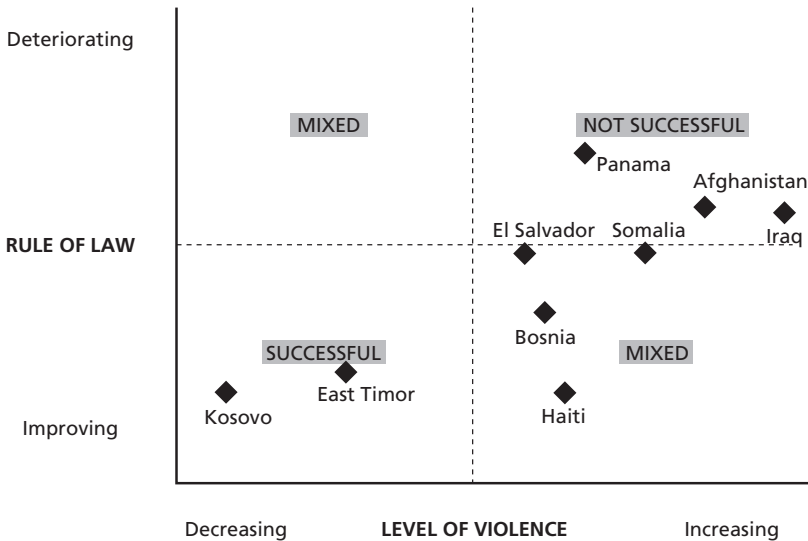
mixed or not successful. It is worth noting that Kosovo and East Timor had the highest level of civilian police forces, which were armed and given arrest authority. While it is important to ensure that military authorities are ready to assume public security responsibilities after major combat, it is also necessary to recognize the successful use of international civilian police and the growing reliance of UN missions on a strong police component. In Kosovo, for example, carabinieri and gendarmerie forces were put under civilian, not military, authority. This contrasts with recent U.S. practices in Iraq and Afghanistan.

All societies in transition experience a rise in crime and an increase in violence as old security institutions are dismantled and new ones are built. Thus, an increase in violence and crime, especially in the initial period after reconstruction begins, does not by itself demonstrate that the mission is failing. In addition, the overall objectives of a nation-building mission—such as the creation of a peaceful, democratic, and market-oriented government—can be achieved against the backdrop of some increase in criminality and violence. However, rising levels of crime and political violence after several years do provide an important indication of the competence of police and other internal security forces. The issue, therefore, is one of degree and duration (summarized in Figure S.1). The x-axis indicates the level of violence; the y-axis denotes the rule of law. The locations of countries are rough estimates. We plotted them according to the percentage increase or decrease in homicide or terrorist rates over the first five years of reconstruction, as well as the percentage improvement or deterioration in the rule of law.

Future Implications

What are the implications for the U.S. government that should inform its approaches to reconstructing internal security? Afghanistan and Iraq have reinforced well-worn lessons, even if they have pro-

Figure S.1
Outcome Measures

Deteriorating

MIXED

NOT SUCCESSFUL

Panama

Afghanistan

RULE OF LAW

El Salvador   Somalia   Iraq

Bosnia

SUCCESSFUL   MIXED

East Timor

Kosovo   Haiti

Improving

Decreasing   **LEVEL OF VIOLENCE**   Increasing

vided new models for the management and implementation of post-conflict internal security programs. Although the international community learned a great deal about post-conflict policing during the 1990s, the United States and its allies applied few of the lessons in Afghanistan or Iraq. As summarized in Table S.1, we believe it important to highlight six policy implications for U.S. policy on post-conflict internal security.

Give as Much Attention to Planning Post-Conflict Policing as to Planning Combat Operations

There are three key factors that would improve performance here. First, policing and internal security reconstruction missions need to be provided with intelligence as good as, if different in kind, to that

Table S.1
Summary of Policy Recommendations

Recommendation	Detail
Give as much attention to planning post-conflict internal security as to planning combat operations	• Gather systematic, actionable intelligence on internal security systems prior to an intervention • Improve institutional planning mechanisms within the U.S. government • Ensure pre-intervention mobilization of post-conflict police and justice resources
Negotiate a peace treaty or formal surrender	• In cases of civil war, devote sufficient resources to negotiating a peace treaty among warring parties • In cases of interstate war, secure a formal surrender from defeated parties where possible
Fill the security gap quickly with U.S. (and allied) military and constabulary forces	• Amend U.S. joint doctrine, training, and posture • Develop shared (combined) international military doctrine and practices on post-conflict policing • Boost U.S. and international deployable constabulary forces
Develop comprehensive doctrine for post-conflict internal security reconstruction	• Develop shared international doctrine informed by best practices • Lay out options to ensure unity of command and effort via a new U.S. presidential directive on stability operations • Codify holistic approaches to rule-of-law sector • Integrate internal security reconstruction and reform programs with the wider conflict management agenda
Build mechanisms to ensure faster mobilization of personnel, funds, and equipment	• Improve U.S. government capabilities to rapidly mobilize, deliver, and manage police and justice resources • Encourage the development of international initiatives such as the UN civilian police system and the European Union's policing and justice programs
Focus on outcome measures to shape programs	• Develop and use outcome-based metrics to define program success and managerial performance

which is standard in military operations. In many of the cases studied here, the international police mission was hampered by a remarkably limited knowledge base about the host country's internal security system. This limitation stems from the failure both to collect and disseminate the right information and to involve knowledgeable individuals from the host nation. Even the famed State Department "Future of Iraq" project that many have touted as an example of un-

used prewar planning did not seriously address internal security institutions.

Second, institutional mechanisms for planning must be improved. Unlike the combat phase of most interventions, the post-conflict phase usually receives little attention. This is in part a result of the weakness of the institutions in the United States and other governments charged with policing reform; they simply do not have the corporate capacity to undertake detailed pre-intervention planning. It is also a failure of political will at the national and international levels, since it is the task of the political leadership to make the public case for the lengthy preparation, extensive resourcing, and long-term commitment that is required for post-conflict policing missions. The establishment of such organizations as the U.S. State Department's Office of the Coordinator for Reconstruction and Stabilization and the United Kingdom's Post-Conflict Reconstruction Unit may lead to some improvements in this area—especially if coupled with efforts in the U.S. Department of Defense and allied ministries of defense.

Third, the early mobilization of policing resources must be ensured to take advantage of the golden hour. By having in place plans, staffs, funds, personnel, and equipment before any intervention, the international community will be much better placed to avoid the debilitating deployment lag that has affected all previous operations. The philosophy needs to be one of policing "shock and awe" rather than that of "too little, too late."

Negotiate a Peace Treaty or Formal Surrender

Peace treaties and formal surrenders are highly correlated with peaceful security environments. Peace treaties are usually indicators of relatively low levels of hostility; at the moment of signing, they represent the parties' will to end the violent phase of their conflict. They also facilitate international involvement in providing loans and foreign aid. Formal surrenders can also increase the likelihood of stability. The destructive defeat of a regime undermines its credibility and demonstrates that it can no longer deliver vital needs to the population, and this is codified in a surrender. This lesson was ignored in

Iraq and Afghanistan, where the United States and its allies did not secure either a peace treaty or formal surrender. In the future, the broader lesson is to direct sufficient diplomatic and military resources toward negotiating peace treaties among warring parties in cases of civil war, and formal surrenders from defeated powers in cases of interstate war.

Fill the Security Gap Quickly with U.S. (and Allied) Military and Constabulary Forces

The U.S. military has sought to avoid being tasked with filling the security gap that invariably emerges after an intervention. The painful experience of Iraq may have forced a change in attitudes, but more far-reaching changes are required than simply the creation of extra military police units. The key will be to ensure that U.S. joint doctrine, training, and force structures incorporate the post-conflict policing and security sector reform roles. More broadly, it will be important that all allied forces engaged in an intervention operate according to a common policing and security sector reform doctrine. However, filling the security gap with international military forces will always be a second-best solution in the absence of sufficient, deployable international policing assets. Constabulary forces, such as the Italian carabinieri, are a more appropriate instrument, and their use needs to be encouraged. The United States also needs to consider how it can develop its own constabulary force.

Develop Comprehensive Doctrine for Post-Conflict Internal Security Reconstruction

To ensure that civil-military planning and implementation for post-conflict policing proceeds more smoothly, the United States needs to develop, adopt, and share with its allies a common doctrinal approach to reconstruction of the internal security sector in post-conflict environments. Although the concept of doctrine may seem overly militaristic, police forces use doctrine in all but name. It should not be too difficult for civilian agencies such as the U.S. Departments of State and Justice to distil lessons learned and good practices into a shared doctrine. The benefit of a shared interagency and international doc-

trine is that it would provide a common frame of reference for planners and managers of post-conflict policing operations. In developing this doctrine, the United States and its allies need to be realistic regarding the limits of their knowledge about how to successfully transfer strong state institutions to developing countries. Many reconstruction and reform programs, often implemented by Western policing, justice, and intelligence professionals, are overly positivist and technocratic in their approach. To ensure that reconstruction and reform programs are of lasting value, it is important that internal security specialists and development specialists work together with regional experts to structure programs that are adapted to the context.

This doctrine should lay out command and control responsibilities of nation-building missions. Ideally, it should flow from a new iteration of the Clinton administration's Presidential Decision Directive 56 (PDD-56) on "Managing Complex Contingency Operations." After coming into office, the Bush administration developed National Security Policy Directive "XX" (NSPD-XX). It was broader in scope than PDD-56 and provided guidance on warning, advanced planning, prevention, and response options for what it called "complex contingency operations." Unfortunately, NSPD-XX was never signed by the President. This created confusion about agency roles and responsibilities, which complicated efforts to respond to the crises in Afghanistan and Iraq.

At least two documents would be helpful to rectify these challenges. One is a presidential directive on the civilian component of nation-building operations. Critical questions include: What is the lead civilian agency for nation-building operations? What are the primary objectives? What are the key tasks, how should they be prioritized, and which agencies are in charge of which tasks? The doctrine also needs to take a holistic approach to the internal security sector. It should treat the internal security sector as a whole and as part of the broader security sector. It should therefore include the criminal justice and intelligence institutions. This will help avoid the often repeated mistakes in developing these institutions—or not developing them—independently of the police.

The second document is a U.S. Defense Department directive on the military component of nation-building operations, what the department refers to as "stability operations." The directive should set policy for the Defense Department, be signed by the Secretary of Defense, and assign roles and responsibilities for the military component of stability operations. It should assign the U.S. Army as the lead agency for stability operations, since this branch of the military plays the most significant military role in rebuilding countries after major combat.

Furthermore, these documents should be informed by the broader agenda of conflict mitigation and management. Development actors such as the U.S. Agency for International Development have developed conflict assessment methodologies that seek to understand the roots, motives, means, opportunities, and triggers for internal conflict. The UK Department for International Development (DFID) has adopted similar approaches to understanding how external assistance can be used to prevent or manage conflicts. These methodologies are implicitly mirrored by some of the military campaign plans drawn up by intervening international forces, which often address the symptoms, the means, and the motives for conflict.

This broader perspective on conflict prevention and management needs to inform the design and implementation of internal security reform. The focus of such reform programs is often on tangible, institutional results. However, building quality enforcement institutions is only one element of an approach to conflict prevention and management. Broader conflict prevention and management programs need to address the political or economic roots of conflicts as well as the organizational and logistical means by which discontent can be translated into organized violence. Although initiatives in some of these areas may seem outside the remit of an internal security sector reform program, they need to be treated as integral rather than as "nice to have" add-ons.

Build Mechanisms to Ensure Faster Mobilization of Personnel, Funds, and Equipment

Preplanning, common doctrine, and joint exercises will all help to accelerate the usually slow deployment of personnel, funds, and equipment for post-conflict police and justice operations. In addition, the U.S. government needs to build mechanisms that enable it to deploy such resources much faster. Initiatives such as the State Department's Coordinator for Stabilization and Reconstruction provide vehicles through which to drive such enhanced capabilities. Funding and equipment are relatively easy to stockpile and preposition. But the United States needs to do much better at identifying and mobilizing internal security professionals to post-conflict situations. Internationally, the United States should encourage similar initiatives. The UN civilian police system requires strengthening potential contributors to international policing missions in order to prepare, train, and make available personnel. Significant multilateral proposals such as that for a European gendarmerie and for a European Human Security Force need to be examined and evaluated.

Focus on Outcome Measures to Shape Programs

Policing assistance programs have fallen into the trap of many domestic governmental reform programs: "[P]rogram evaluations that emphasize outputs rather than outcomes as a measure of success inhibit organizational creativity."[4] The tools we have to assess internal security outcomes remain limited. However, by building such assessments into current and future assistance programs and encouraging host nations to undertake such assessments, we will be better placed to optimize assistance programs. A further advantage of using outcome-based measures to evaluate performance will be that they should encourage experimentation by local managers, whether international or local, rather than an adherence to largely meaningless output targets. In addition to the outcome measures outlined here—such as homicide rates, levels of political violence, and public

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[4] David H. Bayley, *Democratizing the Police Abroad: What to Do and How to Do It*, National Institute of Justice, June 2001, p. 24.

opinion polls of security and the justice system—more tactical out-
come measures may also be appropriate. In Somalia, for example, the
U.S. military collected such indicators as the death rate per day due
to starvation, new patients with gunshot wounds in hospitals, and the
street price of an AK-47.[5] All outcome measures, however, should be
tied to the overall mission objectives. In the case of internal security,
the two primary objectives are establishing stability and a rule of law.
Table S.2 summarizes critical internal security objectives, actors, and
metrics.

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[5] Headquarters, United States Marine Corps, *Small Wars*, 2005.

Table S.2
Internal Security Performance Matrix

	Police	Military/Other	Justice
Key Objectives	• Establish basic law and order • Protect population • Control border, ports of entry • Protect vital infrastructure • Ensure freedom of movement	• Establish security against major threats to the state • Demobilize, disrupt, and deter militia and other paramilitary organizations	• Establish rule of law • Eliminate corruption • Provide oversight and accountability for police and other security forces
External Actors (U.S.)	*Lead actor:* • State Department (especially International Narcotics and Law Enforcement, INL) *Supporting actors:* • Justice Department • Defense Department (Combined Joint Task Force, CJTF) • USAID • Foreign governments • Nongovernmental organizations (NGOs) and international organizations • Private contractors	*Lead actor:* • Defense Department (CJTF) *Supporting actors:* • Central Intelligence Agency • State Department • Foreign governments • NGOs and international organizations • Private contractors	*Lead actors:* • State Department • Justice Department *Supporting actors:* • USAID • Defense Department (CJTF) • Foreign governments • NGOs and international organizations • Private contractors
Indigenous Actors	• Ministry of interior • Local police	• Ministry of defense • Indigenous intelligence agency • Local militias and factions	• Ministry of justice • Local and national judges, courts • Office of attorney general
Input Metrics	• Police assistance and expenditures • International civilian and military police and advisors • Lethal and nonlethal equipment	• Military assistance and expenditures • International troops and advisors • Lethal and nonlethal equipment • Intelligence assistance and expenditures • Intelligence advisors	• Justice assistance and expenditures • International justice advisors • Equipment, such as computers and law books

Table S.2—Continued

	Police	Military/Other	Justice
Output Metrics	• Number and quality of police trained • Number and quality of police facilities built or refurbished • Institutional development and reform of ministry of interior	• Number and quality of troops trained; military facilities built or refurbished; institutional development • Development of reliable local intelligence • Number of ex-combatants who have completed disarmament, demobilization, and reintegration (DDR) • Number and quality of intelligence officials trained, facilities built, and institutional development	• Number and quality of judges, prosecutors, and corrections officers trained • Number and quality of judicial facilities built or refurbished • Institutional development of justice bodies: ministry of justice, local and national courts
Outcome Metrics	• Crime rates, especially violent crimes • Other crime indicators, such as illegal drug trade • International civilian police casualties • Public perception of security and performance of police	• Level of political violence and insurgency • Public perception of security • International military casualties	• Public perception of justice system's effectiveness • Public perception of corruption in justice system • Duration of pretrial detention • Duration that cases move through court system • Right to legal advice