

## What Should We Have Learned by Now? Enduring Lessons from Thirty Years of Conflict and Transition

Michelle A. Hughes

Ten years ago, when Michael Miklaucic and I began studying the impact of power structures on conflict and transition, we started with the proposition that formal power is only one dimension of state building and stabilization. We believed that governance capacity and legitimacy stem from a complex interplay of formal, informal, and illicit power. How governments come to grips with each is a powerful indicator of whether a nation state can function in partnership with its population and within the rule of law.

We also believed that none of this was new. Power struggles are part of human history—recurring themes in literature and the historical record as far back as recorded time. So why, we asked ourselves, do we as a nation and we as an international community struggle to understand the power dynamics in modern conflict and transition? And why, in our collective response, do we get it so wrong? How do we get our responses right?

It should come as no surprise, then, that one of the enduring insights from the *Impunity* case studies is that we continually fail to learn the lessons of our own experience. We identify lessons correctly, but we do not act on them. We reinforce failed approaches. We replicate success only (it seems) when we have no other choice.

*Impunity: Countering Illicit Power in War and Transition* was an attempt to codify lessons learned from both failure and success. Throughout this project's more than 10 years of collaborative study, we allowed ourselves to become students of history while, at the same time, looking to the future. We studied the history, not of war per se but of transition—and, importantly, of *containment*. In the effort to anticipate and check the problem of illicit power, we tried to deconstruct issues that cross geographic and cultural boundaries. And then, looking deeper at the enablers of illicit power and at the means of confronting them, we hoped to bridge the gap between information that seems promising even though we do not know quite what to do with it, and information that, if applied, could help civilian and military leaders, strategists, planners, and implementers confront illicit power. Thus, the question becomes, how do we turn unstructured data from multiple sources into useful predictive analysis? And because we are implementers ourselves, we always kept the frontline operator in mind.

So what does “success” in confronting illicit power look like? We know it is not Iraq, even though, when the last U.S. combat forces left the country in 2011, our government leaders were saying it was, and many people genuinely believed it. Is it Sri Lanka, which, having militarily defeated the Liberation Tigers of Tamil Eelam (LTTE), now struggles to restore governmental accountability, legitimacy, and acceptance within the international community? Is it Colombia, undeniably transformed but still seeking a final, enforceable accommodation with the Revolutionary Armed Forces of Colombia (FARC) after nearly a century of conflict and instability? Is it Sierra Leone, improved but still marked by deep social injustice and the resource curse, or is it Liberia, whose supposedly reformed political culture remains riddled by patronage and corruption? Or is it maybe something else?

Our case studies – both those we documented and those we did not – indicate clearly that the metric for success is more about process than about an end state. In both mature and developing countries, success in confronting the problem of illicit power is about containment rather than destruction. An Italian carabinieri officer colleague, speaking about the Puglian mafia, used to tell me: “Even when we are most successful, they never go away. We are just able to limit their activities to certain areas so they do not get in the way of legitimate business and so their violence does not hurt the community.” Is this success? And if so, how do we get there? Both our research and experience indicate that the key is to anticipate the problem of illicit power *before* it becomes critical – to prevent it from becoming so influential that it can no longer be contained – and to prevent it from undermining accountable governance, security, and the rule of law. Ignoring the risk of illicit power, while hoping for the best and curbing our own political will and commitment to countering it, has always been and will ever be a disastrous course of (in)action.

### **The Assumption of Power by Elizabeth I: Setting Conditions for Success**

Many historians consider Elizabeth I one of England’s greatest monarchs ever.<sup>1</sup> But from the moment she ascended the throne in 1588, at age 25, she was forced to contend with the problem of power – internal and external, licit and illicit. Hers was a political transition that followed decades of war and internal strife, political instability, and near economic collapse. The English throne, one of the weakest in Europe, ruled a bankrupt nation torn by religious discord and threatened by the great powers France and Spain. Its borders were insecure, particularly its border with Scotland, where Mary, Queen of Scots, contended that she had a greater right than Elizabeth to rule England. In fact, Elizabeth’s right to succession was questioned openly at all levels of English society, and most Europeans considered her illegitimate. Her political power base was tenuous, and her sex handicapped her ability to build strong political support. Even Elizabeth’s most ardent supporters believed her position dangerous and uncertain.

Fortunately for Elizabeth, however, she was a realist and did not underestimate the gravity of her situation. She knew that such a momentous transition of power, even under the best circumstances, raised possibilities of counterclaims and rebellion. Everyone, from the highest nobles and ministers of state to the lowest public officials, would vie for patronage and influence. Ambitions had already been stoked in aspiring courtiers. Religious leaders, both Catholic and Protestant, were poised to invoke the power of the pulpit to secure their sectarian interests. Understanding the risks, Elizabeth and her advisers were prepared. Immediately upon her accession, her new secretary of state, William Cecil, executed a “memorial” consisting of essential tasks that would lay the foundation for long-term security, stability, and reconciliation. They included the following:

- A formal proclamation announced that Elizabeth was sovereign ruler. The proclamation was to be distributed immediately to all “places and sheriffs” and put into print. Doing so would ensure that the people knew who their legitimate ruler was, and who it was not.

---

<sup>1</sup> The following discussion is based on historical events as described in Jane Dunn, *Elizabeth and Mary: Cousins, Rivals, Queens* (New York: Knopf, 2004), 12-67.

- The Tower of London was put into the hands of “trustworthy persons” and made ready to receive Elizabeth should she need the safety of its defenses while she settled her officers and council. Thus, the sovereign’s personal safety and security were ensured during the time required to consolidate the new government administration.
- Elizabeth’s name was “written in” with the keepers of castles and forts throughout the land. This step established her authority over the nation’s defenses and helped seal its borders.
- All ports were temporarily closed, and particular care was taken with those closest to France and Scotland, both of which proffered claimants to the English throne. The closures were necessary to further control ports of entry and protect England from external threats. The action also helped control the outward flow of persons of interest and much-needed economic resources.
- No money could be taken out of the country without the queen’s express permission. This bought time for the new regime both to assess and to stabilize England’s dire economic situation.
- New justices of the peace and sheriffs were to be appointed in each county. This would ensure that law enforcement authority was in the hands of those loyal to the regime, who would act within the scope of Elizabeth’s sovereign directives.
- Preachers were “to be dissuaded, in the short term,” from touching on anything doctrinally controversial in their sermons. Elizabeth knew that long-term stability would require resolution of the religious strife that had torn the country apart, but she would need time to reach a settlement. Stirring up emotions during transition would be counterproductive and complicate eventual negotiations with religious leaders.
- A final directive concerned the “preacher at Paul’s Cross,” a notorious firebrand known for rabble-rousing sermons against the establishment, instructing “that no occasion be given to him, to stir any dispute concerning governance of the realm.” In other words, the regime meant to limit the opportunities for extremists to get their message out.

The “memorial” tasks succeeded in their aim. Elizabeth managed the extraordinary risks and achieved a peaceful assumption of power that set conditions for success, in both tone and substance. Defying expectations, she reigned for 55 years, until her death from natural causes. When she died, another peaceful transition of power occurred – to her nephew, James I of Scotland. Elizabeth’s reign was less than perfect, and the struggles were real. But she eventually achieved political and religious reconciliation, successfully defended England against its enemies abroad, and presided over a period of unprecedented economic growth and intellectual and creative achievement. Historians have often characterized Elizabeth’s reign as a golden age of progress.

For anyone not a student of English history, it is easy to overlook how fragile her reign was in the beginning and simply to attribute her success to her remarkable leadership. But she was also a discerning leader, and the immediate steps she took to mitigate the risk from the myriad power struggles in play when she took control had a major role in her ability to rule.

It would be easy to dismiss lessons from sixteenth-century England as irrelevant, but they are far from it. Indeed, they are universal. When we review the 1999 Lomé Peace Agreement, which settled the civil war in Sierra Leone, it is striking how many of the provisions in the (eventually) successful peace accord parallel the tasks that Elizabeth's secretary of state set forth.<sup>2</sup> The Lomé Agreement is surprisingly comprehensive. It is also heavy-handed in a way that clearly anticipates the threats from illicit power structures across the spectrum of politics, security, economics, development, governmental authority, and protection of sovereign territory.<sup>3</sup> And its specific provisions for process and procedure, oversight, accountability, transparency, reconciliation, and public information mirror the tasks in William Cecil's Elizabethan "memorial." As the Sierra Leone case study (Chapter 8) points out, this particular agreement was not the country's first. The Abidjan Agreement, which preceded it, failed because it was less anticipatory and less inclusive. The Lomé Agreement succeeded largely because it was the first agreement to realistically address both known and expected risks from the various power structures that would have a stake in the success or failure of a new Sierra Leonean regime.

### Insights from the Case Studies

Taking a historical perspective, what are the enduring, generalizable insights from the *Impunity* case studies? With the amount of material we had to work with, codifying the countless lessons would itself have been a book, so rather than try to capture each lesson here, we refer the reader to the case studies themselves. But one of the central insights is this: when looking at the problem of illicit power, we often fail to ask the right questions or identify the most important issues and indicators. Therefore, we saw that it would be useful to highlight the broad categories for consideration. Within each category are a number of crosscutting observations. The intent here is to provide, rather than a checklist, a guide that facilitates (a) adaptive thinking and critical application of the lessons and insights to future mission analysis; (b) strategic and operational planning; (c) policymaking; (d) programming; (e) and tools, tactics, and procedures (TTP).

We are vulnerable, of course, to the criticism that most of the insights are strategic and policy oriented. We "get" that for a military commander or development specialist on the ground, such macro insights may seem inapplicable. But this is seldom the case. Illicit power is a strategic problem, but it manifests at every level, permeating neighborhoods, houses of worship, businesses and bazaars, police checkpoints, and community resource centers. The bad actors we encounter locally are small cogs in a greater system of systems. Thus, until we understand the larger issues that drive their actions, it is almost impossible to respond appropriately, limit their activities, and effect real change. Each case study in this book—and the countless others we did not include—contains examples of how early local actions and decisions by either the host-nation government or international interveners allowed a nascent or weak illicit power structure to emerge and coalesce. Subsequent action, reaction, and inaction enabled the power structure to

---

<sup>2</sup> *Peace Agreement between the Government of Sierra Leone and the RUF (Lomé Peace Agreement)*, UN Peacemaker, July 7, 1999, <http://peacemaker.un.org/sierraleone-lome-agreement99>.

<sup>3</sup> *Ibid.*

grow to the point of intractability. This truly is a problem where tactics must be employed with deliberate strategic purpose and understanding.

The insights fall into three main categories: the operational environment, accountability and the rule of law, and institution building and security sector reform. Also, we need to understand the relevance of peace agreements and accords.

### *The Operational Environment*

Before we can address the problem effectively, we have to understand the operational environment. In “It Takes a Thief to Catch a Thief,” we devote an entire chapter to unraveling complex geographic, sociocultural, and economic settings, while also providing analytical frameworks to better understand them. This is not just a problem for outside interveners. We saw in Sri Lanka, for example, how the government consistently misread the LTTE, even though the LTTE was a wholly indigenous insurgency. And at each stage of the Sierra Leone conflict, the government struggled to comprehend the nature of the Revolutionary United Front (RUF). Its responses failed accordingly.

“Operational environment” refers to a broader landscape than the immediate environment of the illicit structure. This is because licit and illicit networks alike rely on the same *licit* mechanisms for success. Thus, illicit activities are almost always intertwined with licit ones. When we do not understand the licit environment, not only do we fail to detect anomalies, but our responses tend to be “either or,” as if there were always the option for a clean solution.

Phil Williams and Dan Bisbee, in their study of the Jaish al-Mahdi in Iraq, conclude: “[I]n the chaos and anarchy that followed the toppling of the Baathist regime, the line between licit and illicit power was blurred—an ambiguity never fully appreciated by the United States. This set in motion a series of missteps reflecting a profound lack of understanding of Iraqi traditions and politics, a failure to realize that common sectarian identity was no guarantee of harmony, and a sense of bewilderment when U.S. forces were not universally treated as liberators rather than occupiers.”

*Context is key, and long-term analysis is critical.* Illicit power structures are organic. They emerge and submerge in response to opportunities and threats. They evolve. They, adapt. They form alliances. They break according to their own factional interests. They are parasitic, feeding off licit networks and organizations. They exhibit tendencies and preferences in the ways they operate. Motivational factors influence their methods, and as our studies show, motivations also change over time.

Successful illicit power structures are never static. Thus, understanding them requires a long-term perspective that captures the context in which they arise and thrive, and uncovers trends over time. Colombia and Sri Lanka present two striking examples of illicit power structures that evolved and adapted over the course of decades, as did their government foes. Both the FARC in Colombia and the LTTE in Sri Lanka began as creed-based power structures that arose out of perceptions of injustice and need, and both continually adapted in response to government action and inaction. Both took advantage of public outrage when government security forces either failed to protect the population or overreacted with unwarranted escalation of force and wanton human rights violations.

In these two cases, both governments also adapted. When they did so positively and proactively, they created opportunities to diminish the illicit power structures' strength. In each case, the ways in which each side—the government and the illicit power structure—reacted to the other are instructive. For the Sri Lankan government, the LTTE's use of the cease-fires of 2002 and 2004 to refine its strategy and eliminate moderate Tamil political rivals in Tamil-controlled provinces should have come as no surprise—if not in 2002, then certainly in 2004, between the periods that contributing author Thomas Marks refers to as “Eelam III and Eelam IV.” Why should the government have expected this outcome? Because, in 1991, the LTTE had used the failed Indian peacekeeping mission as an opportunity to consolidate militarily and politically, which then enabled it to step its operations up to the next level of violence. The Colombian government had similar precedence for its interaction with the FARC. During past cease-fires and negotiations, the FARC rarely demonstrated genuine commitment. Instead, as Carlos Ospina points out, the FARC each time took advantage of the situation to reorganize, expand, and train its cadre, as well as to expand its involvement in the drug cycle. In retrospect, the FARC's objective was never to reach an agreement, but to buy time for a general offensive. Studying the patterns should enable the Colombian government to be more predictive and to adapt its security operations and negotiating strategy accordingly.

Nuanced, long-term, contextual understanding is not easy to achieve, however. Indeed, many of our current practices and procedures discourage it. In Chapter 10, we argue that truly understanding the operational environment requires three levels of analysis: continual assessment of risks and vulnerabilities of the host government and its sociopolitical environment, in-depth study of the emergent illicit power structure itself, and an intimate understanding of the illicit power structure's enabling environment. This requires time, resources, expertise, and collaborative relationships seldom readily available to decision makers. Spotting trends also requires long-term intellectual commitment—which is not compatible with our modern tendency, in difficult, security-challenged environments, toward short-term deployments and remote monitoring and engagement. The tendency is quick-in, quick-out technology-based approaches. So for diplomatic, military, law enforcement, and intelligence personnel, achieving any continuity in understanding a nontechnical, organic problem has grown increasingly difficult.

Finally, contextual understanding requires that leaders and decision makers be willing to listen and learn. In-depth knowledge and nuanced understanding do not come to us through PowerPoint. They demand commitment by those responsible for designing and executing strategies to counter illicit power. Such understanding also requires willingness to engage in highly detailed examination, and intellectually rigorous speculation, all while tolerating a high degree of uncertainty.

*Mischaracterizing an illicit power structure increases the risk that our response will fail.* As we approached the various research projects that eventually led to this book, a debate ensued about what could or could not be classified as an illicit power structure. But that debate obscures the more important insight: whether an organization meets a set of criteria making it an “illicit power structure” matters less than what *type* of organization it is. The typology matters—very much, in fact. When we incorrectly bin an illicit power

structure as a terrorist organization instead of an insurgency, a militia instead of a criminal gang, or terrorists instead of protesters, we handicap our response and limit our options. Surprisingly, however, if we do not understand the operational environment correctly, we are less likely to correctly characterize the illicit power structures within it.

When we get this wrong, the most obvious problem is authority, particularly if the question arises whether law of armed conflict (LOAC) or domestic criminal law applies. Even when an international or internal armed conflict exists, thereby triggering LOAC, rules of engagement should be quite different when approaching a criminal versus an armed belligerent. Because procedure can matter greatly in a criminal case, the TTP for interdiction will be distinct. Classification raises jurisdictional questions that can affect the ability of elements within host-nation security forces to make detentions or arrests. In Afghanistan, for example, arrest authority over crimes classified as “internal security” crimes belonged to the Afghan National Directorate for Security rather than to the Afghan National Police (ANP). Thus, how the International Security Assistance Force (ISAF) coalition chose to classify the activities of bad actors made a difference in which agency it partnered with (depending on whether the goal was effective prosecution or battlefield detention). In the Joumaa Web cases, once banks and other organizations were classified a certain way, U.S. and international law enforcement agencies could invoke specific sanctions and law enforcement cooperative agreements to attack their networks. The classification had to be accurate, however, or sanctions would not hold.

International mandates also must accurately match the situation; thus, when understanding or classification is inaccurate, both the mandates themselves and national caveats imposed by troop-contributing nations do not support stabilization. Haiti provides a striking example of the problem. The United Nations was, as David Beer points out in his case study on the gangs of Cité Soleil, unprepared for the level and nature of the violence. The UN mandate did not support executive policing, which was required to counter the threat from a policing perspective. It also did not empower UN military units to support policing efforts in what had become full-blown guerrilla-type urban warfare. Instead, formed police units were deployed to maintain civil order and were unprepared and ill-equipped to confront the gangs.<sup>4</sup> Faced with mounting violence, contributing nations began to impose even more stringent national caveats than the mandate allowed, further constraining the forces’ ability to confront the illicit power structures that they were certain to encounter. By incorrectly defining the threat from illicit power, the UN mission found itself in an untenable position. Meanwhile, the gangs increased in strength and capacity, and the mission’s reputation was in tatters.

Getting the classification right is important also because the narrative must fit the circumstances on the ground. The Sri Lankan government experienced this both at the beginning of the insurgency and at its conclusion. In the beginning, reacting to a per-

---

<sup>4</sup> “A Formed Police Unit (FPU) is a team of 140 police officers, which is deployed as a group, who undertake crowd control, protect UN staff and material and escort UN personnel when they must visit insecure regions of a mission area. . . . FPU’s are rapidly deployable, well equipped and trained to act as a cohesive body capable of responding to a wide range of contingencies. They are self-sufficient, able to operate in “high-risk” environments and are deployed to accomplish policing duties such as crowd control rather than to respond to military threats.” UN Police, “Sustainable Peace through Justice and Security,” 2010, [www.un.org/en/peacekeeping/sites/police/units.shtml](http://www.un.org/en/peacekeeping/sites/police/units.shtml).

ceived terrorist threat, the government overmilitarized its response to student protests and random acts of violence, thus helping the LTTE mobilize public support and transforming what had been a Tamil protest movement into a full-blown insurgency. Conversely, by the end of the conflict, the government's characterization of the LTTE as terrorists brought international condemnation when it applied a scorched-earth, total-war strategy to end what was by then a civil war.

It is important to note that we may deliberately classify an illicit power structure as one thing even while fully aware that it is quite another. This is usually done for political reasons or to limit the scope of engagement or the type of tactics that can be employed. In 1990, for example, the U.S. Country Team in Colombia was ordered not to use the term "narco-terrorism" when referring to the FARC. The FARC was an "insurgency" and nothing else. Even though everyone working counternarcotics knew that the FARC was beginning to team with the drug cartels, the U.S. Congress had limited foreign assistance to the "war on drugs" – U.S. policy was not to get involved in Colombian counter-insurgency operations. An important further reason for this classification decision was to maintain a consistent public message about why the U.S. military was even deployed in Colombia in the first place.<sup>5</sup> In such cases, understanding the effect of the deliberate mischaracterization becomes an essential part of understanding the operational environment.

*Planning assumptions about efforts to "follow the money," "shut down their transportation, weapons, and supply networks," etc., are seldom informed by a realistic understanding of what such an objective actually means, how long it takes, and who is involved.* Part of the operational environment that we examined included enablers. In particular, we wanted to look at the role of financial networks, arms traffickers, social media, and other elements of what, in Chapter 10, we call *the enabling environment*. One of the lessons is that these enablers themselves are complex networks and systems. Therefore, attacking such networks requires several things: long-term commitment; international legal and regulatory systems that can be exploited to control illicit use of licit systems; strong interagency coordination and information sharing; coherent, focused diplomatic support; jurisdictions and venues where legal cases can be fairly tried and adjudicated; high-end, specialized investigative and intelligence collection capabilities; and, ultimately, the ability to enforce sentences, sanctions, and remedies. This is a complex set of factors. Even mature legal systems in stable countries struggle to pull these strands together. Both licit and illicit actors are implicated, and protecting the licit constrains our ability to pursue the illicit.

Planning horizons and expectations regarding results must be realistic. The Joumaa Web case study on "following the money" is instructive. Among its many lessons, it teaches that a complex financial-crimes case will likely take years to develop and will continue in the court system for yet more years (not months) on top of that. By the time

---

<sup>5</sup> During 1990–91, I led the U.S. military counternarcotics tactical analysis team embedded in the U.S. embassy in Bogotá, Colombia. Upon my arrival in Bogotá, the chief of mission and the U.S. defense attaché instructed me not to use the term "narco-terrorism" in any analytical reports and not to support any activities that would create "targeting ambiguity." If the FARC or either of the other two insurgent groups active in Colombia at the time were identified as narcotics traffickers, the risk was too great that the U.S. military might then target them for direct action, thereby violating U.S. law and policy.

that criminal cases and civil actions conclude, the illicit power structure that relied on the network will have found alternative means to finance its operations. “Cutting off the flow of weapons and materiel” is similarly difficult. As the Odessa Network case study illustrates, arms brokers often operate under the protection or imprimatur of powerful nations. Attacking those networks means going after their political protection. For reasons of sovereignty and diplomacy, this may not be a viable option. Often, the most realistic alternative is to create barriers that will increase the cost of doing business and eliminate the profit motive.

The prohibition against “blood diamonds” from Africa paints a realistic picture of what a successful campaign against enablers can achieve. While no reasonable person would argue that exploitation and corruption in the diamond mining sector has been completely overcome, it has now been limited to the point that bad actors and illicit power structures can no longer use it with impunity to finance their wars and motivate their soldiers, as the RUF and Charles Taylor did in Sierra Leone and Liberia, respectively.

The difficulties presented by constraints and planning assumptions do not mean that we should not go after enablers. Obviously, limiting enablers is part of the tool kit for countering existential threats and known illicit power structures. But we must also go after them for greater long-term, strategic purposes. Left unchecked, the illicit use of banking, finance, commerce, transportation, communications, and armaments systems will eventually make those systems useless for legitimate purposes. Again, we must be realistic about what success looks like. “Success” may mean nothing more than that our willingness to go after enablers signals our partners that we are serious and expect them to be, too. The strategy is as much about mitigating and messaging as about cutting off ways and means. We also must clearly understand that near-term tactical victories against enablers may have no substantive long-term impact. The use of social media for radicalization and recruitment is an apt example. Maeghin Alarid points out in her study that no sooner is an ISIS Twitter account disabled than another one appears. The point is always this: *never* concede the platform to impunity. The message is that illicit use of a licit system is not okay.

### *Accountability and the Rule of Law*

Accountability and the rule of law are not secondary to security. Indeed, any impediment to them is a primary security threat.

It is easy to dismiss rule of law and good governance as the province of development and put them on the back burner as secondary to the immediate security threat. But the absence of rule of law creates an environment where bad actors can thrive, and encourages competition between government security forces and illicit power structures, for the monopoly of force. Left unchecked, illicit actors can perpetuate drivers of conflict, undermine governmental legitimacy, and establish control over the population, resources, and essential government services. Illicit capture of state institutions follows. Agreements and accords designed to restore peace and stability become meaningless. The rule of law is not, as Afghanistan’s President Karzai declared in the early days of his regime, a “luxury” that can be addressed later, after security has been restored. By then it is usually too late.

*Failure to recognize the risks posed by organized crime, corruption, and warlordism leads us to empower those who will later be the greatest threats to stability.* In the chapter “Traffickers and Truckers,” Gretchen Peters warns, “Never dismiss organized crime and corruption as ‘secondary issues.’” Precisely. Crime and corruption remain some of the most enduring challenges to viable peace. In almost all the cases in this volume, corruption created grievances, siphoned critical state resources from the economy, and led to a failure of legitimacy for the governments, institutions, and officials involved. In stability operations, intervening government officials, whether military, law enforcement, diplomatic, or developmental, need to be alert to, and intolerant of, corruption and criminal behavior by their local counterparts. They need to support the emergence of healthy state institutions, rather than look the other way when those considered allies are involved in illicit activities.

Afghanistan illustrates perfectly how a foreign intervention ensures its own defeat when it turns a blind eye to local corruption and illegal trafficking. Accommodating corruption costs the international community more in the long run because fragile states remain aid dependent and fail to evolve into stable, self-sustaining nations that can become durable partners. The Odessa Network exemplifies what can happen during extreme political transition. Sudden privatization without sufficient regulatory controls enabled former Soviet power brokers to obtain a monopoly on shipping and port services in Ukraine and to use them as licit cover for illicit arms trafficking. At the time that privatization occurred in the early 1990s, Western democracies took a laissez-faire approach to the newly emerging economies, assuming that market forces would ensure a smooth transition. They failed to recognize that the institutional controls taken for granted in the West did not exist in those countries emerging from Communism.

*Our own failure of accountability and oversight is often the single biggest enabler of illicit power.* Forsberg and Sullivan, in their study of criminal patronage networks in Afghanistan, put it so well, it bears repeating here:

*In insecure states with underdeveloped institutions and weak rule of law, any massive infusion of international resources to build local capacity, if disbursed with inadequate oversight, is likely to be accompanied by a surge in corruption and organized crime.<sup>6</sup> International forces and their interagency counterparts conducting counterinsurgency or stability operations must anticipate this development and be prepared, in the earliest stages of their mission, to put in place mechanisms to mitigate and monitor the problem . . . At the same time, expectations for transparency and accountability should be articulated to officials in the supported government.<sup>7</sup>*

Afghanistan and Iraq provide stark and — thanks to highly publicized disclosures by the special inspector general for Iraq reconstruction and the special inspector general for Afghanistan reconstruction (SIGAR) — detailed examples of how the international community consistently fails to hold itself and the assistance it provides to acceptable

---

<sup>6</sup> See, for example, UNDP, “Fighting Corruption in Post-Conflict and Recovery Situations,” June 9, 2010, [www.undp.org/content/undp/en/home/librarypage/democratic-governance/anti-corruption/fighting-corruption-in-post-conflict--recovery-situations.html](http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/anti-corruption/fighting-corruption-in-post-conflict--recovery-situations.html); Fredrik Galtung and Martin Tisné, “A New Approach to Postwar Reconstruction,” *Journal of Democracy* 20, no. 4 (2009).

<sup>7</sup> See chapter 1 (citations omitted here).

standards of accountability. SIGAR's criticism of development assistance and coalition accountability is well known. Less widely understood in the United States is the degree to which the UN Mission in Afghanistan (UNAMA) contributed to the culture of impunity by its own lack of oversight. In 2012, following years of criticism, UNAMA became mired in scandal when it was revealed that the officials managing the Law and Order Trust Fund Account (LOTFA) – established to manage the disbursement of international funds to pay for the Afghan National Police (ANP) – were involved in procurement fraud and collusion with their Afghan counterparts. LOTFA officials knowingly paid the salaries of police officers who did not exist, and created high-paying positions for well-connected Afghans.<sup>8</sup> Despite removal of the LOTFA country director, the problem of oversight in the troubled program continued. In late 2013, UN and ISAF officials were again confronted with evidence of LOTFA mismanagement and unaccountability when audits revealed that tens of thousands of salaries continued to be paid to “ghost soldiers.” In part because of concerns about distracting the Ministry of Interior from the need to increase policing capacity in advance of the 2014 elections, a decision was made to defer resolution of the problem.<sup>9</sup> Later SIGAR efforts to spotlight accountability were rebuffed, and ISAF made SIGAR's investigation more difficult by overclassifying critical information on Afghan National Security Forces' (ANSF) strength, attrition, equipment, personnel sustainment, infrastructure, and training, as well as on anticorruption initiatives at the Ministry of Defense and Ministry of Interior.<sup>10</sup>

While the LOTFA scandal may have been only the latest high-profile example of external interveners' inability or unwillingness to police themselves, the experience in Afghanistan is hardly unique. In the 1990s, the UN Interim Administration in Kosovo (UNMIK) was also riddled with scandal. Not only did UNMIK facilitate widespread graft and corruption, but security forces under UNMIK authority *fueled* the sex trafficking trade, empowering Kosovar and Albanian mafias, many of which continue to operate with impunity throughout the region. In some instances, these illicit organizations succeeded in consolidating political and operational control over law enforcement agencies, security forces, and local governments.<sup>11</sup> In 2007, when veteran UN diplomat James Wasserstrom tried to expose the corruption within UNMIK, he was immediately fired and detained by UN police, who ransacked his apartment, searched his car, and put his picture on a “wanted” poster.<sup>12</sup> Seven years later, a UN dispute tribunal finally

---

<sup>8</sup> Dion Nissenbaum, “UN Staff Suspended in Afghan Fraud Probe,” *Wall Street Journal*, June 17, 2012, [www.wsj.com/articles/SB10001424052702303379204577472461229403068](http://www.wsj.com/articles/SB10001424052702303379204577472461229403068); Katrin Park, “A 200 Million USD Scandal in Afghanistan Shows UN Mismanagement,” RAWA News, Oct. 15, 2014, [www.rawa.org/temp/runews/2014/10/15/a-200-million-corruption-scandal-in-afghanistan-shows-un-mismanagement.html](http://www.rawa.org/temp/runews/2014/10/15/a-200-million-corruption-scandal-in-afghanistan-shows-un-mismanagement.html).

<sup>9</sup> Author interview with a senior (director-level) UNAMA official who participated in the decision briefs on whether to cut off LOTFA disbursements until an accurate count of ANP personnel could be established and verified, Kabul, Jan. 2014.

<sup>10</sup> SIGAR, “Quarterly Report to the United States Congress,” Jan. 30, 2015, [www.sigar.mil/pdf/quarterlyreports/2015-01-30qr.pdf](http://www.sigar.mil/pdf/quarterlyreports/2015-01-30qr.pdf).

<sup>11</sup> UN Peacekeeping, “Human Trafficking and United Nations Peacekeeping DPKO Policy Paper,” Mar. 2004, [www.un.org/womenwatch/news/documents/DPKOHumanTraffickingPolicy03-2004.pdf](http://www.un.org/womenwatch/news/documents/DPKOHumanTraffickingPolicy03-2004.pdf). Additional insights derived from author's observations and interviews while conducting security sector reform fieldwork in cooperation with the U.S. Mission to Albania during Apr.-Oct. 2009.

<sup>12</sup> Author interviews with James Wasserstrom in Kabul, 2011, and Washington, DC, 2014. See also Julian

cleared Wasserstrom and compensated him for his losses. But just as UNAMA has done with LOTFA, UN leadership in the Wasserstrom case stonewalled the investigations and denied any institutional culpability.<sup>13</sup>

With the stakes so high, why are we reluctant to impose rigorous standards on ourselves and our host-nation partners? For several reasons. Some donors would rather operate with less transparency. There are political implications, particularly when only one of several donors may be principally at fault. Do we “name and shame” the offenders, or do we look the other way to maintain the appearance of harmony and cooperation? Lack of security is another impediment to oversight. Insecure environments make for high staff turnover and limited ability to put “eyes on” development projects. Overseeing the disbursement of aid becomes especially challenging, so opportunities for corruption and mismanagement abound.

Also, effective oversight and accountability are difficult in purely practical terms. In 2010–11, NATO Training Mission-Afghanistan (NTM-A) tried to conduct a complete personnel and vehicle inventory of the Afghan National Security Forces. The labor-intensive effort dominated staff attention and resources, within both NTM-A and the Afghan Ministries of Interior and Defense, for more than five months. Transportation assets had to be dedicated to moving human resources and logistics personnel to every corner of the country, and battlespace owners had to assist with security and life support. As accountability dominated the partnering agenda, advise-and-assist relationships between coalition members and their Afghan partners became strained. Because this happened during the height of the “surge,” understandable tension developed between NTM-A and coalition ground force commanders, who often saw the inventory as a distraction that they could ill afford while conducting ongoing security operations. In the end, the audit was only a snapshot in time, and U.S. and coalition personnel openly questioned whether the effort had been worth the cost. For the military coalition, which was preparing to draw down its presence as Afghan forces took over the security lead, the oversight process was neither replicable nor sustainable. Thus, “What’s the point?” was a widespread sentiment. For the Afghans, the only disincentive for failure of accountability was loss of face. Equipment would continue to flow. No one was willing to limit distribution of fuel or spare parts, and coalition-led training would go on uninterrupted. The political will to enforce accountability by cutting off the Afghans’ international support, at that juncture, was nonexistent.<sup>14</sup>

Obviously, this level of accountability needed to come about much sooner than the final year of the surge. Retrospectively applying the *Impunity* case studies to Afghanistan, the teaching point is that accountability procedures, incentives, and disincentives should have been established in the immediate wake of the Bonn Agreement in 2001 and maintained consistently throughout the duration of ISAF’s time there. But even at the late date of 2011, there were positive effects. The inventories demonstrated a pro-

---

Borger, “UN Tribunal Finds Ethics Office Failed to Protect Whistleblower,” *Guardian*, June 27, 2012, [www.theguardian.com/world/2012/jun/27/un-tribunal-whistleblower-james-wasserstrom](http://www.theguardian.com/world/2012/jun/27/un-tribunal-whistleblower-james-wasserstrom). Wasserstrom later took a position within SIGAR.

<sup>13</sup> Borger, “UN Tribunal.”

<sup>14</sup> Author’s personal observations while senior rule of law adviser to the policing development mission within NTM-A (2010-11).

cess that, though perhaps not replicable for us, could work for the Afghans. It exposed, within both ministries, important capability gaps that were not fully appreciated before the inventory, and it put accountability at the forefront of ANSF development discussions. As the Ministry of Interior began to take control of its own strategic vision later in the year, accountability as a goal and a process figured prominently in the ministry's revised National Police Strategy, its National Police Plan, and the succeeding minister of interior's official vision for the future of the ANP.<sup>15</sup> The audit caused NTM-A to reconsider how it was measuring anticorruption efforts, and it made some (although not nearly enough) adjustments to how it assessed capabilities milestones. In some instances, NTM-A recovered improperly expropriated vehicles. Even a year later, some Afghan commanders recalled the inventory and used it as a teaching point in their efforts to develop junior officers.<sup>16</sup>

Ultimately, our own failure of accountability creates a crisis of perception, which sees interveners more as part of the problem than as the solution. It opens us to criticism that we do not take accountability seriously. In postconflict stabilization and reconstruction, our failure of accountability undermines security assistance. It perpetuates linkages to organized crime and supports the corruption of licit power structures. It provides fodder for opposition elements, obstructionists, and negative media campaigns that undermine legitimacy – both ours and the host-nation partners'. Unaccountability feeds social vulnerability and undercuts the licit economy. It is an assault on the rule of law, creating conditions for failure rather than for success.

*When law enforcement is viewed as a luxury, things fall apart, and illicit power structures are the first to fill the vacuum.* It is convenient to think of security as, first and foremost, a military problem. And under the laws of war and occupation, citizens' security is indeed a military problem. But illicit power is also a law enforcement problem, and when there is insufficient capacity to enforce the law, illicit power structures will inevitably fill the void. They do so in two primary ways. The most obvious is by taking advantage of gaps in law enforcement to break the law. Thus, we saw illicit power structures such as the RUF in Sierra Leone, or rebel groups in Liberia, move across borders with impunity, illegally transporting weapons, diamonds, and people for profit and military advantage. We saw how the Pashtun trucking networks in Pakistan and Afghanistan evolved from transporting licit goods illicitly for profit, to transporting illicit commodities such as weapons, materiel, and heroin to facilitate violence and insurgency against the ISAF coalition and the nascent Afghan government. The failure of law enforcement to competently and humanely control political unrest helped enable the rise of the LTTE in Sri Lanka and the Moro Islamic Liberation Front in the Philippines, and the consolidation of Haiti's Cité Soleil gangs. Indeed, civil disorder and inadequate border management are capacity gaps that come into play in every case study in this book.

The other problem in the law enforcement void is that illicit power structures not only exploit the void, but also replace it to further their own ends. It should be axiomatic

---

<sup>15</sup> See, for example, Afghan Ministry of Interior Affairs, "Ten-Year Vision for the Afghan National Police: 1392-1402," 2014, <http://moi.gov.af/en/page/5718/5729>.

<sup>16</sup> Ibid; author's further observations and interviews during fieldwork in Kabul, Helmand, Balkh, Laghman, and Wardak provinces (Oct.-Nov. 2012), and Kabul (Jan. 2014).

that communities do not function without rules to control behavior, and some form of enforcement. Where legitimate rule of law is absent, the strong rule. Illicit power brokers establish their own set of rules, which the population must obey if it is to survive. The impact on the population can be devastating, as current events in the Middle East, where ISIL has taken control of Iraqi and Syrian territory, illustrate in stark relief.

The impact on legitimate governance and stability is equally devastating. By the time Plan Colombia was initiated in 1999, almost 80 percent of Colombian sovereign territory was outside government control and in the hands of the FARC or the major drug cartels. Restoring government control over the population, resources, and institutions required billions of dollars in international assistance, a complete overhaul of the Colombian justice system, and a massive investment in security operations and security sector reform. Colombia's very existence as a democracy was at stake because illicit power structures owned the monopoly of force and were using it to protect their activities and impose their will on the population. Although the Colombian military plays a critical role in internal security, it was strengthening governance and reforming the criminal justice system that turned the tide.

A capable, credible, accountable military is a powerful tool for stabilization. But ultimately, respect for national sovereignty, and compliance with the law rely on policing. As external security providers, the police should be viewed as secondary or subordinate to the military. But under most constitutions and most legal systems, police are the principal tool for internal security, the face of the government, and the primary instrument for enforcing the rule of law. To counter illicit power requires positive law enforcement engagement with local authorities and the people; strong relationships between police, prosecutors, judges, prison administrators, and other actors in the criminal justice system; and, if applicable, effective processes to coordinate and deconflict military and policing operations without relegating police to a supporting role. Law enforcement, if done right, respects and protects positive local customs and culture and sends the message that the government is in charge. It is not a luxury. It is essential.

*Grievances that go unresolved create opportunities and incentives for illicit power structures to emerge, and enable them to build an enduring base of support.* When assessing options to control illicit power, the tendency is to focus on the criminal justice sector. But the wider problem of dispute resolution; respect for basic equality, human rights, and property; and civil enforcement is strategically just as important to containment. Illicit power structures tend to arise out of popular frustration over inequality, and a sense that the government is unresponsive to the needs of vulnerable or minority populations. Power brokers who can address local concerns gain wide legitimacy and support, even where the population decries their methods. Restoration of the rule of law, in a way that addresses both governmental and nongovernmental impunity and protects fundamental fairness, reduces vulnerabilities that allow illicit power structures to emerge. It creates confidence in the government and invests the population in the success of legitimate governance structures, institutions, and initiatives. Lieutenant General H. R. McMaster points out in his foreword to this volume:

*People fight today for the same fundamental reasons the Greek historian Thucydides identified nearly 2,500 years ago: fear, honor, and interest. . . . Crafting effective strategies to address the challenge of*

*weak states must begin with an understanding of the factors that drive violence, weaken state authority, and strengthen illicit actors and power structures. Terrorist, insurgent, and criminal networks exploit fear and anger over injustice, portraying themselves as patrons or protectors of a community in competition with others for power, resources, or survival.*

In Chapter 7, on the Moro Islamic Liberation Front in the Philippines, Joseph Franco writes, “The overarching driver of conflict in Mindanao all throughout its recorded history was the maintenance of specific economic rights. Discourses of religious and ethnic strife were the *effect* rather than the cause of conflict.” Phil Williams tells us that in Iraq, “the Sadrist movement emerged as, and remains, the advocate for a large, young, and hugely disadvantaged sector of the Iraqi population, whose grievances and concerns must be met for Iraq to have any hope of long-term stability.” Countering illicit power requires that we confront the challenge of injustice and shore up state authority to address the emotional, human dimension of conflict. This becomes even more critical in times of extreme political transition, when the distribution of power is still uncertain and the population is assessing where to place its support.

### ***Institution Building and Security Sector Reform***

Security sector reform and institution building, done right over time, can have a positive effect in countering impunity.

The Organisation for Economic Co-operation and Development (OECD) invested several years codifying best practices in security sector reform, leading to the 2007 publication of the “OECD DAC Handbook on Security System Reform: Supporting Security and Justice.”<sup>17</sup> Since then, it has become fashionable, in the aftermath of failed SSR interventions in places such as Yemen and South Sudan, to bash the OECD’s conclusions about the importance of a comprehensive approach as grand, unrealistic, and ultimately ineffective. But is the approach faulty, or is the problem that it has been executed imperfectly, with unrealistic expectations over too short a time? Several of this volume’s contributing authors point to the limitations of technical capacity building approaches, and rightly so. But excessive focus on technical capacity misses the fact that where the focus has been on institution building, real progress occurs.

*Sustainable institution building requires political will, backed by sustained assistance over time.* Modern history is rife with examples where overemphasis on speedily training and equipping security forces, without security sector governance to manage and oversee them, has failed. Yemen, Iraq, and Syria are only the latest to hit the news cycle. But what about the success stories? Why do not they not get more attention? Among the case studies in *Impunity*, Sierra Leone, Liberia, Colombia, Haiti, and the Philippines are examples where a sustained institution building approach yielded progress. But in all cases, progress lasted only as long as the focus remained on the institutions rather than on the operating forces themselves. Timor-Leste, on the other hand, is a case study in good intentions poorly executed, without regard for political reality. Deniz Kocak con-

---

<sup>17</sup> OECD, “Security System Reform and Governance,” May 31, 2005, [www.oecd-ilibrary.org/development/security-system-reform-and-governance\\_9789264007888-en](http://www.oecd-ilibrary.org/development/security-system-reform-and-governance_9789264007888-en).

cludes, “It is striking that the United Nations did not learn from the lessons of either its previous missions or the experiences of UNTAET and UNMISSET after 2006. Rather, it maintained a flawed PNTL [Timor-Leste National Police] training program that had failed to produce professionalism or operational effectiveness, it repeatedly conducted ineffective vetting that enabled rather than prevented factionalism and politicization of the force, and it neglected PNTL institutional development in favor of a short-term, train-and-equip mentality.”

Colombia is often cited as a success story because the comprehensive security sector reform that took place under Plan Colombia did, in fact, reverse decades of failed train-and-equip efforts. The international community’s ongoing commitment to reform in Sierra Leone formed the basis of the OECD effort and continues to this day. Liberia struggles, but the commitment to whole-of-government reform has at least given it a chance.

In Eastern Europe, Ukraine, threatened by Russian incursions and fearing for its future autonomy, is reforming itself faster than the international community can respond.<sup>18</sup> And the Republic of Georgia continues to progress even though it no longer enjoys significant donor attention.<sup>19</sup> The U.S. State Department’s Security Governance Initiative in Africa represents a deliberate approach to security sector governance that places a greater premium on institutional capacity building and less emphasis on training and equipping. And it is beginning to get results in a handful of the countries that were selected to participate.<sup>20</sup> Even in Afghanistan, after NTM-A recalibrated its capacity building efforts for the police in 2010 to focus more heavily on ministerial development and professionalization, there was a marked increase in public trust and confidence in the ANP.<sup>21</sup>

In all cases, certain political common denominators support success. National ownership and leadership of the reform agenda is essential, and the host nation has to want its institutions to succeed. Leaders, institutions, and the population all must believe that they have significant interests at stake should reforms fail. As international donors, we must be committed to an assistance strategy that is long term and comprehensive, is culturally, contextually, and politically appropriate, and reflects the host nation’s vision for itself, rather than our vision for it.

*Countering illicit power requires special skills and capacity across the justice system, and capacity development must address that need.* Often overlooked is the fact that confronting illicit power structures, their networks, and the networks that enable them is a highly specialized undertaking even in mature systems. All the illicit power structures in our

---

<sup>18</sup> Author interviews with U.S. State Department officials, Washington, DC, Sept. 2015.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid. See also White House, “Fact Sheet: Security Governance Initiative,” Aug. 6, 2014, [www.whitehouse.gov/the-press-office/2014/08/06/fact-sheet-security-governance-initiative](http://www.whitehouse.gov/the-press-office/2014/08/06/fact-sheet-security-governance-initiative).

<sup>21</sup> Asia Foundation, “Afghanistan in 2014: A Survey of the Afghan People,” Nov. 18, 2014, 42, <http://asiafoundation.org/publications/pdf/1425>. Notably, 2012, the one year during 2010-14 when public perceptions of the ANP declined, coincided with a period when NTM-A reduced its emphasis on ministerial development and professionalization in order to refocus on its “core” mission of rapid training and equipping of “boots on the ground.” Author interviews with senior officials in NTM-A, ISAF, and the European Police Development Mission, Kabul, Oct.-Nov. 2012.

case studies had extensive geographic, functional, and political reach. Power structures such as the Jaish al-Mahdi in Iraq, Pashtun trucking networks in Afghanistan and Pakistan, and Charles Taylor's National Patriotic Front of Liberia were regional players. The Odessa Network and the Joumaa Web routinely operated on a global scale. As their power grew, they established relationships, created alliances, and expanded operations to the point where they transcended borders. Countering such complex networks poses challenges across the entire end-to-end process of any criminal justice system.

Viewed as a functional continuum, the capacity required to confront impunity begins with the ability to detect and prevent crime. At one end of the detection spectrum is community policing and community vigilance. The other end of the detection spectrum includes cross-border and cross-domain intelligence collection, analysis, and dissemination. Once detected, illicit power structures must be interdicted and investigated. This involves another set of highly specialized skills, attributes, and institutions. One vital niche capability, for example, is the ability to understand and audit highly complex financial transactions. This is not a job for amateurs. Chapter 10 discusses the challenge the Kenyan government faced when it tried to conduct small-boat maritime operations to interdict Somali extremists who were entering the country through its major seaports. The investigative ability to conduct maritime forensics simply did not exist in the Kenyan police or prosecution services. Thus, there was no justice endgame for the interdiction operations.

The challenge of capacity continues through to prosecution, adjudication, and appeal. Along the way, there must be a prison system capable of containing and controlling those who have been brought into the system (arrested) as well as those merely under suspicion. In Chapter 14, Mark Kroeker emphasizes the importance of prison systems to effective security sector reform. He notes that prisons are usually overlooked and underresourced, with disastrous results. What criminal law practitioners know intuitively is that this entire sequence has to work as a horizontally integrated process. A breakdown at any point along the continuum usually leads to total failure. But Kroeker also explains, "While it is useful and essential to look at how justice functions as a system, the subsystems within it must be carefully examined within their own peculiar set of authorities and functions."

The Drug Enforcement Agency (DEA), more than any other agency, has long recognized the need for a systemic approach – but one focused strictly on its mission of countering the flow of illicit drugs. Its formula for creating vetted units teamed with specially trained investigators and prosecutors, and establishing protected, specialized courts to handle drug cases under criminal codes designed to confront the problem of drug trafficking, provides one model. The DEA comes under criticism that its approach is not generalizable. But if we look at other successful strategies for confronting specialized threats, such as financial crimes, tax fraud, and grand corruption, that exist in developed nations with mature legal systems, we quickly see that the approach is not the weak link. What makes it impracticable is our own reluctance to apply the concentrated resources and diplomatic force necessary to make these systems work.

*Effective institution building requires uncompromising accountability, and enforcement of both discipline and professional standards.* We have discussed the consequences of our unaccountability as interveners, and emphasized the corrosive effect of corruption on a

host nation's ability to prevent and confront the rise of illicit power. And in security sector performance, the negative impact is magnified. Accountability, transparency, and adherence to the rule of law must be front and center in approaching the challenge of security sector reform. And yet, our pattern, over and over again, is to sideline accountability as a problem for the lawyers, the inspector general, or Internal Affairs.

Successful, sustainable, self-reliant capacity building has three main components: (1) inculcation of a culture of accountability and public service; (2) inoculation of the system, to reduce or eliminate opportunities for impunity; and (3) strong discipline and enforcement mechanisms. The three must go hand in hand, and they are not easy to implement.

The first requires vision. What is the big idea behind the capacity that is being built, and how is that vision communicated? This is more than a messaging strategy, although the message is certainly an essential part of the whole. Laying out a vision, and a set of standards to support it, is key.

To this end, vetting, done with a high degree of transparency and public participation, is a valuable tool. In Chapter 4, Will Reno discusses the problem of impunity as part of Liberia's political culture. It is therefore notable that success may be emerging in the current Armed Forces of Liberia. During the postconflict reconstitution of the country's security forces, two different approaches were applied: one for the army and one for the Liberian National Police. The army (and the civil service within the Ministry of Defense) benefited from a gold-standard vetting process that required strict compliance with newly articulated qualification standards, and a lengthy process of public notice and comment for every recruit.<sup>22</sup> The result, after two years of painstaking development, was that the first graduation of military recruits became a national event. The Liberians were proud of their new force, and the soldiers were proud of themselves and the fresh start they represented.

Police and Ministry of Interior development followed a less rigorous, more ad hoc "check the box" approach, so that by the time the first army cohort was being fielded, the Liberian National Police force was already falling into disrepute.<sup>23</sup> Some would argue that haste was necessary so that policing could be restored and the international community could shift the burden of security to the Liberians, but the actual effect was that international civilian police units were forced to maintain a more active, sustained presence than their mandates anticipated; otherwise, law enforcement throughout the country would suffer.<sup>24</sup> The Liberian army, although it took longer to establish, has proved to be the more capable, credible force. Because the memory of its past abuses and atrocities is still raw, it fights an uphill battle in the court of public opinion. But leaders continue to enforce the standards that were put in place during the reconstitution. Only a few years after it was reformed, the army is increasingly finding its place as a credible tool of national and regional security, and emergency response.<sup>25</sup>

---

<sup>22</sup> Author interviews with Colonel (ret.) Thomas Dempsey, former U.S. defense attaché to Liberia, and, later, member of the assistance team that designed and conducted the Liberian vetting program.

<sup>23</sup> Author interviews with Liberian officials and members of the UN Mission in Liberia, attendance at town hall meetings, and observations while conducting security sector reform fieldwork, Monrovia and Lomo County, Liberia, 2007.

<sup>24</sup> Ibid.

<sup>25</sup> Helene Cooper, "Amid Ebola Crisis, Liberian Army Sees Its Chance at Rebranding," *New York Times*,

Inoculating the security system against impunity requires attention to the bureaucratic processes and mechanisms through which the institution's business is conducted. The e-government initiatives that Scott Carlson describes in Chapter 17 as part of a "granular approach" to combating corruption are apt examples of how rudimentary technology can be used to increase transparency, public access, and oversight, making systems and institutions less vulnerable. Another useful basic management technique is to provide actual position descriptions for government jobs so that merit-based hiring and promotion has a proper foundation. Internal and external audits and reviews; asset disclosure requirements; whistle-blower protection; fraud, waste, and abuse hotlines; ombudsmen; and inspections are all ways to increase accountability and decrease opportunities for abuse.

Finally, strengthening discipline and enforcement requires, first and foremost, that enforceable standards be clearly established. It was shocking that in Afghanistan, the ANP did not have an official, signed code of conduct until the summer of 2011—nine and a half years after international efforts to rebuild the National Police had begun. This oversight is a testament to the overwhelming focus on numbers—"boots on the ground"—in the recruitment and training of the ANP. Even after the minister of interior signed the police code of conduct, few in the ANP or the international community recognized the code's existence or significance. Dissemination was spotty at best, and how it should actually be enforced had not been thought through and was not being taught anywhere in the leader development training at the time.<sup>26</sup>

Part of the problem with strengthening discipline and enforcement is the commonly held view that it revolves around legal prosecutions rather than administrative discipline. International advisers often assume that the administrative measures taken in functioning organizations to correct misbehavior or enforce job performance standards already exist or will emerge as the organization matures. But it is important to remember that Western expectations and experience reflect a very democratic view of security as a public service. In countries where the main role of security services (and their colleagues throughout the justice sector) was to protect the regime rather than the population, the idea that the population has a right to demand that public duties be performed for its own benefit represents a sea change in attitude and institutional culture.

Ultimately, the key to developing successful accountability within the security sector is to make it a primary effort that is mainstreamed throughout every aspect of capacity building. Accountability, oversight, transparency, and anticorruption cannot be secondary to training and equipping. TTP must be vetted through the lens of accountability and enforcement. What standard will be applied? At which levels? How will the standard be taught, put into operation, and enforced? What internal processes must be put into place? What are the external controls? What does governance look like for each function, mission, and organization? What is the role of the public and civil society? Of the media? How can the public and civil society be educated about their roles? How will public participation be ensured? These are not incidental activities. They are primary, and in the fight against the rise of illicit power, they are essential to successful capacity building.

---

Oct. 11, 2014, [www.nytimes.com/2014/10/12/world/africa/amid-ebola-crisis-liberian-army-sees-its-chance-at-rebranding.html](http://www.nytimes.com/2014/10/12/world/africa/amid-ebola-crisis-liberian-army-sees-its-chance-at-rebranding.html).

<sup>26</sup> Author's firsthand experience as an NTM-A representative to the UNAMA-led advisory team that assisted in developing the Code of Conduct for the ANP, Kabul, 2011.

*Inclusion matters – a lot.* Deniz Kocak’s excellent analysis of security sector reform in Timor-Leste contains many important lessons, and one of the most important is how critical it is that the security sector represent the population as a whole. As Kocak points out, SSR is, above all else, a political task. In Timor-Leste, as elsewhere, we see the harm done when local power brokers capture security forces and use them to empower their own ethnic, tribal, religious, familial, or political constituencies. The result is loss of trust and legitimacy.

Inclusion also matters in effectiveness. Security institutions that are not representative of the population cannot engage effectively with that population to prevent and detect the emergence of illicit networks. Successful intelligence-led policing, as Cliff Aims explains in Chapter 15, begins with the ability to identify the problems and determine how those problems can best be addressed *within the realities and limitations* of the indigenous system. Police must be able to interact with the whole population, detect anomalies, and develop reliable sources of information and evidence. To do this effectively, they must be objective and free from political, gender, ethnic, religious, or familial bias.

And prosecutors and judges must share the same objectivity. If members of a diverse citizenry are to come forward with their information and their concerns, they must first feel confident that the system represents and values them. Where vulnerable populations have been victimized by bad actors, it is particularly important that they be represented. Security and governance institutions must be accessible to both men and women, and accommodating to their trauma and their sensitivities. Confronting illicit power and impunity requires courage and confidence, which will be present only if security institutions truly reflect the population they serve.

### *Illicit Power and the Peace Process*

With all the focus on the existential challenge that illicit power structures present on the ground, it is important not to overlook the critical role that peace agreements and processes play in our ability to contain illicit power. Viewed from the other side of the glass, what impact do illicit power structures have on efforts to reach viable peace?

The presence of illicit power adds layers of complexity to any peace agreement or process. Looking across the case studies, we can conclude that peace agreements have a chance of success if, as Gretchen Peters affirms, they take the illicit economy into account and address negotiable interests, however distasteful that may be. Peace agreements that gloss over difficult issues of power sharing, distribution of resources and authority, reintegration, and reconciliation are problematic from inception and may even be doomed to fail. Not only do they wish away the most intractable points of contention, but they also fail to provide a realistic framework for reform. Experience teaches that capacity building cannot succeed unless it addresses politics, power, and factionalism. An effective peace agreement must provide the structure around which these issues can be resolved.

While working on *Impunity*, we had the opportunity to teach the material as part of a graduate course on security and development in complex operations. So we incorporated a discussion on the importance of peace agreements to development that counters illicit power. The students were mostly current or former Army Civil Affairs officers. Almost all had served in either Afghanistan or Iraq, typically as part of a stabilization

or reconstruction effort. We polled those who had served in Afghanistan, asking them whether they had ever read the Bonn Agreement, which codified provisional arrangements for the reestablishment of Afghan governance and security.<sup>27</sup> Many of our students had deployed in positions where they were advising the Afghans on governance and the rule of law, yet *none* had read the Bonn Agreement. Only four were even aware of its existence.

Even after we introduced the Bonn Agreement, the students were initially skeptical of its relevance, since they had mostly been working at the subnational level in provinces, districts, and villages. But they later realized that the Bonn Agreement had had a direct impact on their mission. They noted how highly aspirational it seemed. And they were surprised at how much the United Nations' role depended on decisions of an Afghan Interim Authority consisting only of individuals who were personally present in Bonn. They remarked that most of the illicit power structures they later encountered in the battlespace were not parties to the agreement, and they wondered how the agreement could have such force given the scale of the unrepresented interests. They found the proposed legal framework ambiguous. Indeed, those who had worked on rule of law-related issues while deployed thought the legal framework in the Bonn Agreement inconsistent with what they had been trying to apply in the field. And in light of their experience dealing with local power brokers, everyone believed that reliance on the Afghans' ability to achieve consensus on complex issues of future governmental authority was misplaced or, as one student put it, "a joke." Ultimately, most felt that it would probably have been a good idea to read it before they tried to accomplish in the field things that did not exactly track with the agreement reached in Bonn.

The students' analysis was not far off. As the authors of Chapter 1, "Criminal Patronage Networks and the Struggle to Rebuild the Afghan State" point out, the 2001 political settlement in Afghanistan neither accurately nor adequately addressed the risks presented by the various competing power structures that would be present during the reconstruction. This is especially ironic given Afghanistan's turbulent history of competition for power. Western expectations that the agreement represented a process to build a democratic, sovereign Afghanistan were not shared by the Afghans, who viewed it as a grand bargain for distribution of power between the most dominant (and present for the negotiations) ethnic and political factions. Instead of constraining the various power brokers, the Bonn Agreement actually created ambiguity and political space for illicit and factional leaders to assume power through unchecked patronage, violence, and coercion. Or, as the authors state, "Afghanistan's political settlement protected and, at times, empowered the country's CPNs [criminal patronage networks] and rendered ineffective many of the coalition's governance and development efforts."

The contrast between the Bonn Agreement and the Lomé Agreement in Sierra Leone<sup>28</sup> is striking. The Lomé Agreement is far less aspirational and much more pragmatic.

---

<sup>27</sup> UN Dept. of Political Affairs, "Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions (Bonn Agreement)," 2001, <http://peacemaker.un.org/afghanistan-bonnagreement2001>.

<sup>28</sup> *Peace Agreement between the Government of Sierra Leone and the RUF (Lomé Peace Agreement)*, UN Peacemaker, July 7, 1999, <http://peacemaker.un.org/sierraleone-lome-agreement99>.

It contains specific guidelines for how all former combatants should be treated upon cessation of hostilities, and how they were to be reintegrated into society and, in some cases, government security forces. All the belligerents who had negotiable interests were parties to the agreement, and the disposition of the intransigents was anticipated and addressed in considerable detail. The RUF's future political role was specified, as were the tasks that each party must complete to make it succeed. All tasks were framed within the structure of existing Sierra Leonean law and administrative governance. Major reforms would not begin until stability had been achieved. Oversight, transparency, accountability, enforceability, and public information were recognized as crosscutting concerns and were covered throughout. Nearly every major provision contained an agreement on how it would be promulgated and guaranteed. The authority of the United Nations, regional forces, and other interveners was clear, unambiguous, and heavy-handed. Withdrawal of foreign forces would be conditions based.

The Lomé Agreement was not immediately successful and might have been abandoned if the international community and the parties believed in it less. The main problem was that the RUF was divided between those with negotiable interests and those without. The internal schism caused the cease-fire to unravel, and violence ensued. But the international community held on to its commitment to the agreement, and increased troop strength so that capacity matched worst-case requirements. Reconcilable elements of the state security forces who had gone rogue recommitted themselves to the process, and the resurgent threat from the RUF was defeated.

The mission was saved, and the agreement was saved, which turned out to be a good thing. The Lomé Agreement had, in fact, addressed quite well the vulnerabilities and risks presented by the myriad competing illicit power structures and political factions. Once security was restored, the agreement provided a competent, realistic framework for conflict resolution, reintegration, reconciliation, resource management, and security sector reform. It was, in the end, a peace agreement that correctly anticipated the threat and fit the operational environment of illicit power in Sierra Leone and surrounding states.

As we conclude the study of *Impunity*, Colombia is back at the negotiating table with the FARC, with breakthroughs being announced almost weekly. A final deal will supposedly be worked out by March 2016, and the parties to the agreement – the Colombian government and the FARC – have six months to work out the final details of implementation. Key points of agreement include justice and reparations, rural development and land reform, and ending the FARC's involvement in the drug trade. The FARC's future as a political party, as well as its disarmament, demobilization, and reintegration, is not yet resolved, but both sides agree on the need to agree. Impunity during the conflict is also being addressed, and the processes to assign accountability and ensure just punishment for perpetrators of human rights violations are to apply to both sides. It remains to be seen whether Colombia will finally be able to resolve its decades-long war with the FARC, and the FARC its grievances with the Colombian government. But it is encouraging that – in this round of peace negotiations, at least – central issues of power, impunity, and the connection with the illicit drug trade are all being addressed. Peace in Colombia may finally have a chance.

## Conclusion

We said that from the beginning we allowed ourselves to be students of history, and we have tried to do just that. In the end, our most enduring insight may be that the fight against impunity is all about governance—good, capable, credible, accountable governance. As Michael Miklaucic stated in the introduction:

*Regardless of the idiosyncrasies of any particular illicit organization or network, the fundamental issue at stake is accountability. States are, or should be, accountable both to their citizens and to the international community of states. Illicit power structures, organizations, and networks are accountable only to themselves. They have no commitment to the broader public good beyond their parochial interests. And to the extent that they succeed in carving out operating space within a polity, they erode that polity's legitimacy by creating accountability-free zones, or zones of impunity.*

So what does success look like? Here is what the cases studies suggest: Success is more about a process than about a product. It is the demonstrated ability of a government and its people to work together toward a culture of accountability. It is the political will, within and among nation-states and international actors, to shine a light on impunity—to root it out wherever it is found, to call it what it is, and to commit the necessary resources to contain, transform, or destroy it. It is the ongoing education and development that enables legitimate institutions to strengthen and reform from within. It is vigilance in enforcing of the rule of law, even when this is not convenient, quick, or profitable. Success is also marked by the willingness to continue to engage—to return again and again to the negotiating table, even when those on the other side are belligerent and distasteful. Success requires a sincere, ongoing effort to resolve grievances, improve government services, and demonstrate through action and not mere words that impunity will not be tolerated. Success comes from comprehensive, long-term commitment, not from an on-the-fly injection of resources and training. Successful approaches are generational. They span decades, and they are comprehensive. If defeating impunity sounds difficult, it is because it is. But as our research illustrates, the impact of unchecked illicit power is far worse.