

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA: THE PLANS, THE BRICKS, THE PURSE AND THE BUILDER

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Introduction

A bricklayer likes to know before beginning a new project, what bricks are to be used and what the building looks like that is to be constructed. These are essential questions for justice and security development in Africa as well. What is being built, with what, by whom and for whom? These are the issues being addressed by this article. The 'bricks' on offer are very varied and are often divided into 'state' and 'nonstate-informal' actors, though this is not a fully accurate distinction from an empirical perspective. Concerning the 'architectural plans' for the 'bricklayer' to follow, there are several plans on the drawing table. For some, security and justice architecture is about creating a state strong enough to hold a monopoly of effective justice and security provision. Others offer plans based on local security and justice inputs. It helps, also, to be reassured that however good the plans are, someone can pay for the construction. It might also be worthwhile consulting the people who are going to use the security and justice 'building' as to whether they are happy with it. In the final analysis, however, which 'bricks', which 'plan' and whose money are choices made by the one who is commissioning the building. Yet even that is not clear in the case of justice and security architecture in Africa. Is it an African project seeking donor support, or a donor project hoping for African ownership?

To set aside the analogy for a moment, this article is about the dilemma presented by legal pluralism in Africa. Is its prevalence to be welcomed and its opportunities

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JUSTICE AND SECURITY ARCHITECTURE IN AFRICA

Bruce Baker

exploited or is it a handicap to justice that should be eliminated? In seeking to present an overview of what is happening in security and justice programmes in Africa and the issues that they are raising, this article begins by examining the security and justice providers in Africa, with particular emphasis on policing; the providers being the bricks of security architecture. It notes that given the few resources available to most African countries, the state police and judiciary are inevitably limited. However there are many other providers, commonly termed 'nonstate' or 'informal', though, as the article explains, the terminology does not do justice to their diversity, local nature and their complex relationships with the state. These providers, it is argued, can in some cases be effective, and often have widespread local support. Next the article considers the benefits and drawbacks of two approaches by donors and African states to security and justice provision; the architectural plans. The more widely used is statebuilding and a less widely used is the multi-layered approach. The next section explores the cost implications of the two plans; the purse. It argues that statebuilding is not only very expensive but may well be unsustainable in a way that using nonstate-informal actors is not. Finally and briefly, the article asks whose security architecture is it that is being built in Africa? Who is the builder? Amid disputes about what is meant by local ownership, the article calls for the security and justice users to design an affordable architecture.

The Bricks

Looking at what the state police and judiciary have to offer in Africa one realises that it is very limited. It is not just the quality of the 'bricks', which perhaps can be improved. It is also the actual numbers. There are very few 'bricks' and they are expensive. The numbers of police, judges and magistrates per head of population are often quite small, and they are usually urban based and may be beyond sustaining at current levels given the resource implications.¹ But the state police and judiciary are not the only 'bricks' on offer. It is not always appreciated just how many groups are present in Africa providing security and justice. Though most have come to recognise the rapid growth of private security since the 1990s (Abrahamsen and Williams 2008) the long standing provision of everyday policing

¹ My own research estimates that the ratio of police officers to population is: Guinea Bissau 1: 2,403; Uganda 1: 1,839; Rwanda 1: 1,454; Liberia 1: 857; Nigeria 1: 722; Sierra Leone 1: 625 (cf. England and Wales 1: 402).

and dispute resolution by community collectives has been relatively overlooked by governments, international donors and academics working in policing and security studies.

I have argued many times before that it is these nonstate-informal actors that are the dominant and preferred policing and dispute resolution providers of most Africans most of the time (Baker 2009). These are the most common and popular ‘bricks’ available, as the World Development Report (Chirayath et al. 2005), UNDP (Wojkowska 2006), OECD (2007) and DFID (2004) have acknowledged. It is estimated that these nonstate-informal actors provide at least 80 per cent of justice services in sub-Saharan Africa (OECD 2007: 17). Customary courts probably cover 90 per cent of Africa’s population (Chirayath et al. 2005: 3). In a UNDP report it is argued that these networks “are the cornerstone of dispute resolution and access to justice for the majority of populations, especially the poor and disadvantaged” (Wojkowska 2006). Indeed, Nigeria’s national crime victimization survey shows that 50 per cent of Nigerians use nonstate-informal policing to protect them from crime (CLEEN 2005). In two states surveyed in Nigeria, nonstate-informal actors were the preferred choice of delivery 88.9 and 62.5 per cent of the time (Alemika and Chukwuma 2004: 6).

Such widely available ‘bricks’, however, vary in their quality and shape. To name some, there are: private citizens organized on a voluntary, as needed, basis (locally called ‘vigilance’ or ‘vigilante’ groups, though they do not necessarily have the negative aspects that these words convey in the West); security groups organized by and for the benefit of trading communities; informal local government security structures providing everyday policing; customary chiefs who prevent or resolve customary, civil and often criminal cases; religious police (especially Islamic) overseeing moral conduct; anti-crime groups that are semi-commercial in their operations; restorative justice community-based organizations; and ethnic or clan militias acting to protect a distinct way of life.

Despite their great variety, it is common for donors and security scholars to classify all such groups under the terms ‘nonstate’ or ‘informal’; in other words to make their defining characteristics either that they are not state providers or that they are not methodical and recognised. These are categorisations that subtly question whether they are or ever can be professional, effective, reliable or authorised. It is worth asking not only whether the terms are accurate, but why security and justice should be viewed from a state and formal perspective any way. What makes the terms additionally problematic is that security and justice

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA

Bruce Baker

providers are not always clearly separated and distinct in their authorisation, formality or even in their activities. It is true that there are plenty of examples of, for instance, nonstate-informal security and justice groups acting autonomously with no reference to other providers. However it is equally true that Africa has many examples of security and justice activities that are shared by groups from either side of the state boundary, whether as a result of sanctioned or unsanctioned arrangements. Johnston talks of these cross-boundary relationships as 'hybrid' (Johnston 1992). In the case of policing groups, some realize there is much to gain from tapping into the knowledge, capacity and resources of others so as to achieve their own agenda. The strength of the policing actors varies, that is, in terms of the capital available to them, whether symbolic, cultural, economic and social, to use the terminology of Bourdieu (Bourdieu and Wacquant, 1992). Hence the transactions and interactions will vary according to the perceived capital of the actors by others.

The state police will, by its size and resources and legal standing, tend to dominate internal security networks and assume an asymmetrical relationship with other security actors. Its dominance is based on its economic capital, that is, its state and donor finances; its cultural capital, that is its corporate knowledge and skills acquired by training and experience; and its social capital, that is all that it has gained through possessing a longstanding officially recognised role. Only private security companies may be able to compete with the police in economic and cultural capital. Where the nonstate-informal actors may score, however, is in symbolic capital, that is, in prestige, honour and attention. Thus, for instance, the source of power of chiefs or ethnic militia leaders or imams is their standing in the local or ethnic or religious community as revered 'big men' and their unchallenged local legitimate authority. In many parts of Africa the state police have, in comparison to these local leaders, little power.

The recognition of capital in others draws providers together into security and justice networks. It is no surprise that many instances can be found of state and nonstate-informal actors carrying out joint patrols and operations or exchanging information about crime and criminals. Take, for instance, the case of a South Sudan market association in Yei. It has arranged with the police that when the police arrest any traders, they are to be handed over to the association on request for the association itself to resolve the issues. The details of their resolution are then reported to the police. Both parties express their satisfaction with the arrangement. Then there are cases of community-based groups working with state police in dividing the work according to whose *modus operandi* is best suited for

the required task. The state may also provide nonstate-informal policing groups with equipment or training and it is not unknown for commercial security to supply the police with resources. The boundary, then, between state and nonstate-informal is blurred and dynamic. The ties are repeatedly negotiated and revised. What may be official policy may be countered by unsanctioned local practice between policing group leaders. This is how the Uganda police on the Uganda/DRC border find themselves, contrary to official policy, working with local youth groups. The value of the youths' intelligence about trans-border crime is worth the price of offering them immunity regarding their 'other affairs' as long as these affairs are conducted away from the border town and out of sight (Titeca 2009).

Neither the term 'nonstate' nor 'informal', therefore, fully characterise those that are so labelled. In fact many do have some degree of authorisation by certain levels of the state and do undertake what in official state law and in Western notions of the state is seen as the state's security business. The terms also fail to acknowledge those in tactical alliances or government sponsored partnerships. To my understanding the thread running through nonstate-informal groups is not so much that they have nothing to do with the state, but that they are *local* security and justice providers. That is, they operate in a geographically and politically defined sub-national and sub-regional space; enforce the prevailing order of that locality; and use as 'foot soldiers' volunteers recruited from that locality. Though there is obviously some indeterminacy or contestation about the spatial extent of what constitutes local, the locality's heartland is likely to be agreed by the majority of inhabitants living in an area. There is also likely to be a shared awareness by locals of where 'others' are found, and logistically most voluntary groups are constrained in the area of their influence by lack of resources. Even when recruits, support or perhaps legitimacy, come from beyond these bounds, the needs and available volunteers of the immediate locality define the group. Whilst the state may well have police and justice officers working at the local level, their authority, orders and procedures are all determined by those outside the locality: this is not the case for nonstate-informal providers.

In these circumstances the persistence of the terminology of 'state'-'nonstate-informal' is perhaps surprising. Yet as Bourdieu (1989: 7) has observed, classifications are the product of social structures and domination, however much they might have the appearance of objective necessity. In this case the classification suits many policing actors. Cooperation may have its advantages, but sometimes both sides have reservations about being associated with their 'partner' and do not want to be 'contaminated' by their unacceptable actions. The state

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA

Bruce Baker

police like to reassert that they are the professionals and ‘real’ police. They are keen to perpetuate the myth that they hold the monopoly of service provision or at least should be at the centre of donor aid. Likewise not all local policing groups like to be seen to be working too closely with a state police that might be deemed corrupt and predatory and closely associated with an unpopular regime.

The dichotomy of state/nonstate-informal also serves the interests of donors. As state agencies whose attention is on building state security and justice, this terminology marks the border of acceptable area of work from the unacceptable or at least the doubtful and controversial. A review of 78 assessments of legal and justice systems undertaken by the World Bank since 1994 noted that: “many mention the prevalence of traditional justice in the countries looked at, but *none* explore the systems in detail or examine links between local level systems and state regimes” (Chirayath et al. 2005: 3). The donors by definition come from a political culture that is pre-occupied with the state and its strengthening, and so inevitably it is the state providers that are the principal object of their security reform programme. Anything that falls under ‘nonstate-informal’ is therefore problematic; it is outside their remit or if it is not, it is outside the sphere of *professional* security and justice. The UK’s Department for International Development (DFID), for instance, may be sympathetic in principle to working with nonstate-informal justice and policing, however it is quick to note that ‘common problems’ associated with nonstate systems include, “corruption and abuse of power; non-compliance with international human rights standards, such as discrimination or inhuman and degrading punishments; lack of accountability” (DFID 2004: 3). It warns programme managers that: “particular attention should be given to whether nonstate justice and security (NSJS) systems respect individual rights. For example, where NSJS systems discriminate against women and marginalised groups” (ibid). It is surprising how often donors quickly list perceived problems with nonstate-informal actors, such as gender discrimination and human rights abuses – all of which are major issues in Africa’s state police forces and courts as well (e.g. on Nigeria Police, see Human Rights Watch 2010).

Interestingly, the actual users of policing and justice services are less concerned about the blurred boundaries. Indeed, the state/nonstate-informal boundary is not one recognized by most African citizens as fundamental. Issues of effectiveness and accessibility trump concerns over the nature of the authoriser. An individual may according to circumstances move from the arena of one security and justice provider to another and from state to nonstate-informal. In the village the headman or maybe the imam is there to bring a settlement regarding ‘men-women problems’. To settle the land dispute there is the paramount chief or there may be

a restorative justice organization. On the visit to the town a neighbourhood committee will be on the watch for armed robbers; a commercial security guard will protect the entrance to the bank; and a taxi-drivers' association will deal with any pickpocket at the bus station. Finally, if there is a serious crime and a 'shedding of blood', there is the state police. The boundary, so important to the state and international donors, is far less significant to users and is crossed without concern. The issue crucial to them is not focused on authorisation, but on effectiveness. It matters less who has authorised the security, than how good the provider is at protecting them and their property and resolving disputes. In terms of the building analogy, they are looking for what good 'bricks' are available at the site; they don't care too much who made the 'bricks'.

For Africa's security architecture, therefore, there are only a few state police 'bricks' and a lot more of the nonstate-informal kind available. Some of those nonstate-informal 'bricks' are of too poor a quality to use. But many are very popular locally and widely respected. Research by the United States Institute for Peace (USIP) in Liberia found that:

even if the formal justice system were able to deliver affordable, timely and impartial results [which most Liberians doubt] it would still not be the forum of choice for many rural Liberians (Isser et al. 2009: 8).

The Plans

Beyond the bricks, what of the architect's drawings for the building project; beyond the providers of security and justice in Africa, what plans for security and justice in the future are on the table? It may well be that nonstate-informal providers are currently the principal ones, but *should* that continue? Is it what the people want; is it what the governments want; is it what the police and judges want; is it what the donors want? What is the big plan; and are all the stakeholders agreed on it? Is it a plan that seeks to replicate Western security architecture or at least offers a less sophisticated version of it; or does it have very distinct features, necessary because we are dealing with developing countries or because this is Africa? In this plan, what is the role of the state police and judiciary; and where, if at all, does nonstate-informal fit in?

There are different security and justice plans for Africa. The UK, which alone

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA

Bruce Baker

carried out Security and Justice Sector Reform (SJSR) in 20 countries in sub-Saharan Africa in 2000 to 2007, has set out its architectural drawing. Its Security Sector Reform policy paper (DFID n.d.) has as its goal: “increasing partner countries’ ability to meet the range of security needs within their societies in a manner consistent with democratic norms and sound principles of governance, transparency and the rule of law”. What might be questioned is their assumption that there is only one way to achieve that: reform of the state security services. In fact there are at least two plans currently circulating: statebuilding and multi-layered support.

The State Building Approach

The first and currently preferred plan by governments and donors is the statebuilding option (Call and Wyeth 2008; UNDP/USAID 2007; Whaites 2008). This option takes as its starting point the assumption that most states in Africa are weak or even fragile. They currently lack the capacity for control, regulation and implementation, particularly in the core fields of statehood such as basic public goods. Given that the statebuilding option sees justice, security, and policing as foundational state activities, it cannot conceive a legitimate state other than one that is performing these functions. The overall aim is, therefore, to support the building of, “effective and legitimate states able to fulfil key international responsibilities and to provide core public goods and services, including security” (OECD 2008: 3). Ideally the state security institutions, as far as possible, should achieve a state monopoly of justice and security provision.

The state-building option means essentially building a state in the image of rich OECD countries. The ‘weaknesses’ detected in the African states’ provision of policing and justice are measured by the standards of Western state police services and courts. This means ignoring the main policing and justice providers in Africa, the nonstate-informal actors. Hence the plan is to provide assistance so that in the future African countries can reach something like Western levels of police and court provision. The vision means nothing less than building a form of statehood, one where the state is the main provider of justice and security, that has never and still does not exist beyond the OECD world. This is a very ambitious plan. For a continent where more than 26 states since 1980 have endured the suffering and destruction of conflict over all or part of their territory, this is particularly challenging (Baker 2009: 3-4).

If the ‘building sites’ are examined to see how this plan has fared, it is found that for post-conflict and weak states the almost universal conclusion of studies and reports on statebuilding in the security and justice sector is that little has been achieved. Call and Cousens (2007: 8) admit that efforts to build security institutions have not been “especially encouraging”. Englebert and Tull (2008: 106) argue that the results of UN peace operations in Africa “have been paltry, particularly as regards the establishment of self-sustaining state institutions”. Despite large investment of resources, it is admitted in a World Bank report that “the numerous rule of law assistance programs in post-conflict or fragile countries have so far resulted in few lasting consequences” (Samuels 2006: 15). An internal review of UK Security Sector Reform programmes found that, “interventions have been partially effective within different programmes... ‘Partial effectiveness’ means that programmes generate some useful outcomes but cannot produce a multiplier effect given political blockages” (Ball et al. 2007: xi).² The statebuilding plan might be thought easier in countries *not* coming out of conflict, but in fact the absence of transition can tend to reduce the sense of urgency for reform. Ball, Biesheuvel and Olanisakin’s review of security reform in Nigeria noted that:

At the best of times, the Nigerian government is difficult to engage at any level, not least at the Federal level. Obtaining the political commitment of the Inspector General of Police and the Federal Minister of Justice, for example, would require consistent high-level engagement [...] It does not appear that such intensive involvement was factored into the design of the Security, Justice and Growth Programme. It certainly has not been manifest in programme implementation over the last two years [...] [T]he programmes have suffered from insufficient buy in from senior Nigerian officials (Ball et al. 2007: 24-25).

Not only has the statebuilding plan often failed to reform state security services or expand them to a level where they can provide nationwide service, but they have of course largely ignored the main players in the security and justice sector, namely nonstate-informal. This not only “alienates citizens from the rebuilding of their states and undermines democratic accountability” (François and Sud 2006: 128), but means that the primary task of enhancing security for the majority has not been achieved. The tragedy is that in fact, “traditional and local authorities

² They were more positive about Sierra Leone, but see Baker (2010).

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA

Bruce Baker

may be key channels for public service delivery as well as critical actors in re-establishing post-war stability and social reconciliation” (Call and Cousens 2007: 9).

The Multi-Layered Approach

A second and alternative plan for security architecture is the multi-layered option that some donors are expressing an interest in, although as yet not many donors are undertaking programmes that incorporate the concept, following through in terms of many programmes.³ This plan recognises that across much of Africa, it is nonstate-informal authorities that are primarily responsible for the distribution of public goods such as security and justice. This recognition is based on the assumption that in the developing world there is rarely a case of a unified state monopolising public core services and controlling all its territory. Instead, a very different political order exists where there are overlapping layers of state and nonstate-informal spheres of power. These at times provide parallel forms of order and governance and at times, as a result of a mutual influence, distinct hybrid forms (Boege et al. 2008: 2; see also Louise Wiuff Moe’s contribution to this special issue). In Africa the reality is often one of a political order where people, in the absence of the state, define themselves first and foremost as members of a kin group, tribe, village or neighbourhood and offer their primary loyalty to its rules and rulers. This loyalty owes much to the fact that these same local arenas have long provided order, security and basic services and the state has appeared a distant even alien external force (Boege et al. 2008: 10). In other words, “the processes and institutions freely associated with Western experiences of democracy may easily co-exist with social and political relations and practices which may continue much as before” (Roberts 2008: 71). In such a polity there are no strict boundaries between ‘public’ and ‘private’, ‘state’ and ‘society’, or ‘public good’ and ‘private benefit’. Many post-colonial states have retained “indigenous mechanisms of socio-legal and political organization from their own historical experiences” since these “are considered more appropriate” than those offered by international donors (Roberts 2008: 79).

Starting from an analysis of the African state along these lines, a very different

³ Examples of donors who have given verbal support are : OECD (OECD 2007: 17); DFID (DFID 2004); DCAF/ Geneva Centre for the Democratic Control of Armed Forces (Law 2006: 2); World Bank Conflict Prevention and Reconstruction Unit (Samuels 2006: 18).

plan for the future emerges. It is one that does not insist on a normative position about the necessity for a state monopoly of violence. It recognises the existing multiple policing and justice providers, some of which are linked. Support is conditional, not on the nature of the authoriser, but on the nature of the provision. Whether a service provider is customary, community-based or commercial, is not the key issue. Central is whether the provider is offering a locally supported and acceptable standard of policing and justice. I use ‘acceptable’ as opposed to ‘currently fully compliant with international standards’ in the same way that election monitors say ‘relatively free and fair’ and not ‘perfect’. Such is to recognise that in a poorly resourced situation development has to be progressive. Acceptable is a measure that has reference to what the provision was in an earlier period, rather than having reference to some absolute standard. Put simplistically, it means ‘good enough for now’ in the eyes of donors, states and local populations. It is, of course, the standard used to justify supporting the state police in Africa.

The multi-layered support option assumes that many African states will in the foreseeable future continue to struggle to find the human and financial resources to deliver security and justice to the majority of their populations. The demand for security and justice outstrips the provision capacity of governments. So this plan shifts the attention from who *should* be providing policing, to who *is* providing it. It does not ask, how state policing can be extended to areas where it is currently absent, but, how existing nonstate-informal policing active on the ground can be supported and enhanced. It is not a plan that is trying to build security and justice from scratch. Nor is it trying to exclude state policing and courts. As noted before, there already exist linkages between state and nonstate-informal providers and these links are a key intervention point to begin support that will deliver improved security and justice to the populations that they serve. A multi-layered support to policing and justice providers offers assistance to all those offering a service that is welcomed by the majority of the local population and judged acceptable by states and donors. It is not a strategy of abandoning support for the state providers. Instead, it is one that helps all effective policing and justice provision so that what is within reach of Africans is steadily improved, irrespective of who provides it (Baker and Scheye 2007, 2009). As the OECD notes, programmes that support “either state or non-state institutions, one to the exclusion of the other, are unlikely to be effective” (OECD 2007: 17).

The multi-layered approach to security and justice governance has been promoted by Wood and Shearing (2007) as ‘nodal governance’. They argue that there should be recognition of the multiplicity of authorisers and providers of policing, “that co-

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA
Bruce Baker

exist in multiple ways to produce diverse security outcomes” (Wood and Shearing 2007: 13). Social network analysis by governments or donors may reveal that for any given security network the state may or may not be the dominant provider; the nodes may or may not be linked in that network; the links may or may not be sanctioned by the state; the nodes may or may not currently co-operate. From that understanding of the network, the next logical step is to ensure that across its entirety resources are distributed and managed fairly and efficiently so as to promote the effectiveness and accountability of not just individual groups, but of the network as an entire system. Such a total programme would suit the plurality of security and justice in Africa, although it would be very hard to achieve, for recognizing multiple providers is not the same as integrating them into a single network. Questions of skills, roles, availability, authority, legality, legitimacy and co-ordinating processes abound.

One way forward has been suggested by Herbert Wulf (2007). He identifies two issues facing multi-layered policing. The first is the problem of legitimization, given the competitive nature of legitimation. Second, is the problem of apportioning authority so as to avoid disputed sovereignties and yet to achieve a clarity of functions. His solution is to hold fast to two principles, namely subsidiarity for practice and supremacy for norms. “The monopoly of violence should be exercised according to the *subsidiarity principle*, that is, the lowest level should be the starting point” (Wulf 2007: 20; italics in the original). Only when that level is not capable or cannot be tasked with exercising the monopoly of force should a higher state or regional or even global level undertake the task. Concerning supremacy in norm setting, he argues for it to be top-down, so that norms of a higher level prevail over those of a lower level. Wulf, therefore, sees “a legitimate multi-level public monopoly of force, with a division of labor between the different levels and acceptable and agreed norms for the application of force” (Wulf 2007: 29).

Specialization is another, although related, approach to integrated security and justice across the state and nonstate-informal spectrum. Some have noted that state police have taken on more and more roles within the community (e.g. problem solving and mediation) to the point where their limited numbers are stretched even further and the skills required of them multiply (Altbeker 2007). The response offered to this overload is ‘minimalist policing’ (see also Marks et al. in this special issue). This calls for the police to intervene only when there is criminal (or perhaps serious criminal) activity and then to do so using their legal powers and the criminal justice system. In other words, “instead of widening the reach of the police, we need to

confine them to what they are trained and resourced to do and what interventions they are inclined towards” (Marks et al. 2009: 150). For the remainder, nonstate-informal providers can be authorized by the state to provide, drawing upon their expertise of local knowledge and conciliatory processes and upon their local availability and legitimacy. The focus, then, of this approach is clarifying roles according to skills so that all in the network are clear about what they can individually contribute and what they can realistically expect from others. Menkhaus (2007: 106) calls it a “negotiated division of labour”. When each provider concentrates on what they do best, it only furthers their legitimacy unless, of course, their authority is contested.

For Western states and the Western educated African leaders to envisage offering support for a different political order from the one they have been familiar with is obviously challenging, but some have made a move in that direction. For example the UK through the British Council is currently not only supporting police reform in Sierra Leone, but is also engaged in strengthening chiefs’ courts and assisting paralegals in a concerted effort to broaden access to justice. Yet this is still a long way from an integrated security and justice system. Even if an integrated system could be built, it is acknowledged that practical difficulties would arise. For instance, it might be questioned whether the African state has the capacity to undertake a steering function of ensuring the quality, efficacy and accountability of all policing agencies and dispute resolution mechanisms.

Underlying this debate concerning which overall approach to follow in security and justice seems to be lack of clarity regarding how the categories of ‘public’ and ‘private’ are used. In common usage public goods are services for the common good and are provided free by the state to all citizens according to certain standards. Private goods are services offered to those who can pay since they are for the profit and in the interest of the providers. The one is assumed to be universal and free, the other localised and costly thus excluding the poor. This is a travesty of reality in security and justice in most of the world. No one who knows anything of African police forces would describe them as offered to all citizens and offered freely without discrimination or favour. Moreover, an objective account of nonstate-informal security and justice providers would not find them all self-regarding and serving only private and largely elite interests. Rather, many would be found to be universal to their local ‘public’ irrespective of status and power and offered at minimal cost to the user. As Samuels observes, non-state providers “may be more effective and less costly” (2006: 18) as there are networks that are already in every village and township and (in case of commercial security) around every economically valuable location. A public good is not to be mistaken for a

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA

Bruce Baker

good provided by the state; nor does its availability have to be nationwide. A public good can apply to a non-exclusionary service provided to all within a more localised context. Public goods and services can and are provided by nonstate-informal actors to their communities.

There are then at least two plans of security architecture, but they have very different objectives and different outcomes. Part of the process of deciding the merits of the two plans concerns what can be afforded by the client, assuming we know who exactly the client is.

The Purse

Architects' plans can look stunning, but before we get carried away let us ask if the proposed structures for Africa's policing and justice are affordable and therefore achievable and sustainable?

The security and justice reform carried out by the UK in 20 countries in sub-Saharan Africa 2001-2005 cost more than £240 million (Ball et.al. 2007: 10). In just one country, Sierra Leone, the reform process cost £145 million 2001-2005 (Ibid). For DFID and the UK government the Sierra Leone police reform programme came to be a test bed of their latest thinking on police reform policy and practice. As it evolved it went far beyond seeking simply to assist the police force to stand on its feet again. It sought explicitly to transform the police structure, function, values, legitimacy, service delivery outcomes, accountability, discipline and relationship with the public. The three police reform programmes spanning 1999-2010 represent the single most important effort by the agency worldwide to fundamentally reconstruct a police service in a post-conflict state.

The police in Sierra Leone reached their designated ceiling of 9,500 officers and an evaluation of the Sierra Leone police suggested many positive gains from the programme.⁴ With hindsight, however, I and other observers would conclude that

⁴ In particular, operational capability has been built in terms of numbers of trained personnel, and available buildings and vehicles and communications. Further, the management structure has been overhauled to reflect merit, streamlined to maximize efficiency and trained to impart key management skills. However it is still a very urban force and is still short of uniforms, equipment and especially accommodation. As regards the perception of the Sierra Leone police by the

one overarching mistake stands out. The reform programme was simply too ambitious. The statebuilding option attempted too much too quickly. It is a common accusation across donor programmes. Scheye (2004: un-numbered), commenting on international post-conflict police programmes says: “To try to do too much leads to failure. To be over-ambitious is not financially, politically or culturally viable and there will be no real national control or ownership”. Moreover, statebuilding that is financed from outside has eventually to come to an end. The UK financial commitment to Sierra Leone was remarkable for its endurance, but now it is winding down.⁵ Its investment has been substantial and prolonged by international standards, yet as it withdraws, the Sierra Leonean government is unlikely to be able to sustain the investment.

In addition to doubts about the degree to which international policing programmes have permanently changed police culture and practices,⁶ police forces in Africa frequently have low ratios of officers per head of population. For some, the answer to low numbers is simply that security reform “may have to be accompanied by increases in the costs of at least some types of uniformed forces” (Brzoska and Heinemann-Gruber 2004: 10). Yet even if, as a result of donor-funded reforms, police officers are increased in numbers, it is doubtful that such numbers will be sustainable, well managed, or able to provide crime protection and crime investigation for all citizens. One study suggested that sector-wide approaches to justice and security programmes were not yet achievable in any fragile states, partly due to serious shortfalls of human capital (Stone 2005). Further, shortfalls in public revenues raise questions as to whether countries can sustain security reform after donor money ceases (Sedra 2007). Security reform that is promoted by donors too often miscalculates the resources available to weak states. By definition weak states, particularly post-conflict states, lack the capacity

public, the message is mixed. There is evidence that the police are more trusted now than they were before by the public but concerns remain that the police and courts connive to allow corrupt officials to escape justice (ICG 2008).

⁵ The next programme will continue with the broader perspective under the name of Improved Access to Security and Justice in Sierra Leone 2010-13. Beyond that it is uncertain, but support for policing by itself is seen as a decreasing priority by the UK.

⁶ Professor Etannibi Alemika, says the evidence demonstrates that the police forces in most African countries are ‘significantly brutal, corrupt, inefficient, unresponsive and unaccountable to the generality of the population’, IDASA 2007.

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA
Bruce Baker

to deliver core functions, such as safety and security provision, in an effective and accountable manner. Their finances are over-committed and dependent on uncertain revenue streams.⁷ In addition, they face severe shortages of human skills and training facilities and the basic infrastructure (physical, constitutional, legal, and administrative) required for effective service provision is often lacking. Further, the African state is in “transition towards both down-sizing and redefinition, given two decades of neo-liberal conditionalities” (MacLean and Shaw 2001, quoted in Shaw 2003: un-numbered). The diminished African state is not in a strong position to maintain large expensive services.

Against this financial background, it is surely in the interests of all to look again at the nonstate-informal sector, which requires minimal financial support. In other words, there is a need to evaluate the contribution that these policing providers might make, since they may well remain sustainable after the donors have reached donor fatigue and gone. Security and justice provision literally cannot afford to remain confined to the state services alone. Having said that, the volunteerism of nonstate-informal actors, though attractive in terms of running costs, does have issues regarding the sustainability of personnel. Young men, for instance, that run the vigilance groups in Monrovia’s suburbs are all too likely to remain only as long as no other employment opportunities arise.

The Builder

Finally, there has to be agreement as to whose building this is; who is commissioning the bricklayer, architect and finance. Whose construction is this? Donor documents seem to suggest that security and justice programmes are being built by the country governments themselves. The documents highlight that the project is and must be, ‘people-centred and locally owned’. Laurie Nathan (2007) is blunt as to why so often donors use “local ownership” as a mere “rhetorical

⁷ An informant revealed that the 2007 estimated budget of the southern Sudan Police Service was approximately \$50 million. Salaries for the 20,000 strong (some say 10,000) service consume nearly 88 per cent. Operating and capital costs are both projected to be 6 per cent, with only 1 per cent allocated for fuel and vehicle maintenance, restricting the police to urban centres. In such circumstances, the police service will remain under-trained, under-equipped, and essentially paralyzed because of the lack of operating funds.

device”. He says donor governments in fact impose their own programmes since:

The donors are imbued with a sense of superiority [...]; they lack respect for local actors and regard them as incompetent; they underestimate the difficulties of state building and transformation, and become overly frustrated with the slow pace or lack of reform; their financial and bureaucratic systems require programmes with a high level of pre-determined detail [...]; their short-term funding cycles require deliverables within unrealistic time frames; they are sometimes intent on pursuing their own political agendas at the expense of local interests (Nathan 2007: 2).

Unfortunately it has been proved too often that security architecture that is not commissioned by local ‘builders’ but by foreign ones is unsuitable for local needs. Hence the 600 or so vehicles bought for the Sierra Leone police after the civil war were for the most part quickly out of service because of poor usage, poor maintenance and lack of fuel. The state finances and the police training were not ready for that technical leap (Baker 2005). Lack of local ownership is likely to become even pronounced as Western donor governments demand that their aid programmes first and foremost contribute to their own national security through ‘upstream’ prevention that helps to stop potential terrorist threats arising in developing countries.⁸ Unsurprisingly such external projects meet a lack of enthusiasm if not hostility. It is not that local actors will necessarily develop the very best security architecture imaginable. Nevertheless, “a process-oriented approach that respects and empowers local actors is more likely to yield good results in the long-term than a product-oriented approach that undermines local actors and is not sustainable” (Nathan 2007: 3).

It has often been pointed out that there are several versions of what ‘local ownership’ means. It might be ownership by the government; the security and justice agencies; or the political and educated elites. It rarely means ownership by the majority of the people who will be using the security and justice architecture constructed. So called ‘buy-in’ may well be possible from the local political elite

⁸ In the UK a new National Security Council, which oversees all aspects of foreign policy, is requiring that the Overseas Development Administration budget should make the maximum possible contribution to national security. <http://www.guardian.co.uk/politics/2010/aug/29/protests-uk-security-aid-policy>.

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA

Bruce Baker

when what is being constructed is an effective centralized, coordinated, state-provided security that can defend their interests. It may not, however, be what many of the members of the population had in mind. An improved police force in a distant city is of limited value to many. The pursuit of centralization secures no local ownership from the voiceless and powerless, who are likely to see themselves better served by local security systems. Their choices, in as much as they have them, are based on ‘what is available’, ‘what works best’, ‘what supports local values’ and ‘what can be afforded’ and that invariably leads them to preferring nonstate-informal providers (Baker 2009; Isser et al. 2009; Alemika and Chukwuma 2004). Many donors, assuming they themselves are the builders (since they have the cash), are looking for local support among the government for the plans they have drawn up. What would be more helpful would be for them to offer support for the builders chosen by local people to execute the plan that they have got to live with.

Conclusion

The argument of this article has been that there are other ways for donors and African states to build security architecture than by supporting state security and justice agencies with training, finance and equipment. The statebuilding route is necessarily an expensive route, one that raises serious questions about its sustainability. It is also one that has so far failed to bring greatly improved security and justice to the majority of Africa’s citizens, who live their lives for the most part out of reach of these state services. An alternative, although not without difficulties, is the multi-layered approach. This would make use of some of the many local providers of security and justice that exist below the layer of the state – nonstate-informal groups. Though they may have significant local support, for the most part few of these nonstate-informal providers reach all the international standards, any more than the police and judges of the state criminal justice system do. Yet many are open to transformation and already have links with the state, so that it is not impossible to envisage their improvement being speeded by donor support.

There will no doubt be debates over the details of which nonstate-informal group to support and how, but the principle that local people should be the focus of donor desire for local ownership seems beyond challenge. A donor support for security and justice that was designed and approved by local people for their local needs might result in variations in levels of provision and standards nationwide,

but the locally designed provision would have the advantage of legitimacy and support without which security and justice is unlikely to succeed.⁹ In the terms of the analogy used in this article: the ‘bricks’ are there – some expensive ones (the police) and a lot of very inexpensive ones of varying quality (nonstate-informal actors). Alternative ‘architectural plans’ are on the table. The African client can afford very little in the way of building or running costs. Let the client design an affordable architecture – one that meets the expressed wishes of the population; one that will actually make security and justice better for the majority. And let friends of the client support them in any way they can.

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⁹ A study in South Sudan found that the strength and popularity of local policing and justice is precisely that it is ‘tailored to the perceptions and needs’ of local people. The variation not just between localities but also within localities is exactly what makes it successful in the eyes of users. “Each case is negotiated, argued and bargained out to come to a conclusion that is by no means predictable on the basis of the bare bones of the case” (Leonardi et al., 2010: 74).

JUSTICE AND SECURITY ARCHITECTURE IN AFRICA

Bruce Baker

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Bruce Baker

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