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Case Studies on Transitional Justice and Displacement

# Police Reform in Situations of Forced Displacement

Chad, Eastern Zaire, and Kosovo

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### **Transitional Justice and Displacement Project**

From 2010-2012, the International Center for Transitional Justice (ICTJ) and the Brookings-LSE Project on Internal Displacement collaborated on a research project to examine the relationship between transitional justice and displacement. The project examined the capacity of transitional justice measures to respond to the issue of displacement, to engage the justice claims of displaced persons, and to contribute to durable solutions. It also analyzed the links between transitional justice and other policy interventions, including those of humanitarian, development, and peacebuilding actors. Please see: [www.ictj.org/our-work/research/transitional-justice-and-displacement](http://www.ictj.org/our-work/research/transitional-justice-and-displacement) and [www.brookings.edu/idp](http://www.brookings.edu/idp).

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## Introduction

The causes of forced displacement are multiple and complex. Whether they become refugees or internally displaced persons (IDPs), people do not decide to abandon their homes, livelihoods, families, and familiar surroundings unless their living conditions and prospects are dire. Under international law—namely, the UN Convention Relating to the Status of Refugees<sup>1</sup> and Protocol Relating to the Status of Refugees<sup>2</sup>—refugees are those who, if forced to return to their home country, fear persecution based on their race, religion, nationality, membership of a particular social group, or political opinion. IDPs are those who have been forced “or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters,” and have not crossed an international border.<sup>3</sup>

Some core themes emerge from these two international legal instruments that help frame the analysis of why people flee their homes. Putting aside the role of natural or man-made disasters as a cause of displacement, for both IDPs and refugees, some mix of persecution and fear of violence based on ethnicity, race, or religion plus violations of human rights and repression based on political beliefs and opinions often characterizes forced displacement. The actions and structures of the security sector—especially the police, military, paramilitary groups, intelligence, border patrols, and prison guards—often play a crucial role in this persecution and repression. Securing the safe and dignified return, relocation, or local integration of the displaced will therefore require reform of these institutions, along with a revamped judiciary and a stronger respect for the rule of law by all state agencies. For refugees, helping to ensure that the police in their host country will respect rights is another important element.

This paper will briefly examine three cases where displacement has offered an opportunity for police reform. It will also demonstrate several key components of “justice-sensitive security sector reform” (SSR), and how displacement complicates the quest for enduring, sustainable reform. The Chad case represents a recent effort led by the UN to address security issues that affect both refugees and IDPs. The UN has tried to use the presence of these populations as an opportunity to reform the police service of Chad, which is both a host state for the refugees and the home state of the IDPs. A justice-sensitive SSR approach would try to improve the performance of not only the police but also the interactions

among the police, the courts, and the penitentiary systems in Chad as the government attempts to deal with the challenges presented by these two distinct yet related displaced populations.

Zaire is an older case from the very early days of UN multidimensional peacekeeping, one that created many precedents—some good, some bad—for humanitarian actors, peacekeepers, and human rights officers. As the host state of about one million Rwandans (many of whom were soldiers and militia members who participated in the genocide and were therefore not eligible for refugee status under international law<sup>4</sup>), Zaire in 1994 had a notoriously weak, corrupt, and brutal security sector, including its police force. The UN and some key member states thought they could exploit the presence of a large number of humanitarian officials working in the camps to oversee an attempt to create a cadre of rights-respecting police officers in eastern Zaire. Concerned with the protection of the refugees, as well as criticisms from Rwanda and some in the international community that the camps were sheltering and feeding killers, the UN saw the training of a cadre of Zairean police as a way to “demilitarize” the camps and help prevent ex-Rwandan soldiers and militia members from launching attacks back inside Rwanda. Unfortunately, the attempt failed, but it yielded some important lessons for intervention in complex emergencies.

Finally, the Kosovo case is an example of a situation where the UN had executive authority to dictate SSR. With the passage of Security Council Resolution 1244 in June 1999, the UN took over the responsibility of administering Kosovo. Although the term was never used, for all intents and purposes, Kosovo became a UN trusteeship. Unlike in Chad and Zaire, in Kosovo, the UN did not try to reform an existing police force but rather had to create one from scratch. The challenge of building a multiethnic police within a society riven by ethnic conflict was enormous. Similarly, the UN had to rebuild the judiciary and the penitentiary systems, both of which had been decimated by the war and the flight of almost all their personnel to Serbia. The UN’s strategies for tackling these tasks while faced with the challenges posed by nearly one million returning Kosovo Albanians and the approximately 100,000 Kosovo Serbs and Roma who had been displaced again offer some useful lessons, even for those working without the kind of executive authority the UN enjoyed in Kosovo.

## Chad: The DIS

The revised concept of operations detailing the structure of the *Détachement intégré de sécurité (DIS)*, initially known as the *Police tchadienne pour la protection humanitaire (PTPH)*, was set forth in the UN secretary-general’s report on Chad and the Central African Republic of August 2007, and the DIS was established that same year.<sup>5</sup> As outlined in the report, the DIS was a police force specifically selected, trained, and deployed to maintain law and order and provide security for humanitarian workers in refugee and IDP camps along Chad’s eastern border with Sudan. The refugees and IDPs had been forced from their homes by fighting in Darfur, Sudan, and in Chad, with each government supporting rebel groups in the other’s territory. The secretary-general’s report explicitly provided that the police concept could only be implemented “in combination with a military presence, which would provide the area-wide security required by all aspects of the United Nations-mandated mission.”<sup>6</sup> The challenges for the DIS were huge, as is the area and population it is supposed to cover, with few

roads and limited communications: at the time of its creation, 260,000 refugees from Sudan, 70,000 refugees from the Central African Republic, and 171,000 IDPs were all in need of assistance and protection.<sup>7</sup>

## **Mandate**

While the concept of operations was established in the secretary-general's report following negotiations with the Chadian government, and was endorsed by the Security Council in Resolution 1778 (2007),<sup>8</sup> the DIS's official law enforcement responsibilities were established in a memorandum of understanding (MoU) between the UN and the government of Chad. This MoU describes the supporting role of the UN, and provides that the Chadian authorities and the UN Mission in the Central African Republic and Chad (MINURCAT) will collaborate to ensure that the DIS applies and upholds international human rights norms, supports the rule of law, acts impartially, rejects and prevents corruption, gains the population's confidence, and reinforces security and public order.<sup>9</sup>

## **Structure and Responsibilities**

The DIS assumed exclusive responsibility for law enforcement in specifically defined jurisdictions centered around refugee and IDP camps and "associated towns." Its tasks include patrolling, investigating criminal activity, and arresting offenders. Existing national agencies retained law enforcement responsibility in affected regions outside of these specified areas.

## **Recruitment and Personnel**

Candidates are drawn from the national police and gendarmerie. While the DIS serves "under national authority" and the Chadian government nominates candidates from the national police and gendarmerie for service in the new unit, the UN evaluates and has final authority over all selections. The number of DIS personnel was approximately 850 at its full strength in 2010. The Chadian authorities also promised to nominate as many female candidates as possible and to include ethnic minorities in numbers proportional to the composition of the population.<sup>10</sup> The government would only nominate candidates to the DIS who could be certified as not having any criminal record and not currently subject to any criminal investigations or disciplinary proceedings.<sup>11</sup> Candidates also had to demonstrate physical and mental capacity for the assignment and know how to read and write French and Arabic. If possible, three candidates were to be nominated for each post. Moreover, the UN would retain the authority to remove any member of the corps whose performance was considered unsatisfactory. This oversight and accountability power is crucial to any real reform, a lesson the UN has learned from earlier police reform efforts, where integrity and professionalism were subordinated to an emphasis on transferring police skills.

## **Training**

MINURCAT's police component (300 officers) provided selected candidates with "comprehensive predeployment training," with a particular focus on the special needs of affected displaced populations, as well as internationally accepted criminal justice and human rights norms and standards. Sessions covered gender issues, the protection of children, democratic policing, relevant judicial procedures,

weapons handling, and investigation, reporting, and interrogation skills. Two months after the formal classroom instruction ended, joint MINURCAT and Chadian police teams visited the DIS officers to conduct on-the-job performance assessments. Successfully passing a written exam was the final prerequisite for inclusion into the DIS. The MINURCAT police would also provide a mentoring and advising role, which was crucial since the Chadian police have a well-deserved reputation for human rights violations and brutality. Some form of vetting or candidate screening to weed out violators or incompetent officers is another critical element of security sector reform, in the police as well as other institutions such as the judiciary and prison service.

### Logistical Support

With assistance from international partners, the UN provides a broad range of support to the DIS, including:

- upgrades of facilities in affected areas, especially basic infrastructure;
- basic accommodations, rations, vehicles, fuel, and communications equipment;
- basic police equipment including sidearms, uniforms, boots, belts, handcuffs, and batons; and
- a stipend paid by the UN for the duration of service in the DIS.

### Support to the Broader Rule of Law Sector

MINURCAT provides assistance to Chadian law enforcement agencies and ministries to allow them to build administrative and other capacities necessary to support the DIS (this is separate from the broader rule-of-law support provided by MINURCAT to the judiciary). Again, an important factor in the reform was to reach out broadly not only to the entire Chadian police but also to the judiciary and corrections. A focus on how the police should function as an organization—administration, finance, personnel, logistics, communications, and management—is as important as technical policing skills.

### Outcome and Assessment

According to the Center on International Cooperation's *Annual Review of Global Peace Operations 2010*, the DIS's work has been positively received by civilians, refugees, IDPs, and the humanitarian community.<sup>12</sup> In its first year of operations, the DIS arrested 90 people suspected of committing crimes against refugees or IDPs, including 56 arrests for armed robbery and five for rape. This latter figure does not, however, reflect the widespread occurrence of gender-based violence in the camps, as many cases go unreported due to fear and shame, according to interviews conducted by Physicians for Human Rights.<sup>13</sup> There were also some complaints that the DIS did not show enough initiative, with one woman noting: "[The DIS] spend a lot of time protecting themselves. Even the UN soldiers have to protect them. No one seems to have much time to protect us."<sup>14</sup> Other women reported that the DIS dismissed their requests for protection, especially when they would leave camps to collect firewood; they ceased making such requests for escorts or protection because they were convinced they would only be turned down.<sup>15</sup>

Implementation has faced a number of challenges:

- Government-nominated candidates suffer from uneven levels of training.
- UN training periods, initially one month but later increased to two, remain short.
- Members of the force have committed isolated but serious violations, damaging its reputation, including alleged acts of violence involving firearms that reportedly lead to the death or injury of refugees and IDPs.
- The DIS's chain of command is poorly understood by local communities—it reports to the Chadian government, not MINURCAT, but its close association with the mission in its training, mentoring, and equipping means that most civilians and refugees associate the DIS with the UN.

This latter point is particularly pronounced in the DIS's relationship with other Chadian security forces that report directly to the government. While the DIS is nominally under the government's control as well, its radically different training and operating structure (including different uniforms and insignia) creates natural confusion over jurisdiction and overlapping responsibilities.

More critically, the DIS's ability to conduct investigations or refer cases to the judicial system is limited, partially because of a dearth of prior investigative experience, but primarily due to the lack of a functioning justice sector. As a result, many of the perpetrators arrested by the DIS are never brought to justice or are quickly allowed to escape from corrupt prisons.<sup>16</sup> On-the-job training has begun to address the issue of investigative training, but the problems of the justice sector are outside the DIS's scope. MINURCAT was mandated to address these issues, as well as the rule-of-law sector at large, but wound down its presence at the end of 2010 without having fulfilled these aspects of its mission.

## Future

The Chadian government has made a formal commitment to the Security Council to sustain the DIS, further detailed in a letter dated October 15, 2010.<sup>17</sup> This plan proposes to maintain the structure of the DIS while expanding its size. "Hazard pay" is to replace the MINURCAT-provided stipend, and the government commits to take over the provision of all financial and logistical support. The plan recommends that the remaining UN Development Programme (UNDP) and Office of the United Nations High Commissioner for Refugees (UNHCR) presence in Chad backstop the new DIS support office, which will also provide training for new recruits.

The Security Council issued a Presidential Statement (PRST) on December 20, 2010, in which it "welcomes the commitment of the Government of Chad to assure the future sustainability of the DIS and the funding it has pledged." The council also welcomed the work of UNDP and UNHCR with the relevant national Chadian authorities to establish a mechanism for the mobilization and management of donor support for the DIS after January 1, 2011. It especially welcomed the establishment of a new "basket fund" in support of the DIS administered by UNDP. The Security Council also called upon UN member states to ensure that the necessary donor funds are made available to meet the budgetary requirements of the DIS. The council urged the government of



Chad to assume full responsibility for sustaining the DIS as soon as possible.<sup>18</sup> At this point, it is too early to assess the sustainability of the project and any impact the DIS may have had on the rest of the Chadian security sector.

## Eastern Zaire: International Police/Military Observer Group

After proposals for an international peacekeeping operation in the refugee camps of eastern Zaire fell through in late 1995 due to a lack of support from troop-contributing countries, the UN Secretary-General sent a joint Department of Peacekeeping Operations (DPKO) and UNHCR technical assessment mission to explore alternative solutions, which he detailed in his report to the Security Council in January 1995.<sup>19</sup> Unfortunately, these proposals were also met with reluctance from the international community, and none were adopted. Nevertheless, the unfulfilled effort reveals some useful insights into how to proceed with police reform in a context of massive displacement and ongoing conflict.

### Structure and Responsibilities

Zairean security forces were to assume responsibility for improving security in the massive refugee camps along the border with Rwanda, primarily near the eastern Zairean city of Goma. They were to be supported in this undertaking by a group of UN civilian police and military observers. The security force was to be responsible for:

- providing a 24-hour patrolling presence in the camps, gradually developing relationships with “the refugees and their governing structures,” and working with them to reduce criminality;
- escorting humanitarian aid workers at night and providing a static security presence at key spots, such as aid distribution points, health clinics, schools, toilets, and camp entrances;
- securing storage and transportation of material humanitarian assistance and protecting warehouses from looting; and
- providing security for repatriation; as refugees in the camps could be at risk simply for expressing a desire to return, the proposed security force would be required to provide security and immediate transfer to transit camps for any families or persons expressing a desire to return to Rwanda.<sup>20</sup>

The UN had no military or police presence at that point in Zaire. The camps were rife with crime and intimidation and were largely under the control of the former Rwandan authorities who had fled from the victorious Rwanda Patriotic Front. In many cases, former Rwandese soldiers and their *Interahamwe* militia controlled all aspects of life in the camp, including humanitarian aid distribution and access to medical care and education. They intimidated the population and essentially militarized the camps, and skimmed off aid money to buy weapons to continue the war back inside Rwanda. Zairean soldiers and police were renowned for their incompetence, brutality, and corruption. They were demoralized, ill-paid, and poorly equipped, and were known to steal the aid intended for the refugees, rob humanitarian workers, hijack aid convoys, and shoot Zairean traders. Something had to be done to provide a minimum of security in these teeming camps.<sup>21</sup>

## Recruitment and Personnel

The security force, which was to number from 1,500 to 2,500 members, was to be provided directly by the government of Zaire, and drawn from the “Zairian security forces.” This contrasts with the DIS, which has been drawn solely from the Chadian national police and gendarmerie. There were no provisions for the UN to have any role in the selection or vetting of this force (although admittedly, the recruitment of the force was never fully achieved). The UN had a much weaker hand in Zaire in 1994 than it had in Chad in 2008; it had no peacekeeping presence in Zaire, and the UN Assistance Mission in Rwanda (UNAMIR) forces in Rwanda, in addition to being weak and restricted to a Chapter VI mandate, were not allowed to operate in Zaire. So the UN’s only presence in Zaire was through its humanitarian agencies, which at that time greatly deferred to the sovereign government of Zaire, resulting in little to no UN influence over the entire process.

## Training

The security force was to be trained by a group of approximately 150 to 200 UN civilian police officers. Each unit would receive approximately one month of training.

## Logistical Support

The logistical and financial support for the security force was to be provided directly by UN member states, as well as the civilian police (the military observers were initially to be seconded from UNAMIR for expediency’s sake).<sup>22</sup>

## Support for the Broader Rule of Law Sector

None was envisioned at the time. The problem in the camps was seen partly as a security issue (basic criminality), and partly a political and military dilemma (the militarization of the camps and control by former génocidaires). At the same time, the long-term solution was viewed as the creation of an environment in Rwanda that would be conducive to refugee returns. As such, the problem was seen more as a Rwandan one than a Zairean one, and no support for the rule-of-law sector in eastern Zaire was envisioned, nor was adequate attention paid to institutional reform in Rwanda that would encourage refugees to return. The assurances of the Tutsi-dominated government in Kigali held little sway among the Hutu refugees, especially their leaders, who viewed a return to Rwanda as a betrayal. Rwandan show trials of Hutus accused of genocide did not help matters, nor did the prisons, which were filled to 10 times their capacities, mostly with those accused of genocide—all Hutu, and many with very flimsy to nonexistent evidence against them. The UN human rights mission in Rwanda tried to promote judicial, police, and penal reform, and had some successes, but the government would only allow changes to go so far, and would not (and still will not) permit anything that would threaten its control over every branch of government, especially the security services.

## Contractual Arrangement through UNHCR

This framework mirrors the later structure for the DIS in Chad, with the important exception that training of local security forces would be provided through contractual arrangements between

UNHCR and a private organization. This training team would consist of 50 international instructors, with 10 remaining after the initial training to provide further on-the-job training. Another 40 experts would monitor the operation and provide liaison and coordination functions.

### Outcome and Assessment

Similar to the DIS initiative described above, the proposal to train and equip Zairean police met with a lack of support from UN member states, who were unwilling to contribute personnel from their own civilian police. The plan, which would have required voluntary contributions to fund a very costly operation, was deemed to be outside of the scope of UNHCR, particularly as donor countries expressed concerns with the approach. As such, it is difficult to evaluate the proposal's potential outcome, except to note that such an operation is a difficult prospect outside the context of an existing peacekeeping mission (as was present in eastern Chad and Kosovo), both in terms of securing police-contributing countries and in terms of creating an environment where such a force could feasibly operate.<sup>23</sup> Another key difference is that the security problems in eastern Zaire stemmed from the complex issue of militarized refugee camps controlled by former génocidaires, while the DIS in Chad was created to address widespread but more straightforward criminality and general insecurity (albeit in the larger context of the nearby Darfur conflict and proxy wars between Sudan and Chad involving each other's rebel groups).

## Kosovo

Once the NATO bombing campaign had vanquished the Serb military in mid-June 1999, all serving Serbian soldiers and police fled Kosovo, creating a huge security vacuum that the Kosovo Liberation Army (KLA) aimed to fill. The KLA claimed credit for the victory over the Serbs and started to act as a conquering army. Serb houses and businesses owned by Serbs were set on fire, and NATO soldiers were slow to react since all their briefings had prepared them to protect Albanians against Serbs rather than the opposite. Laying claim to apartments, businesses, and anything left standing that held the potential for profit, KLA leaders demanded either complete control or a cut of the profits. Rackets soon sprang up, and shopkeepers, gas station owners, and proprietors of restaurants and cafes were all forced to pay "protection money" to KLA enforcers. Residents of prime apartments were evicted to make way for "war heroes." The KLA also started acting as a law enforcement agency, arresting and detaining people and in some places creating secret detention centers where Serbs, Roma, Turks, or Albanians suspected of having collaborated with the Serbs were held and in some cases killed or tortured.

Simultaneously, the UN Mission in Kosovo (UNMIK) was trying to create a new police force in Kosovo, since law and order was extremely precarious due to revenge attacks and the KLA's dominance in the Albanian community.<sup>24</sup> The KLA initially demanded that it become the new Kosovo police, arguing that it had earned this right in resisting the Serb tyranny. Some in NATO thought that this would be a good way to "tame" the KLA: if it was given some training, oversight, and a regular paycheck, this could help plug a security hole while finding something constructive for

the KLA to do. Several leading officials in UNMIK, however, thought that this was a terrible idea. The Organization for Security and Co-operation in Europe (OSCE), which had lead responsibility for creating the new police, was particularly adamant that the recruits for the new Kosovo Police Service (KPS) had to be vetted carefully, with no one given an automatic pass into the new police. Moreover, since the KLA was entirely Albanian, accepting them in large numbers into the new police would mean that the KPS would not reflect the ethnic diversity that still characterized Kosovo.

KLA members were already terrorizing most non-Albanians, and even moderate Albanians feared them. Giving them an official cover with no questions asked would alienate large segments of the population and in effect replace one repressive, rights-violating police force with another, just of a different ethnicity. Moreover, some KLA leaders were suspected of having committed war crimes and crimes against humanity during the armed conflict. The UN could not possibly countenance incorporating these individuals into a UN-created and UN-financed police force when some of them could potentially be prosecuted by the International Criminal Tribunal for the Former Yugoslavia (ICTY); in fact, several years later some KLA leaders were indicted by the prosecutor of the ICTY. As recently as late 2010, a senior adviser to Prime Minister Hashim Thaci, both of whom were in the KLA, was arrested by the European Rule of Law Mission police (EULEX) for alleged war crimes. In early 2011, Swiss Senator Dick Marty released a report for the Council of Europe documenting extensive war crimes and crimes against humanity committed by the KLA, whose criminality is still ongoing in the present, including trafficking in human organs.<sup>25</sup>

After some hard bargaining among UNMIK, NATO, and the KLA, an understanding was reached. A maximum of 50 percent of the places in the new Kosovo Police Service would be reserved for KLA members. But all candidates, KLA or not, would have to be vetted by an independent, impartial committee with a majority of international members to ensure that no one who had committed a serious human rights violation, war crime, or crime against humanity would be allowed into the KPS. Only those whose past record showed that their behavior merited inclusion in the new police would be allowed to go through the selection process and training if chosen. All others would be rejected. The minimum requirements for KPS officer applicants were that they be 21 years of age and have a secondary school education and residency in Kosovo. Applicants had to be in excellent physical condition and were required to demonstrate tolerance and a willingness to cooperate with people of different ethnic backgrounds or religions. They also had to convey convincingly their desire to protect the human rights of all Kosovars. To help determine whether an applicant had these qualities, a battery of psychological tests was administered. A high percentage of applicants were rejected, with 80 percent failing the initial application test.<sup>26</sup> “For the first two training courses, 400 police candidates were chosen from the 19,500 Kosovars applying for a position in the KPS.”<sup>27</sup> This figure includes those from the KLA who were vetted and allowed to proceed with their applications.

### **The Kosovo Police Service**

The OSCE, with strong support from the UN Police (then called UN Civilian Police, or CIVPOL) and UNMIK’s Human Rights Department, had the lead role in building a new police force from scratch. As noted above, the previous police, overwhelmingly Serb, had fled after the end of the NATO bombing. Once the struggle over the number of KLA fighters who would be able to join the

new police after being vetted was resolved, UNMIK began the long, hard job of creating a police service in a place destroyed by war, with a million refugees returning home, 100,000 IDPs, and an entire population suspicious of all law enforcement.

The Kosovo Police Service<sup>28</sup> represented the major success in Kosovo's security sector reform. One reason the KPS enjoyed the population's support was that the OSCE aggressively sought minority applicants from the outset and applied objective criteria when hiring officers. Recruiters visited minority enclaves of Serbs, Roma, Turks, Gorani, and Slavic Muslims and urged eligible candidates to apply. The goal for minority participation was 15 percent, slightly higher than the estimated percentage of non-Albanian minorities in prewar Kosovo and at least triple the percentage of minorities in postwar Kosovo. The KPS classes of roughly 300 each averaged 17 percent minorities; "When we get them, we keep them," said police school director Steve Bennett.<sup>29</sup>

Collegiality and cooperation were the dominant ethos of the school. Classes were not segregated by ethnicity. Cadets lived, ate, and learned together. The mission of serving all citizens regardless of ethnicity predominated. For example, some KPS cadets were walking through the completely Albanian town of Vucitrin, where the police school is located, to give a talk at a local school. A group of townspeople yelled at them as they walked by: "Where are the Serbs?" The leader of the KPS group answered: "There are no Serbs, there are no Albanians, and we are all KPS." He got no further guff from the crowd. In another case, several Albanian cadets saw that a few of their Serb classmates had moved into a room down the hall in the dormitory. The Albanians had empty beds in their room and invited the Serbs to move in with them so that they could get to know each other better and study together. The Serbs accepted.<sup>30</sup> The cadets involved in the second example were women, and the KPS has made historic strides for Kosovo and the Balkans by making the recruitment of women a high priority. Early KPS classes averaged 18 percent women, an unheard-of level for police in the Balkans.

The Kosovo Police Service, at the end of 2010, had approximately 9,000 members, nearly its target maximum size. The KPS is about 15 percent female, and ethnic minorities constitute about 14 percent of the total. Women are also marching up the ranks to senior positions, including one deputy commissioner, one regional commander, and one head of department; these three senior positions out of a total of 19 represent a share of about 15 percent. In the Gjilan/Gnjilane region, 18 percent of KPS officers are female, and 12 percent of senior officers are women. In Obilic/Obiliq, 16 percent are women, including seven Albanians and three Serbs.<sup>31</sup> The KPS experience has shown that achieving sufficient minority and gender representation helps reach two key goals: impartial performance standards and public respect for the police. UNDP in 2005 conducted a public opinion survey that showed widespread support for and trust in the KPS among all ethnic groups.<sup>32</sup>

Regular workshops for KPS, NATO, UN Police, the local judiciary, and NGOs on domestic violence, which was and is a serious issue in Kosovo, helped strengthen the training and awareness of the KPS. This led to the creation of a specialized unit to deal with domestic violence. The presence of a large number of female KPS officers plus the Gender Unit has meant that women are more willing to report domestic abuse, and female police officers have often taken the lead in combating forced prostitution and trafficking. The KPS Gender Unit has established a successful program to combat

domestic violence and worked closely with civil society organizations to establish shelters for women and a network of psycho-social counseling and medical care. Women are also given job training and educational opportunities so that they do not have to return to an abusive relationship solely for economic reasons. This contrasts sharply with the DIS's approach to gender-based violence in Chad.

UNMIK created a Joint Task Force on Minorities (JTfM), which was comprised of senior officials from UNHCR and OSCE/Human Rights, as its joint chairs, and representatives from NATO's Kosovo Force, UN Police, the Office of the High Commissioner for Human Rights, the International Committee of the Red Cross, the UN Children's Fund, UNMIK's Pillar Two (Civil Administration), and the senior adviser on human rights to the special representative of the secretary-general. The task force met weekly, sharing information on the status of the remaining minorities in Kosovo and assigning members follow-up action based on their mandates and capacities. It issued regular reports, each providing a wealth of details that revealed an ongoing climate of fear and danger, and a growing trend of self-segregation for the sake of survival among Kosovo's remaining minorities. The task force is the most effective example of interagency cooperation that this author has ever seen in a peacekeeping operation. The JTfM's reports were used by UN Police as it conducted recruiting, training, and oversight activities of the new KPS. Such integrated support from key actors inside the UN peace operation and from some key players outside the mission was vital to the effort to change the policing dynamic in Kosovo, especially as it related to the displaced populations that were at great risk.

Kosovo's unilateral declaration of independence in March 2008 rattled the KPS, with Serb officers in particular under great pressure to withdraw and work for the government of Serbia. For a while, several KPS officers in northern Kosovo did just that, but recently many have returned to the KPS and are cooperating with the EU police of EULEX who took over from the UN in 2009.

## General Lessons and Recommendations

In contexts of mass displacement, securing durable solutions—the safe and dignified return, relocation, or local integration of the displaced—requires reform of the public institutions that were responsible for committing or allowing the human rights violations suffered by victims of displacement. This includes security institutions such as the police and military. Security sector reform that is implemented in a justice-sensitive manner is important in ensuring that these institutions will respect human rights and the rule of law. The examples of Chad, Zaire, and Kosovo discussed in this paper suggest a number of important lessons to be learned in this respect. The following are not exhaustive with regard to implementing security sector reform, but instead focus on issues that would appear to be of most relevance in displacement contexts.

**Police reform is a long-term process that involves transforming power relations in a society, and requires more than technical tinkering with police doctrine or practice.**

Police reform, like judicial reform or any effort to change an institution, is intensely political. Power distribution and relationships will change, and opposition is to be expected. Many in the old order will see reform as a direct threat—a “zero sum game” where they stand to lose and others to gain.

Reform also implies that what exists or has existed is flawed. People invested in the old structure will not be happy with this conclusion and can be expected to resist change. Those embarking on police reform must understand from the outset that the exercise involves much more than a mere “technical fix” or tinkering with the purely operational side of a police force. The local population will interpret every project, training, or public awareness campaign as a political initiative, and they will do a political calculus of what they stand to gain or lose from the effort. Successful police reform will inevitably involve societal transformation; it is a major exercise in state-building that requires the police to serve the public regardless of political agendas and despite its members’ recent experiences, and urging the population to have confidence in the police despite their own recent experiences. Such a dynamic represents a pivotal change in how society is governed in states affected by forced displacement. As mentioned above, people do not leave their homes, livelihoods, and familiar surroundings for trivial reasons. Ensuring that the state institutions charged with providing security and order to groups forcibly displaced inevitably requires changes in political systems and the distribution of power so that displacement does not recur.

**Human rights training and awareness-raising are only part of the reform program; effective reform requires paying attention to the institutional development of the police.**

Another clear lesson that has emerged is that police reform must go in tandem with judicial reform. Modernizing laws, training judges, making courts more efficient and accessible, and humanizing prisons are all part of rule-of-law efforts. This paper is limited to examining police reform efforts, with full knowledge that in actual practice, to prevent repeat displacement, all of the institutions related to justice and security must address the root causes of displacement and enact reforms (of recruitment, training, oversight, and operations). Within the police, innovative practices such as sustained mentoring by experienced outsiders can reinforce what is learned in the police academy; CIVPOL in Bosnia, Haiti, Kosovo, and East Timor have effectively mentored local police, especially where the two have been co-located and the mentors have been properly managed and trained. In Chad, the mentoring by UN Police of the DIS simply did not last long enough to have a sustainable impact—so the lesson here is that duration is important and at least a year of follow up on the job mentoring is required.

**Internal and external bodies responsible for oversight of the police must be independent, objective, transparent, and effective; they must have the power and resources to do their jobs.**

As David Bayley has stated, “creating effective disciplinary systems within the police should be a first-order priority.”<sup>33</sup> Effective, transparent, and fair accountability mechanisms, both internal and external, will help ensure police discipline and secure the public’s trust. This is one of the most important aspects of improving police respect for human rights. A major problem in many contexts has been impunity, where the police would literally get away with murder, torture, rape, and extortion. Any misbehavior by the new police will have devastating impacts on reform. The population will see that the new police are just like the old—not worthy of their trust or support—and a dangerous dynamic will quickly develop, with displaced persons refusing to return or readying to flee once again. An effective police oversight mechanism helps reinforce the twin goals of respectful and effective policing; disciplined and proper police behavior means fewer rights violations and greater cooperation, which in turn leads to lower crime and fewer violations. While some police officers resist oversight, especially

from external bodies, interpreting it as a hindrance to effective crime fighting, David Bayley suggests that rather than framing the issue as a trade-off between oversight and effectiveness, accountability and human rights can be seen as management and performance issues. “I believe, then, that the kind of clever tactic with the police is not to beat them over the head with respect to external methods of accountability, much as I approve of many of them, but to work with them and get them on our side in changing their management mentality.”<sup>34</sup>

**The entire system of incentives and rewards needs to reflect the new police ethos of serving and protecting the public; recruitment and promotion must be based on objective criteria and not on nepotism or political favoritism.**

A corollary to accountability is establishing a new police culture that rewards ethical behavior and punishes corruption and abusive practices. Police reform must address the whole system of incentives and rewards within the institution and must elevate integrity as the ultimate value. Recruitment and promotions must be based on fair, transparent, objective, and publicly announced criteria. Salary increases, favored postings, and other legitimate perks must derive from a rigorously objective assessment of performance, rather than political favoritism, nepotism, or cronyism, all of which have often characterized the ethos of abusive and corrupt police forces. It is crucial that reforms address the question of realigning incentives and punishments to promote integrity, capacity, and competence throughout every aspect of the police, so as to “embed” these values in every procedure and policy.<sup>35</sup> Integrity and the “right way” must be recognized and rewarded; otherwise, the new ethos will never take hold.<sup>36</sup> If the displaced population sees that the same incentives and structures that helped generate the displacement are still in force, then they are very unlikely to return, and, if they do, they will flee again at the first sign of the old abusive, repressive behavior.

**Security sector reform, including of the police, requires a multidimensional, coordinated approach from key actors.**

Experts in police reform are necessary but not sufficient to address the many challenges large-scale displacement presents. As was seen especially in the Zaire case, a lack of support from and participation by UNHCR and UN peacekeepers doomed the project. In addition, involvement by key players such as the World Bank, regional development banks, and major UN agencies and NGOs working in humanitarian assistance and development is also required. Jobs must be created and training provided for former members of police and military forces who are vetted out of the new or reformed institutions. The example from Kosovo proves this point, where the building of the KPS depended on crucial support from UNHCR, the European Union, and others. The jury is still out on the experience in Chad, but there too, whatever success has occurred stems at least partially from the involvement of UN peacekeepers and UN agencies.



## Notes

- <sup>1</sup> *Convention Relating to the Status of Refugees*, July 28, 1951, 189 U.N.T.S. 137, entered into force April 22, 1954, Art. 1.
- <sup>2</sup> *Protocol Relating to the Status of Refugees*, January 31, 1967, 606 U.N.T.S. 267, entered into force August 8, 1975.
- <sup>3</sup> United Nations Office for the Coordination of Humanitarian Affairs, *Guiding Principles on Internal Displacement* (New York: United Nations, September 2004), “Introduction – Scope and Purpose,” para. 2.
- <sup>4</sup> See William G. O’Neill, Bonaventure Rutinwa, and Guglielmo Verdirame, “The Great Lakes: A Survey of the Application of the Exclusion Clauses in the Central African Republic, Kenya and Tanzania,” in “Exclusion from Protection,” supplement, *International Journal of Refugee Law* 12, suppl. 1 (July 2000): 135–170. Article 1F of the Convention Relating to the Status of Refugees excludes from refugee status anyone “with respect to whom there are serious reasons for considering that (a) he has committed a crime against peace, a war crime or a crime against humanity.”
- <sup>5</sup> UN Secretary-General, *Report of the Secretary-General on Chad and the Central African Republic*, UN Doc. S/2007/488 (August 10, 2007).
- <sup>6</sup> *Ibid.*, para. 24.
- <sup>7</sup> “Sudan: Recent Violence Worsens Tensions along Chad Border,” *AllAfrica*, July 20, 2009, available at <http://allafrica.com/stories/200907201624.html>. As of 2011, there were 255,000 refugees from Chad and 168,000 IDPs in the region. Center on International Cooperation, *Annual Review of Global Peace Operations*, 2011 (Boulder, CO: Lynne Rienner Publishers, 2011), 20.
- <sup>8</sup> UN Security Council Resolution 1778, UN Doc. S/RES/1778 (September 5, 2007).
- <sup>9</sup> *Mémorandum d’accord*, August 12, 2008, Art. 2.1.
- <sup>10</sup> *Ibid.*, Annex II, 1(b) and (c).
- <sup>11</sup> *Ibid.*, Annex II, 1(e).
- <sup>12</sup> Center on International Cooperation, *Annual Review of Global Peace Operations 2010* (Boulder, CO: Lynne Rienner Publishers, 2010), 41.
- <sup>13</sup> Physicians for Human Rights, “Nowhere to Turn: Failure to Protect, Support and Assure Justice for Darfuri Women” (Cambridge, MA: Physicians for Human Rights and Harvard Humanitarian Initiative, May 2009).
- <sup>14</sup> Refugee woman interviewed at the Gaga Refugee Camp, May 2009, as reported in Amnesty International, “No Place for Us Here: Violence against Refugee Women in Eastern Chad” (AI Index AFR 20/008/2009), September 2009, 21.
- <sup>15</sup> *Ibid.*, 24.

- <sup>16</sup> One Human Rights Watch researcher reported in late 2009 that certain prisons in Eastern Chad had a 100% escape rate, and essentially consisted of bribery rackets for the wardens, who would simply process and immediately release prisoners—particularly prisoners with military affiliations. Private briefing in New York, December 2009.
- <sup>17</sup> United Nations Security Council, *Letter Dated 15 October 2010 from the Permanent Representative of Chad to the United Nations Addressed to the President of the Security Council*, UN Doc. S/2010/536 (October 18, 2010).
- <sup>18</sup> United Nations Security Council Department of Public Information, “Security Council, in Statement, Calls on Government Support for Central African Republic, Chad as United Nations Mission there Draws Down by Year’s End,” news release, December 20, 2010, <http://www.un.org/News/Press/docs/2010/sc10134.doc.htm>.
- <sup>19</sup> UN Secretary-General, *Second Report of the Secretary-General on Security in Rwandese Refugee Camps*, UN Doc. S/1995/65 (January 25, 1995).
- <sup>20</sup> For example, a Hutu refugee who wanted to return to Rwanda was chased and then stoned to death by other residents in Kibumba camp on September 7, 1994. Dilip Ganguly, Associated Press, “UN to Assess Security in Zaire Refugee Camps,” *Daily Gazette*, September 8, 1994.
- <sup>21</sup> In one incident, the citizens of Goma, Zaire, protested in the thousands until 400 of Zaire’s “best” soldiers were withdrawn from the city following thievery and thuggery by the troop. Associated Press, “Zaire’s Troops to Be Withdrawn,” *Bowling Green (KY) Daily News*, August 14, 1994.
- <sup>22</sup> UNAMIR was the UN peacekeeping force in Rwanda, which had been largely prevented by the Security Council from opposing the genocide. The force was quite depleted and had lost much of its credibility by early 1995.
- <sup>23</sup> Again, as the secretary-general’s report on the Central African Republic and Chad from August 10, 2007, notes (see n. 6), the police concept could only be implemented “in combination with a military presence, which would provide the wide-area security required by all aspects of the United Nations-mandated mission.” Unfortunately, there was only area-wide insecurity in eastern Zaire, which continues today.
- <sup>24</sup> See Organization for Security and Co-operation in Europe, *As Seen As Told: An Analysis of the Human Rights Findings of the OSCE Kosovo Verification Mission October 1998 to June 1999* (Warsaw: OSCE, December 1999), Part II.
- <sup>25</sup> Doreen Carvajal and Marlise Simons, “Report Names Kosovo Leader as Crime Boss,” *New York Times*, December 15, 2010,
- <sup>26</sup> OSCE Mission in Kosovo, Kosovo Police Service School, April 9, 2001, 3.
- <sup>27</sup> Thorsten Stodiek, “OSCE International Police Missions,” in *OSCE Yearbook 2001*, vol. 7, ed. Institute for Peace Research and Security Policy Hamburg (Baden Baden: Nomos Verlagsgesellschaft, 2001), 335, available at <http://www.core-hamburg.de/documents/yearbook/english/01/Stodiek.pdf>.
- <sup>28</sup> The KPS was renamed “Kosovo Police” in mid-2009.
- <sup>29</sup> Interview with Steve Bennett (police school director), Vucitrn/Vushtrri, September 22, 2000.
- <sup>30</sup> Interview with KPS officers, Vucitrn/Vushtrri, September 22, 2000.
- <sup>31</sup> Author’s field notes, Mission to Kosovo, November 30, 2006. For a further breakdown of the composition of the Kosovo Police, see Kosovo Police, “Statistics,” accessed April 2012, <http://www.kosovopolice.com/?page=2,18>.
- <sup>32</sup> UNDP, *Light Blue: Perceptions of Security and Police Performance in Kosovo* (UNDP Kosovo, June 2004).
- <sup>33</sup> David Bayley, *Democratizing the Police Abroad: What to Do and How to Do It* (Washington, DC: National Institute of Justice, June 2001), 40.
- <sup>34</sup> Ibid.
- <sup>35</sup> Gordon Peake, “Policing the Peace: Police Reform Experience in Kosovo, Southern Serbia and Macedonia,” *Saferworld*, 2003, 22.

<sup>36</sup> Kotter notes that, “major change is often said to be impossible unless the head of the organization is an active supporter. What I am talking about here goes far beyond that. In successful transformations, the president, division general manager, or department head plus another five, fifteen, or fifty people with a commitment to improved performance pull together as a team . . . in the most successful cases, the coalition is always powerful—in terms of formal titles, information, expertise, reputations and relationships, and the capacity for leadership.” John P. Kotter, *Leading Change* (Cambridge, MA: Harvard Business School Press, 1996), 6.