AT THE MARGINS OF SSR:
Gender and Informal Justice
Conference Report
Geoff Burt
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SUMMARY

Rather than being seen as integral parts of the broader security sector reform (SSR) agenda, gender and informal justice are often treated as niche, and in some cases peripheral, areas of focus. On September 23, 2010, The North-South Institute (NSI) and The Centre for International Governance Innovation (CIGI) hosted a conference in Ottawa titled, At the Margins of Security Sector Reform: Gender and Informal Justice. The conference aimed to increase awareness of two areas in SSR that, while growing in importance, have traditionally received insufficient attention.

Attendees, including representatives from local universities, as well as the Canadian International Development Agency (CIDA), Correctional Services Canada, Department of Justice, Department of Foreign Affairs and International Trade (DFAIT), Public Safety Canada and the Royal Canadian Mounted Police (RCMP), were joined via video conference by female police officers and researchers from Liberia and Southern Sudan.

The conference’s morning session, focusing on gender and SSR, was designed to create an opportunity for southern women to share their experiences of police reform. The proceedings built on a multi-year NSI-sponsored research project, Privileging Southern Voices on Gender and Police Reform, which involved focus groups and in-depth interviews with female members of the police force and civil society in Liberia and Southern Sudan. Initial research findings on women’s experiences with police reform processes in these two countries were shared with participants by NSI’s Liberian and Southern Sudanese research partners. In particular, the conference highlighted differences in gender-sensitive approaches to police reform in both countries and their impact on women in the police force and women in the community. The presentations also shed light on similarities and differences in Liberia and Southern Sudan, including police-community relations, resource issues, responses to sexual and gender-based violence, literacy/education and sexual harassment policies. Southern researchers highlighted the enduring gaps in knowledge on these topics, while also suggesting directions for policy improvements. Participants also learned about research conducted by the Geneva Centre for Democratic Control of Armed Forces (DCAF), documenting gender-sensitive approaches to police reform in some Economic Community of West African States (ECOWAS) countries.

1 A description of this project is available at: www.nsi-ins.ca/english/pdf/FindingsSSR.pdf.
The afternoon session examined the role of informal or non-state security and justice structures, actors and norms in SSR contexts. SSR donors often show a reluctance to work with non-state and informal bodies, a tendency that can be attributed to a variety of factors, including a lack of familiarity with the non-state and the particularistic security and justice traditions of individual SSR recipient states, and a stringent adherence to Western liberal norms of governance, which favour the formal over the informal and the state over the non-state. Concerns over the capacity of non-state bodies to observe international human rights standards and reject various forms of discrimination, have further emboldened many donors to ignore and, in some cases, seek to dismantle non-state and informal bodies. Panelists argued that the distinction between the state and non-state is often arbitrary. SSR is more than a technocratic enterprise; at its core, SSR is about politics and power. By labelling one group (the state) as legitimate and another (the non-state) as illegitimate, the international community becomes embroiled in an internal struggle for power and influence. The focus of donors and SSR practitioners should be on assisting and enabling those actors and structures that respect human rights, and provide effective and legitimate security and justice services to communities, regardless of their form or relationship to the state. Donors can overcome challenges and find entry points to engage non-state actors, structures and norms. For instance, legal decisions made by informal justice providers can be thought of as part of a developing body of common law. Donors can assist with the establishment of casebooks to record judicial decisions, thereby increasing the level of uniformity in legal decisions and preserving legal reasoning. In the security sphere, donors can endeavour to mould community defence and militia structures into community watch bodies or civilian reserve forces with ties to state security structures.

The workshop concluded with a plenary discussion on future research directions and possible approaches to policy engagement. There was a broad consensus that issues of gender and informal/non-state security and justice need to be part of mainstream contemporary SSR policy and programming. This report summarizes the day’s discussions, and concludes with a section setting out an agenda for future research.

GENDER AND SSR

THE IMPORTANCE OF GENDER

NSI Senior Researcher Jennifer Salahub introduced the morning’s panel on gender and police reform, raising the point that gender policy is more than a human rights issue. Security institutions tend to be designed and operated by men; in order to meet the needs of women, their inclusion in police services, as well as the development of policies sensitive to the different experiences of women and men, are operational necessities. Security and justice systems must be responsive to the whole society, not just segments of it. Can the security sector be representative and participatory without the involvement and consideration of half the population?

THE PANELISTS

One of the overarching positions for the morning panel was that debates on police reform suffer from a lack of southern women’s voices. The proceedings built on a multi-year NSI research project, Privileging Southern Voices on Gender and Police Reform, based on focus groups and in-depth interviews with female members of the police and civil society in Liberia and Southern Sudan. The research project, and the morning’s discussion, aimed to create an opportunity for women from the developing world to become involved in research and debates on SSR, which largely take place in the developed world, as well as establish links with international counterparts.

Event participants were joined via video conference by two police officers: Jartu K. Golafale, an 18-year veteran of the Liberian National Police and president of the Liberian Female Law Enforcement Association, and Martha Boyoi Golla Nyered, a member of the Southern Sudan Police Service (SSPS) and a leading member of the SSPS Policewomen’s Association. Also joining the discussion via video conference were Caroline Bowah, from the Foundation for Human Rights and Democracy in Monrovia, and Victoria Elia Guli, from the Centre for Peace and Development Studies at the University of Juba. The final morning panelist was Kristin Valasek, a gender specialist from DCAF.

PRESENTATIONS

Southern Women’s Voices

As presidents of their respective policewomen’s associations, Jartu Golafale and Martha Boyoi Golla Nyered were able to provide unique insights into the
challenges faced by female police officers in two conflict-affected contexts. In addition to discussing the challenges their police services face in developing robust, responsive security mechanisms for the entire population, they shared their views on balancing family and work obligations. Both women described the mixed feelings their families expressed when they initially chose a career in law enforcement — a decision that both of their families now firmly support. Their experiences stressed the importance of involving and reaching out to families when trying to recruit female police officers.

The issue of female officers often being given support roles as secretaries and filing clerks was raised. Jartu Golafale argued that this reflects the perception that female police officers are “weaklings,” who can not succeed in more traditional or conventional policing roles. In further discussion, this concern was linked to broader societal restrictions on women and girls’ access to education and continuing high rates of female illiteracy in both countries. These observations highlighted the insufficiency of simple quotas in bringing about gender equality in policing, and the shortcomings of quantitative measures in evaluating gender-sensitive police reform. Both women agreed that a critical part of the mandate of policewomen’s associations is to ensure that female police officers are provided with adequate training and support, so they can reach and excel in more meaningful and influential roles.

The two female police officers voiced their desire to establish lines of communication and support between female police officers’ organizations in the developing world and their counterparts in the developed world. Being able to establish contact with their Canadian police counterparts in the audience was an important outcome of the conference.

Police Reform in Liberia: Bringing a Gender Face to the LNP

NSI’s research partners, Victoria Elia Guli and Caroline Bowah, shared the preliminary results of the NSI-sponsored research project with the audience. The final results are brought together in a book, *African Women on the Thin Blue Line: Gender-Sensitive Police Reform in Liberia and Southern Sudan.* Bowah’s research on gender, police reform and the Liberian National Police (LNP) was based on 16 interviews and two focus-group discussions, each with 16–20 participants, as well as her personal knowledge and experience with police reform in Liberia. Some of her findings are discussed below.

Vetting: The vetting process carried out in 2003 was insufficient. Unlike the armed forces, which took measures like posting pictures of new recruits in local newspapers in order to solicit community feedback about past human rights abuses committed by recruits, the LNP did not undertake a thorough and systematic vetting process.

Recruitment: Although using affirmative action quotas to reach recruitment goals for female police officers initially yielded positive results, it is fraught with potential problems. In Liberia, standards for female recruits were lowered in an attempt to reach a 20 percent quota. The three months of training given to the new female recruits was inadequate, given that many only had seventh- or eighth-grade educations. These recruitment efforts have proven to be counter-productive: the emphasis on quantity over quality bred resentment on the part of male officers, reinforced the notion that women did not make good police officers and, arguably, set many of the female recruits up for failure. Recruitment should not merely focus on a specific numerical target, but should also stress the need to attract better educated and more literate female recruits, while at the same time addressing the structural barriers to female participation due to discrimination in education. Bowah suggested that focusing on female students would be a better way to support and attract higher quality recruits.

Lingering Restructuring Issues: The complete restructuring of the LNP (the service was disbanded and existing officers had to reapply for their old positions) resulted in problems with the chain of command. Having senior- and junior-ranking officers reapply to the force at the same time turned the command hierarchy on its head, with some former supervisors and high-ranking officers assigned to serve under officers who had previously reported to them. This created significant resentment and confusion. Moreover, many qualified officers found the process insulting and refused to reapply, thus withholding valuable experience from the LNP.
Challenges: The SSPS, and in particular its female members, remains largely illiterate. Corruption and bribery are ongoing challenges, as is SGBV. Overall, the level of trust between the police and communities is low.

Government Policies: The Government of Southern Sudan (GoSS) continues to make police reform a relatively low priority. In this regard, the lack of a specific gender policy has hindered progress in gender-sensitive reform, though there are some gender-specific regulations in place, such as a maternity leave policy. Police leadership has argued that the chain of command overrides gender biases and is, therefore, sufficient to ensure gender equality, although researchers question the strength of these claims.

Female Police Officers: There are a relatively high number of female SSPS officers up to the rank of colonel, because of the transfer of personnel from the Sudan People’s Liberation Army to the SSPS following the end of the civil war.

Future Research: Promising research topics include: the role of early marriage and family on female recruitment; an investigation of the claim that the chain of command creates an empowering environment for women; and a study determining accurate numbers, rank and, critically, the roles filled by policewomen in Southern Sudan.

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Gender Training:
Although half of the countries surveyed provided gender training, it remained ad hoc and was led by outside experts. Gender training should be institutionalized in police academies. Countries should develop standardized training curricula and training-of-trainers programs. Gender training should constitute part of mandatory training for all security and justice officials. There needs to be a concerted effort to ensure

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4 Notes from this presentation are available at: www.nsi-ins.ca/english/pdf/GenderandPoliceReforminSouthernSudanPPT.pdf.


6 Ultimately, researchers were unable to obtain information for The Gambia, Guinea and Benin, leaving 12 case study countries.
that male police officers receive appropriate gender training, especially in rural areas, because they will likely be required to resolve cases of abuse and SGBV.

Monitoring/Evaluation: There is a need for more effective monitoring and evaluation of gender training to determine if it actually changes attitudes and behaviour.

Gender-based Violence Units: These units have had good results where they exist, but require specific training and a referral service to be effective.

**INFORMAL JUSTICE AND SSR**

**THE PANELISTS**

Eric Scheye is a consultant in rule of law, justice and security development, conflict management and state building. He has worked for the United States, the United Kingdom, the Netherlands, Brazil, Argentina, the World Bank, African Development Bank, Organisation for Economic Co-operation and Development, Organization for Security and Co-operation in Europe (OSCE) and the United Nations (UN). Prior to his consulting career, Eric worked for almost 10 years with the UN Department of Peacekeeping Operations and the UN Development Programme in Albania, Bosnia and Herzegovina, Timor-Leste, Honduras, Kosovo and Serbia.

Jasteena Dhillon currently teaches International Human Rights Law at the University of Windsor’s Faculty of Law. She is a visiting scholar at Harvard Law School and an affiliate fellow with Harvard’s South Asia Initiative. She has 15 years of field experience working for the UN in Iraq and Gaza, the OSCE in Bosnia and Croatia, for international non-governmental organizations like the Norwegian Refugee Council in Afghanistan and Sri Lanka and the International Development Law Organization in Southern Sudan.

This section of the report will present some of the main themes of their presentations and conclude with an agenda for future research on the topic.

**IGNORING THE NON-STATE**

CIGI Senior Fellow Mark Sedra introduced the afternoon’s panel on informal justice and SSR, arguing that the international donor community suffers from a tendency to see post-conflict societies as “blank slates,” with no existing structures, norms and traditions to maintain order. This is largely because donor governments are used to interacting with state counterparts, such as state security forces or formal courts. Donor governments are less adept at identifying local providers of security and justice who do not fit the Western model of “the state.”

Even when they are identified, there is often a blanket judgment that these actors and processes are hopelessly corrupt, they violate human rights — especially those of women and children — and they are controlled by predatory local elites and power brokers. While these claims are undoubtedly true in some cases, the same can often be said of state providers of security and justice. Reflexively rejecting these mechanisms, instead of...
evaluating them on a case-by-case basis, results in missed opportunities to leverage the legitimacy and familiarity that these institutions often enjoy. Indeed, local security and justice providers, be they village councils, religious leaders, groups of elders, or influential local leaders, often provide the majority of legal services to a given community.

Eric Scheye stressed that SSR is, at its core, a political enterprise. SSR orthodoxy stresses that engagements should begin by generating “local buy-in” for reform programs among elites. In choosing who to work with and deciding who will receive funding, donor governments strengthen certain groups of elites at the expense of others. Donors tend to gravitate to local actors that are urban, Western oriented, English speaking and well educated, securing their buy-in at the expense of others. Those other elites, who tend to be rural, traditional and have limited education are, intentionally or not, left out of the process of establishing security and justice institutions. These elites have little invested in an official state system that marginalizes them and seeks to strip them of power and prestige.

These considerations of politics and power are especially important when one considers that the state is frequently a minority provider of security and justice in post-conflict states. The exact proportion of services provided by state and non-state actors varies, but, in many cases, donor interventions that focus exclusively on state actors will only succeed in extending those services to less than half of the population.

With respect to local buy-in on the part of the average citizen, Jasteena Dhillon cautioned that the international community rarely has a sense of what security and justice mean to local communities. By failing to understand what gives the local population a sense of trust in the order, justice and fairness of their institutions, the international community often transplants their own models, assuming that they will be embraced and adopted.

**FOCUS ON PROVIDING SERVICES TO COMMUNITIES**

Eric Scheye argued that the dichotomy of state and non-state is inherently flawed. By defining the state in a narrow way, donor practice delegitimizes local security and justice providers who are delivering tangible benefits to the population. Through the services they provide to citizens, local security and justice actors should be thought of as part of the state. The goal of expanding service delivery should guide programming. Donors should ask themselves which groups are effectively delivering services to the population, and then determine how they can further enable and strengthen that delivery.

A first step is to define what non-state justice actors typically do. There are two areas of administrative law where local justice providers are consistently able to provide tangibly better (more efficient, quicker and cheaper) results than state justice providers: land title cases and marriage contracts. In addition to these areas, non-state justice actors are often relied upon to resolve disputes through alternative dispute resolution (ADR) mechanisms or mediation. For example, research on Afghanistan from the Cooperation for Peace and Unity indicated that the key conflict resolution issues are land (36 percent), marriage/divorce (15 percent), debt (15 percent), water (14 percent), and other personal disputes, such as car accidents (20 percent).

These structures are not unfamiliar to developed countries, some of which have extensive experience of their own with ADR and indigenous security and justice frameworks based more on restorative than retributive principles. Canada’s experience with First Nations security and justice provision provides a particularly useful example.

These are areas where reforms that seek to strengthen the informal justice system and reconcile them with

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7 It is important, of course, to recognize that, in some cases, these mechanisms will be problematic. Southern Sudan struggled with the issue of informal justice and land titles when it experienced an influx of refugees, many of them female heads of household, who had no land rights according to local justice norms.

formal bodies can achieve the most impact. Processes like training notaries or building casebooks to record legal decisions can deliver tangible results to citizens at a very low cost to donor governments.

Even though donor governments themselves practise legal pluralism — the existence of multiple legal systems within one geographical area — they resist it in developing countries. The justification is often that engaging non-state justice providers will elevate their status, and thus threaten the legitimacy of the fragile formal justice sector. Though certainly a possibility, this analysis discounts the fact that association with these structures, often considered by locals to be more just, representative and legitimate, could enhance, rather than jeopardize, the overall legitimacy of the state.

CHALLENGES

SSR is more than a technocratic exercise. It is a deeply political process that reshapes power relationships between elite groups. Accordingly, reformers will often encounter determined resistance to programs that are seen to strengthen local security and justice providers at the expense of the state. Securing agreements in this area with counterpart governments will inevitably require considerable effort and patience on the part of donors, and may involve making concessions in other areas. To make programs that strengthen informal justice and make security more palatable to government officials, they can be included as part of broader reform packages aimed at state structures.

The tendency to see informal security and justice as a panacea for difficult state-building projects can give donor states unrealistic expectations. Just as SSR is an inherently long-term process, programs intended to empower informal security and justice systems and reconcile them with the state will take time to produce results. The assumption that informal justice providers are unwilling or unable to change or evolve is flawed. Culture, norms and traditions are not static and immovable, but dynamic and changeable.

Donors may also encounter difficulty fitting informal security and justice programs into existing frameworks for security and development funding. However, the best solutions to development problems often come from consultations and discussions with local power brokers and populations that lead to practical accommodations. It is imperative to work with local realities rather than around them, in order to satisfy funding frameworks, approaches and priorities.

ENTRY POINTS FOR DONORS

As discussed earlier, programs to enhance local or informal justice and security provision may face opposition from a variety of actors, including: host country governments who fear a shift in power; human rights organizations who do not believe informal justice and security can respect fundamental rights; and donor governments who are uncomfortable with the non-state. Entry points for concerted programming do, however, exist, and are discussed below.

Casebooks and Common Law

Rather than being dismissed, the legal decisions made by informal justice providers should be thought of as part of a developing body of common law, similar to the way parallel systems developed in the West. Assisting with the establishment of casebooks to record judicial decisions can increase the level of uniformity and consistency in rulings, and preserve legal reasoning. This is not to say that these reforms are easy to implement or uncontroversial. During its decades of conflict, Colombia created various structures for conflict resolution and community engagement. Justices of the peace (or corregiduría) have an extensive history of resolving local disputes, with case records that go back five to seven years. Trying to support
these actors — when they have overlapping jurisdictions with the formal justice system, and when the Ministry of Justice refuses to fund or support them — is a challenging proposition. Taking Colombia as an example, reformers should expect political resistance to local community justice and security programs from government elites, who see them as competing with their authority.

A New Model of Community-driven Development

The justice, security and development aspects of state building are often considered separately. Eric Scheye argued that the spheres of justice (involving, for example, the training of notaries or casebook development), security (involving the creation of community safety boards and the development of local policing) and development (marked by community-driven economic development) should be incorporated into one reform package, rather than treated as three distinct and discrete areas.

CONCLUSION: TOWARDS A FUTURE RESEARCH AGENDA FOR INFORMAL JUSTICE AND SSR

The workshop concluded with a plenary session concerning a future research agenda to examine the relationship between informal justice and security and SSR. Among the conclusions were:

- There is a need for more research that defines perceptions of security and justice at the local level, which is a continual shortcoming of donor programming.
- The large quantity of research on non-state actors shows a healthy interest in changing the SSR model, but much of the research is based exclusively on single contexts, and is, therefore, only able to provide a snapshot view of the issue. More comparative research is needed.
- More research should be conducted on donor country domestic experiences with reconciling formal and informal security and justice mechanisms.10
- There is a need for more extensive and effective evaluation of existing SSR programming in this area, particularly moving beyond the usual benchmarks and indicators — counting — to define what has been accomplished.
- Practitioners should establish a methodology for how to conduct short-term assessments of community security and justice in a given context.
- It would be beneficial to establish more robust connections between research and implementation. Attendees pointed out that this is partly a result of the artificial distinction made between the two areas. Is there a way to better incorporate research into implementation projects?
- There is a general need to better understand how to create space for funding informal security and justice programs, given the structural constraints (such as donor budgets and lack of will on the part of host nations).

10 Canada has extensive experience integrating local or traditional security and justice mechanisms with a rights-respecting formal justice system. Compared with the adversarial, punitive formal justice system, these mechanisms are often seen as more communal and restorative. The use of First Nations justice mechanisms, such as healing circles, is the most widely known example. The case of community policing in rural Saskatchewan, where both local actors and the RCMP have shown satisfaction with the arrangement and its effectiveness, demonstrates two models of policing can coexist without undermining the legitimacy of the state. See Rigaros, George S. (2008). Plural Policing in Saskatchewan First Nations: Report submitted to the Aboriginal Policing Directorate of Public Security and Emergency Preparedness Canada. Ottawa.
• The departure of Canadian troops from Afghanistan may create research opportunities as ministries try to assess what led to failures and shortfalls. Could Canada have achieved more by spending less and by better engaging local realities in the security and justice spheres?

Meeting of local sheiks in West Darfur. UN photo by Albert Gonzalez Farran.

ROUND TABLE AGENDA
SEPTEMBER 23, 2010

08:30 Registration

09:00 Welcome and opening remarks (Jennifer Salahub, senior researcher, NSI)

09:15 Voices from the inside: A conversation with policewomen from Southern Sudan and Liberia, via video conference

10:00 Voices from the outside: perspectives on gender and police reform

Victoria Elia Guli, Centre for Peace and Development Studies, Juba — Case study: Southern Sudan, via video conference

11:15 Voices from the outside: perspectives on gender and police reform

Caroline Bowah, Foundation for Human Rights and Democracy, Monrovia — Case study: Liberia, via video conference

Kristin Valasek, DCAF, Geneva — Case study: Police reform and gender in West Africa: an institutional perspective

12:30 Lunch

13:30 Panel discussion on informal justice and SSR

Mark Sedra, senior fellow, CIGI; Eric Scheye, independent consultant; Jasteena Dhillon, visiting scholar, University of Windsor

15:30 Plenary discussion: identifying a policy research agenda

16:30 Closing remarks (Mark Sedra, senior fellow, CIGI)

17:00 Reception
## WORKSHOP ATTENDEES

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<tr>
<td>Anderson, Isobel</td>
<td>Canadian Police College</td>
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<td>Becker, Jennifer</td>
<td>NSI</td>
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<td>Boissenault, Jane</td>
<td>RCMP</td>
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<td>Bowah, Caroline (via video conference)</td>
<td>Foundation for Human Rights and Democracy (FOHRD)</td>
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<td>SSPS</td>
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<td>Burt, Geoff</td>
<td>CIGI</td>
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<td>Dhillon, Jasteena</td>
<td>University of Windsor</td>
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<td>Elliott-Magwood, Caroline</td>
<td>Department of Justice Canada</td>
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<td>Farhounand-Sims, Cheshmak</td>
<td>St. Paul University</td>
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<td>Golafale, Jartu (via video conference)</td>
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<td>International Development Research Centre (IDRC)</td>
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<td>Guilbault, Christine</td>
<td>DFAIT</td>
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<td>Guli, Victoria Elia (via video conference)</td>
<td>Centre for Peace and Development Studies, University of Juba (CPDS)</td>
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<td>CIDA</td>
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<td>Latouche, Gail</td>
<td>Correctional Services Canada</td>
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<td>Lithopoulus, Savvas</td>
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<td>Department of Justice Canada</td>
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<td>Nerland, Krista</td>
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<td>Independent Consultant</td>
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<td>CIDA</td>
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<td>Pearson Peacekeeping Centre</td>
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<td>Independent Consultant</td>
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ABOUT CIGI

The Centre for International Governance Innovation is an independent, non-partisan think tank on international governance. Led by experienced practitioners and distinguished academics, CIGI supports research, forms networks, advances policy debate and generates ideas for multilateral governance improvements. Conducting an active agenda of research, events and publications, CIGI’s interdisciplinary work includes collaboration with policy, business and academic communities around the world.

CIGI’s current research programs focus on four themes: the global economy; the environment and energy; development; and global security.

CIGI was founded in 2001 by Jim Balsillie, co-CEO of RIM (Research In Motion) and collaborates with and gratefully acknowledges support from a number of strategic partners, in particular the Government of Canada and the Government of Ontario.

For more information, please visit www.cigionline.org.

CIGI

57 Erb Street West
Waterloo Ontario N2L 6C2 Canada
Tel: 519 885 2444

PUBLICATIONS TEAM
Max Brem, Senior Director for Publications
Carol Bonnett, Publications Editor
Jennifer Goyder, Assistant Publications Editor
Matthew Bunch, Publications Coordinator
Steve Cross, Media Designer

MEDIA CONTACT
For media enquiries, please contact:
Kevin Dias
Communications Specialist
Tel: 1.519.885.2444 x238, Email: kdias@cigionline.org
CIGI SSR RESOURCES

THE FUTURE OF SECURITY SECTOR REFORM

The Future of Security Sector Reform
Edited by Mark Sedra, Waterloo: CIGI (2010).

In November 2010, CIGI released its first eBook, The Future of Security Sector Reform. Written by leading international practitioners in the field, it offers valuable insight into what has worked, what has not and lessons that can be drawn in development, security and state building for the future. The eBook is available on the CIGI website as a free PDF download and can also be purchased in eBook format.

REPORTS

Security Sector Reform and the Domestic-International Security Nexus: The Role of Public Safety Canada

The Future of Security Sector Reform

Mark Sedra, Anne-Marie Sánchez and Andrew Schrumm (2009).

PAPER SERIES

SSR Issue Papers

No. 1 “Security Sector Reform in Haiti One Year After the Earthquake,” Isabelle Fortin (March 2011).

No. 2 “Military Justice and Impunity in Mexico’s Drug War,” Kristin Bricker (forthcoming April 2011).


Security Sector Reform Monitor

This series tracks developments and trends in the ongoing SSR processes of five countries: Afghanistan, Burundi, Haiti, Southern Sudan and Timor-Leste. The SSR Monitors cover a wide range of actors, topics and themes, from reforms in the rule of law institutions and armed forces to demilitarization activities and the role of non-statutory security and justice actors. The series is available at: www.cigionline.org/publications/paper-series/ssrmonitor.

The Afghanistan Papers

The papers in this series seek to challenge existing ideas, contribute to ongoing debates and influence international policy on issues related to Afghanistan’s transition. The series is available at: www.cigionline.org/publications/paper-series/234.

ONLINE RESOURCES

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