RESEARCH ARTICLE

Policing for Conflict Zones: What Have Local Policing Groups Taught Us?

Bruce Baker

The police are invariably severely reduced or even cease to be active in times of conflict. Policing as an activity, however, persists, with local groups taking up the role of maintaining order and combating crime. Such local policing is very diverse in its practices and in the nature of its links with the state. Using examples of local policing practices in four sub-Saharan conflicts, this article considers different patterns of harnessing local capacity to provide policing services. The patterns range from authorities utilising existing local policing providers or initiating new local responses, to local non-government organisations [NGOs] seeking to fill policing gaps left by the state, or long-established local provision continuing unchanged. Each response, whether one of cooperation, delegation, neglect or abandonment, is evaluated for its effectiveness, and lessons to be learned from their practices are offered. Together the four case studies suggest new pathways to achieving police effectiveness and reform in challenging conflict environments.

Introduction

Conflict may stop the police, but it does not stop policing. Social structure, including the provision of policing, is still organised by 'public authorities' of one sort or another (Macdonald and Allen 2015). Even in conflict zones, local communities are highly motivated to minimise risk and maintain order, whether the state has abandoned them or has never 'turned up' (Menkhaus 2006/7). As this article will illustrate, local communities demonstrate resilience to continue when state forces withdraw policing services in conflict (e.g. by flight in Sierra Leone; by policy in northern Mali), and apply innovative procedures when both state and popular justice institutions have resorted to violence

(e.g. eastern Democratic Republic of Congo [DRC]). They may well be the 'last man standing', thereby creating a choice for external actors that are concerned with security and justice: do they work with an active – albeit irregular – remnant of policing, or do they resurrect the dead?

What is meant by the term 'policing'? When analysing conflict environments, popular thought, policy language and practice, policing is often confused or merged with military activity and counterinsurgency. Groups may be called 'police' despite doing very little policing (e.g. Afghan National Police) or may do mostly policing despite being labelled a 'militia' or 'self-defense group' (e.g. Somaliland clan militia; Mexico and Peru self-defense groups). Policing, then, covers an extensive area of work, but everyday policing is an organized activity that emphasises justice and order more than

Coventry University, UK
bruce@bakerbrum.co.uk

security and protection (Baker 2010). Though policing is commonly conceptualized in terms of *internal* security and the protection of people from threats to their lives or property, its focus is on law, rule and norm enforcement, the prevention of rule-breaking and law-breaking, restoring or maintaining order, and investigating and resolving rule-breaking, law-breaking and disputes. This is achieved through methods that preference a minimum use of force or its threat, give wide discretion to officers and are subject to civilian oversight. Significant policing issues rarely addressed by the military in conflict or its immediate aftermath include wrongdoing by individuals, such as domestic violence, sexual violence, property crimes (especially theft), burglaries and robbery. Wrongdoing by larger groups includes revenge killings, disputes over access to and ownership of land, and resources such as water and grazing.

Conflict zones are as much scenes of crime as violent conflict. They are not spaces of uniform violence. During the conflict years there will be many geographical areas where there is a lull in fighting and violence or where there is no military interest in occupation. Just as in peacetime, there arises crime, disorder and disputes. The only difference is that in these situations there often are increased opportunities for criminal and anti-social behaviour, since prevailing social norms and institutional restraints – such as the formal criminal justice system or the presence of customary elders – may have been weakened.

The diversity of policing in conflict zones

Policing organised by local groups is to be expected in an environment where security is deteriorating. Such groups will address immediate needs for a semblance of protection – although this will mostly be left to the military or militias – as well as for the resolution of disputes, and punishment of criminal and disorderly behaviour. However, these responses are very diverse in terms of who

authorises them, their links with the state, their quality of service and their legitimacy.

Those who take the initiative to authorize responses may be clan leaders, warlords, politicians and 'big-men', 'communities' (whatever that means in situations of conflict), religious leaders, youth, local and international non-government organizations (NGOs), and business entrepreneurs (legal and otherwise). All, of course, have an agenda broader than local order-making. These authorizers of policing will engage youths usually armed with anything from sticks to automatic weapons, since unprotected groups that seek to enforce authority are vulnerable in a violent environment. Policing groups may arise in response to specific needs, such as a spike in armed robberies and rape, to resolve disputes over land, or to prevent revenge killings and looting. Over time, however, they may well adopt a broader role involving everyday policing, order maintenance and resistance to organised crime, or more military-style protection of the community from rebels and 'outsiders'.

Local policing providers may overlap in their jurisdictions and – since they may be enforcing different rules and norms, or enforcing similar rules differently – there can be tensions and disputes between policing agents. Alternatively, there can be mutually beneficial exchanges of economic, cultural and symbolic capital. Local policing providers may also overlap in their practices, as they sometimes borrow 'successful' or locally recognised processes that have no history in their own institution (Bagayoko et al. 2016). For users, 'multi-choice policing' (Baker 2008) may offer the advantages of 'forum shopping' or the disadvantages of weak enforcement outside limited and fluid jurisdictions.

Assessments of the governance of policing groups needs to be cautious, as groups frequently change over time. Assumptions that the groups have no links with the state and are thus 'non-state' may well be exaggerated. Many, in fact, do have informal, if not formal, links with state agencies or individual state

actors. Informal militias have been found to be funded by individual politicians or parties to promote their personal interests and rivalries (e.g. South Sudan's cattle-keepers-turned-militia: see Pendle 2015), or by governments wanting to carry out activities that their regular forces are not allowed to (e.g. Sudan's Janjaweed).

The actions of young persons with weapons in conflict zones or in the ensuing post-settlement period is seldom consistently exemplary. Nevertheless, groups can be better or worse overall in terms of their fairness, discrimination against minorities, preference to the wealthy and influential, hasty justice, summary execution, and abuse or neglect of women. Their conduct may reflect ideology and custom, or it might reflect a lack of resources, time and training. How policing groups are rated and supported by the local communities in which they operate will depend on their composition, leadership and behaviour, the norms they uphold and the quality of service they provide.

A policing group's legitimacy may fluctuate or be seen differently by different sectors of a community, according to the outcomes the group produces. Differences of opinion may exist according to age, gender, minority group, and based on people's expectations. Those looking for stability and the enforcement of local values may well be content with a policing group that would not suit state-builders or those in the community who have adopted Western values and norms (e.g. rape victims in northern Uganda that look for women's rights: see Porter 2015). Local policing providers are unlikely to meet all international standards but they well may be beneficial to most local people much of the time.

Given the extent of policing diversity, generalisations are difficult. What this piece offers, however, is a selection of contrasting case studies taken from a single sub-region, that of sub-Saharan Africa, where I have worked for the past 25 years. The specific case studies: Somaliland, Uganda,

DRC, and Mali, have been chosen explicitly to demonstrate the diversity – even within a limited geographical area – of policing in conflict zones. Yet I hope to demonstrate that, despite their diversity, there are commonalities that provide important lessons for external actors about how policing can be offered outside the framework of the state's police. In other words, this article is a reminder that even when the police are no longer available, there may well be alternative methods of offering order maintenance and crime response within conflict zones or the immediate aftermath of conflict. The remainder of this article outlines the four case studies, describes the local policing groups that arose in the conflict, and analyses the groups' sponsors, roles, conduct, governance, legitimacy and outcomes. The article concludes that such responses show the capacity of local communities to provide policing in situations where the state police are not able or willing to do so themselves. Such potential should not be hastily dismissed on the basis of the perceived failings of some of their practices.

Conflict and New Hybrid Policing: Somaliland

Policing in Somaliland has always given prominence to clan elders, and conflict and state collapse only underlined their importance. Yet what is distinctive about this case is how a re-emerging state presence has not sought to marginalize them, but to incorporate them into a hybrid system that gives parallel authority to both clan and state forms of policing.

The Somali Police Force had little presence anywhere in Somalia under President Barre in the 1980s and ceased to operate during the civil war in 1988–91. The central authority had minimal capacity and ambition, so policing was left to the community elders, who applied Somali customary law, the *Xeer*. It was to these elders that local people looked for resolving disputes over access to and ownership of land and resources, such as water, and for cases of revenge killings.

Indeed, the effectiveness and adaptability of the *Xeer* during the conflict years only elevated its status.

Shortly after President Barre's defeat in 1991, Somaliland, the north-western section of Somalia, declared independence. The Somali National Movement (SNM) – the resistance movement of Somaliland that formed the new administration – had very few resources and no external aid on offer, owing to the lack of international recognition of Somaliland independence. For policing, there was only a national police force of 320 men and a few community groups, such as neighbourhood watch, in the cities. The SNM therefore had no choice but to delegate functions normally associated with the state, such as security and justice, to heavily armed clan militias that they had relied on heavily during the war.

Though the main Somalia civil war was over, new 'state' inter-clan and intra-clan grievances led to major conflicts. It was to the elders and their customary conflict resolution mechanisms that the administration looked for an answer. The elders addressed the disputed issues of access to land and grazing, reopening of roads, returning stolen property and reducing livestock theft. In addition, in this period 'the major clans and their militias sporadically formed nominal "police units" in Boroma, Gabiley, Hargeisa, and elsewhere in order to ensure public safety (Small Arms Survey 2012: 164).'

Only as the SNM's authority strengthened could it consider bringing public services, such as policing, more under its control. The SNM worked with the clans as legitimate partners, engaging them in debate, negotiation and cooperation. Building on the success of these discussions there followed in 1993 a number of large Somaliland-wide clan conferences. At these conferences an institutional framework that drew on both customary and western models for governance, including policing, was embraced.

The hybrid governance system institutionalized an 82-member *Guurti* council of clan elders in an Upper House of Parliament,

while a Lower House of Parliament was created based on clan representation.[1] The system also allowed some regions to remain largely self-governing. A peace charter was adopted, setting out a code of conduct for the people in accordance with their traditions and Islamic values. Though a decision was made to establish in due course an integrated national security force and curtail the military powers of the clan militias, the charter still held elders responsible for an important aspect of security and justice; namely, for settling conflicts and organising demobilisation. The charter also required all communities to make an oath to refrain from attacking other clans. It promised what amounted to a 'national' *Xeer*, to oversee clan relationships and provide a foundation for a regulated order.

This official recognition of the policing role of clan elders meant, among other things, that when clan elders asserted their jurisdiction over a matter, judges as well as police officers tended to concur – and still do – in the belief that the customary authorities best understood how to maintain the peace and avoid further clan conflict. The sanctions that underlie the customary system are, primarily, those of revenge and conflict escalation.

If the recognition initially amounted to something close to clan autonomy, this changed over time. By the late 1990s, peace within Somaliland was established and the administration felt strong enough to implement the charter's pledge of a collaborative national form of security force. Almost all clan militias were merged into the Somaliland Armed Forces and the Somaliland Police Force (SLPF) was created mainly from the most powerful militia, the SNM. However, the SLPF remains very limited. Many of the 4000 officers are illiterate and poorly equipped. 'The uneven presence of the police throughout the territory and lack of enforcement capacity has meant that the population continues to conduct its own policing' (Small Arms Survey 2012: 164). Hence there has been no attempt to assert a security monopoly and close down the

functions of the elders.[2] Rather, the police collaborate with or simply allow local actors to supply policing services, with the army only being brought in if large-scale violent conflict breaks out. Interaction and indeed integration is seen more at the everyday level of policing:

> *Xeer* rulings are often registered and ratified by state courts, and the police at times arrest suspects or conflicting parties at the request of the traditional authorities. This allows the traditional authorities to undertake the negotiations with less risk of disruption. In this way the traditional system also taps into the 'capital' of the state security providers, since the latter provide modest support functions in terms of law enforcement. As such, traditional authorities and state authorities are mutually dependent on each other's articulations of authority (Moe 2014: 71).

This integration of customary practices and state authority 'has enhanced de facto governance capacity and proven rather effective in keeping a high level of internal security (Moe 2014: 71).'

Clan policing is dominant in the rural areas, but in recent years Somaliland has also seen the development of policing by urban communities. Neighbourhood watch groups in the major cities have arisen to protect small businesses and private households against burglaries and theft. Based on sub-clan lineages, these small groups – armed with sticks and knives – patrol the streets and marketplaces at night. They work closely with the police and appear to be under police supervision. Some of the groups even include serving police officers. The groups call for police intervention in cases of violence. The police, short of resources to patrol all areas at night, in effect 'delegate' policing to these groups (Small Arms Survey 2012: 163, 166).

Somaliland – unlike Mali, for instance – is not just a case of the continuation of customary practices regarding governance of security and justice when a state withdraws. Neither is it the site of donor intervention in building state security and justice institutions – as in Sierra Leone and Liberia. Rather, it is following a different way of 'doing' governance, in general, and of policing, specifically. Somaliland has adopted decentralized systems of governance, including policing. Its security and justice architectures do not reflect a 'failure' to create a Western state, but success in evolving new forms of governance that suit their circumstances.

Somaliland, then, is a story of everyday policing being entrusted to both the state police and local policing groups, who act in an integrated manner. It is a story that has been repeated by Ethiopia (Baker 2013a; Baker 2013b) and other nation states, and marks a distinct approach to policing in conflict zones.

The Somaliland case presents the following in terms of lessons to be learned for policing reform:

· In Somaliland and elsewhere, where an administration during conflict, and for many years afterwards, is simply too weak to offer territory-wide policing, there are few options but to rely on local alternatives to state policing.
· With dual policing authorities (state and customary) in co-operation rather than competition, policing providers have been able to tap into the knowledge, capacity and resources of others. Such beneficial interactions and exchanges depend on mutual exchange of economic, symbolic, cultural and social capital among providers. The process draws providers together into a policing network.
· In the case of Somaliland, enhancing security in conflict environments is seen to be not necessarily the same as building strong and fully sovereign state institutions. The underlying principle is surely that 'shared sovereignty' might not strengthen state capacity and monopoly,

but it can enhance security governance. Conventional statebuilding approaches have a tendency to 'conflate reviving formal state capacity with promotion of governance (Menkhaus 2006: 11).'

· Only *after* the Somaliland administration had achieved a measure of peace, stability and a political settlement was it in a position to urge local groups to participate in collaborative provision of security and justice. The key point here for police reform is that the institutional development of a national police force, and national army, is best begun after a more stable peace has been established.

· In the absence of legally recognized state-based counterparts in Somaliland, donors in political negotiations have often been forced to become participants rather than 'agenda setters' (Walls and Elmi 2011). To the surprise of many this proved to be advantageous. As Moe notes, 'The gradual legitimization of the new political order was enabled exactly because the process was not managed and sequenced by external actors or by a central state. Peace and stability were not established because of the revival of state structures. Rather peace and stability were promoted through extensive local engagement, negotiation and reconciliation, which became a precondition for reaching consensus on the pillars of a common political structure (Moe 2014: 62).'
If Moe is correct, the development of policing governance is best left to continuous local negotiation and pragmatism, rather than externally imposed strategies.

Conflict and new socialist policing: Uganda

Policing in Uganda is one of the few examples that exist in Africa of widespread organized policing that arose in the course of conflict (Baker 2004). Though the Somaliland rebel movement left policing to the elders while it

fought, and only started organizing policing once a comparative peace and political settlement had been reached, the Ugandan rebel movement intervened much earlier. This was largely because neither the rebels nor local people had confidence and trust in the customary elders. Indeed, part of the struggle was to remove authority from the customary leaders, as those who were perceived to be partisan and corrupt. The rebel group handed over administration, including security and policing, to local communities that followed customary practices. Though administration was later institutionalized, it still retains many of the elements of customary justice and security that it bore earlier. At the local level, customary practices were never replaced by a national police force but continued – and continues – to supplement democratised customary policing form.

During Uganda's civil war, in 1981–86, the National Resistance Army (NRA) of Yoweri Museveni adopted a civilian-run local justice and security delegation on both pragmatic and ideological grounds. Pragmatically, the delegation sought to secure local support. Ideologically, the delegation represented 'popular' justice: a justice that the rebels argued would be popular in form because its language was open and accessible; popular in functioning because its proceedings involved active community participation; and popular in substance because judges were drawn from the people and gave judgment in the interests of the people.

As the NRA established liberated areas (e.g. the Luwero Triangle), they set up resistance councils (RCs) to replace the administration of the chiefs, whom the NRA had, in effect, abolished. Villagers were given broad policing roles, including prevention of crime, maintenance of order, investigation of crime, and the prosecution and sentencing of criminals. The villagers were called upon to solve their problems by applying their own norms. All the adults of a village formed an RC, from which they elected a committee of nine to run the local affairs of the village on a day-to-day basis. As local courts they assumed

the role of the 'dismissed' chiefs. Hence, they handled theft, adultery, land cases and the like. More serious cases were forwarded up the RC hierarchy. The councils also handled disciplinary cases involving NRA soldiers in cases of public misbehaviour (e.g. over-drinking).

Thus for the NRA, the introduction of RCs was considered as a necessity for winning the guerrilla struggle; for the peasants involved it was a new way of exercising democracy at the local level; it represented also a new and popularly controlled system of maintenance of law and order (Tidemand 1994: 140).

Following the capture of Kampala in January 1986, the NRA formed the National Resistance Movement government. It faced significant security and policing challenges: rebel groups and bandits were active (especially in the north and east), the state police were not functioning, and discipline became more problematic in the army as the NRA co-opted former regime soldiers. The solution was not to look to state agencies like the police, who were not sufficient in numbers, effective in practice or legitimate in the eyes of many, but to look to the local RCs. Hence:

The first major political reform was to spread the system of Resistance Councils all over the country… [They] cooperated with the NRA army in fighting the rebel groups, but also confronted undisciplined elements of the NRA itself… They would report power abuse to higher authorities or they would quite simply disarm and arrest soldiers who misbehaved (Tidemand 1994: 141).

The RC1 were of course an affordable policing and justice structure for the impoverished new government. And they were affordable to local people. The registration fee for a court case was minimal and could be waived. The normal procedure was to follow customary ways where the letter of the law and formal rules of evidence may be disregarded in favour of common sense, and where judgments are based on consensus among the members of the courts. Similarly, the penalties followed the customary practice

of prioritising reconciliation, restitution and apology (Tidemand 1994: 143–7).

Following parliamentary bills in 1987 and 1988, the role of the RCs was clarified. They were to prevent, and if necessary bring to trial, cases of debts, contracts, assaults, damage to property, trespass, land disputes relating to customary tenure, disputes concerning marital status of women, and disputes concerning paternity of children, impregnation of a girl under 18 years of age, and elopement with a girl under 18 years of age. All cases were to be brought initially to the RC1 court, with rights of appeal at RC2 and RC3 levels. If a case was not settled satisfactorily at RC3 level it was to be brought to the Chief Magistrate Court.

At the time of the first NRM government in 1986 there were still only 6,000 in the police force and very few magistrates. Both the police and courts were extremely short of resources and in the rural areas the state security and justice provision was very minimal. As a result, the commitment of the new regime to institutionalising the RC courts was a very obvious practical solution. Likewise, it made sense that the new informal police force known as the Local Defence Units (LDUs) should be selected, supervised and paid by the RCs, but trained by the army.

Clearly, conflict brings different policing responses. In Somaliland everyday policing was entrusted to both the state police and local policing groups, acting in an integrated manner. In Uganda, however, everyday policing was entrusted to local people in the face of the failure of customary structures and state police. The Ugandan story was repeated in the case of rebel armies in Mozambique and Rwanda.

The Ugandan case presents the following in terms of lessons to be learned for policing reform:

· Armed groups can be persuaded that it is in their own interests, in terms of gaining support and legitimacy, to allow local people to provide everyday policing and courts rather than

imposing their own or interfering with established systems.

· When local people are empowered they demonstrate that everyday policing may not require professionally trained personnel. Much of it primarily requires social skills, such as mediation, discretion and a sense of fairness.

· There have been reports of abuses of power within the RCs, but since the procedures of the RC and their courts are easier to understand, cases of power abuse may well be more visible and therefore able to be addressed.

· Mob justice was common after the war (Obbo 1988) as it had been before. The evidence suggests that RCs have consistently opposed mob justice, although not always successfully. Acknowledging the limitations of the RCs and the need for the weight of forceful state intervention to eradicate mob justice is not to discredit all the good the RCs have accomplished.

· It is true that over time the Ugandan state has bureaucratized the policing system and from 1997 incorporated it into the state system. It has also strengthened the police force through increased resources. Nevertheless, the RCs delivered creditable and legitimate policing in the conflict and post-conflict environments.

Conflict and Local NGO Policing: Eastern Democratic Republic of Congo (DRC)

Very often, in the midst of conflict, local people have to undertake policing roles themselves because no other provider is available. Their response may be a default position in that the state and/or rebels are distracted by their involvement in conflict, as was the case in Somaliland. The response of local people may also be a case of delegation by one of the protagonists (e.g. in Uganda's case, the rebels). Yet whether by default or by delegation, both the Somaliland and the Uganda response relied on a policing that followed customary patterns. What makes some of the DRC policing responses so interesting is that although they rely on the resources of local people, as in Somaliland and Uganda, DRC's local policing groups distance themselves from customary patterns, and consciously adopt Western values of non-violence, reconciliation and non-punitive measures (an approach that was repeated by some NGOs in part in Sierra Leone).[3] Their foundational argument is not so much that Western values are better, per se, but that punishment that eschews violence is less likely to provoke violent responses.

In the DRC between 1996 and 2003, nine countries and more than 40 rebel groups were engaged in fighting. Citizens have continued to experience violence and injustice at the hands of the military and armed groups, such as – the Rwandan Hutu FDLR, the Rwanda and Uganda-backed M23 (until 2013), and various local armed militia known as the 'Mai-Mai'. It is a situation where the state security forces – the army and police – are either not present, or are present as another contributor of injustice, violence and abuse (Verweijen 2015: 339). The U.N. mission in the Democratic Republic of Congo, MONUSCO, called on the DRC government in 2015 to deploy its police force more widely in the East. It said 'We can fight against the armed groups but if the state's authority and the civil administration are not restored, and the PNC [Congo's national police] are not deployed, the end result will not be a success' (Long 2015). It highlighted Bukaringi, a territory of 64,000 inhabitants covering 400 sq. km, which had only four police officers (i.e. 1 officer per 16,000). Maria Eriksson-Baaz, an expert on Congo's security services, is quoted in that report as saying: 'In many areas in the east, the police are simply not present'. Even in more peaceful areas civilians claim that the PNC are not widely deployed, but are mainly found at public buildings, such as the offices of local chiefs and administrators.

In the midst of conflict and the associated undermining of customary and state

authority, local people often turned to militias and popular (in)justice (Lombard and Batianga-Kinzi 2014; Verweijen 2015). Others, as the following two examples demonstrate, have developed new ways of providing fair everyday policing.

A 2011 report (Scheye 2011) described the activities of an NGO formed in Bukavu, South Kivu Province, after armed crime and physical/sexual violence reached unprecedented levels. State security had long colluded with local armed gangs and civil courts were unreliable. Responding to the rising insecurity, 'educated youths' (mostly 23–35 years) created an NGO, from which emerged a neighborhood safety initiative, Forces Vives (Civic Forces), in 2007–08. The youths organized themselves to police their neighborhoods in Essence, a quartier of Bukavu, for two reasons. First, because they believed the police were too afraid to enter for fear of being attacked by criminal elements. Second, to put a stop to mob justice against alleged criminals ('killing those they didn't know or like', according to one interviewee). In other words, Forces Vives rejected customary justice norms in favour of those compliant with human rights.

By 2011 Forces Vives had 1,000 members organized in neighborhood groups throughout Bukavu. The groups conducted patrols in crime-affected neighborhoods, marketplaces and other crime hotspots. They recovered stolen goods and were able, with a database they had created, to return the goods by correlating them with robbery victims. Those found with stolen property were brought to the police. However, a brief reference to Forces Vives in 2014 Their alleged effectiveness derived from a trust the group enjoyed from the local population compared with the distrust of the police. Though the police distributed warrants to Forces Vives and requested the apprehension of alleged perpetrators, there has been limited interaction between the two. It is alleged that the police resent the competition and exposure.

Claims that 'despite their initial popularity, they soon joined local police and armed gangs in perpetrating the very crimes they first sought to oppose' (Rackley 2014, Rewiring the security sector, para. 6). This assertion has not yet been corroborated, but if true highlights a frequent feature of local actors: fluidity. Positively, fluidity means flexibility in changing circumstances. Negatively, it means yesterday's civic-minded group can become today's criminal protection racket.

Another NGO-led policing initiative in conflict-torn eastern DRC is the Baraza (Swahili for 'gathering') court system, operating in nine villages in South Kivu. Bazara courts provide an alternative to the state legal system, including the police, which, as established earlier, neither works effectively nor in the best interests of citizens. Bazara courts were established by Foundation Chirezi (FOCHI), a local peacebuilding organisation, to offer accessible, fair, but non-punitive, justice to rural communities. Though customary courts were officially suppressed in 2007 and replaced by Tribunal de Paix (Tripaix), Baraza courts are, in effect, reformed customary courts. Hence, they follow many of the customary procedures and methods, but seek to avoid some of the abuses. They are community-led courts that not only reject violence but adopt reconciliatory methods, both to prevent conflicts before they become violent and to redress conflicts once they occur.[4]

Although referred to as courts, Bazara courts in fact undertake policing, in that they receive complaints and investigate cases, as well as judging cases. The cases mainly concern land rights, accusations of sorcery (the most common cause of popular killings, according to Verweijen 2015), robbery, rape, injury of person, property damage, domestic violence, public insult, intimidation, aggression, adultery, lending/borrowing money, inheritance, breach of trust, and the spreading of rumors.

Baraza community-led justice courts also offer conflict resolution through participatory processes of dialogue and reconciliation. When a conflict arises in a village, it is brought by members of the community to either the main or female-only peace court

committees. Each party is given time to tell their story, before the committee undertakes fact-finding investigations and deliberation. The outcome is then reported back to the accuser(s) and defendant(s) along with a recommendation. When all parties agree with the decision, the community organises a reconciliation ceremony, in which the agreed resolution between the parties is publicly declared. If the decision is not ultimately accepted, it can proceed to the government magistrate. By emphasising dialogue and reconciliation, the courts are said to have reduced violence and increased collaboration, trust and self-empowerment, not only within the communities themselves, but also between the communities, local leaders and authorities, and the communities and local ex-rebel fighters.

The potential for violence in eastern DRC, due to competing armed groups, is substantial and the punitive justice of customary courts or state courts can provoke violent reactions. These two local policing groups, both the products of local NGOs and not the state, have worked to reduce this by refraining from violence and corruption or by refraining from violence and adopting pro-active or responsive reconciliatory methods.

The DRC case presents the following in terms of lessons to be learned for policing reform:

- From these two NGO responses it is evident that even in the midst of serious conflict, local people, in certain circumstances, can develop organizational structures that provide effective, non-violent everyday policing.
- These examples are a reminder, too, that crime prevention and resolving issues in a fair and acceptable way do not have to be conducted by legally trained persons in a formal context. There is a place for justice professionals, but all is not lost in their absence.
- The NGO responses in DRC strongly contrast with donor programmes, which

attempt to help survivors of injustice and violence access justice by providing expert assistance in documenting, collecting and preserving forensic evidence. The somewhat questionable assumption of such programmes is that victims are then able to approach the state courts, where they exist.

Conflict and Continuing Customary Policing: Northern Mali

In the midst of conflict, a key resource available for policing in Africa is customary leadership, but – although values of justice may be upheld – customary leaders persons can be problematic. In Somaliland, the customary leaders were esteemed and so were initially left on their own, until they later teamed up with the state police. In Uganda, however, they were rejected outright as corrupt and partisan. In eastern DRC they were rejected by some for their violent methods of punishment, which were seen as provoking further violence. This final section of the article highlights a case of unreconstructed customary policing continuing amid conflict, thereby demonstrating yet another variation on the theme of conflict policing.

The formal policing and justice system of northern Mali has long been ineffective due to insecurity, insufficient staffing, government neglect and corruption (van Veen et al. 2015). The cultural divisions between the north and south, which can seem as two separate countries, have not helped. Likewise, a series of rebellions since the 1960s have further undermined formal policing. In 2012, the National Movement for the Liberation of Azawad (NMLA) declared independence for the north, but was later side-lined by the newly created Islamist group, Ansar Dine, with the help of the Movement for Oneness and Jihad in West Africa (MUJAO) and Al-Qaeda in the Islamic Mahgreb (AQIM). Together they imposed an Islamic fundamentalist regime that triggered the flight of an estimated quarter of the population.

In Mali there are 7,000 police, plus gendarmes and customs. 'Low-level corruption

is pervasive throughout [the country]… Police have been accused of using excessive force, but are rarely prosecuted in the face of these allegations (Freedom House 2011).' Neither the police nor the justice system is well regarded. In a 2010 survey, 65 per cent of respondents said they were dissatisfied or highly dissatisfied with the management of the police and gendarmerie (CATEK 2010). Correspondingly, a national survey of 1,000 Malian citizens found that only 10 per cent would contact the police in the case of a crime (Freedom House 2011).

Formal policing, which has always been minimal in the north, worsened when the Malian government – following the Tuareg uprising 1990–96 – abandoned its policy of military suppression. The policy involved 'administrative neglect', with a 'wholesale retreat of what few state institutions existed in the north, including the judiciary (Clingendael 2015: 13)'. The 2012 conflict saw further reductions.

Northern Malians have, at least until recently, seen their main policing issues as disputes between families, over land and regarding business, and violence against women (though the latter is often tolerated by both predominantly male customary leaders and police). The dominant providers of policing and justice in the north remain, as they have always been, the family elders, religious leaders and the customary leaders, known as *jeliw* or *griots* (see Chikwanha 2008). They engage in civil and criminal matters, such as disputes and non-violent crime.

These local policing providers are said to be 'well regarded' (Clingendael 2015: 15). It is to them that families and communities turn for customary mediation, since they offer a system that is flexible, informal, accessible, cheap, conducted in the local language, and shares the local culture's preference for tolerance and forgiveness. It contrasts with the formal system, which is characterised by its French legacy of complex rules of procedure, and is conducted in the French language. Besides elders, Islamic authorities also play a policing and justice role. There

is a sophisticated and well-respected set of 'customary Islamic legal practices… [that] tend to generate justice outcomes aimed at reconciliation and based on mutual respect' (Clingendael 2015: 31–2).

Despite the potential of local policing providers in Mali, neither the state or donors have done anything to encourage or support them. There is no Uganda-style civilian delegation or Somaliland-style linkages to the state. The reason is that state and western interests have come to be focused almost exclusively on combating terrorism and organised crime, which customary policing is not well equipped to address because of the scale, scope, use of violence and complexity of such crimes. These threats exploit a territory whose weak security forces and porous borders offer a refuge for terrorists and for drug smugglers using the S. America-W. Africa-Libya-Europe route. And these threats, linked in the eyes or many (Brown 2012; Lacher 2014; Abderrahmane 2012; Gberie 2015: 8) need, in Western eyes, a stronger state security apparatus, trained and equipped by advisers. Unsurprisingly, donors – particularly the United States and France – have been putting pressure on Mali to tackle terrorist groups like AQIM. They have also given significant security-related aid, heavily focused on counterterrorism and state capacity (Lacher 2012: 18). When the UN's Multidimensional Integrated Stabilization Mission in Mali arrived in 2013, following the coup and rebel/terrorist incursions, they made policing of terrorism and drugs the top priorities. Ironically, although the UN mission has 1,440 UN police, they have had great difficulty deploying in the north (de Carvalho and Kumalo, 2014). Despite giving new counter-narcotics responsibilities to Mali's security agencies, both under-resourcing and political complicity with drug networks has undermined much of their effectiveness (Lacher 2014).

Mali, then, is a story of available and relatively effective everyday policing by customary structures that has been overlooked. It has been overlooked by the state because

the region is marginal to its interests and overlooked by the west since the west is focused on building a stronger western-style police force.

The Mali case presents the following in terms of lessons to be learned for policing reform:

· Given that there already exists a reasonably effective and well-regarded policing and justice system in northern Mali, the strategy of unilaterally seeking to introduce a discredited and largely illegitimate state's justice system in the north – as suggested by the recently concluded peace agreement – is questionable. Is it not better to support existing structures that are functioning fairly well, rather than seeking to establish new systems provided by an institution that has little functionality or legitimacy?

· The Clingendael report's bold evaluation is that:
Tenuously holding on to the fictional notion that the state is the only possible source of positive law and that the state judiciary has a sufficiently substantial presence throughout the country to be both accessible and functional belongs in the realm of wishful thinking… If the purpose of the law is to enable an orderly society and to serve the people through the fair adjudication of their differences, there is no reason why the state's legal system should be considered as inherently superior to other legal systems that co-exist on the same territory' (Clingendael 2015: 58). Their conclusion is that:
    Accepting that the Malian state does not have, will not have and should not aspire to have a monopoly on the provision of justice for decades to come is a critical starting point for making improvements to the provision of justice in matters that are of concern to Malians in their daily lives (Clingendael 2015: 9).

Such analysis contrasts strongly with de Carvalho and Kumalo (2014), who look solely to capacity-building of the police as the solution for the north's policing needs.

· Support for customary justice does not have to mean that the problems associated with it are ignored. Some marriage customs, for example, amount to the man abducting the girl or woman he wants to marry. However, the enforcement of customary 'judgments' depend, in large part, on the willingness of the customary justice providers – of whom there are many types – to carry them out. Despite the difficulties that may be associated with customary justice, reforms in this area may well be easier than setting up new policing structures under a state system.

· The international community, in the form of the United Nations Police, has focused the Malian police 'capacity building' and 'reform process' on western concerns about terrorism and drug trafficking, and away from the everyday concerns of northern Malians, which focus on more common crimes.[5] This prioritising of a western agenda may well contribute to the conditions that ensure northern Malians continue to perceive Malian police as irrelevant. More broadly, it is telling that the leading book on policing in conflict zones, *Policing in War* (Bayley and Perito 2010), is focused entirely on how a state counters insurgency and terrorism *using the police*. The book does not consider the possible merits of assisting rebel-held areas and its only aim is to rebuild the state.

Conclusion

In the four case studies examined, were local people in conflict zones better off with local forms of policing? Yes. Was everyone accorded all their rights and entitlements? No. Will local conflict policing survive in peacetime? Yes (but). In the case of Somaliland,

community elders have continued to complement policing services offered by the state. In Uganda, local policing practices have been incorporated into state structures. In Mali, it looks as though local policing will continue to substitute for a state-led force. Likewise, in the DRC there is every likelihood that local policing will continue to substitute, if not compete with, the state.

While customary policing has its limitations, these findings suggest there are good reasons for external actors to practically engage with local policing services, rather than presuming the state is the only possible source of adequate policing. Local policing providers in Somaliland, Uganda, northern Mali and DRC have been able to provide crucial services to local people, in a manner that reflects local priorities and customs, enhances safety and welfare, builds trust and empowers. Moreover, reforms to customary policing practices may well be easier to achieve than setting up new policing structures under a state system. Such reforms could encourage cooperation between state and customary policing providers, so as to enable both to yield beneficial exchanges of economic, symbolic, cultural and social capital.

However, it is important to acknowledge that interventions into conflict-affected communities – whether by states, donors or NGOs – can produce both intended and unintended consequences. It is not possible to anticipate all outcomes when dealing with human beings and complex relationships in conflict and post-conflict settings. It *is* possible to offer training in international standards, but it will be filtered. Interventions can also offer influence, but that influence competes with the influence of sponsors, family, religious leaders, politicians and corrupt persons. To enter the field of policing does not simply involve engaging with a bureaucracy, but with politics, economics, religion and custom.

With whom should external actors engage regarding local policing actors? There are no perfect partners; no groups that meet all human rights requirements, respect due process and provide full accountability structures. However, there are groups that have local support, that are not wilfully abusive and that are open to listening to proposals for change. These groups are actually doing policing on the ground now, as opposed to those who purport on paper to be able to be able to police – given enough financial and training support – in the future. As such, local policing groups offer important lessons for how to advance justice in the context of conflict (Sen 2009: 8–9).

Notes

[1] Only in 2001 was a multiparty system adopted replacing the system of power-sharing along clan-lines. However, the institution of the Guurti remained in place, and the seats in this Upper House are still distributed on the basis of clan representation. In other words, government still has hybrid elements with both clan-representation and multi-party politics through ballot vote.

[2] In contrast, Small Arms Survey reads it that: 'Egal's consolidation of political power went hand in hand with the fortification of the Somaliland state, including the strengthening of its monopoly over the legitimate use of force. Once the state administration had consolidated its military and political hegemony within the territory it claimed, large-scale political violence diminished' (2012: 157). My reading is that the central administration neither has hegemony nor thinks such is achievable (or even desirable). Either way, knowing its policing limitations it wisely collaborates with or simply allows local actors to supply policing services.

[3] See the 'peace volunteers' of The Peace and Reconciliation Movement Sierra Leone, http://prm-sl.org/about.html and the paralegals of Timap for Justice, http://www.timapforjustice.org/work/. However the UK strongly encouraged the

Sierra Leonean government to reinstate chiefly authority.

[4] The account below is more fully presented at: http://www.insighton-conflict.org/2013/09/barazas-peace-courts/. For independent evaluation see http://www.peacedirect.org/wp-content/uploads/2014/04/Baraza-Justice.pdf. See also http://www.hscentre.org/wp-content/uploads/2014/09/Bringing-Local-Back-In.pdf.

[5] The Sierra Leonean government, despite declining financial support for its police and severe shortages of the most basic provisions, has been expanding its armed public order policing unit, the OSD. It now numbers 3,500 (compared with the 8,500 general duties police) and have received weapons and ammunitions worth $4.5 m (Downie 2013: 13).

Competing Interests
The author has no competing interests to declare.

References

Abderrahmane, A 2012 *Drug trafficking and the crisis in Mali.* Available at: https://www.issafrica.org/iss-today/drug-trafficking-and-the-crisis-in-mali [Last accessed 9 May 2017].

Bagayoko, N, Hutchful, E and **Luckham, R** 2016 Hybrid security governance in Africa: Rethinking the foundations of security, justice and legitimate public authority. *Conflict, Security and Development,* 16(1): 1–32. DOI: https://doi.org/10.1080/14678802.2016.1136137

Baker, B 2004 Popular justice and policing from Bush War to democracy: Uganda 1981–2004. *International Journal of the Sociology of Law,* 32: 333–348. DOI: https://doi.org/10.1016/j.ijsl.2004.09.001

Baker, B 2008 *Multi-choice policing in Africa.* Uppsala: Nordiska Afrikainstitutet.

Baker, B 2010 Linking state and non-state security and justice. *Development Policy Review,* 28(5): 597–616. DOI: https://doi.org/10.1111/j.1467-7679.2010.00500.x

Baker, B 2013a Where formal and informal justice meet: Ethiopia's justice pluralism. *African Journal of International and Comparative Law,* 21(2): 202–218. DOI: https://doi.org/10.3366/ajicl.2013.0059

Baker, B 2013b Hybridity in policing: The case of Ethiopia. *Journal of Legal Pluralism,* 45(3): 296–313. DOI: https://doi.org/10.1080/07329113.2013.842438

Bayley, D and **Perito, R** 2010 *The police in war: Fighting insurgency, terrorism and violent Crime.* Boulder, CO: Lynne Rienner.

Brown, D E 2012 *The challenge of drug trafficking to democratic governance and human security in west Africa.* Available at: http://ssi.armywarcollege.edu/pdffiles/pub1151.pdf [Last accessed 9 May 2017].

CATEK 2010 *Gouvernance et développement, rapport définitif: Enquête légère sur le niveau actuel de satisfaction des usagers des services publics.* Available at: http://www.cdi-mali.gov.ml/upload_etude/doc29.pdf [Last accessed 5 May 2016].

Chikwanha, A B 2008 *Traditional policing in Mali: The power of shame.* Available at: https://issafrica.org/iss-today/traditional-policing-in-mali-the-power-of-shame [Last accessed 8 May 2017].

de Carvalho, G and **Kumalo, L** 2014 *Building the capacity of the Malian police: Why MINUSMA needs to think outside the box.* Available at: https://issafrica.org/research/policy-brief/building-the-capacity-of-the-malian-police [Last accessed 8 May 2017].

Downie, R 2013 *Building police institutions in fragile states: Case studies from Africa.* Available at: https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/130115_Downie_BuildPoliceInstitutions_web.pdf [Last accessed 8 May 2017].

Freedom House 2011 Countries at the crossroads 2011 – Mali. Available at: https://freedomhouse.org/report/countries-crossroads/2011/mali [Last accessed 8 May 2017].

Gberie, L 2015 *Crime, violence and politics: Drug trafficking and counter-narcotics policies in Mali and Guinea Mali.* Available at: https://www.brookings.edu/wp-content/uploads/2016/07/Gberie-Mali-and-Guinea-final.pdf [Last accessed 8 May 2017].

Lacher, W 2012 *Organized crime and conflict in the Sahel-Sahara region.* Available at: http://carnegieendowment.org/2012/09/13/organized-crime-and-conflict-in-sahel-sahara-region-pub-49360 [Last accessed 8 May 2017].

Lacher, W 2014 *Challenging the myth of the drug-terror nexus in the Sahel.* Available at: http://www.globalcommissionondrugs.org/wp-content/uploads/2017/02/Challenging-the-Myth-of-the-Drug-Terror-Nexus-in-the-Sahel-2013-09-12.pdf [Last accessed 8 May 2017].

Lombard, L and **Batianga-Kinzi, S** 2014 Violence, popular punishment and war in the Central African Republic. *African Affairs*, 114(454): 52–71. DOI: https://doi.org/10.1093/afraf/adu079

Long, N 2015 'UN Calls for wider police deployment in DRC'. Voice of America, 1 July. Available at: http://www.voanews.com/content/un-calls-for-wider-police-deployment-in-democratic-republic-of-congo/2845825.html [Last accessed 8 May 2017].

Menkhaus, K 2007 Governance without government in Somalia: Spoilers, state building and the politics of coping. *International Security*, 31(3): 74–106. DOI: https://doi.org/10.1162/isec.2007.31.3.74

Moe, L W 2014 The 'turn to the local': Hybridity, local ordering and the new governing rationalities of peace and security interventions in Somalia. Unpublished thesis (PhD), University of Queensland.

Obbo, C 1988 'What went wrong in Uganda?' In: Hansen, H B and Twaddle, M (eds.), *Uganda now: between decay and development.* Oxford: James Currey.

Pendle, N 2015 'They are now community police': Negotiating the boundaries and nature of the government in South Sudan through the identity of militarised cattle-keepers. *International Journal of Minority and Group Rights*, 22(3): 410–434. DOI: https://doi.org/10.1163/15718115-02203006

Porter, H 2015 Mango trees and altars: The role of relatives, non-governmental organisations and churches after rape in northern Uganda. *International Journal of Minority and Group Rights*, 22(3): 309–334. DOI: https://doi.org/10.1163/15718115-02203002

Rackley, E 2014 *Security sector roles in sexual and gender-based violence.* Available at: http://sustainablesecurity.org/2014/06/11/ssr-and-sexual-violence-in-drcongo/ [Last accessed 8 May 2017].

Scheye, E 2011 *Local providers of justice and security and non-state actors in south Kivu.* Available at: http://www.clingendael.nl/publications/2011/20111000_southkivu_scheye.pdf [Last accessed 5 May 2016].

Small Arms Survey 2012 *Between state and non-state: Somaliland's emerging security order.* Available at: http://www.smallarmssurvey.org/fileadmin/docs/A-Yearbook/2012/eng/Small-Arms-Survey-2012-Chapter-05-EN.pdf [Last accessed 5 May 2016].

Tidemand, P 1994 The resistance councils in Uganda: A study of rural politics and popular democracy in Africa. Thesis (PhD), Roskilde University. Available at: http://forskning.ruc.dk/site/files/57416922/Tidemand-PhD-1994.pdf [Last accessed 8 May 2017].

van Veen, E, Goff, D and **Van Damme, T** 2015 *Beyond dichotomy: Recognising and reconciling legal pluralism in Mali.* Available at: https://www.clingendael.nl/sites/default/files/beyond_dichotomy.pdf [Last accessed 8 May 2017].

Verweijen, J 2015 The disconcerting popularity of popular in/justice in the Fizi/Uvira region, eastern Democratic Republic of the Congo. *International Journal of Minority and Group Rights*, 22(3): 335–359. DOI: https://doi.org/10.1163/15718115-02203003

Walls, M and **Elmi, H** 2011 'Indigenous forms and external interventions in a Somali context'. *paper presented to the second annual SORADI conference.* Hargeisa, 8–9 November.