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Promoting Rule of Law
Myth versus Reality

Summary

- In the medical field, the silver day or bronze week are approaches to emergency medicine in rural and developing countries.

- Promoting the rule of law has the most sustainable impact when done using a silver day or bronze week approach rather than RAND's golden hour approach.

- The key to the alternative approaches is to use whatever resources might be available but to allow more time for the patient, in this case, the peacebuilding process.

- In applying these principles to promoting the rule of law in conflict-affected states, practitioners would focus not on the what—that is, Western notions of security and justice—but instead on the who, how, and when.

> "If process incorporates inclusive participation, a focus on evidence-based decision making, and the needed time for proper change, the likelihood is higher that the results will be sustained over time."

Introduction

How would you react after a car crash? Odds are, you would do things a bit differently if it happened anywhere in the United States as opposed to a road between Zuwarah and Tripoli, Libya.

In the United States, you would assess the situation for danger, make certain that victims of the crash were responsive, give basic medical care, and wait for an ambulance. The reality is that the ambulance will likely come and use top quality medical instruments relatively quickly, ensuring victims the best chance of survival and recovery. In Libya, it is unlikely that an ambulance would respond at all. One medical professional described the situation in his city of a quarter million citizens, which has no ambulance system, only a few cars used to transport patients between hospitals. He noted in an interview that "people transport (cardiac or accident) patients themselves in severe situations [often resulting in] harmful effect to patients." This situation has no perfect solutions, but people use any and every resource at hand to try to save a life.

In the medical community, this process is framed as focusing on the silver day and bronze week approaches to emergency medicine rather than on the golden hour, a term RAND coined in 2005. In a later article, written in 2007 for the journal *Anaesthesia*, authors Douglas Wilkinson and Rob McDougall argue that a golden-hour primary trauma care model does not work in developing countries. Instead, they advocate a silver day or bronze week that focuses on using minimal resources to maximum effect rather than the expensive and resource-intensive medical approaches from developed countries, in which equipment and medicine are unavailable in rural and developing communities.[1] Applying this to

our efforts to build security and justice following conflict, we should focus less on finding the technical, best solution from Western paradigms and instead use what is already available, focusing on empowering people, supporting processes designed to bring sustainable change, and giving people enough time to act for themselves and the processes to occur: the who, the how, and the when. The golden hour framework, however, has several weaknesses.

The 2005 RAND report *Establishing Law and Order After Conflict* draws from experiences in Kosovo, Iraq, and Afghanistan to provide a framework for future stabilization efforts. Borrowing from the medical definition, the study posits for the first time the need to create security in a golden hour defined as "the critical hour following a life trauma when intervention—or lack thereof—determines the fate of the victim."[2] When applied to peacebuilding efforts, the authors argue that within a few weeks to months the combination of support from internationals and limitations on spoilers' ability to mobilize provides the best opportunity to create stability for future peace.[3]

Although the RAND framework underscores the importance of assistance in the immediate cessation of conflict, it fails in two key regards. First, it places the utmost importance on establishing sound security and rule of law. Second, it depends on the existence of a golden hour, which in medicine is premised on the availability of the resources of developed countries. In promoting these notions, RAND and thus subsequent efforts by the international community have failed to understand the realities of conflict-affected countries.

First, existing mechanisms typically provide some level of security and justice, albeit often manifestations that may not fit Western notions of those concepts. Another consideration is that the human and technical capacity to provide security and justice that fits Western definitions may not exist. Instead of focusing on any golden approach and the what of stabilization, we should instead focus on the who, how, and when of our work. If we get those three right, a firm foundation for peaceful societies is possible.

The Who: Focus on the "Right" People

When working with communities—whether new governments, civil society, countries, towns, or villages—the reality is that international actors never build peace. At the most, internationals will support the people within conflict-affected or fragile states to build their own peace. With that in mind, we should then focus on the people we need to partner with. Within USIP's Justice and Security Dialogue Program, for example, analysis of partnerships that stood the test of time, resulting in real change for justice and security, revealed certain key qualities:

- neutrality and independence;
- access to multiple constituencies, such as government, security and justice providers, civil society, religious leaders, minorities, and vulnerable groups;
- acceptance by those constituencies to ensure the ability to bridge;
- passion to build peace and promote justice and security for the common good;
- organizational skills;
- leadership and management experience; and
- communication skills.

Identifying individuals who fit these profiles is not an easy task. It may take time to unearth an individual's reputation from various sources.

We also often find these people working to build peace in institutions that do not fit our paradigms for statebuilding. The civilian security sector offers a prime example: We expect to find police officers carrying out order and security functions on behalf of the state. In many communities around the

world, however, nonstatutory actors provide these services. Rather than dismiss these people out of hand as nonstate actors, we instead refer to the defined qualities to determine whether they are likely to be a willing and able partner. In a 2014 report, Georgia Holmer and Fulco van Deventer note that "in Nigeria, for example, a robust spectrum of informal security actors provide a crucial role in keeping communities safe. This voluntary policing sector, as it is also called, is organized by and a part of the communities its members serve."[4] Given these actors have legitimacy in their community, engaging them may be the most practical way to building peace.

The key is to keep the qualities for change agents in mind when designing and carrying out reform programs and to be willing to part ways when individuals exhibit characteristics that undermine these qualities.

The How: Process is Perhaps the Most Important Key

Returning to the RAND publication, what is perhaps most obvious is an overemphasis on what we should do to promote stability following conflict. The reality, however, is that the most important focus should be on how the work is carried out. In a recent publication on change and change management, Dr. Vivienne O'Connor notes that practitioners—in her case in the rule of law field—are in the business of change and reform and yet so often focus on the technical dimensions of programming (the what).[5] Both internationals and actors within communities affected by conflict should recalibrate to focus instead on the process used to bring about change. If process incorporates inclusive participation, a focus on evidence-based decision making, and the needed time for proper change, the likelihood is higher that the results will be sustained over time.

Prioritizing process over the technical components does not mean that the what is not important. It is. However, using important strategies for change management allows communities to develop the technical reform that fits their needs.

The When: Giving Needed Time (Be the Turtle, Not the Hare)

If we apply Wilkinson and McDougall's framework of the silver day or bronze week to building the necessary foundations for peace, internationals and nationals would focus on building more time for reforms. Rather than focusing on security, justice, and rule of law reforms that aim to build results equal to developed countries—the "gold" result—reforms should instead focus on what can be achieved with existing human and technical capacities—the silver or bronze—with a longer time frame to ensure that process for change is the focus.

In doing so, both understanding what resources and capacities exist within a country and focusing on maintaining functioning systems are vital. Following the 2011 revolution in Libya, for example, the push was for institutional actors—particularly the police—to provide security. At the time, the National Transitional Council pushed for a quick fix without any process—integrating all militias that formed during the conflict into the police and army. It was quick and, in theory, resulted in actors bearing contracts with the state to provide security. In reality, the quick initial result meant that these armed groups had not bought into the state nor the state's monopoly of force. One militia member said it best: "[In] Libya, I have the freedom to take decisions for anything [inside my city]."[6] If the focus had been on finding the right people to feed into the policy discussions, supporting an inclusive process to develop the reform solution, and time, perhaps a different solution could have been reached that all groups bought into.

To achieve long-term, sustainable peace we must throw out the golden hour myth and instead allow ourselves to strive for the silver day or bronze weeks. Technical short-term fixes only rarely stand the test of time.

Notes

1. Douglas Wilkinson and Robert McDougall, "Primary Trauma Care," *Anaesthesia* 62, suppl. 1 (2007): 61–62.

2. Seth Jones, Jeremy Wilson, Andrew Rathmell, and K. Jack Riley, *Establishing Law and Order After Conflict* (Santa Monica, CA: RAND, 2005), 4.

3. Ibid., 5.

4. Georgia Holmer with Fulco van Deventer, "Inclusive Approaches to Community Policing and CVE," Special Report no. 352 (Washington, DC: U.S. Institute of Peace, 2014): 2–3.

5. Vivienne O'Connor, "A Guide to Change and Change Management for Rule of Law Practitioners," Practitioner's Guide Series (Washington, DC: International Network to Promote the Rule of Law, 2015).

6. Fiona Mangan and Christina Murtaugh, "Security and Justice in Post-Revolution Libya: Where to Turn?" Peaceworks no. 100 (Washington, DC: U.S. Institute of Peace, 2014), 21.