

Helpdesk Research Report

Gender-related results in security and justice policy and programming

Siân Herbert

27.10.2014

Question

What is the evidence from security and justice programming and policy around achievement of gender-related results and demonstrating gender sensitivity, and what are the lessons for improving practice in future?

Key facets: (1) (The resolution of) unequal/disadvantageous property, economic, and inheritance rights; (2) Women's empowerment and representation within security and justice service delivery (successes and failures).

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1. Overview

This rapid literature review collates evidence of security and justice policies and programming that have led to gender-related results in: (i) unequal property, economic, and inheritance rights; and (ii) women's empowerment and representation within security and justice service delivery.

Definitions vary, however, according to DFID (2007 in Bakrania, 2014), security and justice 'refer to values and goals (e.g. freedom, fairness, personal safety) as well as to the various institutions established to deliver them (e.g. defence forces, police, courts)'. Safety, security and justice are linked as part of the rule of law, which may be seen as an overarching principle to guide security and justice programming (van Veen

& Derks, 2012, in Bakrania). A range of actors provide safety, security and justice and they act at different levels – (central) state, local, and non-state (Stabilisation Unit forthcoming, in Bakrania, 2014).¹

There is a growing literature base that documents gender perspectives in security and justice, however it tends to focus on gender-based violence (Domingo, Holmes, Rocha Menocal & Jones with Bhuvanendra & Wood, 2013). There is a paucity of evidence that examines the overall impacts of security and justice programming on gender-related results in the two areas of this query. The literature available tends to be donor funded evaluations and policy papers, it tends to be fragmented, and it tends to examine programmes on a case-by-case basis. Security and justice programming is highly context specific and there are few proven approaches or models (Woodrow, 2013). In light of this, this query focusses on micro-level evidence that illustrates how specific interventions have led to specific gender-related results. These cases are not exhaustive, but illustrative. While both fragile and non-fragile developing countries are examined, security and justice programming tends to occur more in fragile countries.

Strategies for integrating a gender perspective into security and justice interventions include gender mainstreaming, in which the impact of all policies and programmes on women, men, girls and boys are considered at every stage of the programming cycle (Valasek, 2008); gender balancing, or ensuring equal representation of men and women in institutions and oversight bodies (Valasek, 2008); and gender-specific interventions such as training and capacity building, creating gender units within the police, and awareness raising and sensitisation of women's rights with security and justice institutions.

Key findings include:

- When addressing unequal **inheritance, property and economic rights**, typical interventions that have led to gender-related results include: changing laws and constitutions, working with customary justice systems, adopting international conventions, legal empowerment, sensitisation, awareness raising and education programmes, litigation, and institutional reforms and capacity development.
- When addressing **women's empowerment and representation in service delivery institutions**, typical interventions that have led to gender-related results include: supporting paralegal services, sensitisation, awareness raising and education programmes, providing legal aid, all-women justice and security services, gender sensitive disarmament, demobilisation and reintegration, gender balancing, and supporting women's and civil society groups.
- **Cross-cutting lessons** include: transforming social norms and behaviours; ensuring policies are translated into programming; and strengthening evidence based reforms.

2. Unequal inheritance, property and economic rights

Family law, inheritance law and property rights, including dispute resolution, are key issues in extending access to justice to citizens, particularly for women. Property rights have an economic role as they contribute to the protection of economic assets and secure livelihoods. They also help to establish clear ties of rights, responsibility and recognition within a community (Bakrania, 2014).

¹ See the GSDRC Topic Guide on Safety, Security and Justice by Bakrania (2014) - http://www.gsdrc.org/docs/open/GSDRC_SJ.pdf

Typical interventions in this area include: changing laws and constitutions, working with customary justice systems, adopting international conventions, legal empowerment, sensitisation, awareness raising and education programmes, litigation, and institutional reforms and capacity development.

In a World Bank study that systematically surveys family, inheritance, and land laws in all 47 countries in Sub-Saharan Africa, Hallward-Driemeier and Hasan (2012) note that reforms should be seen as long-term goals with staggered benefits. While changing laws is an important initiation of the process, education and social acceptance are crucial. Sub-Saharan countries reveal that it takes time to change social norms, and without targeted reforms it can take even longer.

They identify that in the short-term initiatives that are most likely to improve gender-related results include: the 'registration of marriages, joint titling of property, exemption from court fees for poor women, and sensitivity training for legal professionals'. Meanwhile, medium/long-term initiatives should focus on institutional development and governance (in formal and traditional justice systems). Lessons from Sub-Saharan Africa highlight the need to understand the countries' specific constraints before initiating reforms, and to engage with actors that could potentially reform or facilitate the reforms (Hallward-Driemeier & Hasan, 2012).

Changing laws and constitutions

Changing laws has seen gender-related results achieved both directly and indirectly. 136 countries have constitutions that guarantee non-discrimination between men and women (World Bank, 2012). An increased number of countries now legislate for equal rights in property ownership, inheritance, and marriage (World Bank, 2012). However, there are many challenges as often laws are not enforced in practice, and rights are not accessed evenly by all women in a country, nor equally across gender dimensions (World Bank, 2012).

Evidence from India and Mexico shows that equalising inheritance laws increases women's asset ownership (World Bank, 2012). In a World Bank Working Paper, Deininger, Goyal and Nagarajan (2010, p.4) examine the impact of the amendment to inheritance legislation in India (allowing daughters equal rights to sons) on women's physical and human capital investments. Analysis is based on disaggregated household level data and inheritance patterns over three generations. They found that the amendment significantly increased daughters' likelihood to inherit land, however, it did not eliminate substantial bias and inequality. They also find a number of indirect impacts. The age of women at marriage, relative to men, increased, 'suggesting an effect of stronger inheritance rights on women's marriage market outcomes'. There was also a 'positive and significant impact' on women's educational attainment.

While there have been improvements, many countries do not guarantee married women's rights to joint-ownership of land and property. This particularly impacts on widows and divorcees (World Bank, 2012). The World Bank's 2012 world development report recommends mandatory joint land titling. In two regions of Ethiopia land certification was jointly titled to both spouses, while in the rest of the country it was titled only in the name of the head of the household. In the two regions, more than 80 per cent of all titles included women's names, compared to 20 per cent in the other regions (Deininger, Ali, and Zevenbergen, 2008 in World Bank, 2012).

Hallward-Driemeier and Hasan (2012, p.85) note that strengthening the rule of law doesn't necessarily address gender gaps in legal rights, but that 'gaps in legal capacity are more common...in which the rule of law is weak'.

Working with customary justice systems

Legal pluralism is when citizens recognise more than one source of law (e.g. a customary law system). Customary laws often influence property, inheritance and economic rights within the family. Customary laws are sometimes exempted from constitutional requirements, e.g. relating to non-discrimination, therefore legal pluralism can bring particular challenges in terms of women's rights (Hallward-Driemeier and Hasan, 2012). It is important that women can access and influence both formal and customary legal frameworks.

Adopting international conventions²

Adopting international conventions to establish rights for women – such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – has provided frameworks to promote gender equality, supporting new legislation and the repeal of discriminatory laws (World Bank, 2012). By 2011, 187 of 195 countries had ratified CEDAW.

Gender-related results are mixed. As a direct result of CEDAW, Turkey's Constitutional Court repealed requirements that a husband authorise a wife's professional activities (Acar & Feride, 2000 in World Bank, 2012). In Fiji the ratification of CEDAW and the 2002 CEDAW review are credited as having a 'significant impetus for overcoming the resistance' to reform of family law, along with advocacy and a constitution that prohibits discrimination (Byrnes & Freeman, 2012, p.17). Despite significant advances however, CEDAW's 2010 review noted the limitations of patriarchal attitudes in Fiji, particularly in regards to inheritance.

A study of land reforms in Tanzania, Mozambique, South Africa, Zimbabwe and Kenya, found that each country has signed and ratified international treaties and conventions in favour of gender equality. However, resistance from male vested interests, lack of political will by governments, and the use of customary laws has limited its success (Ik Dahl, Hellum, Kaarhus, Benjaminsen & Kameri-Mbote, 2005).

Meanwhile, in an evaluation report for the World Bank, Byrnes and Freeman (2012, p.40) concludes that in Bangladesh CEDAW has 'contributed modestly to the extremely limited progress in moving towards the adoption of a uniform family code'. While Bangladesh acceded to CEDAW in 1984 and ratified it in 2000, it did so with the condition that clauses on citizenship laws and family law would not be binding as they contradict Sharia law. In regards to family law, the government contested clauses related to marriage. Despite 20 years of discussions between CEDAW and the Bangladeshi government, 'little progress has been made...despite the Government's repeated assurances that it is an area where it is committed to undertake reform' (p.39).

Legal empowerment

Legal empowerment aims to support women to understand and exercise their rights, and is particularly relevant in cases where laws are not upheld in practice. It is a 'demand-side' response to addressing deficits in the rule of law. It is more of a bottom up approach a 'rule of law' approach (Golub, 2003).

² For more information on legal frameworks, see the GSDRC topic guide on gender - <http://www.gsdrc.org/go/topic-guides/gender/legal-framework-and-access-to-justice>

Interventions include: the provision of legal aid and community paralegals, capacity building (especially in accountability and oversight), institutional reform, awareness-raising, advocacy, mediation, education, organising and litigation to make dysfunctional legal systems work for citizens (UN, 2011).

Sensitisation, awareness raising and education programmes

Sensitisation, awareness raising and education programmes are commonly used to inform citizens, service providers, and programme staff of general information, rights and responsibilities.

A World Bank, FAO and IFAD (2009, pp.159-161) sourcebook provides guidance for practitioners in designing and implementing agricultural projects. An IFAD supported project in Nepal offered landless women and men awareness raising in women's legal rights, among other services. After nine years, the women were more aware of their legal rights, and the women's group association had advocated for women's rights related to forest management.

A two-year advocacy initiative called the Land Campaign was initiated in Mozambique following the 1997 Land Law to inform and discuss the new law with the population. The campaign was coordinated by an academic from a Mozambican university, overseen by a National Committee composed of 22 NGOs and international partners, involved almost 200 civil society organisations (churches, farmers' organisations, research institutions, etc), and around 15,000 volunteers took on roles informing others about the new law. The information was published in 20 local languages, and transmitted across various media channels, cinemas and comic books (Ik Dahl, et. al., 2005; Negrão, 2000, 1999).

Litigation

Legal rights are not static but are shaped and defined by legal decisions (Hallward-Driemeier and Hasan, 2012). Supporting litigation against violations of laws, the constitution or international human rights conventions in court, can lead to successful precedents. Court cases that have led to successful judgements to protect women's land and property rights include: Botswana, Kenya, Nigeria, South Africa, Swaziland, Tanzania and Uganda (Open Society Foundations, 2014).

Institutional reforms and capacity development

Gender-related institutional reforms can include: capacity-building to increase the gender skills of staff within national institutions such as defence and justice ministries; creation of ombudsman roles or special commissions to ensure gender equality; training and sensitisation on discriminatory practices and penalties (or incentives) for senior staff to encourage integration of gender in their work; support to women judges to form caucuses or female police officers to form associations.

Reforms to accountability institutions should enable women to secure representation within such bodies, and to ensure that those in power are held accountable for promoting gender equality. While dedicated institutions can represent women's needs, they have often been starved of resources and access to decision making. Distribution of resources can be monitored using gender budgets. These have been highly effective in some places in exposing gaps between commitments and actual spending (United Nations Research Institute for Social Development, 2005).

3. Women's empowerment and representation in service delivery institutions

Women are under-represented in security and justice institutions. For example, in 11 of 13 countries with data (including India, Romania, Sierra Leone, Sweden, and the United States) less than 20 percent of the police force are women (World Bank, 2012). Greater female participation can create more representative institutions. There is evidence that this can increase legitimacy and social cohesion (Domingo, et al., 2013). At the same time, if programmes do not take a gender-responsive approach, discrimination, socio-cultural norms, capacity and institutional gaps can exacerbate gender inequalities (ibid).

Typical interventions in this area include: supporting paralegal services, sensitisation, awareness raising and education programmes, providing legal aid, all-women justice and security services, gender sensitive disarmament, demobilisation and reintegration, gender balancing, and supporting women's and civil society groups.

Paralegal services³

Supporting community paralegals and mobile legal aid clinics can increase and improve access for women to justice institutions by: increasing women's understanding of their rights; reducing the time women spend accessing services due to mobility constraints; filling a service delivery gap in countries with low capacity; and acting as agents to increase citizens' voice (World Bank, 2012).

In Sudan since 2006, UNDP's Access to Justice and Rule of Law programme (carried out with the Ministry of Justice, and UN Police) has jointly organised paralegal training and has established 12 legal aid centres in the 'Three Areas' (Abyei, South Kordofan, and the Blue Nile), and cities Darfur and Kassala (UNDP, 2010). Each centre has a women's paralegal group and there are women-only legal advice sessions. Trainings bring together judges, lawyers, police and prison officers, custodians of customary norms, and community activists to strengthen their knowledge on laws and the court system. In 2007, 550 additional cases were carried out by the legal aid lawyers in Sudan resulting in some major successes (including cases on rape, murder, and acquittals of women charged with adultery) (UNDP, 2010, p.9). A UNDP blog⁴ notes that the community-based paralegals are increasingly 'perceived as a conduit for increasing citizens' voice and social change agents'.

Sensitisation, awareness raising and education programmes

A UN Women (2011) programme in Burundi has supported sensitisation programmes to integrate women into the community system of male elders responsible for conflict resolution (the 'bashingantahe'). Along with an amendment of the bashingantahe charter and advocacy from women's groups, the sensitisation programmes have contributed to 40 percent of women now being bashingantahe committee members, women take part in decision making, have increased awareness of sexual and other types of violations, and bashingantahe leaders speaking on radio in favour of changing the laws of inheritance (UN, 2011, p.77).

³ Paralegals are 'community activists who not only have a substantial training in legal principles, but also familiarity with local community norms and practices and an ability to offer advice and advocacy services that go beyond narrow legal advice' (CLEP, 2008, in Bakrania, 2014).

⁴ See -

<http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/successstories/paralegals-bring-justice-to-women-in-south-sudan/>

Experience from Papua New Guinea shows that rights awareness raising activities involving village courts and village leaders, as well as youth and women, enabled the latter to better understand and claim their rights. As a result, women have been accepted as village court officials and play an active role in monitoring decisions (UN Women, 2011).

However, there are many challenges to measuring the impact of sensitisation programmes. A self-evaluation of European Commission programming in the justice sector found 'very limited evidence' as to whether justice personnel became more sensitive to gender issues after the trainings (European Commission, 2011, p.40).

Providing legal aid

Providing funding for legal aid and for women to access legal services – both statutory and traditional – is a key area of engagement (UNDP, 2010). Court fees acted as a barrier for women in Indonesia to access legal services, and in particular divorce and social assistance programmes. By increasing the budget for court fee waiver schemes, the Indonesian government increased access for many women and other marginalised groups (World Bank, 2012).

All-women justice and security services

When all-women **police units** were introduced in the state of Tamil Nadu in India (focussing on crimes against women), women felt more comfortable to approach the police and to report domestic abuse (in World Bank, 2012).

A case study of informal **women's courts** in Gujarat, India highlights the importance of: supporting inclusive social norms (for example by allowing women to go to the courts alone and making the process less intimidating); and complementing support to non-formal systems with efforts to reform formal justice institutions (DFID, 2012, p.25)

Disarmament, demobilisation and reintegration

Disarmament, demobilisation and reintegration (DDR) schemes are crucial to reintegrating ex-combatants, however these have historically not disaggregated the different situations and needs of women and men. Initiatives to address this include: ensuring there are female civilian and military staff; including women (ex-combatants and women associated with ex-combatants) in all phases of DDR programmes; ensuring specific women's needs are provided for in cantonment camps and in general DDR programmes (UN, 2010). National authorities lead DDR processes, with support from UN agencies.

Myrtilinen (2012) found that preference in joining security institutions as part of DDR schemes is given to male ex-combatants. Non-combatant veterans and supporters of fighting forces who were not integrated into security institutions or the post-conflict economy (often women) tended to be socioeconomically marginalised. They also tended to lack education, political influence and understanding of the DDR process. In the Democratic Republic of the Congo (DRC) thousands of women ex-combatants did not receive support as eligibility was based on 'one man (one woman) = one weapon', and many women did not directly fight (International Alert, 2012, p.25). However, there are positive examples, e.g. in Liberia in 2004, a strong campaign by UNMIL led to the inclusion of women in DDR eligibility criteria (UN, 2010).

Gender balancing

Initiatives to improve the number of women, compared to men, involved in justice and security institutions often focus on recruitment, retention and advancement of women (Valasek, 2008).

In Kenya, the 2010 constitution established a **gender quota** that ensures a minimum of 30 percent women in public and elected office, including in the judicial branch. Valasek (2008) argues that increasing the number women can create greater possibilities to identify and address the different impacts policies have on women and men. However, also highlights that increasing the number of women will not necessarily improve gender-related impacts, as being a women does not make one naturally a gender expert (Valasek, 2008).

Supporting women's and civil society groups

Women's organisations are identified as able to connect policy makers with women's concerns on the ground, and to support programmes to be more locally designed, managed and implemented (Valasek, 2008). They are also considered important actors in monitoring, oversight and holding providers to account (Barnes & Albrecht, 2008).

Hallward-Driemeier and Hasan (2012) note that improving women's access to justice 'rarely happens' without networks, resources, and coordinated advocacy. Therefore, it is important to promote networks (both informal and formal), e.g. women's cooperatives and professional associations.

In a policy document, the OECD (2007, p.32) recommend that donors support women's groups 'as one of the primary vehicles in a multi-layered provision of justice' to improve women's access to justice. It notes that women's groups and [non-governmental organisations] often seem to have resilience and flexibility in changing and deteriorating situations. At the same time, non-state justice and security systems also often adapt and endure in deteriorating situations. In Nepal, women took up the roles of men in its traditional justice system, as the men had been displaced due to the conflict (OECD, 2007).

However, international actors should evaluate possible unintended consequences of working directly with women, especially in regards to community-based justice. Nielsen (2011, in Bakrania, 2014) notes that working directly with women should be done at their own pace to avoid the risk of retribution or ostracism.

4. Cross-cutting lessons

These cross-cutting lessons are not specific to justice and security programming but apply to all areas of gender discrimination.

Transforming social norms and behaviours

Discrimination is deeply engrained in culture, and is difficult to change. Even when women secure representation in institutions, their roles are often gendered. Gender roles and norms are resilient and tend to reappear in post-conflict situations, even if they changed during the period of conflict (Domingo, et al., 2013). In a GSDRC topic guide on inclusive institutions, the following lessons on donor's ability to shaping norms are highlighted (Carter, 2014).

- **Community presence:** Social change is an intense process requiring sustained presence in the community; successful interventions have tended to work with organisations with a long-term and deep connection with the community (DFID, 2012, p.12).
- **Community involvement:** Successful programmes have used: multi-sectoral approaches at the community level, bringing together actors from all sectors including traditional authorities; and community-led, participatory, non-judgmental and non-coercive methods. Acquiring the support of local leaders (including women leaders) is often a crucial first step to mitigate any backlash (DFID, 2012, p.5).
- **Women's groups:** These have been instrumental in changing behaviours and empowering women and girls, enabling voice and public action (World Bank, 2012, p.35).
- **The media:** A range of media strategies (from mass media to less conventional community and participatory media approaches, and education-entertainment initiatives such as radio soap operas) have been effective in disseminating information, rallying support and instigating dialogue to challenge gender norms, especially around violence against women and girls (DFID, 2012; Ball Cooper & Fletcher, 2013).
- **Men and boys:** Working with men and boys is seen as particularly critical for changing norms and practices that sanction aggressive masculine behaviour (Jones et al., 2010, p.84). To date, there are only a few initiatives working with men and boys, and most focus on violence against women and girls.

Ensuring policies are translated into programming

A key challenge facing both national governments, and donors, is that gender elements in policies are not always effectively translated into programmes. For example, in a European Commission programme in Afghanistan, resources were not set aside to implement the gender component, despite gender and human rights being at the centre of its policy approach to justice and security sector reform (European Commission, 2011, p.43). Meanwhile, in Honduras the prominence given to human rights and gender issues was not reflected in the expected results (ibid).

Gender approaches are highly political. A solid understanding of the local context, and of how gender inequalities intersect with broader political, social and economic dynamics, is important (particularly in transitional contexts) (Domingo, et al., 2013). Despite this, Domingo, et al. (2013, p.59) identify that gender approaches to reform the justice sector have been 'overly technical, legalistic and normative'.

Evidence based reforms

Supporting evidence gathering is a key area to improve in justice reform programs. Especially in fragile or low-income countries, data is often patchy due to limited: infrastructure to collect data, political will, time to collect data, resources (financial and human), and data confidentiality (especially in security institutions) (Popovic, 2008). Gender may be peripheral to donor programming if left to 'gender experts' who are not integrated in the staff (Domingo, et al., 2013).

The World Bank (2012) recommends: working with government and research institutions to improve data collection on the justice system, including the experiences of women, in its justice reform programmes; strengthening the gender component in the design, monitoring, and evaluation of its justice programmes; and developing expertise and guidance to assist programme design.

In a donor toolkit, Popovic (2008) recommends: identifying and supporting 'gender champions' within upper-level management to strengthen political will, appropriate timeframes, and financial resources;

disaggregate data by sex and age; consult women and men; consult marginalised groups and CSOs; include gender issues and gender-sensitive indicators in assessments; ensure teams are representative (gender, local/international, social, ethnic, and religious) and include gender expertise; combine qualitative and quantitative data; conduct specific gender audits; and prioritise monitoring and evaluation of gender mainstreaming initiatives.

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Expert contributor

Emily Brown, Oxfam

Suggested citation

Herbert, S. (2014). *Gender-results in security and justice policy and programming* (GSDRC Helpdesk Research Report 1154). Birmingham, UK: GSDRC, University of Birmingham.

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