*Working Effectively in Conflict-affected and Fragile Situations*

## Briefing Paper D: Promoting non-discrimination

> **DAC Principle 6: Promote non-discrimination as a basis for inclusive and stable societies**
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> - Real or perceived discrimination is associated with fragility and conflict, and can lead to service delivery failures.
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> - International interventions in fragile states should consistently promote gender equity, social inclusion and human rights. These underpin the relationship between state and citizen, and are part of long-term strategies to prevent fragility.
>
> - Measures to promote the voice and participation of women, youth, minorities and other excluded groups should be included in state-building and service-delivery strategies from the outset.

## Introduction

Addressing discrimination, inequality and human rights is a core challenge of the state-building and peace-building process. It is at the centre of the negotiation of state–society relations and is a process rife with contradictions and tensions. Donors thus have a responsibility to address discrimination within their support to peace-building and state-building.

The first section of this paper sets out what we understand by discrimination, drawing on human rights principles and DFID's conceptualisation of social exclusion as systematic disadvantage which results from discrimination. The second section explores why discrimination matters in contexts of fragility, conflict and violence. The third section sets out how DFID and other donors can address discrimination as part of efforts to support peace-building and state-building. The paper concludes with a summary of key lessons.

## What is discrimination?

**Conflict and fragility often have their roots in entrenched forms of discrimination, which is a denial of human rights**. The basic principle of non-discrimination was established and agreed over 60 years ago in the Universal Declaration of Human Rights, following the Second World War.

**Principles of non-discrimination are reinforced in the major human rights conventions**.[1] It is HMG policy to work with states to support them in implementing the commitments they have made to human rights under these conventions. The emphasis should be as much on the positive fulfilment of human rights as on preventing violations.

Discrimination is also central to DFID's definition of social exclusion.[2] Social exclusion occurs when certain groups are systematically disadvantaged because they are discriminated against by more powerful people on the basis of their identity. In most societies, some people are discriminated against on the basis of one or more identity: gender, ethnicity, race, religion, sexual orientation, caste, descent, age, disability, HIV status, migrant status or where they live. People who suffer discrimination on various fronts – for example, disabled women and girls from lower castes – are often the poorest.

Discrimination and exclusion occur through social, economic and political structures and actions. These include formal institutions, such as parliamentary and legal systems, as well as informal institutions, such as the norms and traditions that influence gender roles in society.

**Discrimination perpetuates poverty and increases inequality, and development assistance will not reach people who are excluded unless discrimination is addressed**.[3] Discrimination prevents certain groups from contributing to and benefiting from development, for example through exclusion from the labour market, land ownership, access to finance, participation in politics and public life and access to services. Some groups may not be fully excluded but are systematically disadvantaged, such as when women are paid lower wages for equal work.

It is important to focus on **gender inequality** in its own right because women and girls make up at least 50% of the population but remain disadvantaged in every area of development. In conflict, women and girls often suffer most, both directly as fatalities or victims of violence and indirectly through the burden of dealing with the breakdown of family and community structures.[4]

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[1] These include the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights (ICESCR and ICCPR), as well as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities.
[2] DFID, *Reducing Poverty by Tackling Social Exclusion* (2005).
[3] See Stewart, F. *et al.,* 'Social Exclusion and Conflict', CRISE Policy Paper (2005).
[4] El Jack, A., *BRIDGE Cutting Edge Pack on Gender and Armed Conflict*, IDS (2003).

# Why does discrimination matter in situations of conflict and fragility?

Understanding discrimination – and the associated inequality, exclusion and human rights violations – is critical for understanding underlying causes of conflict and designing effective responses. Using a variety of different lenses to look at discrimination and exclusion helps to shed light on the mutually reinforcing nature of these processes and on the links with conflict and fragility.

## *Social exclusion and horizontal inequalities*

**The identity of excluded groups can become a powerful mobilising agent with potentially violent consequences**.[5] This is particularly the case when leadership is effective in bringing this about. The concept of 'horizontal inequalities' refers to inequalities between groups defined by identity, such as ethnicity, religion, caste or region. Depending on context, such groups may initially try to mobilise peacefully, such as through the electoral system, or with demonstrations or strikes. However, if this has no effect or is put down violently, groups may turn to violence in frustration at their powerlessness.

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**Youth exclusion in East Africa[6]**

Many young people are increasingly frustrated at their real or perceived exclusion from jobs, land, education and political voice. These are all components that add up to the ability to play a full role in society as an adult. When this is blocked, frustration and grievances can build up. Young people may make up the majority of the population in many urban centres (for example, two-thirds of the population of Kigali), but they are seen as, and often perceive themselves to be, outcasts.

Research in East Africa has shown that the everyday lives of many urban young men involve a high level of illegality (from informal economic livelihoods to drug use) and fatalism. Often, policies for youth – particularly young men – only become a political priority after the youth have played out the stereotype of which others are afraid: 'Why does it seem that urban youth have to riot to get attention?' But most youth do not turn to violence, and young women in particular tend to be invisible to policymakers.

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While social exclusion and horizontal inequalities are strongly associated with poverty, this is not a straightforward relationship. For example, ethnic groups that are economically successful may be politically excluded through lack of citizenship rights. Women of all economic groups are frequently discriminated against in labour markets or excluded from political opportunities. Stewart has argued that it is often better-off members of particular identity or culture-based groups who provide the leadership to mobilise large numbers on the basis of group-based deprivation.

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[5] Stewart, F., 'Horizontal Inequalities: A neglected dimension of development', CRISE: Working Paper 1 (2005); Stewart, F. *et al.*, *Social Exclusion and Conflict*, CRISE Policy Paper (2005).
[6] Sommers, M., *Challenges Related to Urban Youth Populations*, presentation at conference on 'Youth Exclusion and Political Violence', PRIO/World Bank, Oslo (December 2008).

**Where there is a failure to protect the rights of different groups in society, as well as to fulfil them, prospects for peace and development are even more seriously undermined**. This can occur when widespread abuses of political and civil rights are perpetuated, and when no visible effort is put into addressing these issues (including bringing the perpetrators to justice). This creates a profound breakdown within society and in the relationship between citizens and the state and can be a major cause of violent conflict.

*Political exclusion*

**Political forms of exclusion are closely associated with conflict and fragility**. Research by CRISE and others suggests that political exclusion, or the perception of being politically excluded, is a prime factor in motivating protest with anger and violence.

Political exclusion can occur through formal or informal processes or institutions. For example, there may be either official or customary limits to voting (or limits to voting for your choice of candidate – see box below), or to standing for office, locally or nationally. The process of drafting a new constitution in a post-conflict context is often exclusionary. Political exclusion can also be perpetuated by weak or exclusionary media and civil society (whether intentionally or not), such as radio that is dominated by one language or by male voices, or civil society organisations that are urban and/or elite based.

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[7]     DFID: *Reducing Poverty by Tackling Social Exclusion* (2005)
[8]     DFID *Yemen Programme Gender Audit*
[9] *Building Democracy in the Yemen: Women's political participation, political party life and democratic elections*, International Institute for Democracy and Electoral Assistance (IDEA) and the Arab NGO Network for Development (ANND) (2005).

*Economic inequalities*

**Economic inequality can be a powerful factor in causing violent conflict when it coincides with political discrimination against particular groups**. Where economic inequalities are severe, disadvantaged people may be responsive to mobilisation efforts by extremist or violent groups.

Economic inequalities can stem from a wide range of sources, including:

- differential access to economic opportunities and jobs;
- action or inaction that limits access to resources for certain groups;
- a failure to distribute the benefits of economic growth among citizens and across regions; and
- discrimination in access to services such as education.

> **Economic inequalities in Kenya and Bolivia**
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> In **Kenya**, inequality of access to land has worsened radically during President Kibaki's rule, due to political acquisitions that particularly disadvantaged the Maasai and Kalenjin ethnic groups. This unequal access to resources caused deep resentment, contributing to the severe post-election violence in 2007–2008. This has created a situation of instability and fragility, with consequences for security and growth prospects. Stewart notes that the relative poverty of some groups, the weakness of the democratic process and the fear of further political marginalisation combined to allow for the mobilisation of violent protest.[10]
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> **Bolivia's** 2002 street protests and violence arose largely from a perception among highland peoples that they were going to lose out on revenue from gas and oil reserves based in the lowland regions of the country. Fear of losing out economically, and therefore politically, spurred social movements to take to the streets in protest.

*Spatial inequality and exclusion*

**In contexts where discrimination based on group identity is related to location – including regional or intra-urban inequalities – it can be strongly associated with fragility and violence**. In Nepal, for example, alongside the caste and ethnic dimensions, there is a spatial aspect to the horizontal inequality that is key to explaining the causes of conflict. This is most marked in the mid and far western regions, which are the most disadvantaged in terms of human development and landholding measures.[11]

In many cities, violence is associated with the exclusion of whole neighbourhoods.[12] Certain neighbourhoods become 'no-go' areas characterised – or perceived to be characterised – by violence, criminality and squalor.[13] Urban violence in Managua, Nicaragua, for example, associated with unequal economic and political relations, is

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[10] Stewart, F. (ed.), *Horizontal Inequalities and Conflict: Understanding group violence in multiethnic societies*. Palgrave Macmillan (2008).

[11] Murshed, M. and Gates, S., *Spatial Inequality and the Mao-ist Insurgency in Nepal*, WIDER (2003).

[12] See also work on cities and fragility by the Crisis States Research Centre, LSE.

[13] Beall, J. 'Globalisation and Social Exclusion in Cities: Framing the debate with lessons from Africa and Asia', DESTIN Working Paper 02-27, London: LSE (2002); Kabeer, N., *Social Exclusion: Concepts, findings and implications for the MDGs*, Sussex: IDS (2005).

played out in the slums, which have been described as "volatile sites of exclusion".[14] Research in Afghanistan has shown how the social legacy of war is evident in divisions in cities, where particular groups face discrimination and exclusion.[15]

Even within countries that are not usually considered fragile, there is a risk that excluded urban areas can become 'pockets of exclusion' that are effectively outside the governance of the state. In the state of São Paulo, Brazil, 25 of the 28 cities characterised by the worst spatial exclusion suffer the worst homicide rates in the state.[16]

Sub-national spatial inequalities and related grievances can be exacerbated if donor allocation of funding to geographically based or targeted programmes is not sensitive to these issues.

### *Gender inequality*

Unlike the other inequalities and types of exclusion discussed, **gender inequality is not usually a key cause of conflict, and addressing it is often seen as a lower priority.**[17] But responding to gender inequality early is a crucial element of state-building and peace-building strategies. It is central to addressing the legacy of violent conflict (which often disproportionately affects women), to building an inclusive society and state, and to increasing the prospects of a durable peace by maximising the contribution that women can make.

It is important to note that conflict can have negative and positive consequences for women. Forced displacement and gender-based violence are deliberate strategies of war that destabilise families and communities. Women and girls experience rape, forced sex work and sexual slavery (sometime at the hands of police, military or peacekeepers). Men are the main perpetrators of gender-based violence, but are also victims of violence, including sexualised violence.[18]

Conflict can bring about altered gender roles which may empower women – for example, women may take on new economic responsibilities and decision making within families in the absence of men. Urban migration resulting from conflict may undermine patriarchal institutions and present new opportunities for women's education and economic, social and political empowerment.

Gender-specific impacts of conflict and fragility are often not recognised or addressed by mainstream responses. The way gender relations play out during and after conflict often reflects gender roles and stereotypes that existed in the pre-conflict society. It is important that donors understand both the negative and positive impacts of conflict on gender roles, and that their support builds on the positive as well as addresses the negative.

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[14] Rodgers, D., 'Slum Wars of the 21st century: The new geography of conflict in Central America', Crisis States Research Centre Working Paper no 10, LSE (2007).

[15] Beall, J. and Esser, D., *Shaping Urban Futures: Challenges to governing and managing Afghan cities*, Afghan Research and Evaluation Unit (2005).

[16] Rolnik, R., 'Territorial Exclusion and Violence: The case of the state of São Paulo, Brazil', *Geoforum*, 32 (4): 471–482 (2001).

[17] Nepal is arguably an exception.

[18] Brody, A. (2009) *BRIDGE Cutting Edge Pack on Gender and Governance*, IDS (2009); El Jack, A. *BRIDGE Cutting Edge Pack on Gender and Armed Conflict*, IDS (2003).

# Addressing discrimination in peace-building and state-building

**Addressing discrimination is critical from the outset**: in taking decisions about prioritising and sequencing, it should not be assumed that responding to discrimination can be left 'until later'. On the contrary, measures to address discrimination should feature centrally and inform the design of interventions to support peace-building and state-building from the beginning.[19] Donor interventions that are not based on a strong understanding of discrimination risk doing harm, through programmes that mirror and therefore strengthen existing patterns of discrimination and exclusion.

**The most important reason for this is to reduce the risk of further instability and violence**. Donors ignore discrimination and its consequences at their peril, particularly (but not only) in situations where it has been linked to the causes of conflict. If left to fester, discrimination is likely to contribute to further violence and unrest, and possibly to renewed conflict.

States and societies that are (re)built on principles of inclusiveness and equity rather than entitlement and hierarchy are more likely to develop approaches to problem solving that are egalitarian and mechanisms for resolving conflict that are cooperative. Evidence indicates that this is reflected in approaches to dealing with both domestic and international disputes.[20]

**Addressing gender inequality should be an early, high priority:**

- If gender inequality is de-prioritised in the early stages of state-building and peace-building, inequalities can become entrenched in new or rebuilt systems and it is much more difficult to bring about positive change at a later stage.
- Ignoring gender equality issues does not mean that we are being neutral – on the contrary, it means that we are reinforcing the position of those in society who discriminate against women.
- Post-conflict or political transitions offer unique opportunities to reshape gender relations in a positive way, sometimes by building on changes that occurred during conflict.
- Focusing early on gender can support the building of peaceful states and societies. Research by the International Crisis Group in Sudan, Congo and Uganda suggests that peace-building works better when women are involved, in part because women often take a more inclusive approach to security and address important social and economic issues that otherwise might be forgotten.[21]

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[19] DFID's integrated approach to state-building and peace-building is set out in DFID, *Building the State and Securing the Peace*, Emerging Policy Paper (2009).

[20] Benard, C., Jones, S., Oliker, O., Thurston, C., Stearns B. and Cordell, K., 'Women and Nation-building', RAND Monograph (2008); Bernard, C., 'Caution Nation-builders: Gender assumptions ahead', RAND Monograph (2008).

[21] International Crisis Group, 'Beyond Victimhood: Women's peacebuilding in Sudan, Congo and Uganda', Africa Report No 112-28 (2006).

**Gender and state stability in Afghanistan**

Recent research by RAND on Afghanistan sets out strong arguments that gender parity plays a critical role in state stability and that an early emphasis on gender equity and women's inclusion is central to building a stable state.[22] The study found that gender can be seen as a 'canary in the mine' test: "**If a particular decision or compromise is bad for women, it will be bad for human security, bad for development and detrimental to genuine peace**". States that treat women as inferior tend to be based on a "worldview that is often hierarchical and stratified, basing itself […] on the premise that different is unequal"[23] and are more likely to resort to force to resolve conflict. "Bureaucracies and elites that exclude women are operating on the logic of male privilege. This means that they are not merit-based but follow the principle of entitlement. Consequently, it is unsurprising to find that such systems show higher levels of corruption".[24] Similarly, women's economic participation is good for economic development, not only because it raises the proportion of wage earners to dependants, but also because women are significantly more likely to spend their earnings on things that benefit the family.

The study found no evidence that taking an early and bold approach to gender equality in peace-building and state-building is destabilising. While any society will take a long time to shift from wide inequality to greater social justice, the evidence shows that "a plausible and fundamental direction of intent is important".[25]

**Promoting non-discrimination, inclusion and rights is not a 'Western' or externally imposed agenda**. Concepts of fairness, equality and freedom exist everywhere in the world, and in all countries there are national and local actors who are working to defend these ideals on their own terms. Donors have a dual responsibility to support states to fulfil their human rights commitments and to support groups in society to claim their rights and entitlements.

**Promoting non-discrimination does, however, require a sensitive approach that is tailored to the local context**. This includes:

- *conducting the right analysis:* identify what excluded or disadvantaged groups need, and what their entitlements, priorities and expectations are;

- *identifying opportunities to promote non-discrimination:* this may be through new initiatives, but it can often be done by adapting or improving the focus of existing programmes; and

- *working through local partners*: understanding and supporting locally driven approaches to addressing discrimination is important. Explicit, overt interventions by donors are much less likely to be appropriate or effective.

It is also important to remember that donor behaviour can also send critical signals about the value they attach to addressing discrimination. For example, actively seeking to employ (in senior positions) individuals from excluded groups, ensuring

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[22] Benard, C., Jones S., Oliker, O., Thurston, C., Stearns, B. and Cordell, K., 'Women and Nation-building', RAND Monograph (2008).
[23] Bernard, C. 'Caution Nation-builders: Gender assumptions ahead', RAND Monograph (2008).
[24] Bernard, C. (2008).
[25] Bernard, C. *et al.* (2008)

that the impacts of all their interventions are disaggregated and including discrimination issues within the development dialogue can all send positive signals.

The remainder of this section looks first at improving our understanding and monitoring of discrimination and its impacts. It then sets out how DFID and our partners can help address discrimination in our efforts to support peaceful states and societies, in line with our integrated approach to peace-building and state-building:-

- supporting inclusive political settlements;
- addressing the causes of conflict and building resolution mechanisms;
- developing state core functions; and
- responding to public expectations.

## Analysis and monitoring

Analysis and continual monitoring of discrimination and other human rights violations, and building local capacity to do this, is important for several reasons. First and foremost, it can help deter would-be perpetrators from committing further violations, by increasing their awareness that violations are being documented and that they may be brought to justice at a later stage. Second, it can help donors and partners to anticipate when a situation may deteriorate, so they can plan appropriate interventions. Third, it can help us to improve the design and targeting of programmes and better monitor their impact.

A comprehensive baseline analysis should be conducted to inform strategy and policy, ideally for both donors and partners. This analysis should identify who is discriminated against, the power relations and politics behind this, the processes and institutions that perpetuate discrimination, and the impacts on different groups and on the prospects for peace-building and for state-building. It is important to analyse historical processes of exclusion to understand how present dynamics have evolved, as well as monitoring discrimination and exclusion in the current situation and how this is changing.

**Analysis: Some examples of key questions to ask**

- What are people's perceptions of discrimination? (and do these bear out in reality?)
- Have social norms or assumptions about boys' and men's roles fuelled violence?
- Are there groups and factors promoting non-violent mobilisation? How can these be encouraged?
- To what extent have social exclusion and gender inequality triggered and fuelled insecurity and/or conflict? What are the current risks and linkages?
- How have women, men and different social groups experienced insecurity and/or conflict differently, both as perpetrators and as victims?
- Which groups are included in peace processes and which are left out?
- What types of insecurity are prevalent in non-conflict areas? (for example, gang violence, gender-based violence, violent slum areas)

*See also the DFID Gender and Social Exclusion Analysis How To Note, 2008*

*Briefing Paper A: Analysing Conflict and Fragility* provides an overview of the DFID tools that country offices can use – and their advantages and limitations – including:

- Gender and Social Exclusion Analysis;
- Human Rights Assessment.

**Human Rights Assessment in Cambodia**

DFID Cambodia commissioned a Human Rights Assessment to provide a human rights baseline for negotiations over a UK–Cambodia Partnership Agreement. This Assessment looks in particular at civil and political rights in the areas of freedom of association, expression, access to information and the media; and at economic, social and cultural rights in the fields of women's rights and gender equity, child rights, rights to education and healthcare and land rights. The process has had to be handled with care due to sensitivities, but the assessment has been used to feed into the Country Governance Analysis and therefore the country planning process.

Country offices should also ensure that other analysis pays attention to issues of discrimination, exclusion, gender equality and human rights and their relation to conflict and fragility. This applies in particular to:

- Country Governance Analysis;
- Strategic Conflict Assessment; and
- Political Economy Analysis.

It is good practice to carry out joint analysis and monitoring with other donors and partner governments where possible. We should also seek opportunities to help build up national capacity for this work, for example by:

- strengthening local capacity to analyse and monitor discrimination and human rights through:

  - helping to set up and develop national and local bodies to monitor human rights (e.g. national human rights commissions, local research institutes),
  - human rights training for law enforcement officials, public bodies and media, or
  - support to civil society organisations that work on advocacy and human rights, including women's rights;

- supporting national and local monitoring systems to use disaggregated data (e.g. by gender, age, caste, ethnicity or disability) to monitor progress on specific indicators, such as access to services, jobs or political office. This can be highly sensitive, particularly in contexts where the government is unwilling to recognise the existence of group inequalities.

**Donors need to be aware of the political sensitivities that most of these measures are likely to entail**. Where possible they should build support among a range of stakeholders, and work with national processes. For example, the Universal

Periodic Review[26] process is a useful tool for countries and their partners to monitor progress towards addressing discrimination.  The process can also help identify high-level actions for countries to improve their implementation of human rights commitments. It is supported by a UN trust fund to help countries carry out the review process and implement recommendations.

At the same time, it is important for DFID's own country-level monitoring and evaluation systems to disaggregate their findings by gender, age or ethnicity (to be defined in the context) to monitor DFID's own impact on discrimination and exclusion. DFID Nepal has developed a range of initiatives to analyse and monitor key trends, monitor project impact and develop the Government of Nepal's own capacity to monitor exclusion.

**Lessons from Nepal: Monitoring inclusion and human rights trends**

In Nepal, where social exclusion was recognised as a critical factor causing poverty and conflict, the country office developed a set of instruments to be able to:

- monitor trends in the inclusion and human rights situation in the country at a time of fast political changes. This was done as part of the scenario planning exercise and through a set of '**Stability Indicators**'. This is a short list of indicators monitored on a monthly basis by DFID and FCO aimed at providing an up-to-date understanding of trends on inclusion and human rights, enabling appropriate responses to be devised;
- monitor progress on inclusion within its own programmes, through a set of disaggregated indicators included in the **Livelihood and Social Inclusion Framework.** This allows DFID to monitor whether project activities reach the poorest and excluded and what impact activities have on these groups;

- support the capacity of the government to monitor exclusion, through the development of a **Social Inclusion Index.** This is an index that the National Planning Commission, with the support of DFID and the World Bank, developed to improve the targeting of programmes aimed at the poorest and excluded and to monitor progress on inclusion.

## Supporting inclusive political settlements

Inclusive and legitimate political settlements are critical to reduce the risk of conflict and fragility and to build peaceful and stable societies and states.[27] Addressing discrimination through political settlements requires a focus on both formal and informal processes.

*Formal processes*

For a political settlement to be legitimate and resilient it is essential that:

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[26] Under the Universal Periodic Review process the Human Rights Council carries out reviews in each country of their progress towards their human rights obligations and commitments, with the involvement of the country concerned and with an emphasis on capacity-building.
[27] Research by Political Instability Task Force (PITF) at George Mason University; research by Crisis States Project at the LSE; Papagianni, K., 'Participation and State Legitimation', in C.T. Call and V. Wyeth (eds.), *Building States to Build Peace*, Boulder, CO: Lynn Rienner (2008).

- the formal dimensions (e.g., a peace process or a constitution-making process) are inclusive and representative. Ensuring that previously marginalised group all have a meaningful voice from the outset lays the foundations for strong citizen–state relations;
- the formal processes address the underlying causes of discrimination and human rights violations – for example, by giving recognition to the equal rights of all ethnic groups; and
- the results are acceptable to elites and the broader population, including old and new elites, excluded groups or those who have otherwise been discriminated against.[28]

Entry points for donors to promote non-discrimination and the protection of human rights through formal processes include the following:

- The negotiation of a **peace agreement**. This is an important opportunity to include key provisions that tackle discrimination. This might include reference to relevant international treaties, such as the UN human rights treaties, or UN Security Council Resolutions 1325 and 1820 (see box below).

- **Elections and the electoral cycle**, including the choice of electoral mechanisms and the preparation and holding of elections. In general, electoral processes are a way of extending participation and accountability and of legitimising a particular government. But conversely, they can exacerbate cracks where there is a lack of social cohesion, disagreement on the underlying political settlement or unfair processes. Donors should aim to support the electoral cycle in a holistic way, incorporating issues of discrimination at each stage.

- **Constitutions**, including consultations before and during a Constituent Assembly, and the constitution-making process itself. Constitutions are formal manifestations of the political settlement – given their importance to stability, adequate investment is critical to ensure that the process is participatory and inclusive. There are opportunities to support the ratification and implementation of human rights standards and to support partner governments to fulfil their human rights commitments.[29]

- **Critical debates** about constitutional issues such as federalism, autonomy and decentralisation, or **policy areas** such as land reform, job reservations and quotas, security-sector reform and reintegration policies for conflict affected populations. Donors may have a role in promoting dialogue, providing technical advice or funding programmes.

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[28] See work by Alina Rocha Menocal at the Overseas Development Institute.
[29] This is DFID and FCO policy, set out in DFID White Paper 2000 and FCO Strategic Policy Objective 6.

*Informal processes*

**For a political settlement to be inclusive and legitimate, it must be underpinned by strong relationships between the state and society and between citizens in society**, where an active and informed citizenry engages with and owns the state. This relationship includes the written and unwritten agreements between state and society that underpin and emerge from the political settlement. Where this relationship is healthy and the state is able to respond to societal expectations, the majority of the population is likely to perceive the state as legitimate and abide by the broad mass of laws by which they are governed.

**Interventions should include clearly articulated strategies to support voice and participation** throughout the various stages of state-building and peace-building. Identifying appropriate mechanisms for inclusion, representation and participation in political settlements is critical and will require engagement with a variety of actors at the national level as well as at the local level.

This might involve working with a range of institutions, including civil society organisations, national human rights bodies, courts, parliaments, media, traditional local institutions (such as *shuras* in Afghanistan) and informal political platforms, such as local public hearings. Interventions might include support to different actors to communicate and engage with each other more effectively in these processes.

In some contexts, **it may be necessary to consider whether it is politically advisable to gain the buy-in of the elites** to the political settlement – to ensure they do not undermine the whole process – before opening it to other actors. This involves striking a fine balance, in view of the critical importance of wide inclusion of different groups in political settlements.

**Kenya: Mediating the renegotiation of the political settlement**

The violence and political crisis that followed Kenya's elections at the end of 2007 highlighted multiple failures of the governance system as both the Electoral Commission and the courts appeared unable to deal with disputed election results. To prevent violence descending into civil war, an urgent renegotiation of the political settlement was needed.

The Panel of Eminent African Personalities (led by Kofi Annan and backed by the Africa Union) led successful negotiations, which both ended the violence and set an agenda for reform to tackle Kenya's deep-seated weaknesses, such as the constitution, governance, land and impunity. This was partly funded by the UK government through the Africa Conflict Prevention Pool.

A series of deals, collectively known as the Kenya National Dialogue and Reconciliation, brokered a power sharing agreement and led to the creation of a government of national unity. The deals spelt out specific legal and constitutional reforms to be enacted by the Parliament, the establishment of an Independent Review Commission on the conduct of the elections, a commission into the post-election violence, and proposed a truth, justice and reconciliation commission. Most importantly, the deal includes longer term issues such as youth exclusion and land policy that need to be addressed to resolve grievances that could be exploited at the next elections.

See the *Africa Conflict Prevention Programme, Annual report, 2007–2008.*

## Addressing the causes of conflict and building resolution mechanisms

The analysis outlined in the section above should identify how discrimination has played out in causing conflict and what are the related priorities.[30] Depending on context, some of the key issues to be addressed will include those explored below under state survival and public expectations (e.g. security and justice, service delivery, employment). This section will use the two examples of disarmament, demobilisation and reintegration (DDR) and transitional justice to illustrate how non-discrimination can be promoted within these areas.

*Ensure DDR processes address discrimination*

DDR processes offer a crucial early opportunity to address discrimination and promote human rights. Important lessons have been learnt from experiences of DDR programmes which can be used to inform design:[31]

- **Gender:** DDR processes need to identify and address the different needs of male and female ex-combatants, female non-combatants and disabled ex-combatants. DDR programmes have traditionally focused on male ex-combatants. Girls and women often face exclusion when trying to reintegrate into communities and families – for example, if they are perceived to have

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[30] See also the box on Nepal in the DFID Emerging Policy Paper on Peace-building and State-building, which sets out how horizontal inequalities were identified as critical causes of the conflict.
[31] OECD-DAC, *Review Study on Human Rights, Conflict and Peacebuilding: Synthesis Report* (2009); McKay, S. and Mazurana, D., *Where are the Girls? Girls in fighting forces in Northern Uganda, Sierra Leone and Mozambique*, Rights and Democracy, International Centre for Human Rights and Democratic Development (2004).

'broken' traditional gender roles to use arms and kill, or if they have been raped, become pregnant or been used as sex slaves during the conflict.

- **Age:** Youth require different support to older people, particularly in environments in which child soldiers have been used. Child soldiers also face specific difficulties, and the relationships between child soldier and commander, and the commander as surrogate father figure, are often blurred. In countries where age is venerated, processes have sometimes discriminated against younger combatants. This occurred in Sierra Leone, where many young ex-combatants were denied training as mechanics partly on the basis that they should only possess so much knowledge at a certain age. Processes that are not designed carefully to meet different needs can increase real or perceived discrimination and exclusion.

- **Host communities:** Promoting the economic and social rights of both ex-combatants and host communities is essential, to avoid destabilising inequalities and resentment associated with the perception that DDR programmes are rewarding ex-combatants with opportunities (such as training or tools) to the exclusion of others in the community.

- **It may be desirable to run DDR and transitional justice processes together, linked to wider community support**. This can help reduce the risk of a peace vs. justice tension, whereby perpetrators of violence are enabled through amnesties and reintegration/resettlement packages to return to communities with impunity.

*Transitional justice*[32]

Transitional justice mechanisms offer a way of addressing discrimination and serious human rights violations committed during a violent conflict or crisis. They can provide a basis for moving towards reconciliation between the state and citizens and between groups in society, particularly when exclusion has been a cause of conflict. Examples include reparations and truth commissions:

- **Reparations** for systematic discrimination against minorities or women can help to reduce grievances, promote inclusion and provide an important income boost for excluded groups.
- **Truth commissions** can give formal, public recognition to the impact of systematic discrimination committed during conflict. They can also provide recommendations on measures to reduce patterns of discrimination in the future. In Sierra Leone, for example, women's organisations saw the process not only as a means to address the harm done to women victims, but also as a forum in which to advocate for legal reform for women's rights.[33]

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[32] For an overview of transitional justice mechanisms and country examples, see Alexander, J., *A Scoping Study of Transitional Justice and Poverty Reduction*, *Final Report for DFID* (2003), www.gsdrc.org/docs/open/SSAJ56.pdf. Transitional justice mechanisms aim to address war crimes, crimes against humanity, genocide and serious human rights violations. They include: prosecutions of individuals through international, domestic or 'hybrid' tribunals; truth and reconciliation commissions; reparations for victims; amnesties; and other measures. FCO funds and provides political support to the International Criminal Court, International Tribunals for the Former Yugoslavia and Rwanda, hybrid courts in Sierra Leone, Bosnia and Herzegovina and Cambodia and the Iraqi Special Tribunal.
[33] See the website of the International Center for Transitional Justice for more information: www.ictj.org/en/index.html

The timing and manner in which transitional justice instruments are introduced is critical, and there are risks. Prosecutions, which help prevent a culture of impunity, can also be divisive (e.g. reinforcing divisions between former supporters and victims of high-level military leaders). At the other end of the spectrum, amnesties for less serious violations can help achieve reconciliation, but they can also diminish trust in the state and exacerbate tensions if public expectations of justice are high. Transitional justice strategies should be firmly embedded in the local context, and based on extensive consultation with different communities to ensure there is understanding of what is likely to work.[34]

Alongside the process of transitional justice there is a need ensure specialised services are provided to deal with the distinct needs of women and men who suffer violent impacts of armed conflict, such as rape and torture. For women, this should include counselling and outreach to manage gynaecological/reproductive health concerns related to rape, forced pregnancy and sex work. Services should also be made available for men who move away from masculine, stereotypical gender roles or resist violence and combat and, as a result, may become victims of physical and sexual violence.[35]

## Developing state core functions

*Security, justice and the rule of law*

**Support to Security and Justice Sector Reform (SJSR) should address discriminatory policies and practices (formal and informal) by security and justice institutions and actors**. Security and justice institutions are central to the protection and promotion of human rights and discrimination in access to justice. Interactions with the security sector can be a major source of grievance and a cause of conflict. When the institutions that are responsible for providing security and justice are effective, fair, legitimate and accountable, they can reduce the likelihood that people will turn to violence to settle disputes. Equally, if these institutions perform poorly or are discriminatory, they can foster grievances that contribute to violent conflict between individuals or communities or across borders.[36]

The design of SJSR programmes should consider ensuring representation of excluded groups within security sector institutions. In Nepal, for example, the Madhesi population of the Tarai lowland areas has traditionally been excluded from recruitment to the army. This has been a considerable source of resentment.

Support should be aimed at reducing the risk of there being one set of rules for the elite, or certain groups, and another that applies to poorer and excluded groups. Appropriate interventions might include support to public bodies that oversee government and the security sector, such as Parliament and ombudsmen, as well as support to citizens' engagement with the security sector and to media-led accountability initiatives.

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[34] See OECD-DAC, *Review Study on Human Rights, Conflict and Peacebuilding: Synthesis report for general discussion* (2009).

[35] El Jack, A., *BRIDGE Cutting Edge Pack on Gender and Armed Conflict*, IDS (2003).

[36] DFID, 'Explanatory Note on Security and Access to Justice for the Poor' (2007).

**Strengthening Citizens' Security project in Sierra Leone**

This pilot project, implemented by Conciliation Resources, aimed to empower the civilian population in two of the country's districts, Kenema and Kailahun, and the capital, Freetown, to participate more actively in discussions and decisions that relate to their security, and to work towards building civilian oversight of the security sector. The project broadened the usual oversight of the sector beyond parliamentarians to citizens themselves. It focused particularly on border communities, where the war had started, aiming to equip citizens with the ability to recognise early warnings.

Project successes included citizen participation in provincial and district security committees. Both civilians and the security services have spoken of the benefits of a closer and more cooperative relationship. Citizens have gained greater awareness of the security sector and have been able to participate in security sector discussions and decisions. This has included more active participation by citizens in cross-border meetings with other Manu River Union countries.

Consideration should be given to supporting informal and community-based conflict resolution and justice initiatives. Informal justice and dispute resolution mechanisms, such as customary courts, traditional systems and the *gacaca* system in Rwanda, warrant attention in light of the limits of the formal justice sector in most fragile countries.[37]

Tensions may exist between cultural norms that underpin the way informal systems function and international standards such as human rights (e.g. discrimination against women). Detailed analysis is required to understand informal systems and identify suitable entry points and partnerships. DFID is learning from experiences in more stable environments. In Malawi, for example, DFID is supporting a programme to improve traditional, community-level justice. The programme introduces human rights norms to traditional justice and has a strong gender focus.

**Improved justice for excluded groups through civil society funding in Bangladesh**

The DFID-funded Manusher Jonno Foundation in Bangladesh has supported civil society organisations working in support of the rights of groups disadvantaged by discrimination. Examples include:

- **Uttaran**, a civil society organisation working to ensure implementation of state legislation guaranteeing land rights for landless labourers in south-west Bangladesh. From 2004 to 2008, over 7,000 acres of public (*khas*) land, worth over £23 million, transferred to more than 9,000 families (50,000 people).
- **Bangladesh National Women Lawyers' Association**, which both supports grassroots 'vigilance teams' to intervene in cases of rights violations (e.g. domestic violence, dowry extortion) and advocates women's rights to religious and community leaders, and links these grassroots groups to national advocacy work on legislating for women's rights.
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[37] Decker, K., Sage, C. and Stefanova, M., *Law or Justice: Building equitable legal institutions*, World Bank (2005); Carothers, T., *Promoting the Rule of Law Abroad – The problem of knowledge*, Washington DC: Carnegie Endowment for International Peace (2003).

## Responding to public expectations

People's expectations should not be assumed; nor can we assume that different groups in society will share the same expectations. In a responsive state, policies, legislation and their implementation should address the differing needs, entitlements, priorities and responsibilities of different social groups.[38] Analysis is critical to understanding the expectations of different groups of people and their perceptions of the state.

*Inclusive and equitable service delivery*

Inequitable access to services has often been perceived to be a major contributory cause of fragility and conflict. Support to the delivery of services, such as education, health, social protection, water and sanitation and justice, can be designed to address discrimination and exclusion in a number of ways:

- Ensuring excluded groups have a voice in determining priorities between and within sectors at policy level.
- Ensuring services are designed to maximise access by excluded groups.
- Building up voice and accountability mechanisms at the local and national levels.
- Balancing support to state capacity with a legitimate role for non-state providers to provides services to hard-to-reach groups in the short term.
- Ensuring a balance between national priorities of equal access and quality assurance on the one hand, and local decision-making processes and minority needs on the other (see box).
- Expanding school mapping to take access to health, water and sanitation into account in ensuring equitable coverage of education services.
- Supporting countries to remove user fees where they want to so that the poorest and most marginalised communities can benefit.

**Education in the Democratic Republic of Congo (DRC)**

In DRC, DFID, the World Bank and UNICEF are working with the government to reduce the heavy burden of school fees on households so that the goal of 'free' primary education can eventually be realised. A multi-donor trust fund is being set up to alleviate the high cost of primary education, so that some major barriers to access are removed and parents will be encouraged to send their daughters, as well as their sons, to school. As a first step in using government systems to finance school fee reduction, DFID is paying the insurance premium of all children in state primary schools.

The role of education in shaping attitudes and preventing conflict requires specific attention. Here the key issues are equitable access, school curricula and pedagogy (approaches to teaching). Education has been identified as having a key role in promoting social cohesion. But there are also examples of skewed access to education or curriculum content that privileges one group over another. Examples

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[38] See Brody, A., *BRIDGE Cutting Edge Pack on Gender and Governance*, IDS (2009).

include the Sri Lankan conflict (a change in the medium of instruction) and the use of ethnic quotas in pre-genocide Rwanda.[39]

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**The importance of equitable and inclusive service delivery: Education in Bosnia**

In Bosnia, the stipulations for decentralisation in the Dayton Peace Agreement have had a major impact in terms of differential implementation of laws relating to the equal enjoyment of economic, social and cultural rights by the population, and have complicated the process of ethnic integration. In the education sector, Bosnian Muslims, Croats and Serbs have established their own schooling systems, with increasingly significant differences.

In response, the UN Human Rights Council has recommended that authorities at all levels "establish a national programme for the development and application of education indicators, in close cooperation with State bodies and entities, cantons and municipalities to guide inclusive and non-discriminatory public policies".

In the absence of a national education programme, donor priorities vary. They include developing the capacities and infrastructure of educational institutions; setting in place inclusive, responsive and high-quality models of learning and teaching that can foster student and teacher flexibility; designing educational development plans at all levels of decision making; and developing a range of evaluation and quality control mechanisms. To ensure this contributes to the equal enjoyment of rights and peace, these interventions need to be underpinned by contextual analysis.

OECD-DAC *Review Study on Human Rights, Conflict and Peacebuilding: Synthesis Report* (2009)

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*Support to other expected functions*

Donor support to other expected functions will also need to consider how discrimination affects these areas and what can be done to address it. This might include, for example, supporting or promoting:

- access to finance for specific groups (such as women, returnee populations, former combatants), and supporting the use of saving and credit systems, such as among market women;
- economic and social policies that generate employment for the youth and conflict-affected populations, including provision of vocational training programmes through public–private partnerships;
- social protection programmes;
- policies and measures that promote gender equality in the labour market;
- provisions for the representation of formerly excluded groups within the civil service, both centrally and at the local level.

Specific interventions may be desirable that *directly* tackle discrimination in different spheres of life. These might include, for example, support to:

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[39] For further reading see: Berry, C., *A Framework for Assessing the Effectiveness of the Delivery of Education Aid in Fragile States* (2009); World Bank, *Reshaping the Future: Education and post-conflict reconstruction* (2005); Tawil, S. and Harley, A. (eds.), *Education, Conflict and Social Cohesion*, Geneva: IBE (2004).

- legislation that abolishes discriminatory practices (e.g. laws that allow women to inherit property), strengthens equal access and, possibly, introduces quotas;
- provision of citizenship cards on an equal basis;
- measures to support greater representation of women, youth, disabled or minority groups in political office and public positions;
- land reform or redistribution programmes that positively target excluded groups or ensure equal access to land.

The [Gender Manual](#) and [Disability 'How To' Note](#) provide further guidance on some of these areas.

## Key lessons

- The **gender-specific impacts** of conflict and fragility, particularly those experienced by women and girls, are often not recognised or addressed by mainstream responses to fragile situations.

- **Addressing discrimination is critical from the outset**: in taking decisions about prioritising and sequencing, it should not be assumed that responding to discrimination can be left 'until later'.

- Interventions aimed at supporting peace-building and state-building will not effectively address discrimination and its impacts unless they are **specifically designed** to do so.

- **Analysing and monitoring** discrimination and human rights, and building local capacity to do so, is important for the purposes of anticipating where situations may deteriorate and of improving the design and targeting of interventions and monitoring of their impact.

- **Inclusive political settlements are critical** to reducing conflict and fragility. Formal and informal processes that underpin the political settlement should aim to be inclusive and representative (recognising that elite agreements may be necessary as a first step). The results from these processes should address the key causes of discrimination and be acceptable to both elites and the wider population.

- Programmes that aim to **address causes of conflict**, such as DDR and transitional justice, offer critical **opportunities to address past discrimination and promote greater equality in the future**.

- Support to both enhancing **security** and improving **access to justice** should **address any discriminatory policies and practices** (formal and informal) by security and justice institutions and actors.

- Building a peaceful state and society requires functions, particularly services, to be delivered in a way that is **non-discriminatory, fair and responsive** to the expectations of **different groups** of the population.