

Selection Procedures and Incentives for Government Provided Personnel (GPP) in the Rule of Law

An Overview of the Civilian Capacities Network

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Summary

The deployment of Government Provided Personnel (GPP) in the area of Rule of Law still faces various challenges. This policy brief analyzes these challenges through the prism of capacity providers in the BRICS and other emerging countries around the globe. Discussions were held with government representatives of the Civilian Capacity Network partner countries (Brazil, China, Egypt, India, Indonesia, Norway, South Africa, Russia and Turkey), representing key actors that are increasingly influential in a transforming global order, to analyze the state of affairs regarding GPP in the field of the Rule of Law. Based on the comparative study undertaken in the Network countries, this policy brief explores the current issues, challenges and developments pertaining to these capacity providers and compares their internal procedures for identification, vetting and selection of GPP. It also reviews the provision of special incentives for governments and individual personnel for deploying expertise to host countries experiencing post-crisis and conflict situations. The opportunities for promoting these cooperative processes constitute an integral part of this analysis. The policy brief concludes with recommendations as to viable modalities for deployment, and their implementation.

Introduction

In 2010, the United Nations Secretary-General appointed a senior advisory group to conduct an independent review of how civilian capacity is provided in the aftermath of conflict. The advisory group's report on civilian capacity (CivCap) led the UN and its member states to embark on a global effort to reshape the way that civilian expertise is mobilized in crisis and post-conflict settings in support of institution-building.

The report of the senior advisory group, and the subsequent reports of the Secretary-General, confirmed a strong demand from conflict- and crisis-affected countries for more effective support to institution-building, especially in the five key capacity-gap areas of *safety and security, justice, inclusive political processes, core government functionality, and economic revitalization*. The nature of that demand varies widely, from short-term consultants to provide training or policy advice, to long-term support to institution-building processes from teams of advisers.

Two developments are of special relevance to the Rule of Law area. First, the appointment of the United Nations Department of Peacekeeping Operations (DPKO) and United Nations Development Programme (UNDP) as the Global Focal Point (GFP) for the areas of police, justice, and corrections in the Rule of Law in post-conflict and other crisis situations. The GFP arrangement will strengthen the UN's ability to fill critical civilian capacity gaps in the aftermath of conflict. The GFP will provide coordinated operational support to the field, with staff co-located from DPKO, UNDP, OHCHR, and UN Women. Secondly, there is CAPMATCH, an online platform for matching requesters and providers of civilian capacity in the five gap areas, aiming for an emphasis on real-life experience of conflict and transition.¹

While there is increasing interest in the potential of South-South exchanges of civilian capacity, current requests for this expertise far exceed the provided capacities on offer on the CAPMATCH portal, especially in the justice sector.

This policy brief charts the obstacles that impede the deployment of Government Provided Personnel (GPP),

¹ The CAPMATCH platform can be accessed at: <https://capmatch.dfs.un.org/Capmatch/>

specifically concerning the Rule of Law area. Based on discussions with and input from various key actors that are increasingly influential in a transforming global order, the focus is on the governmental and personal obstacles and motivations for deploying GPP to post-crisis and conflict situations.²

The approach to analyzing the deployment of GPP can be divided into the governmental level and the individual level: the former concerns the internal procedures and regulations in place for the secondment of government personnel to host countries, and national policies concerning bilateral agreements and supporting international institutions such as the UN. Countries differ in their standpoints towards the deployment of GPP, and in their approaches to the identification, selection and deployment of the personnel.

Internal Procedures for the Identification, Vetting and Selection of GPP

There are two ways in which a capacity-providing institution might be introduced to the possibility of seconding GPP to a capacity-requesting party: either by a direct request from a hosting government, or by an open call for specific expertise on CAPMATCH in the key fields of safety and security, justice, inclusive political processes, core government functionality, and economic revitalization.

The policies and systems for responding to these requests vary greatly between providers – ranging from secondment rosters and extensive pre-selection procedures, to very few measures at all. Within the Rule of Law area, ministries of justice and correction are the primary pools of resource providers. However, in some countries, among them Brazil, India, and Indonesia, the Ministry of Foreign Affairs has primary responsibility for the deployment of civil capacity, and it conducts most of the communication with requesting parties, which may range from the UN to national governments. Other countries may prefer to work predominantly through bilateral agreements with other countries with which they have close relations.

In Brazil, the Ministry of External Relations (Itamaraty) is responsible for processing and considering all requests for capacity, before identifying and contacting the appropriate ministries and agencies likely to have the most competent personnel available. The latter are responsible for reviewing requests/opportunities as well as identifying, vetting, selecting and designating candidate(s) for the position, pursuant to their own criteria, with due regard for applicable UN requirements. Itamaraty then informs the UN of Brazil's interest/capacity to provide GPP and forwards the relevant docu-

mentation to the UN. If the candidate is selected, the ministry/agency where he/she is employed takes the administrative measures needed. In sum, Itamaraty is responsible for ensuring consistency with foreign policy and mediates offer and demand, while the sectoral ministries/agencies are responsible for the substantive and practical/administrative aspects of GPP provision.

The government of India has been a major provider of peacekeepers to UN missions, and has been generally supportive of seconding GPP where possible. In this capacity, India follows the force generation model of DPKO. The selection process is very similar to the Brazilian system, with the Ministry of External Affairs responsible for assessing the political desirability of a given secondment and forwarding the vacancy to the ministry or agency with the appropriate staff competencies. If such capacity is not available within the governmental system, non-governmental organizations may be contacted.


South Africa maintains a National Policy of South African Public Service Employees, which can be used to standardize processes for deployment. The Department of International Relations and Cooperation (DIRCO) is the main ministry responsible for South Africa's engagement in post-conflict settings. It incorporates the National Office for the Coordination of Peace Missions (NOCPM), which is responsible for policy development on civilian participation in peace operations.³ Although there are exceptions, GPP are generally recruited by request. During this process, South Africa follows the uniform and universal standards of selection determined by the UN.

Indonesia, an increasingly significant player in the Asian region and beyond, is in the process of mechanisms to enhance and promote the deployment of GPP. As yet it has no national focal point to guide the process of vetting, selecting and deploying competent personnel to places where they are needed. Indonesia has a wide range of institutions and organizations that represent the many different stakeholders to be accommodated in this process. However, the government aspires to become more engaged with the international community in various ways, and modalities for deploying GPP are discussed both domestically and further afield by the country's UN representation.

Egypt is a country of regional significance that works primarily with bilateral agreements, focusing on countries with which it especially values relations, predominantly in the Arabic-speaking sphere. More concretely, there are three possibilities for GPP working in the field of the Rule of Law: first, the Egyptian judges can serve as presiding judges in some Arab countries, on the basis of bilateral agreements between the two respective governments. In such cases, selection of GPP is based on his/her ranking, seniority, and annual evaluations.

2 For this study NUPI has sourced inputs through its partners in the Civilian Capacities Network (<http://bit.ly/1ck6Gwb>). The authors would like to acknowledge the contributions of government officials contacted by the Igarapé Institute (Brazil), the Cairo Regional Centre for Training on Conflict Resolution and Peacekeeping in Africa (Egypt), the United Services Institution (India), the Centre for Strategic and International Studies, Jakarta (Indonesia), ACCORD (South Africa), and Istanbul Policy Center (Turkey).

3 P. Keating and S. Wiharta, 2012. *Synthesis Report of the Baseline Study on Civilian Capacity*. Oslo: NUPI. Available at: <http://www.nupi.no/Publications/Books-and-reports/2012/Synthesis-Report-of-the-Baseline-Study-on-Civilian-Capacity>.



Second, judges may be seconded as experts to international organizations on their own initiative. Third, secondments to international courts are also based on the individual initiative of the judge or rule-of-law expert in question. With the first option, deployed GPP are often asked by the capacity requester to recommend a successor from their own department, to ensure continuity in the process.

In Turkey, the Ministry of Justice generally publishes vacancies internally and to local courts, encouraging qualified candidates to apply on a voluntary basis. When the identification and vetting of candidates has been completed, the Ministry undertakes the process of approval and permissions, assessing the quality of the candidate and the possibility for him/her to be relieved of normal work duties for the duration of the deployment.

Government Incentives for the Deployment of GPP

Brazil considers secondment as generally favorable to its policy goal of increasing the number of Brazilian senior staff members at the UN, as the current number of Brazilians in the UN does not reflect Brazil's engagement with the organization. Currently there are only five Brazilian nationals in D1 posts or higher, and 34 experts deployed with UN missions and special political missions.

Also India is committed to engaging with the UN. It has continued as a major capacity provider, with contributions to many peacekeeping missions since the 1950s. According to the government, committing GPP has several inherent advantages. It gives the UN rapid access to the required capacities; it allows for a rapid upscaling and downscaling of these capacities; it provides capacities trained to work in an established government structure and framework; and finally, it meshes well with the peacebuilding process and personnel on the ground.

Unlike many countries where deployment may raise serious questions as to the job security of government personnel, in Turkey it is welcomed as a means of promotion. The Turkish officials have frequently noted how GPPs ascend the career ladder in their respective ministries much faster than their colleagues without such experience. Turkish bureaucrats apply for these positions to increase their qualifications for promotion when they return.

In broad terms, the incentive for each of the consulted governments is primarily to improve relations with other countries and enhance its own profile within international organizations, as well as providing public employees with valuable working experience from foreign environments.

Personal Incentives for Deployment as GPP

There are varying incentives for GPP with specific expertise to be deployed, which are less defined by national interest and more motivated by individual ambitions and practical considerations.

Depending on the relevant national policies on GPP deployment, various considerations are relevant in

the secondment of government personnel. Firstly, enhanced experience in the field of work is seen as a desirable outcome of GPP deployment, leading to possible career progression as well as financial gains. Individuals and groups have the opportunity to meet with counterparts from other countries and exchange ideas and knowledge. Depending on the terms of their secondment, they may also receive additional remuneration to their regular salary if they are deployed within an international organization; moreover, accommodation is often arranged and paid for by the hosting organization. Finally, the prospect of employment with an organization such as the UN is also a motivating factor. With regard to area of the Rule of Law, a judge or expert may benefit professionally from the added value of international expertise and exposure. Moreover, with the knowledge gained from being immersed in the legal system of another country, they can apply best practices upon returning to the home country.

Challenges and Obstacles for GPP Deployments

The inputs from Civilian Capacity Network research partners and their governments indicate that certain challenges remain that hinder large-scale GPP deployment. Depending on provisions for secondment, the primary obstacle is a lack of extra personnel available for an extended time, making it difficult for government departments and agencies to release their staff. A shortage of trained personnel in certain specialized fields, short notice for selection and nomination of personnel, as well as the potential risk of losing experts to the UN all challenge GPP deployments.

Some countries also lack a national focal point that can deal efficiently and appropriately with all requests for capacity, which could increase formal commitment to the secondment of personnel. Another obstacle is that sufficient information is not always available regarding specific vacancies, the benefits and conditions, since some positions are not described in depth. Moreover, vacancies are not always regularly posted, and it is generally difficult to anticipate places of deployment and the number of opportunities. In addition, recent experience indicates that the UN has not fully prepared itself for speeding up and streamlining GPP deployment procedures, in particular when it comes to matching budgets and requests.

For the individual, limited knowledge regarding the functioning of international organizations and the available opportunities make it difficult to identify suitable opportunities for deployment. In addition, when there is no provision to guarantee that a government employee can continue in his/her current position upon return, it becomes prohibitively risky to agree to a longer professional stay abroad. Furthermore, grave human rights situations in the conflict-affected country of deployment may act as an impediment, by posing risks to those deployed. The hardship entailed in most posts where GPP are deployed can be a disincentive, not least when combined with the prospect of being separated from family and friends.

Lastly, there is a considerable gap between theory and practice, as revealed by various disturbing accounts from a judge-training program in Afghanistan, shared by a participant in the CivCap workshop on GPP in the Rule of Law area.⁴ According to the participant, who served as a trainer in Afghanistan, the judges who attended the training program hardly applied the new knowledge presented during the training sessions on returning to their courtrooms. Conducting GPP impact assessment reports can help identify similar problems in other fields.

Viable Deployment Modalities and Other Opportunities

For Brazil, GPP has the potential to become a highly viable modality of deployment. Recent experience indicates that the area of *safety and security* has good prospects for deployment. Currently untapped but key areas such as *core government functionality* and *economic revitalization* could become areas where Brazilian GPP is available.

4 With regard to India, the requirements for GPP should be indicated by the UN to the country in advance to train and keep the personnel ready for likely future deployments; as in the case of peacekeepers. Suggestions would be for the UN to issue standardized training manuals and to fund the basic training of these personnel, who could then be kept ready for future deployment. A syllabus for this training could be developed, incorporating subjects such as the UN system, international human rights, international humanitarian law, basics about the protection of the refugees and internally displaced persons, best practices, dispute resolution, gender issues, diversity and cultural sensitivity, and protection of civilians and vulnerable groups. The trained and shortlisted GPP could be then sent for deployment through the UN. An organization like the United Services Institution of India could be made a focal point for basic training to

individuals in the region. In the case of India, all the essential expertise is available.

Conclusions

This survey of the GPP capacities of Brazil, Egypt, India, Indonesia, South Africa, and Turkey has revealed that most of these emerging actors command a pool of highly qualified human resources. However, effective deployment of these resources is hindered by fundamental challenges. The most significant of these obstructions often remain, due to the lack of information available to expertise providers and requesters. In light of this finding, it is imperative to conduct effective and comprehensive studies on the availability and demand of civilian capacity, as well as various rostering initiatives, including the CAPMATCH program. Currently, most GPP deployments are the result of bilateral agreements, while the UN CAPMATCH program has not yet achieved its ambition of serving as a global roster. In part, this is due to limited knowledge on how the platform operates. A second important obstacle concerns funding and budgeting. “Who is going to pick up the tab?” is still a valid question raised by even veteran governments during their UN negotiations. The UN must commit additional funding resources and engage further with relevant agencies in the supplier governments. Third, jurisdiction always emerges as a sensitive area of contention between all actors: GPP suppliers, host countries, and the UN as the administrative body. Especially in law enforcement and corrections operations, the lines of jurisdiction may be unclear, for instance in cases where the legal status of GPP is contested by the providing and the requesting governments. Although there is no straightforward solution for this complex issue, a unanimously agreed-on code of conduct signed between the three parties can offer a viable solution. And finally, a comprehensive evaluation should be undertaken of the GPP contribution to the training and deployment of local judges, prosecutors, police and correctional officers, to assess the impact that GPP are making in the areas where they are deployed. A GPP impact assessment report can help reveal problems, and can assist in tackling the challenges facing GPP deployments today.

4 On June 24–25, 2013, a workshop on “Civilian Capacity: Enhancing the Deployment of Rule of Law Expertise” was held at the Diplomatic Academy in Moscow, organized by the CivCap Network in close cooperation with UN CIVCAP, DPKO, and UNDP.



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