RESULTS-BASED FINANCING IN SECURITY AND JUSTICE TOOLKIT

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CONTENTS

SNAPSHOT OF THIS TOOLKIT .................................................................................................................... 4
Who is this toolkit for? ................................................................................................................................. 4
What is this toolkit for? ............................................................................................................................... 4
How to use this toolkit .................................................................................................................................. 4

PART 1 INTRODUCTION TO RESULT-BASED FINANCING (RBF) AND SECURITY AND JUSTICE .... 5
1.1 The Link Between Fragility, Violent Conflict and Security ................................................................. 6
1.2 Result-Based Financing (RBF) ............................................................................................................... 10
   What is RBF? ............................................................................................................................................ 10
   Why RBF? .............................................................................................................................................. 11
   RBF principles and practices .................................................................................................................. 12
   RBF and security and justice ................................................................................................................ 12

PART 2 ANALYSIS AND DESIGN OF AN RBF S&J PROJECT .............................................................. 15
2.1 Reflect on some basics ............................................................................................................................ 16
   Piloting and duration of RBF ................................................................................................................ 16
   Roles and responsibilities of stakeholders .......................................................................................... 16
   Stakeholder engagement ....................................................................................................................... 17
2.2 Analysing: Context, Policies, Stakeholders and Needs ........................................................................ 19
   Context analysis .................................................................................................................................... 19
   Political and legal framework analysis .............................................................................................. 20
   Stakeholder mapping ........................................................................................................................... 21
   Community needs assessment ............................................................................................................. 22
2.3 Feasibility check ..................................................................................................................................... 22
2.4 Developing a Proposal .......................................................................................................................... 23

PART 3 RBF S&J PROJECT IMPLEMENTATION ..................................................................................... 25
3.1 Analysing: Context, Problems and Stakeholders (Step 1) (See section 2.2) ..................................... 26
3.2 Capacity Development and Training of Partners and Staff (Step 2) .................................................. 26
   Staff and partner staff, including financial staff ................................................................................ 26
   Service providers and regulatory bodies ............................................................................................. 26
   Coaching ................................................................................................................................................ 27
3.3 Indicator Development (Step 3) ............................................................................................................ 27
   What defines a good indicator? ............................................................................................................. 27
   What type of indicators do we use? ...................................................................................................... 28
   Gender-sensitive indicators ............................................................................................................... 29
   Number of indicators .......................................................................................................................... 29
   Who develops the indicators? ............................................................................................................... 30
3.4 Validation of Indicators (Step 4) .......................................................................................................... 31
   Adapting indicators during the project ............................................................................................... 31
3.5 Weighing and Pricing of Indicators (Step 5) ...................................................................................... 32
   Budget per contracted body ................................................................................................................ 32
   Budgeting for RBF subsidies .............................................................................................................. 33
3.6 Contracting Partners (Step 6) .............................................................................................................. 33
   Criteria on spending subsidies .......................................................................................................... 34
   Management plans ............................................................................................................................. 34
   Evaluation management plan .............................................................................................................. 35
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.7 Monitoring and Evaluation of Performance (Step 7)</td>
<td>35</td>
</tr>
<tr>
<td>Preparation for data collection</td>
<td>36</td>
</tr>
<tr>
<td>Technical verification</td>
<td>36</td>
</tr>
<tr>
<td>Community verification (counter-verification)</td>
<td>37</td>
</tr>
<tr>
<td>3.8 Subsidy Payments (Step 8)</td>
<td>38</td>
</tr>
<tr>
<td>Calculation procedure</td>
<td>38</td>
</tr>
<tr>
<td>Modalities of payment</td>
<td>39</td>
</tr>
<tr>
<td>Use of subsidies by the contracted bodies</td>
<td>39</td>
</tr>
<tr>
<td>PART 4 BEYOND AN RBF PROJECT</td>
<td>41</td>
</tr>
<tr>
<td>4.1 Project Closure</td>
<td>42</td>
</tr>
<tr>
<td>4.2 Financial Wrap-up RBF</td>
<td>42</td>
</tr>
<tr>
<td>4.3 Sustainability of RBF Results</td>
<td>42</td>
</tr>
<tr>
<td>4.4 Exit strategy</td>
<td>43</td>
</tr>
<tr>
<td>4.5 Advocacy on the RBF Approach</td>
<td>43</td>
</tr>
<tr>
<td>Advocacy strategy</td>
<td>43</td>
</tr>
<tr>
<td>Advocacy messages</td>
<td>44</td>
</tr>
<tr>
<td>ANNEXES</td>
<td>45</td>
</tr>
<tr>
<td>1. Examples of RBF Programmes</td>
<td>46</td>
</tr>
<tr>
<td>A. CISPE (2016-2019): DR Congo</td>
<td>46</td>
</tr>
<tr>
<td>B. Restoring the Contract (2012-17): Burundi and DR Congo</td>
<td>47</td>
</tr>
<tr>
<td>2. Examples of Tools for RBF Analysis and Project Design</td>
<td>48</td>
</tr>
<tr>
<td>A. Memorandum of Understanding</td>
<td>48</td>
</tr>
<tr>
<td>B. SWOT analysis table</td>
<td>50</td>
</tr>
<tr>
<td>C. Community assessment questionnaire</td>
<td>51</td>
</tr>
<tr>
<td>D. Feasibility checklist</td>
<td>55</td>
</tr>
<tr>
<td>3. Examples of Tools for RBF S&amp;J Project Implementation</td>
<td>56</td>
</tr>
<tr>
<td>A. RBF indicator examples</td>
<td>56</td>
</tr>
<tr>
<td>B. Relative importance and pricing of indicators</td>
<td>57</td>
</tr>
<tr>
<td>C. ToR for implementing partners (for contracting and performance verification)</td>
<td>58</td>
</tr>
<tr>
<td>D. Contract template for RBF beneficiaries</td>
<td>61</td>
</tr>
<tr>
<td>E. Management plan</td>
<td>64</td>
</tr>
<tr>
<td>F. Technical verification checklist</td>
<td>69</td>
</tr>
<tr>
<td>G. Community verification survey</td>
<td>73</td>
</tr>
<tr>
<td>H. RBF invoice</td>
<td>76</td>
</tr>
</tbody>
</table>
SNAPSHOT OF THIS TOOLKIT

Who is this toolkit for?
The toolkit is intended for use by practitioners working to improve security provision, access to justice and governance in fragile and conflict-affected contexts. The toolkit mainly responds to practitioners’ need for guidance in the development and implementation of results-based financing (RBF) programmes in the security and justice sector (S&J). It also enhances the credibility of Cordaid and the RBF approach vis-à-vis donors and investors, and contributes to the evidence base on RBF as a means for tackling security and justice challenges.

What is this toolkit for?
The toolkit was developed to stimulate and strengthen current and future RBF for S&J programming delivered by Cordaid and partners. It offers an answer to the question of why RBF is an innovative and impactful tool for improving security and justice in fragile contexts, and serves as a how-to guide for developing and implementing programmes that apply the proven RBF approach to S&J service provision.

The key objectives of this toolkit are to:
- explain what RBF is and its added value in addressing S&J challenges;
- provide step-by-step guidance on how to implement the RBF approach throughout the programme cycle;
- document examples of good practice and promote the sharing of lessons learned.

How to use this toolkit
- As a practical tool: it provides concrete guidance on proposal development and on how to carry out analysis, design, monitoring and evaluation of RBF programming.
- As a training and capacity-building resource: it provides the knowledge and tools needed for RBF to increase understanding and awareness as well as to build the skills needed to apply the approach.
- As a reference guide: to deepen understanding of key issues and concepts as well as lessons learned and case studies.

The toolkit has been designed to maximize practitioner utility, allowing users to navigate the information they need quickly. Each chapter begins with a box summarizing key takeaways. Specific topics or concepts are included in boxes and can be skipped when not relevant. This toolkit is structured into three parts:
- **Part 1** introduces the main concepts and frameworks used on fragility, governance and security. It also clarifies the theory of change underlying an RBF approach. It introduces the RBF approach and explains how it can help implementers enhance the impact of their programmes and improve their funding prospects.
- **Part 2** focuses on the steps to follow when planning to introduce the RBF approach. It is intended to help practitioners consider the relationships with external stakeholders thoughtfully and guide plans to build programming.
- **Part 3**: Explains the steps to follow to successfully implement RBF for S&J.
- **The annexes (part 4)** contain examples of complementary programme approaches, practical tools for RBF implementation and lessons learned on past RBF programmes on governance, security and justice.
PART I
INTRODUCTION TO RESULT-BASED FINANCING (RBF) AND SECURITY AND JUSTICE
This handbook concentrates on how to implement RBF in fragile and conflict-affected settings (FCAS), particularly targeted at RBF for security and justice governance (S&J). Because of the particularity of such contexts and the S&J sectors, the steps involved in implementing RBF differs from what is known about the approach in general development contexts and/or sectors where RBF has been widely used, such as the health sector.

In order to fully understand the steps of implementing RBF for S&J (the step-by-step, 'how-to' covered by the next chapters), this introductory chapter provides background on violent conflict and fragility, governance, the social contract and security, and reform/decentralization (section A). Section B provides information on the logic and key principles of RBF (what and why), RBF for S&J and Cordaid’s experience with RBF.

1.1 The Link Between Fragility, Violent Conflict and Security

Fragility and violent conflict
The States of Fragility 2018 report (OECD) characterizes fragility as the combination of exposure to risk and insufficient coping capacity of the state, system and/or communities to manage, absorb or mitigate those risks. Fragility is multidimensional and includes, depending on the context, a differential combination of factors such as poverty, a poor economy, weak institutions, broken trust between citizens and the government, the absence of basic services (including security), political violence, violent conflict, urban growth challenges and geopolitical interests. Fragility can lead to negative outcomes including violence and (further) breakdown of institutions. Since 2008, 75 countries and contexts have been labelled as fragile at least once and 27 of these are chronically fragile, most of which are low-income economies. By 2030, about 80% of the global poor will be living in contexts that are characterized by elements of fragility (ibid. p17).

One of the characteristics of state and societal fragility is the failure to solve conflicts in a peaceful manner, which for a large part can be explained by the lack of functioning institutions (organizations and rules) and norms. Over the last 15 years, 53 countries have been or are now affected by some form of political violence. In 2016, more countries experienced a form of violent conflict than at any time in the past 30 years. Nearly half the world’s population, or 3.34 billion people, live in proximity to or feel the impact of political violence.

Conflict in itself is not necessarily negative, and it can even be a constructive force for social change. It is an integral element of human interactions, and it is found in all societies at all times. When institutions and norms do not create incentives for individuals and groups to refrain from using violence, this can lead to violent conflicts. Violent conflict has a negative impact on the gross domestic product (GDP) per capita. Civil war reduces economic growth by 2.3 per cent a year. The poorest people will be the first to directly face the consequences of violent conflict. Violence is increasingly driven by domestic political instability (OECD 2016).

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The prevalence of political violence can often be traced to structurally weak institutions led by governments that practise systemic economic and political exclusion of sections of society. This in turn deepens the state’s legitimacy crisis, provokes the breakdown of the social contract between state and citizens, and can lead to continued cycles of poverty and other forms of violence, including conflict.

On the contrary, more resilient states exhibit the capacity and legitimacy of governing a population and its territory. They can manage and adapt to changing social needs and expectations, shifts in elite and other political agreements, and growing institutional complexity. That is why in FCAS, governments must rebuild three core governance functions: provision of security, service delivery and political participation, which are all related to the concept of ‘social contract’.

The concept of governance

Governance is “the process through which state and nonstate actors interact to design and implement policies within a given set of formal and informal rules that shape and are shaped by power actors. It involves government, reflected by a set of formal state institutions (organizations and rules) that enforce and implement policies, as well as informal actors, rules and institutions. In particular, in FCAS reference is often made to a ‘hybrid political order’ as informal governance actors have significant influence over or are partly integrated into formal government. In addition, governance takes place at different levels from international bodies, to national state institutions, to local government agencies, to community and business associations. These dimensions often overlap, creating a complex network of actors and interests” (World Bank 2017).

Governance is closely linked to power, which can be expressed through formal rules that assign power to different actors but also through the ability to influence others. Power can have many sources such as control over resources, control over coercive instruments or the capacity to mobilize. Unequal distributions of power in society (power asymmetries) are not necessarily harmful as it may be part of how authority is delegated, but if such power asymmetries fail to be negotiated in a transparent and inclusive manner it can lead to exclusion, elite capture, and clientelism. It is therefore important to ensure that a governance process is both predictable, inclusive, transparent and effectively induces voluntary compliance with the law by citizens, even if outcomes are not always in favour them (Tyler 1990; Tyler and Huo 2002).

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The social contract and security

The social contract refers to a model whereby the state has authority over its citizens who explicitly or tacitly surrender some of their freedoms to the state in exchange for the protection of social order and their rights. This particularly refers to security arrangements being concentrated in the hands of the state who has a monopoly over the means of violence and coercion (World Bank 2017).\(^7\)

At its core, the state’s monopoly over violence is the outcome of a collective agreement among powerful actors over which state actors can use violence, when its use is acceptable and who enforce the agreement (Wallis 2016, in World Bank 2017). The Development Assistance Committee (DAC) describes it as a ‘process for bargaining, articulating and mediating society’s expectations of the state.’\(^8\) The agreement about the monopoly on violence in a given context is not static as it is contested, renegotiated and reasserted every day.

In general, it can be said that historically, it was not until violence was constrained by the state that development began to occur on a large scale. This however supposes that a number of preconditions are met around the dynamic agreement between the state and society on their mutual roles and responsibilities, notably: i) expectations that society has of the state are articulated; ii) state capacity to provide (security) services and to secure revenue to provide these services are adequate; iii) political elites show the will to direct state resources and capacity to fulfil the social expectations; iv) political processes to allow for the state–society bargaining are in place; and v) an acceptable degree of legitimacy of state actors exists, and shapes and facilitates the previous four points. In FCAS settings, one or more of these preconditions are absent, weakening the social contract. In many cases this results in a situation whereby the state abuses its monopoly on violence, engaging for example in extrajudicial killings of political opponents and other human rights abuses. Violent conflict and the inappropriate use of violence by the state further breaks down the social contract because it changes the distribution of power among groups and consequently affects governance and how these groups interact within a set of rules.

The Theory of Change on the social contract in fragile contexts

If we contribute to the rebuilding of the core governance functions in fragile contexts (provision of security and justice, improved services and citizens engagement):

- State legitimacy will be strengthened; conflicts will be solved in a more peaceful manner and political settlements will be more inclusive.
- Because due to poor service delivery and the breakdown of the rule of law in fragile settings, citizens’ trust in the state and its institutions is diminishing; the incapacity to solve conflicts in a peaceful manner can be explained by the weak functioning of institutions (organizations and rules) and absence of the rule of law; and the exclusion and political marginalization lead to less trust (between state and citizens and between citizens) and risk of violent forms of conflict resolution.

7 Ibid.
As mentioned above, the social contract concept strongly relies on security and protection as a key function of the state. Since the end of the Cold War, notions of security have shifted from a state-centric paradigm to a more inclusive one. This approach recognizes that security is not limited to the preservation of national security by defending national borders, nor to the protection of a regime through vigorously securing its institutions, but must take into account the real security needs expressed on the individual level by women, men, girls and boys living in the country.

In addition, the concept of human security recognizes that the security of individuals is multi-faceted. It covers economic security, through access to economic opportunities ensuring decent living conditions, including food security; access to a safe environment and standard of living; respect for human rights and the effective enjoyment of fundamental freedoms recognized by the law; as well as protection of communities and the individuals within them from any threats to their physical safety, including gender-based violence. In light of this definition, guaranteeing security is a multi-faceted process in which the government and security institutions, the parliament, the judicial system, independent oversight and monitoring bodies defined by the national legal framework, formal or informal civil society organizations, communities and individuals all have an important role to play. The intrinsic link between development and security, and widening of the security concept, has created space to perceive security as a public policy and governance issue, therefore opening up possibilities and transformative approaches for civic engagement (OECD 2008).

The concepts of trust and legitimacy
Trust, in particular institutional trust, is a central aspect of strengthening governance and delivering on security. The connection between service delivery, trust and legitimacy of governments is, according to the literature, not linear but a complex process. This means that improvements in service delivery and security provision that deliver on promises made can support building trust in the government and legitimacy of institutions, but it does not automatically lead to it. Also, a certain level of trust and legitimacy of governing actors (both state and non-state) is not only a result but can also be a prerequisite for enhancing security, service delivery and political participation. So enhancing accountability to enable a more participatory or inclusive decision-making process can play a key role in strengthening legitimacy. While preparing for or implementing a governance programme in FCAS, including those with an RBF element, it is important to keep this link between trust, legitimacy, security provision and participation of citizens in mind. In particular because violence affects how the so-called social contract between the state and citizens works out.

10 A. Loada & O. Moderan: Civil Society involvement in Security Sector Reform and Governance, 2016. DCAF SSR Toolkit
Reform
To build and restore the social contract in fragile and conflict-affected contexts, the reform of security and justice governance is considered crucial. Reform hinges on designing best-practice solutions and building state capacity to implement them. Also prevailing norms, understood as socially accepted rules of behaviour, need to be addressed as these often reinforce existing power asymmetries. In fragile contexts the relative bargaining power of actors often shifts under the influence of and/or causing a high turnover of actors entering and exiting the policy arena. Against that reality, the short-term benefits of reneging on promises are high, compared with the benefits of maintaining a reputation for honouring agreements. Reform of the policy area should involve transforming incentives that actors have to pursue certain goals, addressing actors’ preferences and beliefs, and renegotiating who can participate in the decision-making processes (the contestability of the policy arena). For the entry points to be effective, they must lead to changes that induce voluntary compliance from actors.

- The OECD-DAC recognizes the positive role that security and justice system reform can play in stabilizing fragile and or conflict-affected states, emphasizing that two distinct yet complementary dimensions need to be considered: ‘soft’ and ‘hard’ elements of reform. Soft areas of reform refer to anything intangible or governance related, namely:
  - ethical and deontological values and standards;
  - legal and regulatory frameworks;
  - individual and collective attitudes and behaviours;
  - accountability standards;
  - capacity building, awareness raising, etc.

Hard elements of reform, on the other hand, are anything physical or related to material resources, such as security sector equipment and infrastructure, including their maintenance and training people to use them. Experience shows that administrations often tend to focus on material requirements isolated from management and governance issues. Contrary to hard investments, which have a limited lifespan, focusing on the soft aspects of reform generates longer-term impact on human and material needs, in particular through modernizing the human resources management system, rationalizing the procurement and asset management procedures, improving internal communication and mainstreaming gender.

1.2 Result-Based Financing (RBF)
What is RBF?
RBF is a system-strengthening approach that introduces checks and balances along the service delivery chain, encouraging better governance, transparency and enhanced accountability. It achieves this by linking payments directly to performance. Contrary to traditional input funding, service providers (such as police stations, local governments or courts) receive their payment on the basis of agreed indicators and verified output. A detailed monitoring and evaluation system is set up to track and award performance. Subsidies are paid directly to the institutions on the basis of their actual output and performance. Within certain restrictions, they are autonomous in how they spend the funds in order to achieve aims laid down in a validated management plan (e.g. renovation of cell blocks, new police uniforms, staff training, salary bonuses). RBF motivates service providers to deliver more services of higher quality and promotes entrepreneurship. In essence, both the financial means as well as the manner in which funding is provided, function as incentives for security and justice providers.
One of the instruments Cordaid has piloted, rolled out and adjusted in recent years to contribute to security and justice provision and governance in fragile and conflict-affected situations, is result-based financing. Since 2012, Cordaid has also introduced RBF in the security and justice sector, and implemented security and justice-focused RBF programmes in five countries. The transformative nature of the RBF approach fits the organizations’ aim of achieving and sustaining improved access to and quality of social services by engaging communities and end users in the process.

**The RBF Theory of Change**

If core governance functions in fragile contexts are (re)built in ways that increase the agency of citizens relative to the state, then state fragility and violent conflict will be reduced, because provision of key public goods like security and justice will be aligned with public needs and expectations, and state actors will be more responsive and accountable to citizens.

**Why RBF?**

RBF revolves around two main ambitions of improving governance and service delivery: strengthening systems and restoring the social contract.

The fact that millions of people in fragile regions are deprived of basic security and access to justice is partly caused by the chronic underfinancing of public services. But inefficiencies in the use of resources and organization of the service and governance systems – from national to local level – are also important related causes. The availability of trained police officers, equipment such as vehicles or court buildings is crucial; public systems work better when standards, responsibilities, financing and incentives are clear and aligned to defined goals, and outcomes are measured and monitored.

Also, as mentioned, due to poor service delivery and the breakdown of the rule of law in fragile regions, citizens’ trust in the state and its institutions is often minimal. RBF helps to rebuild and strengthen the social contract between citizens and the state. Communities are actively engaged in determining the indicators, verifying the output delivered by schools, clinics, tribunals, courts or police stations under an RBF contract. This improved social accountability helps to restore relationships between citizens, service providers and the state.

Based on the above ambitions, RBF was developed as a response to tackle some of the limited successes of traditional input-based financing focused on security and justice provision in fragile settings, by addressing the complex functioning of systems as well as the dynamics of human behaviour within that system:

- Service delivery/governance systems are complex and involve many different stakeholders. As all actors in the chain – donors, ministries, public institutions, NGOs, private parties, communities and end users – play a role in improving the system, it therefore asks for a systemic approach, while at the same time cutting complex issues into smaller problems or components, which can then be solved autonomously;

- Within any system, the different stakeholders have an influence but can also be influenced (i.e. by giving them ownership, capacities and incentives to change behaviour). The RBF approach used positive incentives instead of negative incentives (punishment) and ensures that the personal interest coincides with the public interest.
ANNEX 1A and B
show examples of how RBF was applied within two large programmes co-implemented by Cordaid, CISPE (Consortium for the Integrated Stabilization and Peace of Eastern DRC) and Restoring the Contract, and highlights the focus of RBF as well as obtained results.

RBF principles and practices
Regulatory bodies (often authorities of a specific sector) are especially important to involve due to the centrality of the state and state actors in the provision of security and justice. Also, regulatory bodies are important to involve because RBF focuses on strengthening a system of security and justice provision and it will reinforce ownership at the (sub)-national level of the approach. A key principle of RBF is to work with existing national and subnational frameworks, and legislation and structures that are already present on the ground.

In RBF, the notion of governance has been operationalized into a number of clear and separate principles and practices:

- **Regulation and oversight** is a function performed by the relevant ministry or oversight body. It is based on the application of national standards and guidelines at different administrative levels. At the central governance level there are political and strategic regulators and at the provincial level, strategic and technical regulators.

- **Service provision** is a function that is aimed at offering the relevant sectoral services by service providers (e.g. justice provision by courts and tribunals). It also extends to the provision of administrative services (reporting, capacity building, supervision, etc.) by regulators.

- **Contracting and Verification** is a function that ensures analysis on the degree of materialization and quality of the services declared as opposed to agreements set in the contract. It is done at three levels: a technical verification, a counter-verification of the authenticity of the services by users, and the quality perceived at community level.

- **Payment** is a function based on the channeling of funds to contracted services providers and regulatory bodies. The provision of subsidies happens after performance verification, as the results achieved by the contracted bodies will determine the total of the subsidy.

- **Community engagement.** The main goal of RBF is to improve the security situation and access to justice by communities. To ensure this, communities themselves have a key function in RBF – both in the development of indicators and in the verification of indicators, as well as in holding service providers and regulatory bodies to account.

RBF, and security and justice
RBF as an approach can also be used to strengthen the accountability, effectiveness and accountability of any type of stakeholder who plays a role in security and justice provision to (specific) communities. Even though RBF has some basic principles that are the same for any sector, there are some important distinctions:

- Providing security and justice is one of the core (traditional) functions of the state and therefore directly linked to its legitimacy. In an ideal scenario, the state has the monopoly on violence, is responsible for providing security and is actually contributing to the security of its citizens. However, in many FCASs, this is not the case since there are other non-state or international actors taking on these roles and in many cases, (part of the) state actors are even considered to be a threat by their citizens.

- Due to the unique position of security and justice actors in society, they are equally important as well as risky to work with, both for (I)NGOs, governments as well as donors, who are in general risk averse.
Also, as will be explained in this part of the toolkit, measuring security (how safe do people feel) and whether or not people feel justice has been done, is more difficult to quantify than, for example, the number of people treated in a hospital. Next to quantity, and quality (the quality of the operation in a hospital), improved security and justice are at its core relations: they have relations between state and citizens, and among citizens and government bodies, improved, are they considered to be more reliable and predictable etc.

The above-mentioned factors ask for an approach to result-based financing in security and justice provision which is slightly different than in other sectors; less focused on output and more on improving relations, more political and adaptive to contextual factors and with more checks and balances (which can make the administration costs higher).
An RBF approach is different from other interventions focused on the S&J sector in a fragile and conflict prone context:

- Financing is made available based on the performance of contracted actors, but also requires it to be flexible and needs-driven (actors identify their own priorities on how to spend the potential funds).
- RBF de facto combines the ‘hard’ and ‘soft’ approaches to security sector reform (SSR), using the provision of financial investments and resources as an incentive to improve soft aspects such as governance, planning and local accountability. It envisions complementarity and balance between soft and hard elements of security sector reform programming.
- Also, training and capacity support are provided but based on the needs identified as part of the performance verification cycle.
- Community engagement is part of the overall process, conditional on and integrated in every phase: communities are actively engaged in determining the indicators, verifying the output delivered under RBF contracts and results are shared.
- Finally, RBF should add value to and can strengthen what is already in place. In particular since financial means (the subsidies) will be provided to actors based on their performance it might impact dynamics between actors, both within the government and beyond. It is therefore important to ensure that local power dynamics (and potentially conflict dynamics) are influenced in a positive way.
PART 2
ANALYSIS AND DESIGN OF AN RBF S&J PROJECT
PART 3
RBF S&J PROJECT IMPLEMENTATION
PART 4
BEYOND AN RBF PROJECT
PART 5
ANNEXES