SECTORIAL QUESTIONS

ASSESSMENT OF GOVERNANCE AND CAPACITY OF SECURITY AND JUSTICE INSTITUTIONS*

Generally, a well-governed security system should live up to the ideals of accountability, responsiveness, transparency, legitimacy, capacity and authority. Specific questions per each sector are provided in Annex 3. The following guiding questions aim to provide an overview of the assessment of governance and capacity.

GOVERNANCE

- Is the current legal and constitutional framework for the security system adequate?
- Are the mandates, roles and responsibilities of different providers clear and distinct?
- Is there a national security and justice policy-making process?
- Is this formal policy-making process respected or is practice mainly informal?

- Are security and justice actors involved in politics?
- Are there adequate internal and external oversight mechanisms?
- Are these successfully applied?
- Has the country signed up to international treaties and conventions and are the various actors/sectors held accountable to these? Are there specific entry points for SSR programme design?

CAPACITY

- Is government-provided finance for these sectors/ actors sufficient for the roles and capabilities that they are required to provide?
- Are the actors (officials, members of the executive, members of parliament) adequately equipped and/or trained for the roles and tasks assigned to them?
- Are there specific entry points for SSR programme design?

- Which security and justice development activities are already under way?
- Are these supported by other international actors?
- What is the aid absorption capacity?
- What is the level of support in the government and in security and justice institutions for reform? Are partners committed to both strengthening the governance of the security system and improving service delivery?

CULTURE/NORMS

- How would you evaluate the culture within security and justice institutions?
- Do they see themselves as providing a service to the public?
- Do they have equal opportunity policies and what is the extent of participation of women and minority groups?
- What do security providers see as their role?
- Whom do they consider to be the beneficiaries of their work?

- What do they think the public want from them and how do they involve them in their work?
- How do institutions respond to the particular security needs of women, children and minority groups?
- What do they see as the major types of insecurity and injustice?
- Do they differentiate security threats for men and women?

QUALITY AND AVAILABILITY OF INFORMATION

- Is the level of quality, reliability and availability of official statistics (e.g. levels of crime, court records)?
- What is the clevel of apacity of the institutions that collect these?
- Are there civil society groups that can hold security

and justice institutions to account through the collection of performance data?
- How could the capacity of these institutions be developed to help monitor performance and track the impact of security and justice reforms?

ASSESSMENT OF THE DEMOCRATIC ACCOUNTABILITY OF THE SECURITY AND JUSTICE SYSTEM*

The following list is one of relevant questions to pose when conducting an assessment of the democratic accountability of the security and justice system. The questions are set according to each layer of oversight. The stronger the system of democratic oversight, the more likely it is that the answers to the questions will be positive. The basis for such an assessment can be established through an analysis of the legal framework as well as through discussions with stakeholders.

SECURITY AND JUSTICE PROVIDERS

- Are the mandates of all security and justice providers clearly defined and limited by statutory law?

- Are there control and enforcement mechanisms to deal with misconduct by security and justice providers and cases where they exceed their competences (ultra vires)?

- Are coercive powers used on the basis of the principles of proportionality, rule of law and human rights?

- Does policy exist concerning illegal or discriminatory actions and orders within security and justice services?

- Is the staff of the security and justice providers trained in an established code of conduct, human rights and international law?

- How is the political neutrality of security and justice providers guaranteed?

- Are there internal financial controls, disciplinary procedures and performance reviews?

- Are there equal opportunity employment, retention and promotion policies within the justice and security system?

EXECUTIVE

- Which safeguards are there against ministerial abuse?

- How is a balance achieved between the need for ministerial responsibility and the need for professional autonomy of security and justice providers?

- Is a planning, budgeting and accounting system in place, including a strong role for the ministry of finance and audit office?

- Does the executive have the right to know and to approve all politically sensitive issues?

- Does the elected executive have some role in setting basic security and justice policies, priorities and procedures?

- Are executive powers of censorship and coercive powers (surveillance and detention for example) defined within a system for oversight and review?

LEGISLATURE

- Is parliament strong in terms of legal powers, resources, staff and expertise on SSR- related issues?

- Do parliamentary oversight committees (or bodies) exist that are mandated to oversee all security and justice providers?

- Are all political parties represented in the parliamentary oversight bodies?

- Do parliamentary committees have statutory oversight powers, enact laws that define the roles of the security and justice providers, initiate investigations and organise hearings?

- Do all members of parliament have access to classified information?

JUDICIARY

- Is independence guaranteed, in relation to both the executive and the security system?

- If security and justice providers violate the rule of law, is there an effective way to hold them accountable for their actions through the justice system?

- Do the public and employees of the security system have fair and effective access to justice?

- Is there a fair, effective and separate system of military justice? How does it deal with civilians?

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* These questions originate – with minor modifications – from the OECD DAC Handbook on Security Sector Reform.

INDEPENDENT BODIES

- Is there a national human rights commission? Ombudsman, inspector general, auditor general (or equivalent)?

- Do the independent oversight bodies function on the basis of statutory law, and report to parliament and the minister concerned directly?

- Do they have quasi-judicial powers? Can they undertake investigations and site visits at their own initiative? Can they institute proceedings in courts?

- Are the recommendations and findings of independent oversight bodies binding?

- Do independent oversight bodies have access to classified information enabling them to carry out their mandate?

- Are there effective international or regional oversight mechanisms (e.g. regional human rights courts, UN special rapporteurs)? Are judicial decisions respected? Are international or regional reports influential?

CIVIL SOCIETY

- Does a freedom of information law exist?

- Do freedoms of expression, association and assembly exist?

- Does civil society seek (and is it allowed) to participate actively in legislative consultation, and to provide expertise to parliamentarians? Does it have the capacity to do so?

- Are there effective and respected human rights organisations that monitor and document the behaviour of state and non-state actors and their compliance with human rights and humanitarian law?

- Is there a low (legal) threshold to establish NGOs? Are there attempts by the executive to close down and weaken NGOs?

- Is there accurate and quality reporting in the media on the performance of security and justice providers?

- Are libel cases and other judicial action by members of the executive against the media used as ways to close down media companies?

- Are civil society organisations able to monitor the inappropriate justice and security sectors for human rights violations and corruption without intimidation or interference?

ASSESSMENT OF THE MILITARY SECTOR*

The overall goal is to establish conditions for democratically governed and accountable armed forces in a society. What is the role of the military in internal security and how is it distinguished from that of the police, and from paramilitary forces? What are the rules and procedures for triggering a military response to an internal security crisis? How do the military and other elements of the security system co-operate in such situations?

CO-ORDINATION WITH OTHER PARTS OF THE NATIONAL SECURITY SYSTEM

• What is the role of the military in border control?

• What is the role of military services in intelligence collection, and how does this relate to civilian intelligence services and the police?

ENGAGEMENT OF THE INTERNATIONAL COMMUNITY

• How, if at all, are international actors involved in defence reform efforts? Are they guided by a comprehensive approach to defence reform? How important is the promotion of governance in these efforts?

• Is the international engagement integrated in a broader conflict prevention and statebuilding strategy, and is it sensitive to the complex security challenges of the country concerned? Is current engagement encouraging an integrated approach with reforms in other security sectors?

CONTEXT

• How does the military's history inform public and military perceptions of the role of the military in society?

• How politicised is the military, in its leadership as well as in rank? Are the military or particular groups within the military linked to powerful political groups?

• What are judged to be the main strengths and weaknesses of the military, by civilian politicians, defence experts, NGOs and the military itself?

• What is the ethnic and social composition of the military? Does career advancement differ among groups? How representative is the military of society?

• Is the military providing social benefits important to the society as a whole, such as health services? Has the military a social welfare system for its members?

• Are children (under 18) conscripted or accepted into the military? Which steps are in place to ensure compliance with international legal obligations regarding child recruitment and child protection?

• Which groups in the military and outside drive, or have the potential to drive, defence reform, and which are potential spoilers? Who in the military and outside is, or might be, benefiting or losing from defence reform?

• Are members of the armed forces being paid regular salaries?

• Which arrangements are in place for military personnel upon retirement or leaving the forces?

ACCOUNTABILITY AND OVERSIGHT

• Is the current legal and constitutional framework for the military comprehensive?

• What is the chain of command and division of responsibilities? How does the actual exercise of control compare to the legal situation? Which oversight mechanisms, internal and external to the defence sector, exist for military budgets and expenditure? To what extent is oversight restricted by secrecy?

• How transparent are military policy, spending and management to parliamentarians, the media and the general public?

• What processes does the military have in place to respond to allegations of human rights violations by its personnel, including those relating to sexual and domestic violence?

• What mechanisms do the armed forces have to raise legitimate concerns to their political leadership?

* These questions originate - with minor modifications - from the OECD DAC Handbook on Security Sector Reform.

CAPACITY

- Are Force design, deployment, personnel structure and training compatible with the internal and external threat environment from a military perspective? How professional are the armed forces as a whole, and how capable are particular functions (e.g. planning and logistics) and the operational hierarchy (e.g. non-commissioned officers and general staff)?

- How are the training and education of the military organised? Is there training in international humanitarian law and human rights standards?

- Is the military engaged in international peacekeeping operations, and which (positive and negative) effects does this have on the overall situation of the military?

MANAGEMENT

- How is policy development, programming, planning and management organised? What are the roles of political and military bodies? How are budgets prepared and implemented? Is there a planning cycle, and how are responsibilities divided?

- What are the rules for procurement of major items and how are these rules implemented?

- Are there measures in place to ensure cost-effectiveness in the use of personnel and recources? How widespread is corruption?

- Does the military, branches of it or local commanders, control revenue-generating operations? Are all incomes and expenditures from such operations part of the overall government budget?

- How is the recruitment and promotion of staff organised? Is there equal opportunity and are there mechanisms to improve the representation of women, minorities and other groups in the armed forces? At which level are personnel decisions made by political bodies? How free of nepotism and arbitrariness is this process?

- Are the human rights of the armed forces protected? Which procedures and policies are in place to protect personnel from human rights violations, including bullying and sexual harassment?

ASSESSMENT OF INTELLIGENCE AND SECURITY SERVICE (ISS)*

CONTEXT

- Who are the potential agents of change who could support an ISS reform process? Who are the potential opponents? What are their incentives? How could you deal with their concerns?

- What is the public and political perception of the current and historical activities of security agencies? Can this be used to mobilise reform? Does this create fear and misunderstanding?

- How politicised is the service? Would the organisation or its senior staff survive a change of government? If not, why not?

- What are the core domestic security issues in which the ISS are engaging? What are the main actors, issues, concerns and grievances? What political action, if any, is taking place to resolve tensions? Are security and intelligence activities supporting or impeding a resolution?

- What are the external dimensions of the security situation? What political action, if any, is taking place to resolve tensions? Are security activities supporting or impeding a resolution?

- What are the emerging threats that the security system is not yet structured to deal with? What are the declining threats that should no longer inform decisions on security activity?

ACCOUNTABILITY AND OVERSIGHT

- What is the legal framework that regulates the ISS?

- Who has political control, oversight and responsibility? How is it structured? How well does it function?

- Is there a system to approve intrusive techniques such as telephone intercepts and surveillance, for example by granting warrants?

- How are personal data protected?

- What are public stakeholders' perceptions of the ISS and their accountability mechanisms?

- What do they see as priority issues? Is it possible for the public to complain or take legal action against the ISS?

- Who exercises financial control? Do the ISS apply for funds like any other government department? Is their expenditure audited?

- What is the role of parliament in the oversight of the ISS?

CAPACITY

- Which type of training is provided to ISS officers? Which type of background are ISS officers drawn from?

- Which information do the ISS draw upon when conducting assessments? Do they have access to intelligence from other organisations, for example the police or military? Do they use open source material?

- How useful are the reports? Wich decisions have been based on them? What is the relative importance attached to secret intelligence against open source, academic/think tank analysis and the policy assessments of conventional ministries?

MANAGEMENT

- How are the intelligence and security agencies organised and structured?

- What are the divisions of labour and power relationships among principal actors?

- How do the ISS perceive the national interest? How do they define and assess threats?

- How do they understand and respond to the intelligence needs of other agencies and senior decision makers?

- Which internal procedures are in place for ensuring an effective system of approvals and controls over operations?

- What internal oversight structures are there?

- Do the ISS have equal opportunity employment, retention and promotion policies? Are there internal mechanisms for staff complaints such as sexual harassment and discrimination?

- Do they have procedures in place to accept and process complaints from the public about the conduct of officers?

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* These questions originate – with minor modifications – from the OECD DAC Handbook on Security Sector Reform.

CO-ORDINATION WITH OTHER PARTS OF THE SECURITY SYSTEM

- Who prepares reports and assessments for senior decision makers? Do senior officials receive individual intelligence reports, all-source assessments, or both?

- What formal and informal procedures exist for co-operation with other security agencies? Are these procedures followed?

- How is information classified? How is vetting conducted and access controlled? Is there a single standard across government?

ENGAGEMENT OF THE INTERNATIONAL COMMUNITY

- Do reform practitioners have sufficient understanding of intelligence and local power structures to do a credible job?

- Do practitioners have the necessary systems in place to protect the legitimate secrets of the ISS?

- What performance indicators could be used during the reform process? Possible indicators include, for example, a reduction in allegations of abuse, an increase in the use made of intelligence reporting by policy makers, a tangible contribution by the ISS to security objectives (for example a reduction in organised crime activity) and an increase in public trust of the ISS. How will the changes be monitored and evaluated?

- What other relationships do the ISS have with foreign actors? Are these with development donors or foreign ISS? Will it be possible to have access to information about these activities? Do these relationships enhance or undermine reform? What co-ordination mecha-nisms could be used to align the various international activities?

ASSESSMENT OF BORDER MANAGEMENT*

CONTEXT

- What are the main types of cross-border crime that are of concern (for example illegal immigration, arms trafficking, drugs smuggling, trafficking in persons, money laundering)?

- What are the major security concerns affecting border areas and what are their causes?

- Is there a history of inter-state conflict or local conflict in border areas?

- What are the physical characteristics of the border, such as existing entry points (land, air and sea)?

- Is the borderline demarcated? Is it disputed with a neighbouring country? Is it mined?

- What are the perceptions of communities living in border areas, and what do they see as priority areas to address? Do different groups have different priorities?

- What is the degree of professionalism of agents at the border? Are all men and all women wishing to cross treated according to established procedures and with respect by the border guards?

- Who are the border agents and are they representative of the different population groups within a country?

ACCOUNTABILITY AND OVERSIGHT

- What are the legal and administrative frameworks for border management and how are these implemented?

- What are the internal and external, national, regional and international mechanisms for oversight of the border agencies?

- Is there a mechanism for public input into these processes?

CAPACITY

- Which physical infrastructure and information technology systems are in place at national level and at border control points?

- What is the relative size/capacity of the different agencies involved in border management?

- What is the division of responsibility between the different agencies responsible for border management? Are there gaps or overlapping roles?

- How is information and intelligence gathered, registered, analysed and shared within and between services?

- Which procedures are in place for transit, inspection, entry and exit? Do they meet international standards for the treatment of persons and goods crossing borders?

MANAGEMENT

- What are the management and human resource systems, including recruitment procedures, education and training? Are they fair and equitable?

- Are there internal mechanisms for staff complaints such as sexual harassment or discrimination?

- What internal oversight structures are there? Is there protection for whistle blowers?

- Are there procedures in place to accept and process complaints from the public about actions by border agents or agencies?

- Is there an institution or committee that manages or facilitates an integrated inter-agency approach to border management?

CO-ORDINATION WITH OTHER PARTS OF THE SECURITY SYSTEM

- Which national agencies are involved in border management and how do they coordinate and cooperate with one another? Is this cooperation structured and institutionalised?

- What structures for cross-border cooperation exist?

- Are there coordination mechanisms for specific cross-border crimes such as terrorism, drug trafficking, human trafficking or arms trafficking? Are they linked effectively with international coordination mechanisms?

ENGAGEMENT OF THE INTERNATIONAL COMMUNITY

- Are there existing donor programmes of support for aspects of border management, and if so what are their objectives?

- How can these be complemented, and are there collaboration and integrated programming possibilities?

* These questions originate - with minor modifications - from the OECD DAC Handbook on Security Sector Reform.

ASSESSMENT OF THE POLICE*

CONTEXT

- Who are the main internal security providers (both state and non-state)? What is the division of responsibility between them (e.g. local, tribal, state/provincial; and federal/national, city/rural, border/inland, general/specific competence?) Is there any role for the military?

- What is the crime situation in the country and what statistics or studies are available?

- Which are the major problems with regard to community safety and crime in general (which forms of crime do most harm to the state and society)? How effective are the police in addressing these problems?

- What is the policing or law enforcement approach (e.g. centralised versus decentralised, democratic-participative versus authoritarian-restrictive)?

- Are some communities underserved by the police? Why?

- What are the public's perceptions of the police, crime and security, and what do they see as priority issues to address? Is there a difference between perceptions by gender, ethnicity, age or other factors?

- Are the police in any way involved in crime?

- How representative are the police of the wider community? How do the police view themselves and how do communities view them?

- Is there a system for consulting local communities about policing issues? If so, how does it work? How are members of the public who come to police stations treated?

- What is the environment like for victims of crime, especially for women, children and minorities reporting to the police?

ACCOUNTABILITY AND OVERSIGHT

- What is the constitutional and legal framework that regulates the police and to whom are the police legally accountable? In particular, which are the relevant laws (for example, police act, criminal procedure code), which powers do these laws confer to the police, and which control mechanisms are foreseen?

- Which financial management systems are in place?

- Is there corruption within the police forces, and if so at which level is it most significant?

- Is there a police code of ethics? If so, how closely is it adhered to?

- Do the police recognise and abide by UN principles and international standards associated with the use of force and firearms?

- Is there an internal affairs unit within the service?

- Is there an independent police complaints system for the public? How do these function?

- How many alleged abuses of power by the police have been tried by the judiciary, what is the general attitude of the judiciary towards alleged abuses, and what is the impact of judicial decisions on the functioning of the police?

- Which degree of political influence do the government or politicians have over the police? What is the attitude of the government towards the police?

- Do any civil society organisations monitor the police for human rights violations and corruption? How do their reports feed into the system?

CAPACITY

- What is the ratio of police personnel with regard to the population, and what percentages are in urban and rural areas?

- Which levels of skills, education and professional background do police officers have, according to their rank?

- What is the ratio of women in the police, and are they in senior management positions?

- What is the ratio of vulnerable groups in the police, and are they in senior management positions?

- Which training do officers receive for carrying out core tasks (especially problem-solving skills, legal education, practical policing including crowd management techniques, criminal investigations, ethical behaviour and interpersonal skills)? Is there in-service or specialist training to help officers progress and deal with specific forms of crime?

- Does the service lack essential infrastructure and equipment?

- Do the police have the necessary techniques and tools to base criminal investigations on factual and not solely testimonial proof, in particular forensic laboratories?

- Do the police have an accurate system for establishing and managing files of complaints, reports and testimonies? Do the police have a central database on crimes and offenders?

- Is there effective oversight over the management of firearm registries and civilian licensing of small arms as well as police stockpiles of weapons?

- Is attention given to developing police capacity to address gender issues and women's rights, or to responding to crimes against women?

* These questions originate – with minor modifications – from the OECD DAC Handbook on Security Sector Reform.

- Is attention given to developing police capacity to address family violence, child abuse or children in conflict with the law?
- Are there victim and witness support units within police stations? Do they include the presence of female officers? What other support assistance do they provide?

- How many people have been killed or severely injured by the police in one year, and how many police officers have been killed or severely injured in the same period?

MANAGEMENT

- How is the police organisation structured, managed and led? Which decision-making powers are delegated to lower levels, and to which degree? Do senior managers act as mentors and good role models to junior officers?
- Does the organisation have a written mission/vision/values statement and code of conduct? Are these in accordance with the philosophy of community-based policing and human rights standards?
- How much continuity is there at senior management level in the police service?
- How much commitment is there towards both professional policing and possible reforms, both among senior staff and the rank and file?

- Who are the potential agents of change in the police who could support a reform process and who are the potential spoilers? What incentives are there for change? Have the benefits of embracing change been identified and explained?
- Does the service have a merit-based recruitment, selection and promotion system? Is it based on equal opportunity? Are salaries generally acceptable? What is the retention rate of staff? Is there a difference between men and women or specific groups such as ethnic minorities?

CO-ORDINATION WITH OTHER PARTS OF THE SECURITY SYSTEM

- What is the relationship/communication between the police and other parts of the criminal justice system, including civilian actors (media, CSOs, etc)?
- What arrangements exist for co-operation and/or direction between the police and other elements of the criminal justice system — prosecutors, courts, prisons, and probation and parole?
- What is the role of the prosecution service and, if the institution exists, of the investigating judge in directing/supervising the criminal investigations carried out by the police? Does practice differ from theory?

- Which type of arrangements exist for co-operation between the police and other agencies that deliver public services — social services, public health and mental health?
- Which type of linkages exist between state and non-state providers of security?

ENGAGEMENT OF THE INTERNATIONAL COMMUNITY

- Are there donor-supported SSR programmes in the country? If so, do they have a police reform, restructuring or rebuilding component or could they be usefully amended to include one?

- Have donors undertaken conflict analysis prior to their SSR interventions, and if so were police services considered as a factor?
- Is there evidence of a coherent and coordinated approach by donors?

SPECIFIC QUESTIONS FROM THE SWEDISH NATIONAL POLICE BOARD'S HANDBOOK FOR INTERNATIONAL DEVELOPMENT COOPERATION*

The guiding questions below are used by the Swedish National Police Board questions when conducting international assessments on police reform.

The list of questions should not be perceived as a constraint to limit or restrict the team. Additional and alternative questions might be appropriate and it is at the discretion of the team to make the final decision about the relevance in each specific case.

CONTEXTUAL ANALYSIS

- Political situation in the country (e.g. peace process, constitutional changes, political turbulence)
- Political will
- Which stakeholders are requesting support to the police? Which are their motives?
- Why did the request arise at this time?
- What resistance is there against change within the police?
- Why has the request been directed to Sweden?
- Which other foreign police organisations has the police cooperated with previously?
- Which other donors and international actors are involved in development of the judicial system? What are they doing?
- Which are the most prominent changes within the police during the last five to ten years? Have there been initiatives which have been hindered?
- Crime statistics? Statistics of crime against men/women?

- What do representatives of the civil society (e.g. NGOs) consider to be strengths and weaknesses of the police?
- Which improvements are given priority by the civil society?
- How representative is the police of the communities it serves?
- How do communities view the police?
- How accessible and approachable are the police and police stations?
- Is there a system for consulting local communities about policing issues and if so, what?
- What are the effects, whether positive or negative, of police practice on any conflict in the country?
- Could or does the police play a role in mediating societal conflicts?
- What is the HIV/AIDS situation like: generalised epidemic or a concentrated epidemic?

INSTITUTIONAL FRAMEWORK

- Is there a report describing the police and the judicial system?
- What is the country's doctrine regarding the police and the legal rights of the general public?
- What are the tasks and mandate of the police?
- Does the army, frontier defence, customs have police tasks? Which?
- Strengths and weaknesses in the judicial system?

- Are there any available public surveys regarding the confidence in the judicial system and the police?
- What degree of political influence does the government or politicians have over the police?
- Assess the four aspects of a State governed by law: Rule of law (predictability and lawfulness), equality before the law (non-discrimination), security of life and property, and access to justice (understandable laws, legal aid, resonable costs, functioning institutions, and a reasonable time-frame).

*These questions originate from the Swedish National Police Board's Handbook for International Development Cooperation

THE JUDICIAL SYSTEM

- Description of the chain of the judicial system

- How many police organisations are there in the country?

- In which areas are the police operational?

- What do representatives from other parts of the judicial system perceive as the strengths and weaknesses of the police?

- Which improvements are given priority by other parts of the judicial system?

- Does the police enjoy more or less public trust than the rest of the judicial system?

- Is any part of the system perceived as being biased towards certain groups?

- Is there experience or interest within the judicial system to make a joint problem analysis and development plan? (e.g. in accordance with the LFA-methodology)

THE POLICE ORGANISATION

- Description of the police organisation including its size and organisational structure

- Is there a development plan for the police?

- If there is one, how well is it supported? Is it known on all levels in the police organisation?

- What does the senior management within the police perceives as the strengths and weaknesses of its own organisation?

- What is the relation between police resource allocation and crime statistics?

- What is the number of female police officers?

- What are the proportions between women and men?

- Are there differences between the tasks of male and female police officers?

- Where are women and men structurally positioned, vertically and horizontally (even though women are present in the police force they might be disproportionately placed at lower positions in the organisation)?

- Are the police actively trying to attract more women to the police service?

- Does the police service reflect the ethnic diversity of the society?

- To which degree has the police been complicit in crime/corruption/human rights abuses? Does a mechanism exist to address any such problems?

- Are grievances against the police dealt with and if so how?

- Are the police deployed in conflict-affected areas? If so, what are the implications of this?

- Is there a workplace policy on HIV/AIDS?

- Are there mechanisms for support to victims of sexual and gender based violence crimes, including collaboration with health authorities?

- Are there any standard operating procedures regarding working with HIV risk groups)?

UNITS WITHIN THE POLICE

- Is there a specific unit within the police, which has special needs for support and development?

- Where specific crimes are contributing to conflict (e.g.

property disputes) or perceptions of insecurity, which measures exist to tackle them (e.g. specialist units)?

PROFESSION (KNOWLEDGE AND COMPETENCE)

- What is the basic education of police officers? Is human rights training included?

- Which qualifications are required for admission to Police College?

- How many apply to the police college? And from which communities?

- What are the ratio men to women studying at the Police College?

- If there is a recruitment policy, what is the approach regarding recruitment and gender?

ASSESSMENT OF THE CRIMINAL JUSTICE SYSTEM*

- Which laws govern the criminal justice system, its functions and institutions, and what is their content? Is there a criminal code and a criminal procedure code and are they accessible to the public? Are important parts of criminal law/criminal procedure law regulated by other laws?

- Does the constitution guarantee fundamental rights and freedoms in the field of criminal justice, in line with international human rights standards?

- Which types of crime are covered by criminal law and which types of sanctions are included? Are all types of crime covered consistent with human rights and international obligations (including in the areas of organised crime and corruption)? Do the sanctions included seem proportionate or do they cause advantages or disadvantages to groups within the society? How are the sanctions foreseen by criminal law applied in practice in the sentences pronounced by the criminal courts?

- Does the criminal procedure code set out a prosecution service and/or an investigation judge, and which are their roles and powers? Are the prosecution services or investigating judges specialised in certain fields of crime? Does the criminal procedure code set out special investigation techniques? Does the criminal procedure code allow for international co-operation, in particular with regard to mutual legal assistance and extradition?

- How is the criminal court system organised? How many jurisdictions are there and what are the possibilities for appeal? Are there specialised criminal courts dealing with specific forms of crime or specific categories of offenders?

- What are the roles and prerogatives of defence lawyers in criminal procedure?

- What types of "injustices" and crimes do people experience most as victims? Do some groups in society have access to justice while others do not? How are complaints dealt with by the criminal justice system?

- Are citizens, and in particular poor people, aware of behaviours that are criminalised, what the sanctions are and what their constitutional and legal rights are in a criminal procedure?

- What are the experiences of children in conflict with the criminal law? Is there a juvenile criminal justice system?

- With which justice institutions (state and non-state) do citizens, in particular poor people, mostly interact? Are these experiences positive or negative? Do women and men have different experiences?

- Which changes would vulnerable groups and poor people like to see in the provision of justice, protection of rights and livelihoods, and the resolution of disputes in their communities?

- Is there provision in the criminal (or other) code(s) for alternative sentencing i.e. alternatives to imprisonment? How are these enforced? Is there a possibility for formal judicial review of such alternative mechanisms?

- What are the origins of any semi-formal and/or non-state justice systems, and how have they evolved over time? Are these systems recognised in the constitution or in the law? Are there limits on their criminal jurisdiction and the sentences they can pass?

- Is there a demand for judicial and legal reform within the government? What are the incentives and disincentives for reform?

- Are there military courts? Are there circumstances under which they may try civilians for criminal offences?

- Does the legal framework guarantee the independence, impartiality and accountability of the courts and prosecutors?

- What is the influence of the government or other political bodies? In particular, what is the role of the ministry of justice with regard to the prosecution service?

- How are judges and prosecutors appointed? Is there political involvement in the recruitment of judges and prosecutors? Do judges and prosecutors belong to the same corps and may they switch function during their career? Are there any courts with non-professional judges or juries? How are these appointed and how representative are they of the community?

- Is there a high judicial council or equivalent? Does it provide effective leadership and oversight (e.g.

recruitment, promotion, sanctions, dismissals)?

- How representative of the population are judges, prosecutors and public defenders (in terms of gender, ethnicity, geography, religion)?

- How is the court system funded? Is there financial autonomy? Is there accountability and transparency in the use of funds?

- What is the level of corruption in the different justice institutions? Is this being addressed?

- Do sector institutions have internal inspectorates and codes of ethics? How are decisions enforced?

- Is there an independent bar association or equivalent to regulate the legal profession?

- Are non-state justice services subject to external accountability?

CAPACITY

- What is the ratio of judges and prosecutors with regard to the population, and what is their coverage with regard to the state territory?

- What is the size and coverage of legal services, in particular legal aid lawyers, public defenders or paralegals?

- Do they meet the needs of the entire population?

- What are their capacity limitations (human resources, financial, infrastructure)?

- What is the level of education and experience of current judges, prosecutors and defenders? Do they get training and are some of them specialised for specific areas like organised crime?

- Is there information on the capacity and skills of semi-formal and non-state justice providers? Do they receive any support or funding from government?

MANAGEMENT

- What is the quality of case-flow management, and can it be improved? How can delays and backlogs be addressed?

- How effective are state institutions in resolving disputes, especially those related to alleged criminal offences? What are the major impediments to their satisfactory performance?

- How effective are the judicial authorities in the field of mutual legal assistance and extradition?

- Which types of issues and disputes do semi-formal and non-state justice systems address, in particular in relation to criminal matters? How are the decisions made and enforced? Do their procedures comply with international human rights standards? Is there the possibility of referrals or appeals to the formal system?

- Is there a witness protection programme, and how effective is it?

COORDINATION WITH OTHER PARTS OF THE SECURITY SYSTEM

- Is there a government strategy or policy for justice reform? Does it address linkages with other security and justice institutions?

- Is this strategy reflected in the overall planning system of the government, such as in the poverty reduction strategy or medium-term expenditure framework?

- Are there mechanisms for collaboration or coordination across criminal justice institutions (for example, to review policy and practice)? How effective are they and how could they be strengthened?

- What are the links in practice between state and non-state institutions? What is the relationship between civil society organisations and state and non-state justice providers?

- What is the role of the parliament with regard to the criminal justice system — as an oversight body and budget provider, and controller of state accounts?

ENGAGEMENT OF THE INTERNATIONAL COMMUNITY

- Is there a government-led process to coordinate donor support to the sector? Is it based on the poverty reduction strategy and medium-term expenditure framework (or equivalent), or sector strategies or policies?

- Who are the main donors addressing legal and judicial reform as well as legal empowerment and civil society engagement?

- Is there adequate coverage of institutions and priority issues?

- What is the balance between budget, sector-wide programmes and project support? Are there opportunities for pooled funding or other ways of backing government strategies?

- What could strengthen donor co-ordination, remove competition or duplication, and strengthen national ownership?

ASSESSMENT OF THE PRISON SYSTEM*

CONTEXT

- What is the legal and organisational framework of the prison system? Is there a specific law on the functioning of the prison system?

- Which government ministry has responsibility for the prisons?

- How integrated is the prison department into the ministry?

- Where does the head of the prison administration stand in the hierarchy of the ministry?

- Which access to prisons is given to civil society groups, especially those caring for vulnerable prisoners?

- What is the public's perception of prisons and the treatment of prisoners? Is there a difference in perception by different population groups (men/women, urban/rural, rich/poor and minorities)?

ACCOUNTABILITY AND OVERSIGHT

- Which efforts in terms of recordkeeping and reporting are required of the prison administration?

- Are complete data available on prisoners?

- Are there annual reports, statistics on deaths in custody, records of violent incidents, any performance measures? Are these disaggregated by gender, ethnicity and other important variables?

- Are there any places of detention not officially classified as prisons or not under the control of the prison administration? If so, under whose authority are these?

- How involved is parliament in prison issues?

- Are there independent outside bodies to which all prisoners can bring complaints and grievances?

- Which mechanisms exist for the independent inspection of prisons and publication of inspection findings?

- What is the legal framework that shapes prison management?

- Is the prison law and its implementation consistent with the international human rights framework? (See Additional Resource 10.)

- Are prisons covered in government reports to treaty bodies such as the UN Committee on the Rights of the Child?

- Has the government ratified or does it plan to ratify the Optional Protocol to the UN Convention Against Torture, which creates a permanent system of international visits to places of detention?

CAPACITY

- Are the prisons safe and secure? How do prison conditions rate in comparison to international standards?

- What is the background of the head of the prison administration: civil service, military, police or other profession?

- Which level of support is there for reform within the prison administration?

- What are the incentives and disincentives for reform?

- Which outside constituencies such as faith groups, human rights groups, women's groups and academics might support prison reform?

- Are prisons accessible to the media and are prison issues covered responsibly by the media?

MANAGEMENT

- What is the basis for the employment of the prison staff?

- Are these civil service, military or police posts, or a combination?

- Is there a basic training system and an equal and fair structure for promotion?

- Are female staff likely to progress in the prison system regardless of their gender? Are there policy and structural barriers to the equal employment and treatment of women and other minority staff?

- Is it possible to establish the annual recurrent costs of the prison system, whether there is any money for reforms, and who ultimately makes spending decisions?

- Are women kept separate from men, juveniles from adults and pre-trial prisoners from the convicted?

- Are there appropriate health, training, work, education and recreation facilities for male, female and juvenile prisoners?

* These questions originate – with minor modifications – from the OECD DAC Handbook on Security Sector Reform.

- Are there significant health or drug problems in prisons? If so, what is being done to address them?

- What is the estimated capacity of the prison system and how many prisoners are being held? For which types of crime have the prisoners been tried and imprisoned? What is the social and economic breakdown of the prison population?

- What is the percentage of the prison population on remand and what is the average remand time?

- What is the level of crime and violence in prison?

- What is the risk of recruitment to terrorist or organised crime groups or of learning new criminal methods in the prison? What is the risk of prisoners continuing to direct the activities of their organised crime groups from within the prison? What is being done to address these problems?

- Are there opportunities for prisoners to practice their religion?

COORDINATION WITH OTHER PARTS OF THE SECURITY SYSTEM

- Are particular judges or other judiciary personnel assigned responsibility for the follow-up/implementation of sentences, including imprisonment?

- Are there joint criminal justice forums where the prison administration can meet the police, prosecutors and judiciary to discuss the management of the system, the impact of criminal justice policy on the prisons, and measures to reduce overcrowding, such as sentencing changes and alternatives to prison?

- If so, how effective are these bodies?

ENGAGEMENT OF THE INTERNATIONAL COMMUNITY

- Which activities aimed at improving the prisons are external actors currently involved in and what past activities have there been?

- Do consular officials from the embassies visit their nationals in prison and feed back information to their political colleagues?

- Do ambassadors make prison visits and maintain links with NGOs interested in prisons?

- Do donors remember to include the prison system when designing health, local government and other programmes?

ASSESSMENT OF THE PRIVATE SECURITY SECTOR*

CONTEXT

- What are the factors contributing to supply of and demand for private security services?

- Who are their clients, and which security threats are they hired to protect clients from?

- How do the public perceive private security companies (PSCs)? Do perceptions differ according to gender or the socioeconomic, regional or ethnic background of the respondent?

- What is the impact of the private security sector on public law enforcement services, crime levels, public safety, human rights, and business confidence?

- Is there a demand for reform of the sector from government, civil society, client groups or PSCs?

- To which extent are private security company employees affiliated and identified with former armed groups, ex-combatants or arms trafficking?

ACCOUNTABILITY AND OVERSIGHT

- What laws and regulations are in place to govern the private security sector and the use of firearms by civilian corporate entities?

- How effective is their enforcement and which agencies are responsible for that enforcement?

- Which government agencies or ministries are involved in the control and regulation of PSCs (for example trade, economy, industry, the interior)?

- What procedures and criteria exist for licensing and registering companies?

- What systems and standards exist for vetting and licensing private security personnel?

- Have private security companies or their personnel been implicated in crime, including gender-based violence or trafficking, and have incidents led to trials or prosecutions?

- What voluntary codes of conduct, industry bodies and standards exist?

- Do procurers of private security services have procurement criteria or report information on the companies or individuals that they employ?

- Are there regulatory restrictions on the use of force and firearms by private military companies (PMCs) and/or PSCs?

CAPACITY

- What is the size and profile of the private security industry operating in the country and overseas (e.g. size and number of companies, number of personnel, annual turnover)?

- Which services can PSCs offer, and which are they actually providing?

- What is the capacity and coverage of private security provision compared with the police and public providers?

MANAGEMENT

- What is the ownership structure of the private security industry (e.g. national, international, subsidiaries of international companies)?

- What is the role of shareholder groups/boards of trustees/directors in the control and management of PSCs?

- Which kind of training is provided to staff? Is there a code of conduct? Is it enforced?

- What are the human resource and recruitment policies and practices, including the promotion of equal opportunities and recruitment of female staff?

- Do PSCs vet recruits for criminal convictions, disorderly conduct or, in post-conflict situations, for human rights abuses?

- What are the command and control arrangements for staff while on duty?

- How are small arms and ammunition controlled, stored and managed by PSCs?

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* These questions originate – with minor modifications – from the OECD DAC Handbook on Security Sector Reform.

COORDINATION WITH OTHER PARTS OF THE SECURITY SYSTEM

- Which affiliations and relationships do companies have with government officials, law enforcement agencies, the military, intelligence agencies, political parties, criminal groups and militias?

- What is the functional relationship and division of responsibilities between public and private security providers?

- How are state security providers involved in training, licensing and support of private security providers?

ENGAGEMENT OF THE INTERNATIONAL COMMUNITY

- Do existing SSR programmes contain a private security component?

- Have donors undertaken a security or conflict assessment prior to their SSR interventions, and if so was the private security sector considered a factor?

- Do international actors operating in the country, such as humanitarian and donor agencies, procure private security services, and what are their procurement criteria?

ASSESSMENT OF CIVIL SOCIETY*

CONTEXT

- What are the political, policy and legal frameworks in which civil society operates?

- Is there a national NGO network that provides co-ordination and support for CSOs?

- Does the government take an adversarial or a partnering relationship with CSOs?

- Which CSOs work on security and justice issues, and how credible are they? What is their relationship with the government? How representative are CSOs of the views and needs of local people? Is their work based on research? What is the configuration of power relations and institutional dynamics among local CSOs?

ACCOUNTABILITY AND OVERSIGHT

- Does civil society play a role as an informal oversight actor? Which CSOs help oversee security and justice institutions?

- Which mechanisms exist to ensure that CSOs are equally accountable to their constituencies and to their external partners?

CAPACITY

- Which CSOs are the possible agents of change on security and justice issues? What are their key influences? Are they effective and efficient?

- Have certain CSOs demonstrated a capacity to engage in security-related issues, including advocacy and raising awareness on small arms and light weapons?

- Which capacity do CSOs have to perform research, advocacy, training and policy advice?

MANAGEMENT

- How strong are the internal managerial systems of CSOs? What is the level of internal consultation, participation and feedback on the programmes undertaken by the organisation?

- Do they possess effective mechanisms for organisational learning? Do they handle budgeting activities competently and transparently?

COORDINATION WITH OTHER PARTS OF THE SECURITY SYSTEM

- Which institutional mechanisms exist for CSOs and state sector interaction?

- Which activities can be used as a vehicle for engaging with civil society?

- Are members of CSOs put at a security risk by interacting with security and justice institutions?

- Which CSOs have linkages and mutually respectful relations with security and justice actors?

EXTERNAL PARTNERS' ENGAGEMENT

- What is the relationship between CSOs, international NGOs and external partners?

- Is there primarily a need for project or institutional support to CSOs, or both?

- How can sustainability be built among targeted CSOs?

- Are there any potential risks involved in interacting with specific CSO groups?

- What is the likely impact of external partners' involvement/assistance on the local conflict dynamics? How can negative impacts be avoided, or at least minimised?

- Is there a risk that external support may endanger members of CSOs, and how can they be protected from human rights abuses?

* These questions originate – with minor modifications – from the OECD DAC Handbook on Security Sector Reform.