

Helpdesk Research Report: Institutional Assessment of the Police and Justice Sectors

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Query: Identify real examples and case studies of institutional assessments/analysis/appraisals of the police and justice sectors, including any information available on the frameworks used.

Enquirer: Security Sector Development Advisory Team, DFID

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1. Overview and definitions

Institutional assessment is often considered to be a first step in the reform or development of institutions. It involves an analysis of various components and stakeholders in an institutional setting and provides a means of identifying the current situation, priority areas for intervention and the various constraints/barriers that could undermine reform efforts. Assessments of this nature usually examine both the overall institutional framework (the rules of the game) and the organisations operating within this institutional context (the players).

The World Bank on its website glossary defines institutional analysis as:

"Institutional analysis helps to identify constraints within an organization that could undermine policy implementation. These constraints may exist at the level of internal processes, relationships among organizations (e.g. between ministries), or be a product of the way that the system is organized (reporting hierarchies) or operation in practice (the financial year is not followed in practice and accounts are not closed). Institutional analysis evaluates formal institutions, such as rules, resource allocation, and authorization procedures. It also evaluates "soft" institutions, such as informal rules of the game, power relations and incentive structures, which underlie current practices. In the latter sense, it identifies organizational stakeholders that are likely to support or obstruct a given reform. The analysis is most useful for complex reforms that affect institutional responsibilities or coordination, such as delivery of public services, regulation of markets or decentralization."

(See

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/EXTPSIA/0,,contentMDK:20433436~menuPK:2453409~pagePK:210058~piPK:210062~theSitePK:490130,00.html#l>)

This report collates information, guidelines and case study material. Not all of the documents included below directly use the term 'institutional assessment', but the processes described, variously referred to as reviews, studies and assessments, broadly pertain to the definition of institutional assessment.

The report includes coverage of a number of donor designed frameworks for assessing the policing and justice sector. According to much of the general academic and policy literature on SSAJ programmes, substantial reform of the police force is only possible when reform of the justice system

is administered at the same time. However, whilst the underlying principles for the institutional assessment of policing and justice may be similar, the specific frameworks espoused by donors appear to tackle the institutional assessment of policing and justice separately.

Case study information was difficult to source but the few examples found during the course of this research are included in separate sections. It may be that much of this information is contained in donor or NGO documentation which is not available in the public domain. It may also be the case that assessments are rarely followed through in the comprehensive or systematic manner prescribed in donor frameworks and guidance.

Although not requested in the original query, some documents are included here that provide frameworks for the institutional assessment of the security and justice sector as a whole. The principles underlying these frameworks and the methodologies used may prove useful and transferable when conceptualising the approach to the institutional assessment of the police and justice sectors.

2. Institutional assessment of policing: frameworks

OECD DAC, 2007, 'Handbook on Security System Reform: Supporting Security and Justice', Organisation for Economic Co-operation and Development, Development Assistance Committee, Paris.

http://www.ssrnetwork.net/publications/oeccdac_h.php

Section 7.5 on Police Reform, written by Simon Rynn and Graham Mathias of Saferworld, is of particular interest and contains a framework for conducting assessments in the police sector (see p164 to 166). The assessment framework is subdivided into the following categories: context, accountability and oversight, capacity, management, coordination with parts of the security system and engagement of the international community.

Groenewald, H. and Peake, G., 2004, Police Reform Through Community-Based Policing: Philosophy and Guidelines for Implementation, International Peace Academy/Saferworld, New York.

http://www.ssrnetwork.net/document_library/detail/2165/police-reform-through-community-based-policing-philosophy-and-guidelines-for-implementation

Drawing on a two-day workshop organised by the International Peace Academy and Saferworld, this report proposes an implementation framework for police reform through community-based policing. Of particular interest is the framework for pre-engagement analysis and assessment of the police sector outlined in Section VI, pages 10 to 13.

Institutional assessment is presented here as the first phase of the overall implementation framework for police reform through community based policing. The authors argue that reforms need to be informed by a thorough contextual analysis and an assessment of needs and resources. Therefore, any assessment should go beyond narrow considerations of the police and crime and probe the broader social, economic, and political situation within which both police and communities interrelate.

Nine strands of consultative analysis are proposed: (1) Risk and conflict analysis; (2) Crime trends analysis; (3) Assessment of police organisation; (4) Baseline survey of the perceptions of policing; (5) Review of the legal and constitutional framework; (6) Evaluation between the police and broader criminal justice sectors; (7) Review of existing social and governance structures (including informal structures) that pertain to safety and security; (8) Stakeholder and leadership analysis; and (9) Financial assessment.

Note: Saferworld are implementing a number of policing and justice programmes, with a specific focus on community based policing. Assessments using the methodology prescribed above have been undertaken as part of all of their recent policing and justice sector programmes. There are a number of Saferworld publications detailing the outcomes and achievements of their community policing projects

(see http://www.ssrnetwork.net/document_library/detail/4017/implementing-community-based-policing-in-kenya for an assessment of their CBP programme in Kenya).

3. Institutional assessment of policing: case studies

Ebnöther, A.H., Fluri, P.H. and Jurekovic, P. (Eds.), 2007, 'Security Sector Governance in the Western Balkans: Self-Assessment Studies on Defence, Intelligence, Police and Border Management Reform', National Defence Academy, Bureau for Security Policy at the Austrian Ministry of Defence and DCAF in co-operation with PfP-Consortium of Defence Academies and Security Studies Institutes.

http://www.ssrnetwork.net/document_library/detail/3982/security-sector-governance-in-the-western-balkans-self-assessment-studies-on-defence-intelligence-police-and-border-management-reform

This DCAF publication reproduces a series of research articles presented at a conference entitled 'Enhancing Security Sector Governance through Security Sector Reform in the Western Balkans- the Role of the European Union', which took place from 7-8 December 2006.

Part IV focuses on Police Reform in the Western Balkans and contains several assessments outlining the main police reform achievements in Albania, Bosnia and Herzegovina, Montenegro, Macedonia and Serbia. Each study provides an assessment of:

- Government structure, reporting and police management relationships;
- Basic police management laws and regulations;
- Procurement and budgetary mechanisms;
- Accountability mechanisms and structures (to elected representatives, other justice institutions, media and society, adherence to national and international codes and conventions);
- Oversight and guidance mechanisms;
- Available theory on the good governance of police institutions within each country.

Of particular interest is the common framework used in each country study for assessing the status and progress of decision making on police policies (see p 367 to 368 for an assessment on Serbia's police policy decision making).

Delegation of the European Commission to Bosnia and Herzegovina, 2004, 'Financial, Organisational and Administrative Assessment of the BiH Police Forces and the State Border Service: Final Assessment Report'.

<http://www.europa.ba/files/docs/publications/en/FunctRew/BiHPoliceFinalReport2004-06-30ENPRINT.pdf>

This EC assessment was one of several reviews undertaken to inform a comprehensive public administration reform process in the wake of the Dayton Peace Accords (DPA), which endowed the country with largely decentralised authorities and subsequently the political responsibility for law enforcement was extremely fractured.

The report outlines a framework for a systematic police assessment which revolves around the use of SWOT analysis and a scorecard change management tool. The state of policing services, organisation and logistics, and personnel and finances are assessed in turn and the priorities for re-organisation and reform are identified. The report then presents recommendations for future strategies and potential structural consequences. The report includes a detailed methodology for research design and data collection.

Monk, R., 2001, 'Study on Policing in the Federal Republic of Yugoslavia', OSCE, Vienna.

http://www.osce.org/publications/spmu/2001/07/16131_438_en.pdf

This study on policing was conducted before secession of Serbia, Kosovo and Montenegro. It details the results of a participative study of policing in the Federal Republic of Yugoslavia and recommends

the changes necessary to reform and modernise policing along European lines and the international policing community. The study examines the mode and principles of operation of the FRY police, its relationships with the public, its effectiveness in dealing with crime and civil disorder, and the skills, training and equipment, both technical and professional, necessary to enable it to function as a democratic police force in the future.

4. Institutional assessment of the justice sector: frameworks

UNODC, 2006, 'Criminal Justice Assessment Toolkit', United Nations Office on Drugs and Crime, Vienna.

<http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>

This Toolkit from the United Nations Office on Drugs and Crime draws on the collective experience across UN agencies to provide an assessment framework for United Nations agencies, government officials engaged in criminal justice reform, as well as other organisations and individuals to conduct comprehensive assessments of criminal justice systems; to identify areas of technical assistance; to assist agencies in the design of interventions that integrate United Nations standards and norms on crime prevention and criminal justice; and to assist in training on these issues.

The tools have been grouped within criminal justice system sectors including: (1) Policing, including public safety and service delivery, integrity and accountability, crime investigation, information and intelligence systems; (2) Access to Justice, including the courts, independence, impartiality and integrity of the judiciary, the prosecution service, legal defence and legal aid; (3) Custodial and Non-Custodial Measures, including the prison system, detention prior to adjudication, alternatives to incarceration and social reintegration; and (4) Cross-cutting Issues, including criminal justice information, juvenile justice, victims and witnesses and international co-operation.

Each chapter provides a practical and detailed guide to the key issues to be examined resulting in a series of questions and tools for assessing: statistical data pertaining to each sector; legal and regulatory frameworks; existing strategies, plans and objectives; infrastructure and staffing issues; delivery and partnerships and co-ordination.

OHCHR, 2006, 'Rule-of-Law Tools for Post-Conflict States: Mapping the Justice Sector', Office of the United Nations High Commissioner for Human Rights, New York and Geneva

<http://www.gsdrc.org/go/display&type=Document&id=3107>

This publication specifically addresses the issue of mapping the justice sector and some key related institutions and is intended to assist United Nations field staff in understanding how the justice sector actually works prior to and during the conflict, and how it should function if the rule of law is to take root. It provides an overview of the key institutions, related entities or mechanisms, and identifies priorities such as the linkages between core institutions and the utility of oversight bodies.

The scope of this toolkit is limited to assessment at the organisational level only; its scope does not extend to the mapping and analysis of the institutional framework. However, the tools here could be used as part of a broader institutional assessment of the justice sector.

USAID, 2008, 'Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework', USAID, Washington.

http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/ROL_Strategic_Framework_Sept_08.pdf

This guide, published by USAID's Office of Democracy and Governance, is aimed at USAID democracy and governance (DG) officers and other USAID staff who are developing strategies to address weak or inadequate justice systems. It provides a conceptual framework for analysing challenges to the rule of law, as well as guidelines for conducting a justice sector assessment and for designing and prioritising program interventions.

The document outlines a four-step framework for assessing the justice sector:

1. A broad look at the political and historical context as it affects the rule of law;
2. An analysis of the roles of major players who affect the rule of law and political will;
3. Examination of the programme options beyond the justice sector;
4. An in depth examination of the justice system itself exploring order and security, legitimacy, checks and balances, fairness and effective application.

Appendix A includes a series of illustrative assessment questions which can be used in the institutional assessment of the justice sector.

Please see below for an example of the application of this framework to the assessment of Pakistan's justice sector.

Reiling, D., Hammergren, L., & Di Giovanni, A., 2008, 'Justice Sector Assessments: A Handbook', World Bank, Washington.

<http://go.worldbank.org/IKYSX5GYX0>

This handbook reflects justice sector assessments as they have developed in the World Bank and provides a framework for good practice. It starts from the assumption that a well-performing justice sector, including the judiciary, has the same basic requirements as any organisation, including correct human resources, performance management, adequate administrative systems and resources, and operating procedures to achieve the desired outcome.

The handbook provides guidance on:

- Preliminary considerations in the assessment process such as building assessment teams, identifying stakeholders and choosing assessment methods;
- The assessment process: collecting information on organizations and stakeholders and assessing resources, capacity, formal and informal rules; and incentives for reform;
- How to prioritise problems and identify areas for intervention;
- Reporting and dissemination.

Please see below for an example of a World Bank Justice Sector assessment in Morocco.

5. Institutional assessment of the justice sector: case studies

Saferworld, 2009, 'Law Enforcement Scoping Assessment: Bangladesh', Draft Report.

Draft not for further circulation. The draft report and the accompanying assessment TOR document are supplied with this response.

This draft report details the findings of an assessment of law enforcement in Bangladesh, undertaken with a view to ensuring that Saferworld's activities compliment and reinforce current law enforcement initiatives in the country.

The assessment contains information and analysis on the design and delivery of law enforcement services and reforms in Bangladesh (with a primary focus on policing) in order to inform Saferworld's future programmes. The following key issues are explored:

- The current context, including a review of 'policing policy' and security dynamics;
- The strengths and weaknesses in the current police service delivery model;
- The public perceptions of policing, law enforcement and the wider criminal justice sector;
- The long and short term needs of the police service and opportunities for its development (focused on service delivery);
- The description of planned or ongoing development initiatives related to the Bangladesh police;
- Potential partners for Saferworld's work (governmental, international and civil society); and
- Potential entry points for Saferworld's engagement.

The terms of reference for the assessment provides further details on the methodology used for the assessment.

EC, 2005, 'Functional Review of the BiH Justice Sector', European Commission, Brussels.
<http://www.europa.ba/files/docs/publications/en/FunctRew/Justicereview.pdf>

This review document from the EC provides recommendations intended to assist the BiH authorities in making decisions on the reform of the justice sector in a manner consistent with its commitment to EU accession. It was part of a series of reviews undertaken to inform the public administration reform process, which also includes an assessment of the financing, organisation and administration of the police (see above).

The review is concerned with how the justice sector as a whole is managed in the sense of who decides its structure, how its operations are regulated and the provision of the necessary resources, such as financing and staff.

The objectives of the review are:

- To identify and analyse the responsibilities and core functions of the Ministries of Justice (MoJs) and other institutions within the justice sector;
- To assess how those responsibilities are divided and those functions performed and, to the extent possible, compare this with the situation in other European countries;
- To make recommendations that would allow the functional competencies of the MoJs and other relevant institutions to be rationalised and re-organised in order to promote efficiency and to enhance performance.

Section 1.3, which details the methodology and scope of the review, may be of particular interest.

Blue, R., Richard Hoffman, R. & Berg, L., 2008, 'Pakistan Rule of Law Assessment – Final Report', USAID, Washington.
http://pdf.usaid.gov/pdf_docs/PNADO130.pdf

This USAID report presents the findings of an assessment of Pakistan's effort to develop and maintain a Rule of Law regime. The report has two purposes: (1) To analyse and assess the strengths and weaknesses of all the elements that make up the Pakistan rule of law regime, from citizen expectations to the execution of legal judgments, and all points between; (2) To identify opportunities and suggest possible strategic and tactical approaches for USAID Pakistan rule of law programs.

The assessment methodology used here is based upon the USAID Rule of Law assessment framework (see above).

UNODC, 2006, 'Assessment of the Integrity and Capacity of the Justice System in Three Nigerian States: Technical Assessment Report'. UNODC, New York.
http://www.unodc.org/pdf/corruption/publications_nigeria_assessment.pdf

This UNODC report details the findings of a study which explores Nigeria's levels of access to justice, the timeliness and quality of justice delivery, the independence and impartiality of the judiciary and corruption and public trust in justice sector institutions in the Nigerian states of Lagos, Delta and Borno. It presents key findings relating to the perceptions and experience of the target groups in terms of delivery of justice and integrity of the justice system and identifies the root causes of the problems. It then presents detailed policy recommendations for judicial reform measures aimed at increasing accessibility to the courts, making justice delivery more efficient, enhancing the public's trust in the justice system, increasing the independence, fairness and impartiality of the judiciary and curbing corruption within the justice sector.

The report presents statistics and data drawn from live interviews held with specific groups within the justice system: judges, lawyers, court users, court staff, the police and prisoners awaiting trial. The assessment was almost entirely survey based: respondents were asked set questions designed to ascertain their experience and perceptions based on a specific day in court in three pilot states.

World Bank, 2003, 'Morocco Legal and Judicial Sector Assessment', World Bank, Washington.
<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/MoroccoSA.pdf>

This Assessment aims to identify the legal and judicial reform priorities and areas where further diagnosis may be warranted. The assessment provides baseline knowledge of the country's laws and legal system and institutions and provides a basis for facilitating a constructive dialogue with stakeholders and donors in that country.

6. Generic frameworks for the institutional assessment of the security and justice sectors

Ball, N., Bouta, T. and van de Goor, L., 2003, Enhancing Democratic Governance of the Security Sector: An Institutional Assessment Framework, The Netherlands Ministry of Foreign Affairs, The Hague.

http://www.ssrnetwork.net/document_library/detail/1825/enhancing-democratic-governance-of-the-security-sector-an-institutional-assessment-framework

This framework from the Clingendael Institute is designed to assist governments in determining how best to strengthen democratic governance of the security sector. It outlines a set of formal and informal processes to promote dialogue among local actors in the areas of politics, development and security, as well as between governments and their external partners. The result should be a realistic strategy that reflects government objectives and priorities for security sector governance. This is achieved by following a three-part assessment process: developing the terms of reference for the process; mapping and analysing the status of security sector governance; and assessing options and developing strategy.

OECD DAC, 2007, 'Handbook on Security System Reform: Supporting Security and Justice', Organisation for Economic Co-operation and Development Development Assistance Committee, Paris.

http://www.ssrnetwork.net/publications/ocddac_h.php

Section 3 of the Handbook 'Undertaking SSR Assessments' is of particular interest – it outlines the core issues that international actors should address when conducting assessments and provides key lessons pertaining to the assessment processes and methodology. The framework outlined here is not specific to either the police or justice sectors but the guidelines offered are transferable and could therefore be considered when conceptualising methodologies for the institutional assessment of the police and justice sectors.

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