

OPERATIONAL GUIDANCE NOTE ASSESSMENT SERIES CASE STUDY: **Promoting Local Ownership Through a Thematic Assessment in Guatemala's Justice Sector**

BACKGROUND

Many post-conflict countries are experiencing a continuation of war time impunity related to wide spread and violent petty and organized crime combined with a weak justice and security sector. Many of them, in this case Guatemala, are experiencing higher levels of violence than during war time, and society continues to suffer from armed violence affecting daily life and decreasing development opportunities especially for vulnerable groups. In 2009, Guatemala experienced almost 7 000 homicides which leaves the country way beyond the quantitative threshold of a full scale war.¹



In 2005, an intense national dialogue was taking place in Guatemala on the dramatic increase of homicides. Several donors tried to strengthen the National Civil Police's and the Public Ministry's capacity to investigate and prosecute homicide cases. There was a tremendous lack of knowledge regarding the weaknesses and strengths of the justice and security system in this area and there was no baseline to inform better programming.

SPECIFIC LESSONS THAT AROSE INCLUDE:

LESSON 1 - PROMOTING NATIONAL OWNERSHIP

- Conduct base assessment on national needs;
- Work with national partners as opposed to only observe them;
- Include local/regional members on the assessment team who have technical expertise in the area being assessed

LESSON 2 - DERIVING OBSERVATIONS

- Work with national counterparts step by step through their work to gain a fuller picture of how a sector operates

1. The Uppsala Conflict Data Programme (UDCP <http://www.pcr.uu.se/research/UCDP/index.htm>), aside from its theoretical definition, classify "war" as situation where there are more than 1 000 battle related

LESSON 3 - RISK MANAGEMENT

- Stay in continuous dialogue with other donors and national counterparts;
- Make reassurances on how assessment follow up will be handled;
- Remember the security of civilians who agree to be interviewed for an assessment.

ASSESSMENT PROCESS

In collaboration with the government and in dialogue with the donor community through the coordination body "Petit Comité de Seguridad y Justicia", Sweden supported the production and political follow up of the baseline study "Crime Against Life – A Study of 553 Homicides Committed in 2005-2006 and the Performance of the Justice System", together with the Inter-American Institute for Human Rights (IIDH). As the process was initiated as a joint Guatemala/Sweden process with Guatemala taking the political lead, there were no issues of investigation that were considered off limits. Moreover, the political risks of the study were deemed low, since violence was not primarily political but caused by petty and organised crime. Nonetheless, risks remained and attempts to mitigate these risks were undertaken through informal, continuous dialogue between the team, the Swedish Embassy and high level political offices, including the vice-president's office. A key risk to manage was the final message of the report and its delivery, as the team wanted to reassure local stakeholders that the final report would be neutral with regard to recommendations and that it would not become a politically charged document.

The assessment team was carefully selected in order to include both technical and political capacities. While Sweden played a team leadership and coordination role, the other positions were filled with regional experts, for example, the former Chief of Police of Nicaragua. Ownership of the process throughout lay with the Government of Guatemala through the three key institutions for the relevant areas: the Judicial Organism, the Public Ministry and the Ministry of Governance. When analysing empirical findings, there was a continuous exchange of information with representatives of these institutions and shared analysis of possible conclusions. Based on rigorous scientific methodology, which was collaboratively developed between Sweden and the team of consultants, roughly 10% of annual average homicide rates were analysed in a way that followed the cases from the crime scene all the way to the concluding sentence, if there was one.

Local police and prosecutors were accommodating, and sometimes even happy to have the assessment team join their work as a form of 'hands on' observation methodology. The assessment became less intrusive, and developed into more of a collaborative problem solving effort. In addition to high level support from state institutions, this relationship with front line justice sector staff made access to data (i.e. what is collected at a crime scene and how is it collected) less of an issue.

The investigation team had full access to the documentation and processes of the Minister of Interior (Police), "Ministry of Prosecution"/Attorney General's Office and the Guatemalan Supreme Court. Precautions were also taken in order to safeguard the identity of the cases and people related to the cases. A highly experienced team, sensitive to local safety issues assisted tremendously with planning out these precautions.

The study confirmed the high level of impunity, 97% of the cases never result in a sentence, but more importantly, identified areas in need of improvement and entry points for sub-sector and sector reform. For example, the issue of an under funded justice and security sector came into a different perspective when, aside from low capacity of the police and prosecutors, the collaboration between the institutions was discovered to be very weak and much of the work systematically duplicated. Thus, from a justice and security sector reform perspective the study illustrated the need for more of a sector or system approach in improving institutional performance and reducing the high levels of impunity. The three institutions made a joint statement on areas of improvement, discussions were held, chaired by the Vice President of Guatemala, between the Ministers, technical staff and the donors on how to address the results and findings of the assessment. Also, conclusions were integrated into the work of the National Security and Justice Working Group leading the JSSR in Guatemala. The latter group is furthering the commitments of the Paris Declaration on Aid Effectiveness.

Finally, in spite of the continued challenges in Guatemala, the homicide assessment illustrates a rigorously perused “sector” approach in studying one thematic area in a way that guarantees national ownership in identifying concrete options for action in reforming the justice and security sector. As the issues were political and technical collaboration based on national needs, police and prosecutors invested a high amount of energy in the process since they saw the direct gains.

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