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United Nations Office on Drugs and Crime



CROSS-CUTTING ISSUES

Gender in the criminal justice system assessment tool

Criminal justice
assessment
toolkit

UNITED NATIONS OFFICE ON DRUGS AND CRIME

Gender in the Criminal Justice System Assessment Tool

CRIMINAL JUSTICE ASSESSMENT TOOLKIT



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1. Introduction

This Tool helps guide the assessment of gender in the criminal justice system. In conducting assessments of the judicial system's role in the criminal justice system, the assessor would ideally use this tool in conjunction with other tools in the Criminal Justice Assessment Toolkit.

The term “gender” is used throughout this Tool. Gender refers to the particular roles and relationships, personality traits, behaviours and values that society ascribes to men and women. “Gender” refers to *learned* differences between men and women, while “sex” refers to the biological differences between males and females. Gender roles vary widely within and across cultures and can, and do, change over time. Gender refers not simply to women or men but to the relationships between them.¹ Gender justice is not a special justice system for women but one that authentically serves the various needs of both men *and* women. The focus on women is due to the disadvantages many women currently face in some environments.

Historically, and globally, women are underrepresented as actors in the criminal justice system but over-represented as victims/survivors of gender-based crimes: violence, discrimination and harassment. Identifying and understanding the realities of women and men in the community as well as the gender biases that may promote discrimination, limit access to justice and prevent women's full participation in the criminal justice system underpin any assessment of the criminal justice system and should inform all recommendations for technical assistance.

A fair, effective and representative criminal justice system is one that respects the fundamental rights of all women and men. It is gender-responsive and works to identify and address gender biases that have permeated the system, to prevent gender-based crimes, to protect and assist victims/survivors and witnesses, and to encourage women's active participation at all levels of the criminal justice system. It reflects the population it seeks to serve in terms of ethnicity, geography, religion, sex and language. It protects and serves all persons equally, reflecting regional and international standards and norms for human rights protections.

¹ In Shelby Quast, Justice Reform and Gender, Gender and Security Sector Reform Toolkit. Eds Megan Bastick and Kristine Valasek: DCAF, OSCE/ODIHR, INSTRAW, 2008.

In the criminal justice system, gender-based crimes are often presented as violence against women, discrimination and sexual harassment. The roots of gender-based violence lie in historically unequal power relations between men and women, and persistent discrimination against women. Gender-based crimes can take many forms, including physical, psychological, moral and economic, and varies not only from country to country but city to village. These crimes include, but are not limited to: rape; sexual violence; domestic violence; forced disappearances; genital mutilation, human trafficking, early marriage, forced prostitution, forced marriage; dowry deaths; honour crimes; custody; inheritance; property grabbing; sexual harassment; discrimination; and personal status.

Some societies tend to blame victims/survivors² of gender-based crimes, especially when it involves sexual violence. Fearing stigma, many victims never report incidents to the authorities. Community attitudes of blaming the victim are often reflected in the justice system. Women and men who do report crimes of sexual violence often face a secondary victimization, beginning with the police and continuing through the judicial process. Police, prosecutors and judges might consider domestic violence a “private matter” beyond the reach of the law; many sexual and gender-based crimes are simply dismissed or guilty perpetrators given light sentences. In some societies, rape victims or women suspected of engaging in premarital sex have been murdered by their relatives because the violation of a woman’s chastity is believed by some to be an offence to the family’s honour. In other cases, a victim of sexual violence or human trafficking may be jailed for committing adultery or disowned by her family because she is no longer “of value”; there are reports of parties resolving rape cases by giving the victim’s father a goat (or other animal), or forcing the victim to marry her rapist.

Discrimination can prevent women from enjoying the fundamental rights guaranteed them under a country’s constitution and international law. The discrimination can be inherent in legislation; for example, not punishing domestic violence against women if the violence was “reasonable” or disallowing women the right to own property. It can also be found in procedures and practices that have a discriminatory effect. Sexual harassment of women and girls is frequently present in public settings, schools and the work place. It is often committed by those in positions of authority, including individuals within the criminal justice and security sectors, resulting in a general distrust of the system and undermining efforts to promote rule of law.

Gender-based crimes have long-term effects not only on the victims and their families but on the entire community. Crimes that go unpunished feed a culture of impunity and lawlessness. Access to justice for women can be blocked for many reasons, including: a lack of knowledge regarding legal rights and how to access the justice system; lack of financial resources; fear; corruption; language barriers; discriminatory practices of police and/or judicial personnel.

²The term “victim” as used throughout this document is intended to include victims and survivors.

There is a body of international law that sets out standards for gender justice including: the elimination of discrimination against women; the elimination of violence against women; development of non-discriminatory legislation; the prevention, suppression and criminalizing of human trafficking; gender-sensitive judicial systems; equal participation of women within the judicial system; crime prevention; and, the treatment of women in detention or custodial settings. These standards are reflected in the instruments below and throughout this Tool.

United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (A/34/46) (1979) provides that States Parties shall:

- Embody the principle of the equality of men and women in their national constitutions and ensure the practical realization of this principle (art. 2 (a));
- Adopt appropriate legislative measures prohibiting all discrimination against women (art. 2 (b));
- Establish legal protection of the rights of women on an equal basis with men (art. 2 (c));
- Ensure that public authorities and institutions shall act in conformity with this obligation (art. 2 (d));
- Modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women (art. 2 (f));
- Repeal all national penal provisions which discriminate against women (art. 2 (g)); and,
- Accord women equality with men before the law, a legal capacity identical to that of men and the same opportunity to exercise that capacity (art. 15).

The CEDAW Committee's General Recommendation 19 (1992) provides that:

- Gender-sensitive training of judicial officers is essential for the effective implementation of CEDAW.

United Nations Declaration on the Elimination of Violence against Women (A/RES/48/104) (1993) provides that States shall:

- Prevent, investigate and punish acts of violence against women (art. 4 (c));
- Develop domestic legislation to punish and redress the wrongs caused to women who are subjected to violence (art. 4 (d));
- Provide women who are subjected to violence with access to mechanisms of justice and just and effective remedies for the harm they have suffered (art. 4 (d)); and
- Ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women (art. 4 (i)).

Fourth World Conference on Women, Beijing Declaration and Platform for Action A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995). The Beijing Platform for Action calls on governments to:

- Review all laws and legal practices to ensure the implementation of the principles and procedures of all relevant international human rights instruments by means of national legislation (para. 124-d, e);
- Revoke any laws that discriminate on the basis of sex and remove gender bias in the administration of justice; (para. 232-d);
- Ensure access to free or low-cost legal services, including legal literacy, especially designed to reach women living in poverty; (para. 61-a); and
- Ensure that women have the same right as men to be judges, advocates or other officers of the court. (para. 323-m).

Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice (ECOSOC resolution 2010/15, annex, adopted on 22 July 2010), urges Member States to:

- Review, evaluate and update their national laws, policies, codes, procedures, programmes and practices, especially their criminal laws, on an ongoing basis to ensure and guarantee their value, comprehensiveness and effectiveness in eliminating all forms of violence against women and to remove provisions that allow for or condone violence against women or that increase vulnerability of revictimization of women who have been subject to violence (para. 14-a);
- Review, and, where appropriate, revise, amend or abolish any laws, regulations, policies, practices and customs that discriminate against women or have a discriminatory impact on women, and to ensure that provisions of multiple legal systems, where they exist, comply with international human rights obligations, commitments and principles, in particular the principle of non-discrimination (para. 14-e); and,
- Provide for or to encourage mandatory cross-cultural, gender and child-sensitivity training modules for police, criminal justice officials and professionals involved in the criminal justice system on the unacceptability of all forms of violence against women and on their harmful impact and consequences on all those who experience such violence (para. 20-a).

Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) (2000). The Palermo Protocol requires that each State Party shall, paying particular attention to women and children:

- Adopt legislation making “trafficking” a criminal offence (art. 5);
- Provide assistance to and protection of victims of trafficking (arts. 2 (b), 7);
- Protect victims of trafficking, especially women and children, from revictimization (art. 9 (1) b);
- Take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons; (art. 6 (4)); and,

- Provide or strengthen training for law enforcement in the prevention of trafficking, including human rights and gender-sensitive issues and encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society. (art. 10 (2)).

United Nations Guidelines for the Prevention of Crime (2002). The Basic Principles of the Guidelines include:

- Crime prevention strategies should, when appropriate, pay due regard to the different needs of men and women and consider the special needs of vulnerable members of society (art. 14); and,
- Governments and civil society should endeavour to analyse and address the links between transnational organized crime and national and local crimes problems by, *inter alia*, designing crime prevention strategies, where appropriate, to protect socially marginalized groups, especially women and children, who are vulnerable to the action of organized criminal groups, including trafficking in persons and smuggling of migrants (art. 27).

United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules, ECOSOC resolution 2010/16, annex, adopted on 22 July 2010), provide that:

- In order for the principle of non-discrimination, embodied in the rule 6 of the Standard Minimum Rules for the Treatment of Prisoners to be put into practice, account shall be taken of the distinctive needs of women prisoners in the application of the Rules. Providing for such needs in order to accomplish substantial gender equality shall not be regarded as discriminatory (Rule 1);
- Efforts shall be made to review, evaluate and make public periodically the trends, problems and factors associated with offending behaviour in women and the effectiveness in responding to the social reintegration needs of women offenders, as well as their children, in order to reduce the stigmatization and negative impact of those women's confrontation with the criminal justice system (Rule 69).

Each of these instruments, among many other regional and international instruments, provides guidance and in some cases creates specific obligations regarding the rights of women. An assessment of the criminal justice system or any of its components cannot be complete without a careful examination of how the system and the various sectors treat gender. A country's constitution and legislation may provide a strong base for gender justice but it is the procedures, practices and perceptions of equality that often keep women from enjoying these rights; biases can, and often do, deny women effective access to justice and prevent women from fully participating, if at all, in the criminal justice system. Despite the many extreme challenges and daunting needs that women may face, there are always examples of innovative and remarkable achievements, often made in the face of scarce resources and limited support. The assessor should make an effort to not only identify the obstacles and challenges vulnerable members of society, particularly women, face in accessing justice but to also identify the advocates for change and highlight successful projects and programmes that promote equality and gender justice within the country's criminal justice system.

Prior to an in-country assessment, it is important for the assessor to review local, regional and international studies/reports regarding the justice system generally and gender roles and the status of women, in particular. These can provide the assessor with insight to the many underlying issues that may affect equality, discrimination and access to justice, including gender, race, ethnicity, economic status, geographic location, etc.

This Tool is not designed to act as a substitute for expertise, experience and judgment. It is not intended to be exhaustive, nor is it a checklist. An artificially simplified approach to conducting assessments would be a disservice to not only the assessor but agencies, governments, and ultimately, the people who depend on the quality of the assessments guided by the Toolkit. This Tool is intended to be used as a complement to each of the tools in the kit, not independent of them. Issues of gender permeate the entire criminal justice system and should be fully integrated into each component of the assessment. It is equally important to have an understanding of the attitudes, perceptions and biases that can and do affect decision making, at every level of the justice sector. Gender issues are complex; whenever possible, it is advisable to include a gender expert on the assessment team.

Post-conflict environments can present special issues and challenges. Gaining an understanding of the various perspectives of the contextual history of the roots of the conflict and the breadth of gender-based violence will be essential. The extent to which the criminal justice system develops and demonstrates the capacity to confront and provide a means of accountability and reconciliation for past abuses to women and men will be critical in establishing a lasting and just peace.

In addition to developing an understanding of the strengths and weaknesses of a given system, the assessor should be able to identify opportunities for reform and development. Technical assistance in the area of gender justice in the context of a broader strategic framework may include work that will enhance the following:

- Strengthening women and girls' access to justice;
- Supporting the development of legislation that protects the rights of women and girls and reflects regional and international law and human rights standards;
- Identifying gender biases, and perceived biases, within the criminal justice system;
- Developing practices, policies and procedures that address biases and effectively implement the constitution and laws;
- In-depth training for all criminal justice actors in equality and gender justice issues;
- Developing training programmes on how to apply international and regional laws and human rights standards on criminal justice in the domestic setting;
- Building the capacity of women to serve at all levels of the criminal justice system, including positions of authority.



2. Overview

2.1 STATISTICAL DATA

Please refer to **Cross-cutting issues: Criminal justice information** for guidance on gathering the key criminal justice statistical data that will help provide an overview of gender-based issues and the overall capacity of the criminal justice system in the country being assessed. Please also refer to **Statistical data** in the tools on **Policing; Access to justice; Custodial and non-custodial measures**; and **Cross-cutting issues**.

Listed below are additional indicators that are specific to this Tool. Some countries may not have this information. Where appropriate, it is advisable to request in advance access to documents and reports as they may take time to obtain:

Written sources of statistical information particular to this Tool may include, if they exist:

- Formal/informal/traditional court reports
- Non-government organization and civil society reports on gender justice
- Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) periodic country reports and shadow reports (by NGOs), if any
- Associations of women judges, lawyers, or prosecutors' reports
- Police reports, including administrative disaggregated data
- Prison records

A diverse array of sources can furnish relevant information, including those in the Ministry of Justice; Ministry of Gender/Women's Affairs; judiciary; traditional leaders; prosecutors; lawyers; judicial actors; health officials dealing with abuse and violence against women; women's organizations of judges, prosecutors or lawyers; NGOs; faith-based groups; cultural groups; donor organizations; police officers from gender units or specialized anti-trafficking units; and, court personnel, including from Transitional justice mechanisms (tribunals, special courts, truth commissions, etc.)

It is likely to be difficult to find comprehensive and detailed information that presents a composite picture of women's experiences of the criminal justice sector or data that accurately reflects rates of gender-based crimes (e.g. rape, domestic violence, honour killings, dowry deaths, human trafficking, forced disappearance, female genital mutilation, harassment, etc.). This is an emerging field of enquiry and is hampered by the fact that many gender-based crimes are not themselves specific offences; for example, domestic violence may be listed as simple assault or an administrative violation in some jurisdictions. Additionally, many criminal justice systems do not sex disaggregate data.

In evaluating statistical information, it will be important to obtain a contextual understanding of gender and the impact that geographic, economic, racial, religious, ethnic and health factors may have in reporting certain crimes. It is also important to try and obtain an understanding of the attitudes, perceptions and biases that may affect not only reporting of gender-based crimes but also the neutral application of the law by various judicial actors (police, judges, prosecutors, lawyers, court staff, interpreters, prison officials); attitudes and biases may also affect women's participation and advancement within the criminal justice system. For accurate information, it is essential to gather it from a variety of sources at various levels of authority.

A. Are crime statistics gathered by police, courts, prosecutors, defence services and prisons? If yes, are they distinguished by types of crimes? Is the information sex-disaggregated?

B. Are there dedicated population-based surveys, including crime surveys, for assessing the nature and extent of violence against women? Does the country collect, analyse and publish data and information, in particular concerning:

- The different forms of violence against women; the causes, risk factors and levels of severity of such violence; and the consequences and impacts of such violence, including on different population sub-groups;
- The extent to which economic deprivation and exploitation are linked to violence against women;
- The patterns, trends and indicators of violence against women, women's feelings of insecurity in the public and private spheres and factors that can reduce such feelings of insecurity;
- The relationship between the victim and the offender;
- The effect of various types of intervention on the individual offender and on the reduction and elimination of violence against women as a whole;
- The use of weapons and of drugs, alcohol and other substances in cases of violence against women;
- The relationship between victimization or exposure to violence and subsequent violent activity;
- The relationship between the violence experienced by women and women's vulnerability to other types of abuse;

- The consequences of violence on those who witness it, particularly within the family.

C. Are reports available on the number of cases of violence against women reported to the police as well as other criminal justice agencies, including arrest and clearance rates, prosecution and case disposition of the offenders and the prevalence of violence against women? Are statistics compiled on complaints against members of the criminal justice sector (e.g. police, judiciary, prosecution, prisons, and the defence bar)? If so, do they distinguish the type of complaint? What percentage were sexual harassment complaints? What percentage was made by women? What percentage is substantiated and what penalties are imposed? What are the arrest, prosecution and case disposition rates for the offender? What percentage of cases filed never make it to court? Why?

D. Are statistics compiled on the gender of officers in law enforcement? On judges, judicial officers, prosecutors, lawyers and prison personnel? What do they show? What is the ratio of men to women at different seniority levels or ranks?

E. Are there statistics gathered on public confidence and trust in the criminal justice system? Are approval ratings published? If so, what do they suggest? Are there statistics on women's feelings of insecurity in public and private spheres? Are there established mechanisms to gather and coordinate data collection?

F. Are there any dedicated population surveys such as victim surveys? Are women or other particular social groups failing to bring cases to court? If so, why? Are they taking the complaints elsewhere? Where and why? Are there data or statistics available from other agencies, such as clinics, women's groups, shelters, NGOs, etc. that can provide information on female victims/survivors that might not enter the criminal justice system?



3. Legal and regulatory framework

When assessing the criminal justice sector, it is vital to look at the criminal justice system both within and outside the capital or main cities. In many countries, the justice system and its availability to women may differ substantially based on geographic location.

The following documents constitute the main sources from which to gain an understanding of the legal and regulatory framework governing gender justice in the criminal justice system.

The constitution: The constitution often includes equality and human rights language. Where there is a parallel system of law, the constitution often requires that it not contradict constitutional protections/obligations; it may also set up watchdogs to ensure the rights set out in the constitution are adhered to. The constitution may also provide information on how regional and international treaties are incorporated into domestic law.

Criminal/penal code and the criminal/penal procedure law: The penal code will generally include information on types of gender-based offences and sentences for each offence. Sentences will often include non-custodial sanctions, as well as imprisonment.

Traditional law: Where there are systems of traditional law or customary practices, they generally include information on types of offences, rights and obligations. These laws and practices may or may not be in written format.

Regionall/international treaties and conventions that have been signed and ratified: Signed and ratified treaties and conventions will include information on obligations the country has agreed to follow. It is important to refer to any reservations made by the country when the document was signed as well as whether it has been “domesticated” into national law.

However, what is stated on paper is often not reflected in practice. In many countries it may be observed that even where the constitution, laws and treaties afford women a fair measure of protection on paper, there exist policies, procedures and

practices that prevent women from the full and equal enjoyment of these rights and privileges as well as hinder their access to justice. After reviewing the legal framework, the assessor should examine the actual practices, through site visits in different parts of the country and interviews with judicial actors, victims groups, NGOs and women's groups.

3.1 Constitution

A. To what extent have international human rights standards, specifically those applying to women and girls, been incorporated into the constitution? Is there specific language in the constitution regarding equality and nondiscrimination with regard to gender? What other constitutional protections are provided to women and girls?

B. Are there systems in place to challenge a law on the basis that it violates the constitution or international obligation? How effective are these systems? Can the highest court or other courts rule on the compliance of legislation with international obligation or the constitution? Do they do so? Are rulings adverse to the government respected? How open or closed is access to the constitutional court/constitutional proceedings? Are human rights provisions in the constitution directly applied in courts? Can any individual challenge the constitutionality of a law? Are there any notable cases?

C. Does the constitution recognize jurisdiction of customary practices and traditional courts? What is their jurisdiction? Are there limitations? What are they? Are they followed in practice?

D. Does the constitution state whether regional and/or international treaties, once signed, are self executing? If not, what is the procedure to incorporate regional/international treaties into national law?

Sources: Constitution; official gazette/journal officiel; national human rights commission; laws establishing the courts; jurisprudence of the constitutional court.

People: Constitutional court judges, clerks, minister of justice, law professors, bar association members, minister of gender, NGO staff, legal aid lawyers.

3.2 Legislation

A. Has there been a systematic process of review to ensure that national laws have been brought into conformity with the provision of regional/international treaties and conventions to which the state is party? Are there laws in effect whose content is obviously in conflict with the state's obligations under regional/international laws? Are there laws that discriminate against or have a negative impact on women? Have these resulted in particularly harsh sentences for women or high numbers of women in pre-trial detention and prison? Are these laws currently enforced? Are there laws that directly address gender inequality? Are there laws that directly address bias,

including against people perceived to be at high risk of HIV (e.g. sexual workers, gay, lesbian, bisexual or transgendered persons)? Are they enforced?

B. Are there adequate laws in place to prevent discrimination, including in the workplace (e.g. discrimination or dismissal based on the grounds of pregnancy, maternity or marriage; sexual harassment in the workplace; and discrimination against women and men with HIV/AIDS)?

C. Is the age of criminal responsibility the same for girls as for boys? Is the age for treatment as an adult in the criminal justice system the same for girls as for boys?

D. Are there effective procedures for law reform? Are there any outstanding proposals for law reform regarding women's rights? Have any reforms been blocked, and if so, why? Is there a permanent law reform commission? If so, do women sit on the commission?

E. Are there laws protecting the rights of women? Are there criminal laws to ensure that all forms of violence against women, including assault, rape, domestic violence, discrimination, sexual violence, human trafficking, sexual harassment, harmful traditional practices, including female genital mutilation, are criminalized? Is rape clearly defined in the law? Is marital rape criminalized? Are there laws on marriage, child custody and property? If so, are they discriminating towards women? Do the laws and punishments meet international standards (are they discriminatory)? Are there specific laws against trafficking in human beings? Do they address both national and transnational trafficking? Are there laws prohibiting prostitution (for both the buyer and seller)? Do these laws discriminate against women or allow defences that discriminate against women, such as honour or provocation that allow a perpetrator to escape criminal responsibility? Are there laws on immigration? Do these laws discriminate against women or make them more vulnerable to violence? Are there laws that protect all children against sexual violence, sexual abuse, commercial sexual exploitation and sexual harassment, including crimes committed through the use of new information technologies, including the Internet? Are there measures aimed at preventing, protecting, empowering and supporting survivors, adequately punishing perpetrators and ensuring available remedies for victims?

F. Do civil law decisions reached in marital dissolutions, child custody decisions and other family law proceedings for cases involving domestic violence or child abuse adequately safeguard victims and the best interest of children?

G. Are the laws enforced in practice? Are there ways and means to periodically review, evaluate and update national laws taking into account all relevant international legal instruments in order to effectively respond to violence against women, including to ensure that such measures complement and are consistent with the criminal justice system's response to such violence?

Model legislation which reflects regional and international standards, such as the United Nations Framework for Legislation on Violence Against Women*, the Handbook for legislation on violence against women (United Nations Department of Economic and Social Affairs, Division of the Advancement of Women, 2009) can be useful tools for legislators and law reforms commissions.

*www.un.org/womenwatch/daw/egm/vaw_legislation_2008/vaw_legislation_2008.htm

H. Does the national legislation address witness protection and victim assistance and protection? If so, what types (e.g. witness/victim protection orders or restraining orders)? Are there specific provisions ensuring support and assistance (physical, psychological and social) to victims of gender-based violence, including human trafficking? Do the laws provide that services and protection measures can be taken by the authorities without prejudice to the victim's ability or willingness to participate in the investigation or prosecution?

I. Are there customary laws/practices dealing with family matters (marriage, divorce, custody, or inheritance)? Do they follow the constitution and national laws? Do they meet regional/international standards (do they discriminate against women)? Are there traditional laws/customary practices dealing with gender-based violence (rape, marital rape, domestic violence, etc.)? Do they follow the constitution and national laws? Do they meet regional/international standards?

J. Has a general amnesty recently been issued for alleged gender-based crimes (gender-based war crimes, genocide or crimes against humanity, such as rape, forced marriage, sexual slavery)? Was the amnesty criticized by the general public, justice sector actors, NGOs or human rights groups?

Sources: Ministry of justice; ministry of gender; law reform commission; women's organizations; national assembly.

People: Minister of justice and staff; minister of gender and staff; law review commissioners; lawmakers; bar association committee leaders.

3.3 Regional and international standards

A. Has the country ratified the major relevant international and regional human rights treaties, in particular the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of Persons with Disabilities? Has it ratified the major human rights treaties without reservations? If not, what are the reservations? Is the country in

compliance with its obligations to the bodies monitoring the treaties? Has the country incorporated these laws through domestic legislation?

B. Has the country signed and ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime?

C. Has the country signed and ratified the Rome Statute of the International Criminal Court? If so, has it been incorporated through domestic legislation?

D. Have there been any complaints against the government to international human rights bodies? If so, what and when were they? What was the result?

E. Where relevant, has the government cooperated with regional and international efforts to bring perpetrators of gross human rights violations (including rape, forced marriage, etc.) to justice?

Sources: Websites and secretariats of relevant international organizations; ministry of foreign affairs; ministry of gender; national human rights commission.

People: United Nations country team; NGOs; regional and international human rights organizations; CEDAW committee members; gender ombudsman.



4. Policing

Please see **Policing: Public safety and police service delivery; The integrity and accountability of the police; Crime investigation; Police information and intelligence systems;** and **Forensics** for further information.

4.1 Police

The point of delivery for almost all police services, will be the local police station and the organizational culture, attitudes and behaviour of local officers will have a significant effect on the success, or otherwise, of the whole criminal justice system.

A. Do the police consider gender-based crimes (sexual violence, domestic violence, human trafficking, honour crimes, harassment, etc.) to be an important concern facing the community? Do they consider these crimes as a priority for their work? Do police officers receive training in gender issues, including national, regional and international laws and human rights standards? Are officers required to receive refresher training and training on new laws? How often? Is there visible leadership within the police hierarchy on gender-based crimes? What are the relevant policies and procedures regarding gender-based crimes? Are police stations located and accessible outside large cities?

B. Are there guidelines, procedures or legislation that set out the extent of police power to make arrests, enter a home or conduct a search? Is this information available to police officers? Is it followed, in practice? Are police required to file a report in cases of domestic violence even if no administrative or criminal action is to be taken?

C. Who is the first person called when a potential gender-based crime is discovered and what is the extent of his/her responsibility at the scene? Is the first responder expected to process the crime scene? Does this include cases of sexual violence? What types of samples does he or she collect? Is he or she specially trained in the area of gender-based and sexual crimes?

D. Are there guidelines that detail what receiving officers should do in sexual offence and domestic violence cases? Is there a manual, guidelines, policies or directives for dealing with domestic violence cases and vulnerable victims? Are police trained in how to conduct risk assessments that indicate the level of violence or extent of harm a victim may be subjected to? Are there systems and checks in place to protect the victim/witness's identity and ensure the integrity and privacy of victims/witnesses? Are survivors able to report a sexual offence or domestic violence in their own language? Is it possible to file an anonymous complaint for police records? Is there a database of sex offenders? Do police have access to protective or restraining orders? Are they easily available? Are they implemented in cases of domestic violence or sexual offences? Do police have the authority to issue and enforce protection and restraining or barring orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside the domicile, to issue and enforce child support and custody orders and to impose penalties for breaches of those orders?

E. Does the first responder take the victim to a medical facility for processing and/or care and counselling? Are rape kits easily available and accessible? Are female victims checked for pregnancy and all rape victims tested for diseases and infections that can be passed through sexual contact? Are shelters or other resources available to victims of violence (stranger and domestic)? Do the police/medical examiners work with these providers? Are victims asked whether they have child, elder or other care responsibilities? Is appropriate support provided for the people being cared for?

F. Are all officers specifically qualified to work with victims of sexual violence, domestic violence and human trafficking? Is training standardized? Is there a manual? Are there a special units or specialized police officers trained to handle sexual offence cases or human trafficking cases? Do the special units have female focal points? If not, why not? Are specialized police officers or special units, if any, easily accessible and approachable by victims of sexual and domestic violence in cities and rural areas (language, location, hours)? If not, why not? How are police officers selected to serve in the unit? How many cases of sexual and domestic violence do the police respond to each month, on average? Is there a gender-responsive budget for the unit?

G. Are there other forces operating in a police capacity: community policing; policing mechanisms based on custom or culture and/or military structures? Are they trained in how to handle gender-based crimes, including domestic violence and trafficking?

H. Are there crime prevention strategies in place? What do they address? Are there public campaigns to inform citizens, particularly those most vulnerable, of these strategies?

Sources: Local police stations; police manuals, guidelines, procedures; legislation; special units; police academy; medical/forensic facilities; training materials; promotion records.

People: Police academy staff; police officers; police leadership; special unit staff; medical/forensic examiners; academia; civil society; NGOs.

4.2 Integrity and accountability of the police

A. Are female officers available to deal with female prisoners, victims and witnesses, where necessary? If not, what happens? Do male officers conduct body searches of female detainees and prisoners? Are male officers permitted to be alone in a cell with a female prisoner? Does this happen?

Personal gain is a primary motivation for all criminal behaviour. Because of the special trust and responsibilities placed in police officers, the opportunities for them to abuse that trust to obtain money or advantage are considerable. At the same time, because police officers have inside information, understanding and influence over the criminal justice system, they are also often in a position to shield themselves from detection.

B. Is there any suggestion or evidence that police are receiving bribes in order to ignore gender-based criminal offences? Is there a culture of gender exclusion or abuse within the police force?

C. Is there gender sensitization training for police regarding violence against women, human trafficking, discrimination and harassment? Is it standardized? Are gender issues mainstreamed across the police force? Does it reflect regional and international standards? Is there a budget for such training?

D. Are individual officers able to describe any training they have received on sexual violence, domestic violence, discrimination and sexual harassment? Do they know whom to consult if they have questions? Do they know how their internal affairs/complaints process works, if there is one? How is this communicated? How are policy and procedure updates communicated?

E. Are there regular reports of sexual assaults by police? If so, is one group particularly affected? Are there regular reports of sexual harassment by police? If so, is one group particularly affected?

F. Are there effective disciplinary systems and mechanisms to ensure investigation of complaints against police? Are they publicly accessible and known widely?

Source: Human rights organizations; national human rights commission; office of the prosecutor; police headquarters, NGOs.

People: Chief of police; heads of special (gender) units; victims/survivors of gender-based crimes; investigators; women's groups; ombudsman.

4.3 Forensics

A. Are there crime kits for sexual violence? Are they standardized (i.e. suitcases with all necessary equipment and materials)? Are the kits developed at the national or local level? Do they meet standards? Is there specialized training in how to use

the kits? Are they easily accessible, in both cities and rural areas? Who has access to the kits? Are they used? Can data from these kits be used as evidence in court proceedings? Is it used?

B. Is there a forensic science service? Does it have local laboratories accessible to all investigators or is it centralized? Can the forensic science service or equivalent process fingerprints and DNA? Is forensic data used as evidence for court proceedings?

C. Do all actors in the criminal justice system (prosecutors, lawyers, courts) generally accept findings reported by forensic institutes in cases of gender-based violence? Do they consider this data to support the criminal justice process?

Sources: Police; forensics institute; NGOs, human rights organizations.

People: Police and forensics officers; bar associations; legal aid officers; forensics trainers; health care workers.

4.4 Women police officers

Research by the National Center for Policing and Women (US) demonstrates that women police officers rely on a style of policing that uses less physical force, are better at diffusing and de-escalating potentially violent confrontations with citizens, and are less likely to become involved in problems with use of excessive force. Additionally, women officers often possess better communication skills than their male counterparts and are better able to facilitate the cooperation and trust required to implement a community policing model. Despite this, women are severely under-represented in most police departments. The numbers of women in law enforcement can be kept artificially low by widespread discriminatory hiring and selection practices.

A. What are the recruitment procedures for joining the police? What qualifications are needed to apply to the police? Are applications open to all sections of the community? Is there an anti-discrimination policy?

B. What procedures are in place to encourage and support applicants from under-represented groups, including women? How representative of the community are the police? Do they live in the locality? Do their children go to local schools? Do they speak the same language(s)?

C. How many police officers are women? What is the female/male ratio of police officers?

D. How is promotion awarded? Is there an independent and objective assessment? How many women are in positions of authority/leadership? What is the ratio of men to women in positions of authority?

Sources: Police headquarters; community police stations; women's groups; NGOs.

People: Police officers; female management and officers; police academy; women's groups.



5. Accessing justice

5.1 Courts

Please see **Access to justice: The courts** for general issues and further information.

Gender-responsive courts promote access to justice for everyone, including victims of gender-based crimes, identify and address issues of bias, and encourage women and men's full participation at all levels of the judiciary.

- A. What levels of courts exist? How many courts are there at each level? Where are they? Are they operational? Are they accessible to women in rural areas (are they too expensive or too remote for many women to access)? How many courts operate outside the capital/main cities? Are they fully staffed?
- B. How many interpreters are attached to the court? Do they speak the local languages? Are they trained in the language/specifics of gender-based crimes? Are judges/prosecutors/lawyers attached to rural courts?
- C. What types of cases do women file before the court? Does this vary by court? Does it vary geographically, economically or ethnically?
- D. Are there special courts (rape courts, sexual violence courts, domestic violence courts, gender units, mobile courts, fast track courts) that handle crimes of sexual violence? How many cases are filed each month? What percentage of these cases is heard by a court? What percentage of cases is dismissed, and why? What is the percentage of cases decided in favour of the victim? In what percentage is the victim found guilty (of adultery, for example, in the case of rape)? If the victim withdraws a complaint, can he or she be held in contempt of court? Does it constitute a criminal or other offence?
- E. Are there facilities available that allow victims to wait separately from the accused to prevent intimidation (especially in cases of violence)? Are there child care facilities

for court appearances? Are there guidelines or procedures that allow older children to attend court hearings or receive an explanation about what is happening to a parent? Do victims, witnesses and the accused have access to their children during and between court appearances? Are there any restrictions on contact? Do they reflect the best interests of the child? Does the judiciary have access to resources for victims/survivors of gender-based violence (psychological, medical)? Can the court issue protective orders in cases of violence? What forms of protection are available? Does the court have a gender-responsive budget? In cases of violence can victims testify behind a screen or via remote camera, etc.? Does this violate constitutional provisions that provide the accused with the right of confrontation?

F. Do court fees hinder access to justice, especially in cases of gender-based crimes? Do illegal payments hinder access to the courts? Is there a practice of court administrative staff extracting illegal payments from women in order to issue court documents?

G. Do sentences in effect for sexual offences and domestic violence reflect the seriousness of the offence? Do minimum or maximum sentencing rules create problems in practice? What are sentencing policies, procedures and goals? Are they implemented, in practice? Can judges enhance penalties due to aggravating factors such as repeated violent acts, abuse of a position of trust or authority, etc.? Are claims of self-defence by women who have been victims of violence, particularly in cases of battered woman syndrome,³ taken into account in investigations, prosecutions and sentences against them?

H. Is the credibility of a complainant in a sexual violence case the same as the credibility of a complainant in any other criminal proceeding? Is this followed in practice? Will the judge allow introduction of the complainant's sexual history in criminal proceedings? If so, in what circumstances?

I. Are the remedies available to victims of gender-based violence, including compensation for victims of human trafficking, through the criminal justice system effective?

Sources: Ministry of justice; ministry responsible for prisons; human rights organizations, NGOs; women's groups; law schools.

People: Victims/survivors; court personnel; clerks; prosecutors; defence attorneys; NGOs; law students/professors.

Traditional/customary courts

A. Is there a system of traditional or customary courts? Is it effective? Are such courts recognized by the constitution? Is there any legislation regarding traditional courts? Do traditional courts have limits on their criminal jurisdiction and the sentences they can hand down? Is there a gender bias? If so, in what form?

³Battered woman syndrome is suffered by women who, because of repeated violent acts by an intimate partner, may suffer depression and are unable to take any independent action that would allow them to escape the abuse, including by refusing to press charges or accepting offers of support.

B. Are traditional courts widely used by women? What type of cases do women take to traditional courts? Why? Are traditional courts widely used for family issues: marriage, custody, inheritance?

C. Do traditional leaders and judges in traditional/religious courts receive human rights training, specifically on women's rights? Can traditional courts hear cases of sexual or domestic violence? If not, do they hear them in practice? What penalties are associated with sexual violence, including marital rape? Are decisions in traditional/religious courts written down and records kept? Are they accessible?

D. What is the general perception of victims of sexual or domestic violence in traditional courts? What is the general perception in the community? Is there a general awareness of regional and international human rights standards and equality for women?

E. Is customary law recognized in the formal court system? Do traditional courts receive funding from the government? From any other sources? Are they linked with the formal courts (e.g. referrals, appeals)? Have there been any efforts to harmonize traditional courts with the formal system?

Sources: Constitution; laws; ministry of justice; ministry of gender; traditional courts.

People: Traditional leaders (female and male); prosecutors; professors in traditional law; community leaders; women's groups.

Transitional justice

A. Is this a post-conflict environment? Are there courts that have exclusive jurisdiction over serious crimes such as crimes against humanity, war crimes, genocide and torture? What court is it? Is it operational?

B. Does the court have jurisdiction to hear gender-based crimes such as rape, sexual slavery, forced marriage, human trafficking, etc? Does it share jurisdiction with national courts? Are these crimes defined in the statute creating the court?

C. Does this court have a gender unit for gender-based crimes? Are prosecutors and investigators specially trained in gender-based crimes of this nature? How many crimes of gender-based violence have been filed with the court? How many been heard by the court? Have there been any convictions?

D. Are there victim friendly procedures? What services are provided to victims?

E. Is the court perceived (by the public, NGOs, international organizations, donors) as legitimate with regard to crimes of gender-based violence?

Source: International court; NGOs; donors; United Nations country offices.

People: Judges; prosecutors; investigators; defence lawyers; NGOs; civil society.

Court personnel

A. How many judges and magistrates are women? Do women hold positions of authority in the judiciary? What is the ratio of women to men? What are the systems for appointments/promotions for judges and magistrates? Is there an association of women judges?

B. Is there a requirement for continuing judicial education? Is gender equality training part of the curriculum? Are local, national, regional and international laws and standards on gender-based violence, human trafficking, and discrimination included in the curriculum? Are there qualified national experts to teach such courses?

A court system relies on its support staff in order to function and to provide the basis for public access to justice. Court staff deal daily with large amounts of highly sensitive information that must be accurately recorded and maintained. Errors and omissions can affect lives and livelihoods. Improper disclosure can affect the outcome of litigation and place witnesses at risk. Court systems that provide strong leadership and supervision, hire qualified applicants through a transparent selection process, view and compensate staff as professionals, develop and strengthen their skills and functions with continuing training, may in turn demand excellence and integrity from their staff. Where court staffing is not viewed as a priority or the function of staff as public servants is not communicated by leadership, inefficiency, poor service and corruption are more likely to be issues challenging the justice system and its users. Guidance may be found in the Principles of Conduct for Court Personnel, annexed to the Report of the Fourth Meeting of the Judicial Integrity Group, UNODC*.

*Report of the Fourth Meeting of the Judicial Integrity Group, Vienna 27-28 October 2005, in: www.unodc.org/pdf/corruption/publication_jig4.pdf

C. Who is responsible for court management? Are there sufficient numbers of qualified and trained court administrative staff (clerks, interpreters, etc)? What is the ratio of men to women? Do judges and staff receive adequate gender awareness training (are they trained on the nature and implications of sexual offences, human trafficking, discrimination and harassment as well as the applicable laws, national, regional and international)? Is training standardized? Is there a manual? Is there a budget for such training?

D. Are there codes of conduct and other systems in place to ensure that staff offer efficient and non-discriminatory service to all citizens? Are judges and court staff regularly paid? Are procedures in place for staff to report sexual harassment?

E. With particular regard to laws affecting women (sexual violence, domestic violence, marriage, custody, inheritance, property ownership, sexual harassment, human trafficking, etc), is legislation easily available to justice system staff and others? Is the full text of legislation published by government widely available? Is it easy to follow amendments to the law (so a lawyer and judge can be confident that he or

she is using the correct text of current legislation)? Is every court complex, in cities and rural areas, supplied with regular and timely updates of printed law reports? Are they available in local languages?

F. Is jurisprudence easily available to judges, justice system staff and others? Are law reports regularly published and widely available at a reasonable price? If not, are texts of judgments otherwise public? Are transcripts made available to parties to a case? In a language they can understand?

G. Are regional and international treaties/conventions easily available to judges, lawyers and court staff? Is expert commentary on the law easily available? Are there articles commenting on the application of the laws?

H. Are *amicus curiae* (friend of the court) petitions allowed by the court? Are there experts that can provide *amicus curiae* briefs to the court in gender-based cases, especially where international human rights laws and regional and international obligations may be applicable? Is the court open to receiving such briefs?

I. Is information about the justice system easily available to women and women's groups? Are there any restrictions on access to journalists or reporting in cases of sexual or domestic violence (or other gender-based crimes)? Are there systems in place to protect the identity of victims of gender-based violence?

Sources: Judiciary; ministry of justice; bar association; NGOs; law faculty.

People: Judges; clerks; investigators; interpreters; magistrates; court users; prosecutors; defence lawyers.

5.2 Prosecution

Please see **Access to justice: The prosecution service** for further information.

A. Are prosecutors attached to all jurisdictions, including rural areas? Are they easily accessible to women, especially in rural areas? Do they speak local languages? Is there a budget for prosecutors to reach outlying areas?

B. How does the prosecution service seek to meet the needs of vulnerable victims (sexual abuse, domestic violence or human trafficking)? Does the prosecution service have specialized units for prosecuting crimes involving vulnerable victims? Are these units accessible to women in big cities and rural areas? Are prosecutors and staff working with vulnerable victims aware of the special needs and sensitivities of such victims? Are prosecutors trained in gender-based crimes and national, regional and international laws and standards? Is there a budget for gender-sensitive training?

C. What services do prosecutor staff provide? Do the prosecution staff arrange transport for victims and witnesses who do not have the means to come to court

on their own? Does the prosecution staff escort vulnerable victims and witnesses to court? Are there separate areas where they can wait and/or testify so they do not have to confront the accused?

D. Does the prosecution service staff cooperate with NGO and civil society service providers? Do they provide victims and witnesses with information about the services that are available? How? What protections and services are available? Is this information available in local languages?

E. Are there specialized units for gender-based crimes? Do prosecutors assigned to specialized units receive training specific to those functions?

F. Do prosecutors handling sex and violence offences receive training in working with such victims? Have they been trained in how to conduct interviews using trauma-minimizing, yet non-leading techniques? Have domestic violence prosecutors received training on the dynamics of domestic violence and effective law enforcement responses to domestic violence?

G. Are prosecutors legally bound by the results of police investigations in cases of sexual gender-based violence and domestic violence? Does the prosecutor have discretion over whether to pursue such cases? On what basis? How often does a prosecutor decline to prosecute gender-based crimes (sexual violence, domestic violence, sexual harassment, and discrimination)? Why do they decline? Is this reviewed, and if so, by whom? What is the policy regarding gender-based crimes? What is the structure of the relationship, if any, with police?

H. Does the prosecution service have its own investigators? Are they specially trained in cases of sexual violence, harassment, discrimination, and human trafficking?

I. Does the payment of restitution in certain gender-based cases provide the basis for a decision by the prosecutor not to prosecute? Are there other protections in place to ensure that the ability to pay restitution does not create an unfair advantage for those with means? Are there cases where restitution is prohibited by law yet continues as a customary practice (e.g. where the father or husband is given restitution in cases of rape; or the victim is required to marry the rapist)?

Cases involving domestic violence or sexual violence where the balance of power may be skewed by the use of violence by one party have been recognized as inappropriate for mediation. Traditional laws or customary practices that are discriminatory towards women could make diversion to traditional systems inappropriate.

J. Does the prosecutor have the legal authority to divert gender-based cases to alternatives to criminal prosecution such as mediation or other restorative justice systems? If so, do they require judicial or victim approval? Are there limitations on what type of cases can be diverted (domestic violence, rape, sexual harassment, for example)?

K. How many prosecutors are women? What is the ratio of women to men? What are the selection criteria for prosecutors? Are they objective? Do they focus on competence and integrity? Are their rules regarding discrimination based on sex and/or gender?

L. Are women in positions of authority? What is the ratio of women to men? Is there a written promotion policy for prosecutors? Is there a promotion process based on objective factors such as professional qualifications, ability, integrity, and experience? If not, what is the basis for promotion? Is there a competitive process for more senior or supervisory positions, i.e. application, interviews? Is there an association of women prosecutors?

M. Are prosecutors required to carry out obligations impartially and avoid all political, social, religious, racial, cultural, sexual, or any other kind of discrimination (including gender)? Do prosecutors receive training in what it means to be impartial and avoid discrimination? Is there a budget for such training?

N. In addition to any existing ethics code in the law or rules, has the prosecution service developed an internal ethics code or code of conduct with regard to sexual harassment? Is it part of the policy and procedures manual, if one exists? What does it cover? Does it provide rules for reporting sexual harassment complaints? How are allegations of sexual harassment handled? Is there a formal disciplinary system?

Sources: Ministry of justice; prosecutors office; ministry overseeing police; police.

People: Attorney general; prosecutors (both in and out of the capital city); female prosecutors; judges and police officers.

5.3 Lawyers/defence/legal aid

Please see **Access to justice: Legal defence and legal aid** for further information.

Admission to the practice of law

A. Is there a law school? Do law students reflect the population? How many women are in law school? What is the ratio of women to men who graduate?

B. Are gender issues, including laws, women's rights, gender-based violence, human trafficking, discrimination and sexual harassment taught in the law school? Is it a mandatory part of the curriculum? Do law professors receive specialized training in gender issues? How many law professors are women? What is the ratio of men to women? Are women in positions of authority at the law school?

C. Are lawyers required to complete additional or continuing legal education (CLE) or training to maintain their membership in the bar or collegiums? Is training in gender equality and gender justice issues part of the curriculum? Is it mandatory?

Does CLE include training on regional and international laws, including human rights? What is the source of the training (e.g. bar associations, law schools, NGOs)?

D. How many practising lawyers are women? What type of law do they practise? Do qualified candidates routinely receive their professional credentials, regardless of age, gender, marital status, religion, race or ethnic background? Are the qualifying criteria made available to the public? What is ratio of women to men for positions of authority in the bar association? Is there a women's bar association?

E. Are members of the bar required to provide pro-bono assistance to vulnerable parties (i.e. women, children, indigent)? Do lawyers provide pro bono services in practice?

Sources: Law school; bar association; women's groups; women's bar association.

People: Lawyers; bar association leaders; chief justice; clients; court personnel; NGOs.

Legal aid/public defender service

A. Is the right to counsel granted under the constitution or the law? If so, at what stage does the right to counsel attach or take effect (i.e. investigation, arrest, charging, trial, appeal, when a judge determines that justice requires it)? Is the right to counsel guaranteed in cases of rape and sexual violence?

B. Is there a public defender service? Are defender services attached to each court, in cities and rural areas? Is the defender service easily accessible by vulnerable parties, including women, in cities and rural areas? Do they speak the local languages of the community? Are services provided regardless of ability to pay?

C. Does the defender service staff reflect the population? Is any group over- or under-represented? Is the service leadership making efforts to recruit candidates, including women, to make the staff more representative? Do women hold positions of authority?

D. How many lawyers are attached to the legal aid/defender service? Does the defender service receive funding? If so, who funds their work?

E. What other staff is part of the legal aid/public defender service? Are there staff investigators? Are they trained to work with survivors of sexual and domestic violence? Is the training standardized? Is there a manual? Are there social workers who are capable of assessing clients' treatment and social service needs, especially those of women? Are there interpreters that speak the local languages? Are there legal assistants/paralegals that help prepare filings, gather information?

Source: Public defender's office; judiciary; NGOs, bar association; civil society organizations; prisons; police.

People: Legal aid officers/lawyers; chief justice; victims; female prisoners; investigators; paralegals; detainees.

Legal assistance by non-lawyers/paralegals

All individuals, especially vulnerable women and men, must be informed of their rights and how, practically, to assert those rights. Paralegal personnel can be instrumental in building legal literacy, including teaching people how to access the judicial system, informing people of the resources that are available and how to utilize them. They often use innovative measures, such as radio, dramatic presentations and pictures, to effectively communicate legal rights and mechanisms.

A. Are there paralegals working in the country? Where? Are they part of the formal criminal justice system? What is their role? What are they allowed to do in terms of gender and criminal law? What do they do in practice? Do they receive special training on gender issues? Is the training standardized throughout the state? Is there a manual? Does it reflect gender justice and human rights standards? Who designs and provides such training?

B. What type of services can/do paralegals offer women? Do paralegals interview clients, take statements from witnesses or collect evidence? Are paralegals specially trained to collect evidence and talk with victims of human trafficking, discrimination, harassment and of sexual or domestic violence? Do they attend interviews in the police station? Do they provide advice to victims and witnesses on court proceedings? Accompany them to court?

C. Do paralegals work with women in the rural areas? Do they speak the local languages? Do they work with traditional elders (men and women)? What types of measures are used to inform women, including those who are illiterate, of their rights? Do paralegals receive funding? If so, who funds their work?

D. How many paralegals are women? What is the ratio of women to men? Are there women in positions of authority? Are there policies on non-discrimination and sexual harassment?

Sources: Defender service; MOJ; judiciary; paralegal programmes; NGOs.

People: Paralegals; legal assistants; magistrates; judges; victims/survivors; NGOs.



6. Custodial and non-custodial measures

6.1 Prisons

Please see **Custodial and non-custodial measures: The prison system** for general issues and rules that apply to men and women.

The percentage of women in prison worldwide, including in pre-trial detention is very small (between 2 per cent and 9 per cent, exceptionally above 10 per cent). Since the vast majority of prisoners are men, the special needs of women are usually not taken into account, resulting in discrimination toward women prisoners. Because of the comparatively small number of female prisoners, there are generally few prison facilities and accompanying services for women. Due to the limited prison facilities, women are often imprisoned far from home, which may limit the possibilities of visits from their families, sometimes causing severe problems for them and their families. Alternatively, they may be accommodated in an annex of a prison for male prisoners. This may pose an increased risk to their safety. Activities in prison are generally designed to meet the needs of the majority male prison population. Where prisons are overcrowded and limited staff available to supervise prisoners, women may have no or limited access to many facilities and services. In the closed environment of the prison women are especially vulnerable to abuse from both staff and prisoners. Women are at high risk for HIV in prisons and there are limited, if any, health services for the treatment and prevention of HIV. Pregnant women and nursing mothers have particular problems relating to their condition and should not be imprisoned unless exceptional circumstances exist. Women also face particular problems after release, as they experience the stigmatization of imprisonment more acutely than men.

United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules, ECOSOC resolution 2010/16, annex, adopted on 22 July 2010) and UNODC/WHO Europe declaration on Women's Health in Prison, Correcting gender inequality in prison health (Kyiv Declaration, 2009), provide an excellent background and guidance in this area.

A. Is there particular legislation that may increase the detention or imprisonment of women? Which offences would relate more often or specifically to women? How often are these articles in penal legislation applied in practice? What are the figures for detention and their basis?

B. How many prisons are there for female offenders? How are they distributed geographically? Are women prisoners separated from men? What are the percentages of sentenced women and women with accompanying children (get figures for the last three years)? Are women prisoners supervised exclusively by female staff—always/sometimes/rarely? How does practice vary geographically?

C. Do women have the same access as male detainees to all available activities? If not, what level of access do they have? What activities are they offered? Is the vocational training offered to women discriminatory: are women only offered work others consider to be suitable for their gender, such as sewing? Are women required to work for no pay (e.g. cooking or cleaning for all inmates)?

D. What are the rules on visitation, especially by family and children? Are visits open or closed? What facilities are available during visits? What happens in practice? Can women refuse visits from a spouse or male family member who may be or has been threatening or abusive?

E. Are any efforts made to re-establish links with a woman's family where they have been lost?

F. Are the particular medical needs of women catered for? What are the arrangements? To what extent do they have access to specialists in women's healthcare? Do pregnant women receive adequate medical and dietary care? What are the arrangements? Are pregnant women transferred to a hospital to give birth? Do women receive adequate support in the areas of HIV prevention and treatment, if infected?

G. Are women's special hygienic needs met? Do they have access to personal hygiene items and sanitary napkins? Are these easily accessible to prisoners? How often do pregnant women and women with infants have access to showers?

H. Is hot water available for the daily personal care of children and women and those who are pregnant, breast feeding or menstruating? Is hot water available for cooking?

I. Are women allowed to keep their babies/children with them in prison? Up to what age or developmental stage? What facilities are provided for the children? Are there nurseries or mother and baby units in prison? Are children given toys? What effort, if any, is made to ensure that the child's environment is as close as possible to life outside? Are other or older children able to stay in the prison with their mother on a temporary or part-time basis (e.g. weekends or school holidays)? What level of responsibility are mothers given for the care of their children?

J. Are there provisions in legislation to provide special diets for pregnant and breast-feeding women, as well as babies/children in prison? What do the provisions consist of and are they applied in practice?

K. Are there any reports of violence, abuse or exploitation of women in prison and/or detention by prison officials? By other prisoners? What happened? Is there a system to deal with complaints of abuse and/or harassment?

I. Taking account of the nature of crimes committed by women held in prison, is the level of security at women's prisons (compared to those for men) proportionate to the demonstrated risks the women pose (e.g. attempting to escape, causing harm to others, or illicit activities)?

Source: Legislation; prison reports; prison authority; NGO and human rights organization reports.

People: Prison officials; guards; prisoners, NGO staff; women's groups; lawyers; family members.

6.2 Pre-trial detention

Please see **Custodial and non-custodial measures: Detention prior to adjudication** for further information and general issues and rules that apply to male and female prisoners.

Pre-trial detention should be used as an exception rather than a rule for all persons who are suspected of having committed an offence. In the case of women, special consideration should be given to the use of alternatives to pre-trial detention (and to imprisonment), due to the particularly harmful effects deprivation of liberty can have on them, their families and children. In addition, the large majority of offences for which women are detained are non-violent (e.g. drug and property offences). When they are violent, it is likely that they have been victims of domestic violence or sexual abuse, and the crime committed will be against a person close to them. Thus, the women concerned often do not pose a particular threat to society. Pregnant women and women with infants should not be remanded in custody unless there are exceptional circumstances. If women are detained, then they must be held separately from male prisoners and their special needs addressed. Normally, the percentage of women in prison as a whole, including in pre-trial detention is very small (between 2 per cent and 9 per cent worldwide, exceptionally above 10 per cent). If, in the country assessed, the figure/percentage appears to be high, it is suggested that the assessor inquires into the reasons. Some answers may be found in the national legislation (e.g. harsh sentences for drug offences, including for transporting drugs, for which women are often used; or in countries where discrimination against women is reflected in penal legislation, there can be harsh sentences for acts such as adultery, prostitution, rape, where the victim is penalized, or for breaching the dress code, curfew, etc. that can result in a period of police custody, trial, or imprisonment).

A. What percentage of the overall female prison population do pre-trial women prisoners comprise? What are the most common offences with which they are charged?

- B. What percentage of women in police custody and pre-trial detention are suspected of having committed violent offences?
- C. What percentage of women in police custody and pre-trial detention are suspected of having committed drug related offences? What percentage are suspected of prostitution?
- D. What proportion of women held in pre-trial custody are subsequently acquitted? Of those convicted, what proportion receive a custodial sentence? Comparing these to figures with those for male prisoners, does the proportion of women held in pre-trial custody who do not subsequently received a custodial sentence suggest that incarceration is sometimes used when it is not necessary?
- E. Are there provisions in the penal statutes discouraging or prohibiting pre-trial detention for pregnant women or women with small children? To what extent are these rules reflected in practice?
- F. In detention, police and prison, are women separated from men? Are women detainees supervised exclusively by female staff? Always/sometimes/rarely? Does the practice vary geographically?
- G. Do female detainees have the same access as male detainees to all available activities? If not, what level of access do they have? What activities are they offered? Are they allowed to work, if they wish to? Are they paid? How does their remuneration compare to the national minimum wage?
- H. What are the visiting rules, especially by their family and children, for women in police or pre-trial detention? Are the visits open or closed? How are these visits carried out in practice? Can women refuse visits?
- I. Are women's particular hygienic and medical needs catered for in police and pre-trial detention? What are the arrangements?

Source: Legislation; police headquarters; community police; NGO and human rights organization reports.

People: Police officers (women and men); defence council; paralegals; female prisoners; family members; prosecutors; NGOs; and women's groups.

6.3 Protective custody

Protective custody is generally intended to provide a safe haven for victims of violence or those threatened with violence. However, in certain circumstances protective custody does not offer the victim genuine protection but instead places her in risk of further assault or keeps victims confined against their will. In cases where victims of sexual or domestic violence are imprisoned “for their own safety” it is important to identify the circumstances of such custody and whether it is voluntary. Requiring a victim or witness to stay in protective custody can deny him/her of access to children

and family and necessary medical and psychological services. Further it can enforce the stigma of shame or dishonour and place the victim at risk for violence both in custody and upon release. Protective custody may serve to deter victims, especially women, from reporting violence committed against them.

A. Are victims in protective custody provided safe haven away from their home? Is the location hidden? Are there qualified personnel available to the victim to address problems arising from any physical, sexual or psychological abuse experienced? Is protective custody voluntary? How is a victim put in protective custody? Can the victim leave whenever she chooses? How many victims are in protective custody (review the last three years)? What is the average length of time a victim stays in protective custody?

B. If housed in a prison, is the victim housed separately from prisoners? Is it voluntary? Can the victim leave whenever she chooses? Are there qualified personnel available to the victim to address problems arising from any physical, sexual or psychological abuse experienced? Are the guards the same sex as the victim? Is the victim restricted to a cell? Does the victim have full consultation on who may visit? Can the victim elect to have her children with her? Is the victim allowed a private space to bath and use the toilet? Can the victim freely communicate with family and friends? Are adequate food, clothing and living quarters provided? Are there cases of victim abuse by prison guards or inmates in cases of protective custody? How many victims are in prison under protective custody (review the last three years)? What is the average length of time a victim stays in protective custody?

Sources: Prosecution authority; judiciary; bar association; NGOs; women's groups; prisons; police.

People: Prosecutors; prison officials; victims in protective custody; police officers; judges; lawyers; NGOs, women's groups; civil society; family members.

6.4 Alternatives to incarceration

Please see **Custodial and non-custodial measures: Alternatives to incarceration** for further information on general issues.

The disproportionately severe effects of women's imprisonment, both on themselves and on their children and other family members, require additional efforts to be made to find alternatives to imprisonment for them at all stages of the criminal justice process. In most cases alternatives can be applied more easily to women, as a high percentage are detained for non-violent offences.

A. Are non-custodial measures applied equally for men and women (e.g. is childcare provided)? If there is a treatment or residential requirement, is it offered to women in a women-only environment? Are there women officers to monitor supervision orders? Are curfews/tags/reporting requirements compatible with childcare needs?

B. Does the law grant the police, prosecution or other agencies dealing with the women's cases the discretion to dispose of certain types of cases without having to resort to formal hearings? What are the criteria?

C. Does penal legislation make special provisions for women, pregnant women or women with dependent children or other dependents, expanding the possibilities of alternative sentences? What are these provisions?

D. Do women at risk receive any protection on release (e.g. accommodation in shelters)?

E. Does the commentary of the legislation encourage the use of alternatives measures and sanctions in the cases of women charged with non-violent offences and to take into account the particular circumstances of the woman, e.g. victim of domestic violence, human trafficking, sexual abuse or other forms of gender-based intimidation? Is this applied in practice? This may be discerned from the examples given in the commentary to explain the provisions of certain articles which reduce sentences, thereby rendering the offender eligible for an alternative measure or sanction.

F. If not, what steps are being taken to encourage/enable the use of alternatives to incarceration in the cases of women charged with non-violent and minor offences?

G. Where non-State justice institutions are recognized by the formal courts, what safeguards, if any, have been put in place to prevent discrimination against women in dispute resolution processes?

Sources: Prisons; NGOs; human rights organization reports.

People: Police; prosecutor; magistrates; female detainees; public defenders; NGOs; bar association leadership; and women's groups.

6.5 Social reintegration

Please refer to **Custodial and non-custodial measures: Social reintegration** for background information on social reintegration.

Alternative measures and sanctions should be considered for women who have committed non-violent or minor offences, due to the particularly harmful effect of imprisonment on them and their families. Due to the small percentage of women in prison worldwide, they often do not have the same access as men to all services and activities in prisons. Due to the limited number of prisons for women, women are often located great distances from their home making contact with family difficult. Women should enjoy the same rights as men regarding access to all regime activities, including education, work and vocational training in particular—areas where they may have suffered from discrimination before imprisonment. Women

are also likely to suffer particular discrimination after release from prison, due to social stigmas. Their families might reject them and in some countries they may lose their parental rights. Women often need particular psychological, social and legal assistance during imprisonment and after release.

A. While in prison, do women have the same opportunities as male prisoners to benefit from all regime activities, including work, vocational training, education, counselling, cultural and recreational activities, sports, and preparation for release programmes? If not, what regime activities do they not have access to? What type of work and vocational training are women engaged in? What number/ percentage of women are working? Are women accompanied by dependent children forced to work or be separated from them? What happens in practice?

B. Are women provided with any special support pre- and post-release from the probation service, if one exists? What support services are available?

C. Do women receive any particular support while serving an alternative sentence? For example, if women have been victims of domestic violence, are there special resources/services available? Who provides such services? What percentages of women participate?

D. Are there any special resources/services available to pregnant woman and women with babies/children?

E. Are provisions made for accommodation/housing for women upon release, in particular for those with children or those seeking to regain custody of their children that are unable or unwilling to return to an abusive partner or family?

Source: Ministry responsible for prisons; ministry of justice; prisons; human rights organizations.

People: Prison officials; female prisoners; family members; lawyers; probation officers; women's groups; and NGOs.



7. Victims and witnesses

Please see **Cross-cutting issues: Victims and witnesses.**

Gender-based crimes take an enormous physical and emotional toll on the victims and witnesses. However, in many criminal justice systems, they are often forgotten and sometimes even re-victimized by the system itself. Victims/survivors are rarely allowed to fully participate in decisions that concern them and often do not receive the assistance, support and protection they need. Redress for the harm they suffered as a result of victimization is often not available and, when it is, is too often insufficient or late in coming. Both witnesses and victims may be threatened and afraid to come forward. It is often difficult to protect the identity of victims and/or witnesses in small villages and towns.

A. In cases of gender-based crimes, including sexual or domestic violence, human trafficking, female genital mutilation, discrimination and harassment can the court order/provide protection to victims and witnesses? Do they do so?

B. Is there medical assistance available for victims of gender-based crimes, including sexual and domestic violence, human trafficking and female genital mutilation? Is psychological assistance available to these victims? Are there specialized sections within the national health care system for victims of sexual crimes? What are they and what do they address? Are survivors of sexual crimes/abuse always examined by health care staff of their own sex? Are medical/health staff trained on how to deal with victims of domestic and sexual violence? Are free emergency contraception, antiretroviral treatment and antibiotics against sexually transmitted diseases available to survivors? Are sexual assault evidence kits freely available to clinics and NGOs that provide support to victims of sexual violence? Who pays for the tests? Are similar services available to victims in big cities and rural areas?

C. What support services are available to victims of gender-based crimes, including sexual and domestic violence and human trafficking? Does the police officer/investigator/lawyer/court office have a mechanism for referring victims to these services?

Do NGOs provide services where the state is unable or unwilling to do so? Who provides funding for these services? Are financial costs arising out of the crime reimbursed by the state?

D. Is information and education easily available to victims/survivors of gender-based crimes (i.e. for rape survivors; victims of domestic violence; sexual harassment; human trafficking, harassment, etc)? Who provides it? Is it available in local languages?

E. Are there protective measures in the courtroom, such as the use of screens and closed doors, to ensure the survivor is protected against secondary victimization while testifying? Is the age of the victim or witness taken into account in the enactment of protective measures?

F. Who takes a witness or victim statement? Is he or she trained in how to talk to trauma victims? Does the victim or witness have the opportunity to read his or her statement and certify that each page is accurate? What happens when the witness or victim speaks a different language? What happens in cases where the witness or victim is illiterate? What happens in cases where the victim or witness is threatened?

G. Are there evidentiary rules that generally bar evidence on the survivor's sexual history and reputation? In the prosecution and adjudication of a case of sexual violence, is any inference drawn from a delay of any length between the alleged commission of a sexual offence and the reporting thereof? Is it common practice for victims not to report sexual violence to police or other authorities? Why?

Sources: Women's shelters; NGOs; victims' support groups; court and police records.

People: Police officers; shelter staff; NGOs, victims and witnesses of gender-based crimes, where appropriate; magistrates; judges; prosecutors; health care workers; human rights organizations; civil society groups.



8. Crime prevention

Please see **Cross-cutting issues: Crime prevention.**

Well-planned and implemented crime prevention strategies can play an important and effective role in reducing crime levels. Effective strategies to identify and address attitudes and biases that permeate gender-based crimes and the criminal justice system are fundamental to any meaningful programme for crime prevention. Understanding why sexual violence has become so prevalent in conflict and post-conflict situations, with combatants, citizens, husbands and even peacekeepers all playing the role of perpetrator; why groups of men and boys feel it is their right to gang rape women and girls (with victims ranging in age from 6 months to 80 years); why women and girls are made to feel dirty because they were violated in the most dehumanizing ways; why the criminal justice systems in individual countries, and the international community, have been unable, thus far, to stop the horrific crimes that are gender-based violence.

The principles in the United Nations Guidelines for the Prevention of Crime can assist the development of community strategies for crime prevention.

A. Has the country enacted legislation aimed at preventing gender-based crimes, including sexual violence, domestic violence, sexual harassment, human trafficking, female genital mutilation and discrimination? Is there any legislation to protect the rights of specific groups, such as victims of human trafficking, family violence, sexual abuse, female genital mutilation and early marriage?

B. Are there departmental guidelines within the various criminal justice institutions: police, prosecution, judiciary, defence/legal aid on sexual harassment? Are there policies or plans of action to deal with gender-based crimes (discrimination, sexual violence, and sexual harassment) committed by criminal justice actors, both within the criminal justice system and in public?

C. Are there policies or plans of action to identify and address equality issues and gender biases both within criminal justice system and in public?

D. What is the government's role in prevention of gender-based crimes? Is there a national action plan to address gender-based violence? Is the strategy based on analysis of trends, causes, impacts, etc? Does it address problems in cities and rural areas? Does it provide guidance for local strategies on implementation? Does it provide guidance on the involvement of local communities? What are the mechanisms to include consultation with civil society and non-governmental organizations?

E. Is the country effectively addressing past crimes of gender-based violence or is there an attitude of impunity surrounding gender-based violence? Are there programmes developed to address the attitudes and biases that allow such horrific crimes to go unpunished? Is there visible leadership from political and/or community leaders?

Training and skill development

F. Are there government resources that offer training on prevention of gender-based crimes (discrimination, sexual violence, domestic violence, human trafficking, sexual harassment, etc.)? Are there resources to increase public awareness on measures the public, especially women, can take to protect themselves? Are there resources on how to report criminal activity? Are these programmes funded? Are they widely distributed? Do NGOs or civil society organizations give training in self defence, crime prevention or related areas such as human rights or victim issues? Are these services available to women in cities and rural areas? Does the government cooperate with such service providers?

G. In the case of conflict/post conflict environments has training been provided to regional and international peacekeepers, including the United Nations and NATO, focusing particularly on human trafficking and sexual exploitation?

Sources: Legislation; police; ministry of justice; defence/legal aid; prisons; human rights reports; community/traditional laws; faith-based organizations; peacekeeping troops; United Nations country offices.

People: Police officers; prison officials; community leaders; women's groups; religious organizations; and international/regional NGOs.



9. Public awareness/ perception/media

9.1 Public awareness/legal literacy

Few women are aware of their rights and how these affect their daily lives. Many are also unclear as to how they can assert their rights or seek redress for abuses suffered. Legal literacy programmes that inform women of their rights and how to practically assert them should be available to all women and girls including those in remote locations. Education should be offered in local languages and designed to also reach those who are illiterate. Public awareness programmes that include groups of men and boys who are committed to ending sexual and gender-based violence in their communities can add legitimacy to the effort. These groups can reinforce the idea that gender-based violence is a community concern not just a “women’s” issue.

A. Are there groups lobbying for equality and gender justice? Do they include men? Have there been awareness-raising campaigns, demonstrations, meetings and/or seminars regarding issues of discrimination and gender justice? Have these groups included actors from within the criminal justice system? Are there gender equality advocates within the criminal justice system? Have these efforts received outside funding?

B. In which language(s) are the laws published? Are there efforts to provide plain language/vernacular versions of laws published in languages spoken in rural areas? Are there efforts to inform those that are illiterate?

C. To what extent have members of the public been educated about their civil (human) rights and duties? Is such education required in state schools? Have the government and/or the justice system associations (bar association, judges associations, etc.) developed and implemented community legal education initiatives? Are gender-responsive legal literacy programmes in place? Is there a budget for such programmes?

D. What avenues have been used to raise public awareness of civil rights (i.e. multi-media campaigns, community forums, public service announcements, drama, adult education programmes)? Have such initiatives targeted poor or otherwise

disadvantaged audiences? In both urban and rural areas? Are such initiatives conducted in minority languages as well as the official language(s)? If not, why not? Are initiatives designed to reach those who are illiterate? Are these initiatives funded? By whom?

Sources: NGOs; civil society groups; donor reports.

People: Donor country offices; community leaders; civil society groups; NGOs.

9.2 Public perception

A. What are the main crime concerns facing the country, as seen by civil society, academia, NGOs, the media, as well as donor and external observers?

B. Is violence against women and girls in domestic settings a major concern? Are women and girls seen as vulnerable to HIV/AIDS, human trafficking or other crimes? Is violence against women outside the home a concern? Are women often discriminated against in terms of determination of wages and access to labour markets and marketable vocational training? Is there an overrepresentation of women in lower paying, less secure jobs? Are women generally considered equal? At home and in the workplace?

C. What are the perceptions/myths surrounding rape and sexual violence? Are women generally considered dirty/dishonourable after surviving a sexual attack? Is rape generally held to be more of an affront to a father or husband than the victim? Is it considered “taboo” to openly discuss such topics? Is it generally believed that only virgins can be raped? Are victims/survivors often blamed or held responsible for the rape (i.e. based on reputation, dress, location, previous sexual history, etc.)?

D. What are the perceptions (civil society, academia, the media, citizens, non-citizens, donors, and observers) of the ability of the criminal justice system (police, judiciary, prosecutors, legal aid) to deal with such fears/crimes? Is the criminal justice system trusted? Is it considered fair, effective and efficient? If not, why not?

E. How does the public view the police? How does the public view the judiciary and judges with regard to equality and gender justice? How does the public view the prosecution with regard to equality and gender justice? How does the public view legal aid/defence with regard to equality and gender justice? Is corruption an issue?

F. What are the perceptions (government, civil society, academia, the media, citizens, donors, and observers) of equality within the criminal justice system and gender justice? Is it considered fair/efficient? If not, why not?

Collaboration between the criminal justice sector and civil society to identify and address gender issues can help establish an environment of mutual trust.

G. Is there collaboration between the criminal justice sector and civil society? In which areas? With which organizations?

Sources: Civil society organizations; NGOs; women's groups; donors; academia; media; judiciary; and bar associations.

People: Community leaders; faith-based leaders; NGOs; women's groups; teachers; students; civil society; reporters; lawyers, and judges.

9.3 Media

A. Is there an independent media? Does it serve a watchdog role? Do the media scrutinize the judiciary and court decisions? Are reporters educated in legal issues and issues of gender justice? Are they educated in matters of equality and gender justice?

B. Are reporters generally responsible and factual in their reporting? How are crimes of sexual violence reported in the media? Is corruption an issue?

C. How are the police portrayed in the media? How are the judiciary, prosecution and defence services portrayed in the media? How are issues of gender equality and discrimination reported in the media? How are women in positions of authority within the criminal justice system, if any, portrayed in the media? Do the media accurately reflect public opinion?

D. Is the media used as a resource for reporting crime? Is the media used as a source for public awareness, for crime prevention, human rights, and legal literacy, particularly with regard to vulnerable groups?

Sources: Legislation; civil society; NGOs; media (radio stations, TV stations, newspapers).

People: Reporters; NGOs; civil society organizations; community leaders; human rights organizations; students; lawyers; judges and prosecutors.



10. Oversight/monitoring

Oversight and accountability of gender and the criminal justice system is at the core of rule of law. Ensuring that criminal justice institutions are transparent and accountable prevents abuses of power and helps guarantee that institutions operate efficiently and effectively while respecting human rights and rule of law. Oversight helps guarantee compliance with non-discriminatory policies and procedures and can be very helpful in highlighting the early warning signs of problems. Including women in oversight bodies helps ensure that they are—and are perceived to be—representative, which can increase public confidence and responsiveness of oversight to concerns of all citizens.

A. Are there oversight and accountability bodies? Are they independent from government influence? What powers of enforcement do they carry? Are NGOs and civil society organizations, including women’s groups included in oversight and monitoring bodies? Have any reports been issued? Did they include gender issues? Is there a budget for oversight and accountability bodies? What is the ratio of men to women on such bodies?

B. Are traditional courts used for dispute resolution? Are monitors in a position to examine the extent to which traditional mechanisms function: how they operate; the types of cases heard; the practices and norms applied? Have these bodies issued any reports? Did they include gender issues?

Sources: Traditional courts; oversight bodies; civil society organizations; legislation.

People: Ombudsmen; traditional leaders; civil society; human rights organizations; NGOs.



11. Partnerships and coordination

11.1 Partnerships

A. At what level do the criminal justice agencies coordinate their activities—national, regional, local? What form does this take, i.e. ad hoc working groups, formal commissions? Do the co-coordinating bodies work well together? Have they been effective in resolving issues? Is there a history or at least an instance of stakeholder participation in the development of initiatives to address gender issues facing the criminal justice system? Who are the key players that have worked collaboratively in the past and who are the key players who need to be brought on board in the future? Does the judiciary participate? The head of the bar association? The ministry of justice? Head of legal/aid public defender service? Chief of police? Prison officials? Academia? Traditional leaders (men and women)? Non-governmental organizations? Civil society organizations?

B. Do user committees exist? Who sits on them? Are women's groups included? Have they been effective in contributing to the development of gender justice initiatives?

C. Are there any partnerships with the legal community or the community at large (e.g. victim support, legal assistance, referral from or to traditional courts)?

D. Do government or civil society organizations monitor what is happening with specific areas in the criminal justice system regarding gender justice (police, courts, prisons, bar, etc.)? Which, if any, NGOs or civil society organizations provide services to the judiciary system or victims? (List them and the type of activity, e.g. support for victims of sexual abuse, domestic violence, sexual harassment.)

Sources: Judiciary; ministry of justice; bar association; defence services; NGOs; civil society; donors.

People: Chief justice; minister of justice; bar association leaders; attorney general; dean of the law school; chief of police; NGOs; civil society leaders; women's groups.

11.2 Donor coordination

Understanding what donor efforts are underway, which have previously been implemented (successfully and unsuccessfully) and what is planned is critical to developing recommendations for future technical assistance interventions.

A. Is there access to information about development assistance to the criminal justice sector? Are there donor strategy papers for the justice sector with money set aside in support? Is there a donor matrix or action plan identifying areas of responsibility? Are national stakeholders involved in determining this strategy?

B. Are gender equality and gender justice issues discussed in individual donor country action plans/or strategy papers?

C. Where direct budget support is supplied, identify how much has been earmarked for the justice sector and gender justice in particular?

D. Where a Medium Term Expenditure Framework is in place, indicate what is set aside for justice in general and for gender justice in particular?

E. Which donor/development partners are active in gender and criminal justice issues? Is the approach by donors targeted to the institution concerned (i.e. rape courts, gender-based violence, legal assistance) and divided between donors, or sector wide (i.e. taking the issue of criminal justice reform as a whole)? Is funding to NGOs and civil society organizations working on gender justice included?

F. What equality and gender justice projects have donors supported in the past; what projects are now underway? Were they effective? What lessons can be derived from those projects? What further coordination is required? Are there gaps in funding?

G. From where do donors and international organizations hire staff and consultants? Is there an open hiring process? Are there efforts to ensure that the most qualified people are not absorbed by aid agencies and international organizations to the detriment of government? Are external gender justice experts suitably qualified to transfer their skills to national staff? Can they speak the local language(s)? Is training national staff a requirement?

Sources: Donors; international organizations; ministries responsible for different parts of the criminal justice system; finance ministry.

People: Donors (home office and country office programme managers); staff of international organizations; minister of justice; minister of gender; chief justice.



Annex A. Key documents

United Nations

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights 1966
- Convention on the Elimination of All forms of Discrimination against Women (1979)
- Committee on the Elimination of All forms of Discrimination against Women, General Recommendation 19 (1992) Violence against Women
- Declaration on the Elimination of Violence against Women (1993)
- Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice (ECOSOC resolution 2010/15, annex, adopted on 22 July 2010)
- Beijing Declaration and Platform for Action. Fourth World Conference on Women (1995)
- Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (Palermo Protocol 2000)
- Gender and Security Sector Reform Toolkit, Eds. Megan Bastick and Kristen Valasek. Geneva: DCAF, OSCE/ODIR, UN-INSTRAW, 2008
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules, ECOSOC resolution 2010/16, annex, adopted on 22 July 2010)
- Kyiv Declaration on Women's Health in Prison. Correcting gender equality in prison health. UNODC/WHO Europe (2009)
- The Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice (2006) which contains source documents on crime prevention and criminal justice, and Human Rights texts including:
 - Declaration on the Protection of All Persons from Being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1975

- Basic Principles on the Role of Lawyers
- Guidelines on the Role of Prosecutors
- Code of Conduct for Law Enforcement Officials
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- Declaration on the Elimination of Violence against Women
- Guidelines for the Prevention of Crime

Regional

- African Charter on Human and Peoples' Rights (1981)
- Protocol to the African Charter on Human and Peoples' Rights on Women in Africa (2003)
- Solemn Declaration on Gender Equality in Africa (2004)
- Gender and Development Declaration by the Southern African Development Community (SADC)(1997)
- Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003)
- European Convention on Human Rights (1950)
- Inter American Program on the Promotion of Women's Human Rights and Gender Equity and Equality (2000)
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para 1994)
- OSCE Action Plan for the Promotion of Gender Equality (2004)
- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)
- American Convention on Human Rights (1978)
- Council of Europe Parliamentary Assembly Resolution 1663 (2009) on Women in prison
- European Parliament Resolution on the situation of women in prison and the impact of the imprisonment of parents on social and family life adopted in plenary 13 March 2008, (A6-0033/2008)
- Recommendation (Rec)(2006)13 of the Committee of Ministers of the Council of Europe to the member states on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse
- European Prison Rules, Committee of Ministers of Council of Europe to the member states Recommendation Rec (2006)2
- Council of Europe Parliamentary Assembly Recommendation 1741 (2006) on the Social reintegration of prisoners
- Council of Europe Parliamentary Assembly Recommendation (Rec) 1469 (2000) on Mothers and babies in prison

Post-conflict

- ICC, Rome Statute, International Criminal Court, 1998
- ICTR, Statute of the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations in the Territory of Neighbouring States, 1994
- ICTY, Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991, 1993
- Statute of the Special Court for Sierra Leone, 2000
- Model Code of Criminal Procedure
- Model Criminal Code

PLEASE NOTE: *The Model Code of Criminal Procedure (MCCP) and the Model Criminal Code (MCC) are being cited as models of codes that fully integrate international standards and norms. Assessors wishing to cite the MCCP and the MCC with accuracy should check the following websites: <http://www.usip.org/ruleoflaw/index.html> or www.nuigalway.ie/human_rights/Projects/model_codes.html*

Annex B. Assessor's guide and checklist

The following are designed to assist the assessor in keeping track of what topics have been covered, with what sources, and with whom.

<i>Topic</i>	<i>Sources</i>	<i>Contacts</i>	<i>Completed</i>
2.1 Statistical data	<ul style="list-style-type: none"> • Formal/informal/traditional court reports • Non-governmental organization and civil society reports on gender justice • Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) • Country reports and shadow reports, if any • Associations of women judges, lawyers, or prosecutor's reports • Police reports, including administrative disaggregated data • Prison records 	<ul style="list-style-type: none"> • Members of ministry of justice; ministry of gender/women's affairs; judiciary • Traditional leaders; prosecutors; lawyers; judicial actors; health officials dealing with abuse and violence against women • Women's organizations of judges, prosecutors or lawyers • NGOs • Faith-based groups; cultural groups • Donor organizations • Police officers from gender units or specialized anti-trafficking units • Court personnel, including from transitional justice mechanisms (tribunals, special courts, truth commissions, etc.) 	
3 Legal and regulatory framework	<ul style="list-style-type: none"> • Constitution • Criminal/penal code and the criminal/penal procedure law • Traditional law or customary practices • Regional/international treaties and conventions that have been signed and ratified 	<ul style="list-style-type: none"> • Many of these documents can be located and reviewed prior to the assessment • Traditional leaders, chiefs, queen mothers, etc. • Law school librarians • Judicial staff • Bar association staff 	

	<i>Topic</i>	<i>Sources</i>	<i>Contacts</i>	<i>Completed</i>
3.1	Constitution	<ul style="list-style-type: none"> • Constitution • Official gazette/journal officiel • National human rights commission • Laws establishing the courts • Jurisprudence of the constitutional court 	<ul style="list-style-type: none"> • Constitutional court judges • Clerks • Minister of justice • Law professors • Bar association members • Minister of gender • NGO staff • Legal aid lawyers 	
3.2	Legislation	<ul style="list-style-type: none"> • Ministry of justice • Ministry of gender • Law reform commission • Women's organizations • National assembly 	<ul style="list-style-type: none"> • Minister of justice and staff • Minister of gender and staff • Law review commissioners • Lawmakers • Bar association committee leaders 	
3.3	Regional and international standards	<ul style="list-style-type: none"> • Websites and secretariats of relevant international organizations • Ministry of foreign affairs • Ministry of gender • National human rights commission 	<ul style="list-style-type: none"> • United Nations country team • NGOs • Regional and international human rights organizations • CEDAW committee members • Gender ombudsman 	
4.1	Police	<ul style="list-style-type: none"> • Local police stations • Police manuals; guidelines; procedures • Legislation • Special units • Policy academy • Medical/forensic facilities • Training material • Personnel records 	<ul style="list-style-type: none"> • Police officers • Police academy staff • Police leadership • Special unit officers • Medical/forensic examiners • Academia • Civil society • NGOs 	
4.2	Integrity and accountability of the police	<ul style="list-style-type: none"> • Human rights organizations • National human rights commission • Office of the prosecutor • Police headquarters • NGOs 	<ul style="list-style-type: none"> • Chief of police, • Heads of special (gender) units • Victims/survivors of gender-based crimes • Investigators • Women's groups • Ombudsman 	

<i>Topic</i>	<i>Sources</i>	<i>Contacts</i>	<i>Completed</i>
4.3 Forensics	<ul style="list-style-type: none"> • Police • Forensics institute • NGOs • Human rights organizations 	<ul style="list-style-type: none"> • Police and forensics officers • Bar associations • Legal aid officers • Forensics trainers • Health care workers 	
4.4 Women police officers	<ul style="list-style-type: none"> • Police headquarters • Community police stations • Women's groups • NGOs 	<ul style="list-style-type: none"> • Police officers • Female management and officers • Police academy • Women's groups 	
5.1 Courts	<ul style="list-style-type: none"> • Ministry of justice • Ministry responsible for prisons • Human rights organizations • NGOs • Women's groups • Law schools 	<ul style="list-style-type: none"> • Victims/survivors • Court personnel • Clerks • Prosecutors • Defence attorneys • NGOs • Law students/professors 	
5.1.1 Traditional/customary courts	<ul style="list-style-type: none"> • Constitution • Laws • Ministry of justice • Ministry of gender • Traditional courts 	<ul style="list-style-type: none"> • Traditional leaders (female and male) • Prosecutors • Professors in traditional law • Community leaders • Women's groups 	
5.1.2 Transitional justice	<ul style="list-style-type: none"> • International court • NGOs • Donors • United Nations country offices 	<ul style="list-style-type: none"> • Judges • Prosecutors • Investigators • Defence lawyers • NGOs • Civil society 	
5.1.3 Court personnel	<ul style="list-style-type: none"> • Judiciary • Ministry of justice • Bar association • NGOs • Law faculty 	<ul style="list-style-type: none"> • Judges • Clerks • Investigators • Interpreters • Magistrates • Court users • Prosecutors • Defence lawyers 	

<i>Topic</i>	<i>Sources</i>	<i>Contacts</i>	<i>Completed</i>
5.2 Prosecution	<ul style="list-style-type: none"> • Ministry of justice • Prosecutors office • Ministry overseeing police • Police 	<ul style="list-style-type: none"> • Attorney general • Prosecutors (both in and out of the capital city) • Female prosecutors • Judges and police officers 	
5.3.1 Admission to the practice of law	<ul style="list-style-type: none"> • Law school • Bar association • Women's groups • Women's bar association 	<ul style="list-style-type: none"> • Lawyers • Bar association leadership • Chief justice • Law students • Clients • NGOs 	
5.3.2 Legal aid/public defender service	<ul style="list-style-type: none"> • Public defender's office • Judiciary; NGOs • Bar association • Civil society organizations • Prisons • Police 	<ul style="list-style-type: none"> • Legal aid officers/lawyers • Chief justice • Victims • Female prisoners • Investigators • Paralegals 	
5.3.3 Legal assistance by non-lawyers/paralegals	<ul style="list-style-type: none"> • Defender service • MOJ • Judiciary • Paralegal programmes • NGOs 	<ul style="list-style-type: none"> • Paralegals • Legal assistants • Magistrates • Judges • Victims/survivors • NGOs 	
6.1 Prisons	<ul style="list-style-type: none"> • Legislation • Prison reports • Prison authority • NGO and human rights organization reports 	<ul style="list-style-type: none"> • Prison officials • Guards • Prisoners • NGO staff 	
6.2 Pre-trial detention	<ul style="list-style-type: none"> • Legislation • Police headquarters • Community police • NGO and human rights organization reports 	<ul style="list-style-type: none"> • Police officers (women and men) • Defence council • Paralegals • Female prisoners 	

	<i>Topic</i>	<i>Sources</i>	<i>Contacts</i>	<i>Completed</i>
6.3	Protective custody	<ul style="list-style-type: none"> • Prison manuals • Judiciary • Prosecution authority • Bar association • Legislation • Police • NGOs • Women's groups 	<ul style="list-style-type: none"> • Prison officials • Police officers • Lawyers • judges • Prosecutors • Victims in protective custody • Family members • Civil society • NGOs • Women's groups 	
6.4	Alternatives to incarceration	<ul style="list-style-type: none"> • Prisons • NGOs • Human rights organization reports 	<ul style="list-style-type: none"> • Police • Prosecutor • Magistrates • Female detainees • Public defenders • NGOs 	
6.5	Social reintegration	<ul style="list-style-type: none"> • Ministry responsible for prisons • Ministry of justice • Prisons • Human rights organizations 	<ul style="list-style-type: none"> • Police • Prosecutor • Magistrates • Female detainees • Public defenders • NGOs • Bar association leadership • Women's groups 	
7	Victims and witnesses	<ul style="list-style-type: none"> • Women's shelters • NGOs • Victims' support groups • Courts • Police 	<ul style="list-style-type: none"> • Police officers • Shelter staff • NGOs • Victims of gender-based crimes • Magistrates • Judges • Prosecutors • Health care workers • Human rights organizations • Civil society groups 	

	<i>Topic</i>	<i>Sources</i>	<i>Contacts</i>	<i>Completed</i>
8	Crime prevention	<ul style="list-style-type: none"> • Legislation • Police • Ministry of justice • Defense/legal aid • Prisons • Human rights reports • Community/traditional laws • Faith-based organizations • Peacekeeping troops • United Nations country offices 	<ul style="list-style-type: none"> • Police officers • Prison officials • Community leaders • International/regional NGOs • Bar association leadership • Lawyers • Prosecutors • Judges • NGOs • Civil society 	
9.1	Public awareness/ legal literacy	<ul style="list-style-type: none"> • NGOs • Civil society groups • Donor reports 	<ul style="list-style-type: none"> • Donor country offices • Community leaders • Civil society groups • NGOs 	
9.2	Public perception	<ul style="list-style-type: none"> • Civil society organizations • NGOs • Women's groups • Donors • Academia • Media 	<ul style="list-style-type: none"> • Community leaders • Faith-based leaders • NGOs • Women's groups • Teachers • Students • Reports • Civil society 	
9.3	Media	<ul style="list-style-type: none"> • Legislation • Civil society • NGOs • Media (radio stations, TV stations, newspapers) 	<ul style="list-style-type: none"> • Reporters • NGOs • Civil society organizations • Community leaders • Human rights organizations 	
10	Oversight/ monitoring	<ul style="list-style-type: none"> • Traditional courts • Oversight bodies • Civil society organizations • Legislation 	<ul style="list-style-type: none"> • Ombudsmen • Traditional leaders • Civil society • Human rights organizations 	

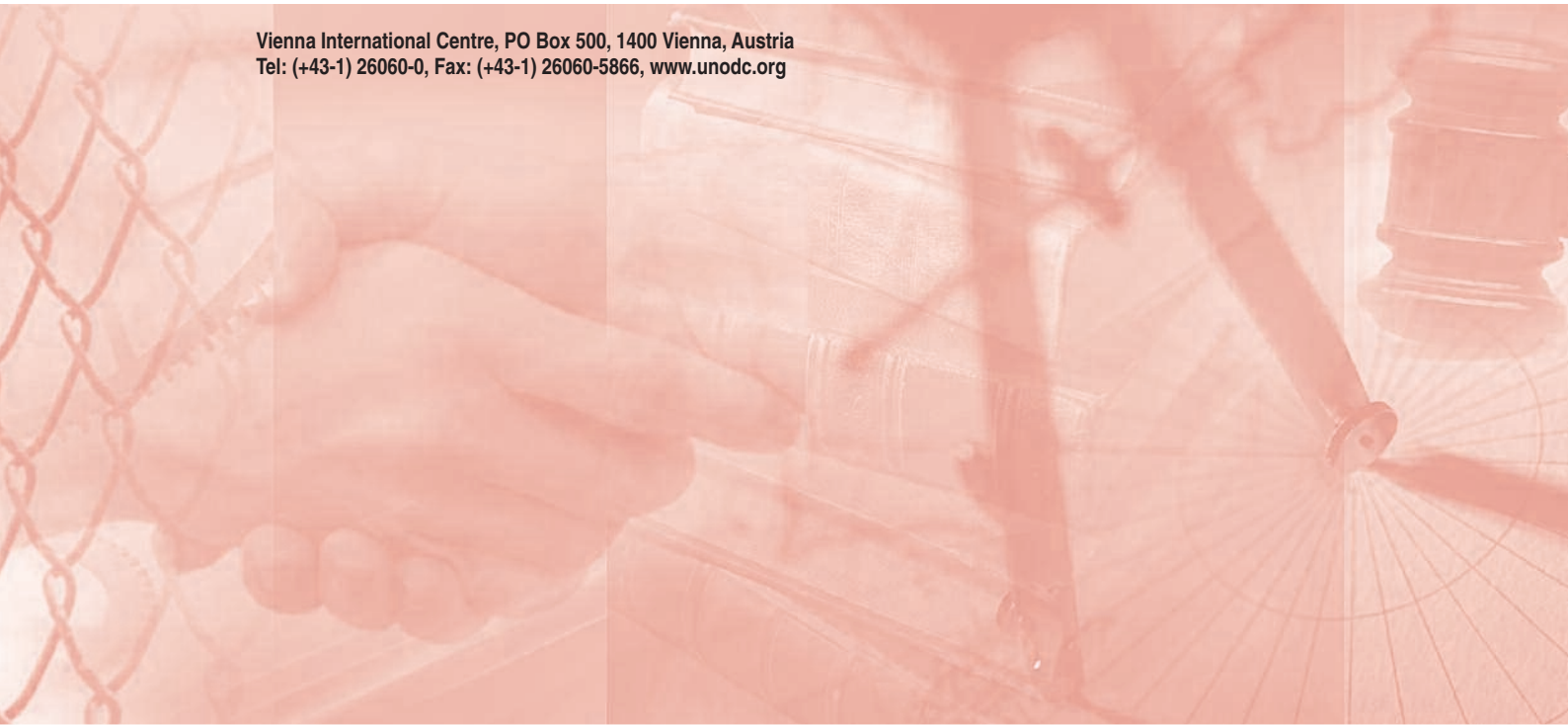
<i>Topic</i>	<i>Sources</i>	<i>Contacts</i>	<i>Completed</i>
11.1 Partnerships	<ul style="list-style-type: none"> • Judiciary • Ministry of justice • Bar association • Defense services • NGOs • Civil society • Donors 	<ul style="list-style-type: none"> • Chief justice • Minister of justice • Bar association leaders • Attorney general • Dean of the law school • Chief of police • NGOs 	
11.2 Donor coordination	<ul style="list-style-type: none"> • Donors • International organizations • Ministries responsible for different parts of the criminal justice system • Finance ministry 	<ul style="list-style-type: none"> • Donors (home office and country office programme managers) • Staff of international organizations • Minister of justice • Minister of gender • Chief justice 	



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