

ANTI-CORRUPTION TOOL KIT

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**Monitoring and
Evaluation**

VII. MONITORING AND EVALUATION

Introduction

Although not as newsworthy as grand corruption, petty corruption and system leakage make a favourable environment for grand corruption. From the perspective of public service users, inefficiencies and inequities of public services are a misuse of public power. They “leak” resources from the system that should serve the public.

Why Bother to Measure?

Corruption represents a “leakage” of resources from institutions that are supposed to be using them for social objectives. It is not only the large-scale larceny of contract rigging, kickbacks, and misuse or simply misappropriation of public funds that represent leakage. This leakage can be in the form of unofficial user fees, kickbacks, grease payments or even free time from services not performed. Under-the-table user charges, absenteeism, the sale of drugs or fertilisers that should be dispensed free of charge, or sale of examination papers — all of these examples represent the misuse of public funds for private profit.

The result of this leakage creates an environment propitious for grand corruption, diverting already scarce public service resources, and it “double taxes” the public. Validation of the fact that corruption reduces service effectiveness is shown by corruption surveys done in Uganda and Tanzania. In Uganda, peasants subjected to corrupt agricultural extension agents had to pay more for fertilisers and pesticides than those in areas outside the reach of the project. They also had lower levels of production. In Tanzania, households who had to pay bribes for police assistance and for land transfers often found their problems were not resolved by the payment. And to make matters worse, sometimes these police and land officials also accepted bribes from the other side of the conflict, thus often leaving the issue effectively unresolved (or resolved in favour of whoever paid the most). Surveys can uncover these facts.

Another reason to measure is because resources may not be used to the maximum due to information asymmetries and constraints. The first reasons for this asymmetry is the introspective nature of institutional information systems. Public service providers in virtually all countries have recourse to data generated by routine information systems. However, even in the best of cases, these data tend to be introspective, concerned with the perspective of the institution (the school, the clinic or the police station) rather than the users of the services (the public). Many “users” are not even in contact with the services and thus their opinions cannot be registered in a service-based information system. Further, conventional planning of public services, since it begins with the institutions rather than with the public, often does not contemplate key concerns like coverage or impact of services — much less the question of system leakage.

The second asymmetry concerns the lack of information from which to form expectations. Very often public service users have little idea of what services their money should be buying and are thus subjected to local market dynamics. As they have no way to know whether a particular shortfall in services is due to the service worker, under-investment on public services, or any of a dozens of causes of system leakage, the formation of expectations becomes rather difficult.

Reform might further aggravate the information constraints that they try to correct. It is true that managers often have an accurate “big picture” of the reforms which are necessary to improve equity, effectiveness, efficiency and deal with system leakage. Streamlining, downsizing and refocusing service objectives are some examples of these reforms. Yet, the promise of increased responsiveness and improvement in quality often does not materialise because this streamlining

often reduces the institutional ability to measure coverage and impact of services (as well as system leakage).

In public service provision, there are a number of questions that managers of public services need the answers to if they are to overcome information constraints. The first set of questions address the issue of what needs reform. What can be changed? What should be changed first? How much is gained from each of the actions taken? How does one measure progress? What is the confidence level of the answers obtained? A second set of questions deals with the focus of the actions. Some of these questions include the following. Should we focus on particular service providers? Are there any special groups of service users (ethnic, generational and gender divisions are typical stratifications) especially harmed by system leakage? Are there any multiplier effects or combinations of actions that produce more than the sum of their individual effects? A third set of questions deals with the financial and political costs of reducing system leakage. How much will this stakeholder information system cost to implement? How long do we have to wait for the returns? What evidence exists of community or constituency acceptance or a public mandate for change? What is the level of institutional acceptance from the service delivery agencies?

The solution to these information asymmetries and constraints requires a measurement interface between services and users — a process whereby the community voice can be built into planning. Service Delivery Surveys have been designed and implemented in a number of countries with the goal of providing this measurement interface.

Tool 38 - Service Delivery Surveys (SDS)

Purpose

The Service Delivery Survey (SDS) is useful in a number of ways as it gives service providers the information necessary to implement reform and service users information to help promote reform. Indeed, the value of SDS in giving consumers a “voice” and allowing them to exert pressure on service providers to delivery higher quality services is important. The role of SDS in providing concrete data about perceptions in a relatively unambiguous way is also important as is its role in promoting greater participation among service users in the service delivery process.

One of the main attributes of SDS is that they are useful management tools. Ultimately, the tool could be used internally by managers at all levels of the government and externally by governmental oversight agencies, politicians, the public, and international donors. The SDS would establish a baseline for service delivery to the public. This baseline could be used to improve the design of a reform program. The indicators could be measured periodically to ascertain the reform’s progress. A service delivery survey would also build capacity within the country to design and implement surveys, as well as to implement results-oriented management.

Description

Service delivery surveys originate from a community-based action-research process developed in Latin America in the mid-1980s, known as Sentinel Community Surveillance (SCS). Since then, these stakeholder information systems have been implemented with World Bank support in Nicaragua, Mali, Tanzania, Uganda and Bosnia. With the help of UNICEF and UNDP, they have been established in Pakistan, Nepal, Burkina Faso, Costa Rica and Bolivia.

The scheme was originally conceived to build capacities while producing accurate, detailed and “actionable” data rapidly and at low cost. Ordinarily, SDS’s focus on the generation and communication of evidence for planning purposes. This may be at the level of a municipality, a city, a state, a number of provinces or an entire country. In each of these settings, a representative sample of communities is selected to represent the full spread of conditions in the country (or district). The approach permits community-based fact-finding through a reiterative process, addressing one set of issues at a time.

The SDS process starts with a baseline of service coverage, impact and costs in a representative panel of communities across the country (or district). This involves a household survey, where local interviewers are trained to knock on doors and ask a limited number of well-focused questions about use of services, levels of satisfaction, bribes paid and suggestions for change. These data, and the institutional review from the same communities, are discussed in each community with the service workers and community leaders. The quantitative aspects are used for benchmarking progress with subsequent reiterations of the survey. Logistics of the SCS focus on repeated measurement in the same sites, reducing sampling error and making impact estimation straightforward. The qualitative dimensions reveal what should be done about the problem.

Central to SCS is interaction with the research partners — the communities. The product is therefore the aggregation of data from the epidemiological analysis distilled through interaction with communities.¹⁸³ By feeding information back to the communities, dialogue for action is stimulated within households, in communities, and between communities and local authorities.

¹⁸³ Webster’s New Collegiate Dictionary defines “epidemiology” as: i) a branch of medical science that deals with the incidence, distribution, and control of disease in a population, ii) the sum of factors controlling the presence or absence of a disease or pathogen.

The resulting mobilisation to resolve specific problems also serves as a basis for empowerment. This involves initiation of cycles that follow a fairly constant rhythm, independent of the subject. Experience over more than a decade of implementation in 40 countries has shown that ownership and commitment on the part of the client is vital to successful development projects. The greater the intensity of participation (in terms of information sharing, consultation, decision-making and initiating action), the greater the sustainability.

The method has been used to measure impact, coverage and cost of land mines, economic sanctions, environmental interventions, urban transport, agricultural extension, health services, judiciary and institutional restructuring. It has proved useful in generating community-designed strategies to combat corruption in the public services in several countries. Actionable results are provided in a short time and at low cost. Typically, the duration of a whole cycle, from the design stage to the report writing, are six to eight weeks.

Some results of the Service Delivery Survey (SDS)

Corruption (almost by definition) represents a separation between leaders and their constituencies and separation between public servants and the public. The first contribution of a SDS in overcoming this separation is that all segments of the public are reflected in the collected data. This data gives a voice to the urban and rural, male and female, rich and poor, young and old — even those who do not have access to certain public services for either physical or social reasons. Stratified focus groups are assembled to identify potential solutions so that each group is enabled to voice their opinions and solutions.

But simply to be included in the sample as people who give opinions on the services is a fragile representation of the community voice. The second way SDS's reduce this separation is that it involves stakeholders actively in the social audit process. Feedback of the data to the communities (such as in Uganda and Tanzania) and systematic use of data to build solutions adds another dimension to the community voice in planning. In these examples, the participants of the focus groups were invited to meetings with the local community leaders to discuss the feasibility and implications of the solutions.

The third way SDS's close this gap is by providing feedback in a positive way using results to reveal options for the achievement of goals rather than underscoring deficiencies. Communities or districts with the poorest indicators are shown how certain reforms can improve their situation. Further, having a voice in the interpretation and analysis of the resulting data helps to build confidence among the stakeholders and provides a favourable climate for community mobilisation.

The fourth way SDS's can help to bring the governed and governing together is by using results to manage a change process. This process starts with a necessary commitment to communicate results from the government. The results of each cycle are then communicated to public service providers through a series of "change management" workshops. In Tanzania, the results were discussed in a Cabinet retreat, where a national policy against corruption was formulated. In Uganda, the results were presented at a parliamentarian's retreat. Media workshops in both countries familiarised journalists with the data and the correct management of positive examples. In this way, these change management workshops help build a sense of accountability, transparency and open government.

SDS's also provide data necessary for results-oriented development planning. It is a fact that most local governments in developing countries are characterised by poor fiscal outcomes. A results-oriented approach can help improve these outcomes. However, results-oriented management needs detailed "actionable" quantitative data. For a government or municipal authority to act on behalf of a vulnerable subgroup, hard data are required to identify the subgroup concerned and to act as a benchmark to measure progress. Complementary qualitative

data are also needed to indicate the cultural and gender constraints and opportunities as well as to confirm the analysis given to the quantitative data.

Different Types of Monitoring at the international level

At least three types of monitoring mechanisms are currently in use as part of anti-corruption programmes: (i) those based on international instruments, (ii) those based on national instruments and (iii) those of a more general nature¹⁸⁴. The advantage of instruments-based mechanisms is that the legal framework is clear: the monitoring focuses on the implementation and impact of the various provisions of these instruments. Examples of this type of monitoring are the mechanisms relating to the OECD-Convention on combating bribery of officials in international business transactions, the GRECO-Programme of the Council of Europe and the various monitoring exercises within the European Union (it is expected that the future UN-instrument against Corruption will also contain a provision on monitoring).

However, even without this sort of formal framework, monitoring effectiveness of national strategies has been accomplished via the use of surveys. An example of this is the recently established monitoring mechanism used in Romania, Lithuania and Poland. Instead of being based on a legal instrument, monitoring takes place on the basis of questionnaires, listing relevant questions on national policies and legislation. Two other examples include the perception indices developed by Transparency International as well as the annual independent survey conducted by ICAC in Hong Kong SAR which measures, among other things, the trust level between ICAC and the public, prosecution rate, as well as levels, types, location and causes of corruption. The UN is currently testing a method in two pilot countries using a so-called country assessment based on both facts and perceptions using hard facts, surveys focus groups and case studies.

Challenges of measuring the impact of anti-corruption strategies

There are certainly many challenges to accurately measuring the impact of anti-corruption strategies, policies and measures.

First, collected data must be analysed by a competent and independent institution capable of extracting the true essence of the data collected which can then be analysed highlighting differences and identifying so-called "best practices". To do this in a credible manner, availability of resources will always be an issue. This holds true even for monitoring mechanisms based on international instruments, since it is not always evident that the Secretariats of the organisations concerned have the necessary resources to ensure effective support and analysis of these mechanisms.

Second, current international monitoring mechanisms are unevenly distributed throughout the world. In some regions, countries tend to participate in more than one monitoring exercise, while in other parts of the world there are no operational monitoring mechanisms at all, as, for example, in most parts of Asia. Of course, the other extreme involves instances where there are multiple mechanisms applicable to the same region, and the challenge arises as to how to avoid duplication of effort.

Third, monitoring can never be an end in itself. Rather, it should be an effective tool to bring about changes in international and national policies and improve the quality of decision-making. If the monitoring exercise is linked to an international instrument, the primary objective should be to first ensure proper implementation of the technical aspects of the instrument and then the practical impact of its implementation. Monitoring can thus serve two immediate purposes. It helps to reveal any differences in interpretation of the instruments concerned and it can stimulate

¹⁸⁴ Petter, Langseth; (2001) Helping Member Countries Build Integrity to Prevent Corruption;

swift and effective translation of the provisions of these instruments into national policies and legislation. If it is determined that incomplete or ineffective implementation has occurred, sanctions can be imposed to motivate stronger efforts at success. Therefore, accurate monitoring is critical with respect to launching any successful anti-corruption initiative.

In the case of the OECD-Convention, for example, a built-in sanction requires that reports of the discussions on implementation be made available to the public. Such publicity can be an important mechanism in helping promote more effective measures. Reference can be made in this regard to the publicity surrounding the perception indices of Transparency International. Even though these indices simply register the perceived level of corruption as seen by primarily the international private sector, they gain wide publicity. However, inasmuch as the TI indexes are somewhat useful, a distinct disadvantage is that they: (i) do not always reflect the real situation, (ii) do not involve the victims of corruption in the countries surveyed; (iii) offer little or no guidance of what could be done to address the problem, and (iii) can discourage countries from taking serious measures when their anti-corruption programme efforts are not seen as being successful by an improved score against the TI-Index.

Fourth, monitoring exercises cannot be separated from the issue of technical assistance and it is critical that monitoring not only addresses levels of corruption, but also its location, cost, cause and the potential impact of different remedies. Furthermore, since the trust level between the public and anti-corruption agencies is critical for the success of anti-corruption efforts, public trust levels should also be monitored.

It may be the case that participating countries agree on the need for implementing the measures identified as "best practices", but lack financial, human or technical resources to implement them. Under those circumstances, monitoring exercises would be much more effective if targeted assistance programmes accompanied them. It should be added, however, that not all measures require major resources, especially in the context of preventative measures where much can be done at relatively low cost.

Most of the data collection done by the traditional development institutions is based on an approach that can be described as "data collection by outsiders for outside use". Generally conducted by external experts, international surveys tend to be done for external research purposes. International surveys help spark debate about those countries which fare badly. Such surveys help to place issues on the national agenda and keep it at the forefront of public debate. However, international surveys are comparative and fraught with statistical difficulties.

One value, however, has been that they have highlighted the need for national surveys, and these are now being undertaken with increasing thoroughness. With public awareness of levels, types, causes and remedies of corruption dramatically improved over the last 5 years, the utility of collecting data about corruption is to increase the accountability of the state towards its public by establishing measurable performance indicators that are transparently and independently monitored over time

Tool 39 - UN Country Assessment

Purpose

UN country assessments aim at producing a clear and coherent picture of a country's current condition with respect to the:

- Levels, locations, types and cost of corruption;
- Causes of corruption; and
- Remedies for corruption.

However, only about 20% of the resources and efforts are spent on the assessment as such. The main objective is to use and disseminate collected data in order to:

- Raise awareness among key stakeholders and the public;
- Empower the civil society to oversee the state;
- Provide a foundation for evidence-based action plans;
- Establish measurable performance indicators; and
- Monitor the implementation of the anti-corruption action plan.

Description

Country assessments resulting in a corruption monitoring protocol could be issued regularly (once every two to four years) to document levels and locations of corruption as well as progress by a Member State in fighting it. Such country assessments can be conducted by the Centre for International Crime Prevention in collaboration with the United Nations International Criminal Justice Research Institute (UNICRI) and various other research institutes, such as Gallup.

Types, Levels and Locations of Corruption.

The assessments monitor trends regarding the three main types of corruption:

- Corruption in public administration and "street-level" corruption;
- Business corruption (especially in medium-sized businesses); and
- High-level corruption in finance and politics.

In order to assess the types, levels and locations of corruption, various techniques are combined into an integrated and comprehensive approach. Some of the techniques include:

Desk Review. The initial step is to conduct a desk review by compiling all relevant anti-corruption information already available.

Public Opinion Surveys. These surveys help to determine the types, levels and locations of corruption, based on both concrete experiences and perceptions. Significant efforts are undertaken to help guarantee the quality of data by choosing a representative sample and sample size, by ensuring that the survey is implemented according to the terms of reference and by cross checking the survey data. The sample size is chosen to produce quality data at both the national and sub-national levels. As an example, in Uganda, the survey data for each of the country's 46 districts would be compared with the national average. This type of survey was requested by the Inspector General of Government who felt that the only way he could fight corruption was to have information about corruption levels across sub national units.

Focus Groups. Another diagnosis technique used in country assessments is focus groups, whereby targeted interest groups in government and society hold in-depth discussion sessions. This technique often produces extremely detailed information concerning views on corruption,

precipitating causes, as well as valuable ideas on how governments can fight it. The focus group sessions usually concentrate on the following issues:

- Extent of the corruption problem;
- Types and locations of corruption;
- Negative effects of corruption;
- Root causes;
- Effectiveness of current laws and programs;
- Possible solutions; and
- Prioritising issues

Case Studies. Local experts use case studies to describe typical corruption cases in great detail. This exercise can help everyone to understand how corruption actually takes place. Carefully documented practical case studies also help anti-corruption agencies to fine-tune their efforts and can assist in educating the public and potential whistleblowers.

Legal Assessment. The entire anti-corruption framework is assessed, including criminal and civil procedure codes, civil service laws (standing orders), public procurement regulations, anti-money laundering statutes, codes of conduct and other relevant codes and rules. Where appropriate, inefficiencies and inconsistencies between various laws are analysed with a view towards integrating a comprehensive solution to strengthen the legal system.

Assessment of the Institutional Framework. The capacity and resources of the relevant institutional anti-corruption framework is analysed. This includes an assessment of the effectiveness of control mechanisms and oversight bodies responsible for monitoring and guaranteeing the quality and integrity of the relevant institutional framework. The objective is to evaluate to what extent the judiciary; executive and legislative bodies are already active in preventing and fighting corruption. Particular attention is paid to balance powers, and an assessment is made of the independence of the judiciary, the legislative and the media (often called the fourth power). The aim is to identify the specific problems faced by each body and agency as well as their root causes. The UN country assessments concentrate in particular on “process mapping” to analyse the functions, procedures, reporting relationships, access to information and incentives within the institutional framework. This ‘mapping’ specifies how the organisation carries out its mission, identifies efficiencies and inefficiencies, assesses potentials for conflicts of interest and identifies hazards for extortion (bribe taking) and bribe giving.

Assessment of the Civil Society. The sixth and last technique used is the assessment of the civil society and the media. In order for the civil society and the media to hold the government accountable, it is essential that they have access to information. The media must also enjoy freedom from political influence and be independent. With respect to access of information, country assessments do more than merely confirm that some form of freedom of information law exists. They also assess to what extent journalists or citizens in fact have access to certain information in a timely and free fashion.

Preconditions and Risks

While international surveys tend to be conducted by outsiders for use outside of the country, national or sub-national surveys are ideally performed by locals (in some cases with the assistance of outsiders) and for local use. International surveys help trigger public debate in countries with most problems. They also help to place the issue on national agendas and to keep them at the forefront of public debate. Public awareness regarding the levels, types, causes of and remedies for corruption have improved dramatically over the last 5 years, and collecting data about corruption will increase the accountability of the state towards its public by establishing measurable performance indicators that can be transparently monitored over time

Tool 40 - Mirror Statistics as an Investigative and Preventive Tool

Purpose

The purpose of this tool is to uncover the levels of corruption by assessing secondary indicators such as the extent of the grey sector of an economy which includes such commodities as illegally imported cigarettes, liquor and other items. The link between corruption and the grey sector is especially important as corrupt practices usually “enable” the inflow and outflow of resources to and from this sector. Where the economic environment in a country is tightly regulated with effective import regulations and other measures, it would be difficult for the grey sector to operate profitably without resorting to corruption to defeat existing enforcement of regulations.

Description

The use of mirror statistics to track the flow of “resources” of the grey economy and to estimate the size of this sector in the economy is not a new. It has been proven to be an important analytical instrument that can target economic sectors suffering from corrupt practices.

Two Methods for Using Mirror Statistics Information

First Method; The basic information resource to be used is the statistical information about the import and export of commodities between two or more countries. The objective is to compare data for exports and imports from country X to country Y and from country Y back to country X. In principle, the mirror (export/import) figures should match. There should be no discrepancies between the volume of export from country X to country Y and the volume of import in country Y from country X. The basic precondition is access to accurate data. Using this methodology, comparisons could be made of commodity groups, branches of the economy, periods of time, etc.

The interpretation of results should be made with care and should take into consideration several important factors that could contribute to the result. First, an analysis should be made of the accounting methodologies used by different countries. Adjustments should be applied to equalise the data. Second, careful examination of the import/export customs rules and regulations in the mirrored countries and methods of their implementation must be understood. This step helps to equalise the data. Once all of these contextual factors have been identified and accounted for, any imbalances in the statistics could be interpreted as illegal flows of resources (import and export) and further analysis could be performed using a more detailed structure of resources flows.

Second Method. Another method for using mirroring information compares customs import data with market research information. In countries where comprehensive research on the volume and structure of different markets exists, the data provides fairly accurate estimates of the actual volume of imported goods for a certain commodity group. This information could be compared directly to import information from the customs. Eventual differences in these volumes can point to possible illegal import and could be explored further in greater detail.

Use of the Information Obtained

There are at least two ways of using the information obtained through the methods described above.

Investigative (Intelligence) Tool. Results obtained could be used to target the efforts of specialised law enforcement agencies. Although the information obtained is “depersonalised”, it provides clues as to the main areas of illegal export and import, as well as the probable volume of illegal trade. Thus, specific plans for investigation and preventive work could be designed.

Furthermore, mirror statistics could act as an evaluation tool that helps assess the effectiveness of the measures that have already been taken.

Preventive Tool. The results could also be used to analyse and redesign the legal and institutional framework. The existence of substantial discrepancies continuing over time is an immediate indicator that existing rules and regulations fail to work. This could be due to deficiencies in the legal or the institutional framework. Both should therefore become subjected to closer analysis and inspection. In-depth analysis could provide solid evidence that existing systems fail due to the very regulations designed to support legitimate economic activity or for other reasons. Efforts can then be focused on rehabilitating the regulations so that they can function to maximise the economic activity of the country.

Tool 41 - Measurable Performance Indicators for Judiciary

Purpose

The purpose of the First Federal Judicial Integrity and Capacity meeting was to initiate and evidence based approach to reform in the judiciary in Nigeria. The meeting attended by all 46 Chief Justice agreed on the following four overall reform objectives:

- Improving Access to Justice;
- Improving the Quality of Justice;
- Raising the Level of Public Confidence in the Judicial Process; and
- Improving our efficiency and effectiveness in responding to public complaints about the judicial process

Having done so the meeting decided to identify key reform measures and measurable performance indicators allowing the establishment of a baseline against which progress can be measured

Description

Based on the discussions held in the small groups at a Federal Judicial Integrity and Action Planning Meeting for Chief Justices¹⁸⁵ in Nigeria in October 2001, it was possible to establish a list of measures which the Chief Judges considered essential and effective in increasing the access to, the quality of and the public confidence in the justice system. For each of the measures a set of indicators was identified which according to the participating judges would allow establishing if the measure had achieved its goal.

This list became the immediate basis for the refinement of the comprehensive assessment methodology. In particular the survey instruments for judges, lawyers and prosecutors, court users, court staff, both present and retired as well as businesses were reviewed with an particular focus of covering all the mentioned impact indicators.

By linking each single measure directly to a set of indicators it becomes possible to establish individual baselines; a necessary precondition for any truly meaningful monitoring exercise. The impact oriented design of the assessment will allow the fine-tuning and adjustment of each single measure and hereby greatly contribute to the achievement of the overall objectives of the project.

Access to Justice

Measure 1; Implementation of a relevant and up-to-date Code of Conduct for judicial officers

Impact indicators:

1. Date of most recent review of Code of Conduct
2. Number of complaints received under the Code of Conduct
3. Percentage of complaints received that were investigated
4. Percentage of complaints received and investigated that were disposed of

¹⁸⁵ The first Federal Integrity Meeting for Chief Justices held in Abuja October 27-28 2001 was attended by all 46 Chief Justices in Nigeria. The meeting was chaired by the Chief Justice and facilitated by UN's Centre for International Crime Prevention (CICP)

5. Code of Conduct complying with best international standards
6. Percentage of officers trained on Code of Conduct

Measure 2; Enhance the public's understanding of basic rights and obligations dealing with court-related procedural matters

Impact indicators:

7. The number of judges involved in public information programmes offered to the media and to the public in general
8. Availability of the judicial Code of Conduct to the public

Measure 3; Ease of access of witnesses in civil/criminal procedural matters

Impact indicators:

9. Number of instances in which witnesses provide evidence without attending court
10. Average time and expense for a witness to attend a case

Measure 4; Affordable court fees

Impact Indicator:

11. Percentage of fees set at too high a level

Measure 5; Adequate physical facilities for witness attending court

Impact Indicator:

12. Adequate Witness and Litigant's waiting room

Measure 6; Itinerant Judges with the capacity to adjudicate cases outside the Court Building reaching distant rural areas

Impact Indicators:

13. Number of Itinerant Judges
14. Availability of necessary transport

Measure 7 Level of Informed Citizens (and court-users in particular) on the nature scale, and scope of bail-related procedures

Impact Indicator:

15. Number of courts offering basic information on bail-related aspects in a systematic manner.

Measure 8; Use of suspended sentences and updated fine levels

Impact Indicators:

16. Passage of empowering legislation
17. Existing Number of cases where suspended sentences were applied

18. Number of Cases where fine penalties were applied

Quality of Justice

Measure 9; Timeliness of Court Proceedings

Impact indicators:

19. Level of cooperation between agencies
20. Prioritisation of old outstanding cases
21. Number of adjournment requests granted
22. Percentage of courts where sittings commence on time
23. Percentage of judge s whose performance is monitored
24. Levels of consultations between judiciary and the bar
25. Procedural rules that reduce the potential abuse of process
26. Number of judges practicing case management
27. Type of case management being practiced
28. Regular-congestion exercises undertake
29. Regular prison visits undertaken with Human Rights NGO's and other stakeholders
30. Level of access to books for judicial officers
31. Functioning Criminal Justice and other committees (including participation by NGOs)

Measure 10; Courts exercising powers within their Jurisdiction

Impact Indicators:

- 32; Number of judges/registrars trained/retrained in last year
33. Extent to which bail jurisdiction clear and implemented
34. Percentage of weekly court returns made and reviewed
35. Number of court inspections
36. Number of files called up under powers of review

Measure 11 Consistency in sentencing

Impact indicator:

37. Availability of criminal records at time of sentencing
38. Development of and compliance with sentencing guidelines

Measure 12; Performance of individual judges

Impact Indicators:

39. Percentage of cases where sits on time
40. Backlog of cases? Going up? Down?

41. Number of errors in procedures
42. Number of appeals allowed against substantive judgments
43. Conduct in court
44. Number of public complaints
45. Level of understanding of Code of Conduct
46. Percentage of sentences imposed within the sentencing guidelines

Measure 13 Compliance with requirements of civil process

Impact Indicators:

47. Number of cases where abuse of ex parte injunctions
48. Number of non-urgent cases heard by Vacation judges
49. Number of instances of proceeding improperly in the absence of parties
50. Number of chambers judgments (not given in open court).

Measure 14 Ensuring propriety in the appointment of judges

Impact indicator:

51. Level of confidence among other judges

Measure 15 Raising level of public awareness of the judicial Code of Conduct

Impact indicators:

52. Availability of Code of Conduct
53. Number of complaints made concerning alleged breaches

Public confidence in the courts

Measure 16: Public Confidence in the courts

Impact Indicators

54. Level of confidence among lawyers, Judges, litigants, court administrators, Police, general public, prisoners, and court users
55. Number of complaints (see above);
56. Number of inspections by ICPC
57. Effectiveness of policies regarding formal and social contact between the judiciary and the executive
58. Nature, scope and scale of involvement of civil society in court user committees

Improving our efficiency and effectiveness in responding to public complaints about the judicial process

Measure 17; Existence of credible complaints mechanisms

Impact Indicators:

- 59. Complaints mechanisms which comply with best practice
- 60. Extent to which public are aware of and willing to use the complaints mechanisms
- 61. Readiness to admit anonymous complaints in appropriate circumstances

Possible Next Steps in Improving Judicial Performance in the four areas

Access to justice

Code of conduct reviewed and, where necessary revised, in ways that will impact on the indicators agreed at the Workshop. This includes comparing it with other more recent Codes, including the Bangalore Code. It would also include an amendment to give guidance to Judges about the propriety of certain forms of conduct in their relations with the executive (e.g. attending airports to farewell or welcome Governors). Ensure that anonymous complaints are received and investigated appropriately. (Measure 1.1; 1.6; 16.4; 17.3) Action: Chief Justice of the Federation

Enforcement of Code of Conduct. Consider how the Judicial Code of Conduct can be made more widely available to the public (e.g. hand outs, posters in the courts etc.) (Measure 2.2) Action: Individual Chief Judges

Increase Public Awareness. Consider how best Chief Judges can become involved in enhancing the public's understandings of basic rights and freedoms, particularly through the media. (Measure 2.1) Action: Individual Chief Judges

Court fees to be reviewed to ensure that they are both appropriate and affordable. (Measure 4.1) Action: All Chief Judges

Review the adequacy of waiting rooms etc. for witnesses etc. and where these are lacking establish whether there are any unused rooms etc. that might be used for this purpose. Where rooms are not available explore other possibilities to provide shade and shelter for witnesses in the immediate proximity of courts (Measure 5.1) Action: All Chief Judges

Review the number of itinerant Judges with the capacity to adjudge cases away from the court centre. (Measure 5.1) Action: All Chief Judges; Chief Justice of the Federation

Review arrangements in their courts to ensure that they offer basic information to the public on bail-related matters. (Measure 7.1) Action: All Chief Judges

Revise sentencing and fine levels. Press for empowerment of the court to impose suspended sentences and updated fine levels. (Measure 8.1) Action: Chief Justice of the Federation

Quality of Justice

Increased cooperation. Ensure high levels of cooperation between the various agencies responsible for court matters (police; prosecutors; prisons) (Measure 9.2) Action: All Chief Judges

Review of efficiency. Criminal Justice and other court user committees to be reviewed for effectiveness and established where not present, including participation by relevant non-governmental organisations. (Measure 9.13; 16.5) Action: All Chief Judges

Prioritise old cases. Old outstanding cases to be given priority and regular decongestion exercises undertaken. (Measure 9.2; 9.10) Action: All Chief Judges

Adjournment requests to be dealt with as more serious matters and granted less frequently. (Measure 9.3) Action: All Chief Judges; Chief Justice of the Federation

Review of procedural rules to be undertaken to eliminate provisions with potential for abuse. (Measure 9.7) Action: All Chief Judges and Chief Justice of the Federation

Time management. Courts at all levels to commence sittings on time. (Measure 9.4) Action: All Chief Judges.

Reduce delays; Increased consultations between judiciary and the bar to eliminate delay and increase efficiency. (Measure 9.6) Action: All Chief Judges

Increase number of Judges. Review and if necessary increase the number of Judges practising case management. (Measure 9.8) Action: All Chief Judges

Ensure regular prison visits undertaken together with human rights NGOs and other stakeholders. (Measure 9.12; 16.5) Action: All Chief Judges

Clarify jurisdiction of lower courts to grant bail (e.g. in capital cases). (Measure 10.2)

Court inspections. Review and ensure the adequacy of the number of court inspections. (Measure 10.4) Action: All Chief Judges

Review and ensure the adequacy of the number of files called up under powers of review. (Measure 10.5) Action: All Chief Judges

Examine ways in which the availability of accurate criminal records can be made available at the time of sentencing. (Measure 11.1) Action: All Chief Judges and Chief Justice of the Federation

Develop Sentencing Guidelines (based on the United States' model). Measure 11.2) Action: Chief Justice of the Federation

Monitor cases where *ex parte* injunctions are granted, where judgements are delivered in chambers, and where proceedings are conducted improperly in the absence of the parties to check against abuse. (Measure 13.1; 13.3; 13.4) Action: All Chief Judges and Chief Justice of the Federation

Ensure that vacation Judges only hear urgent cases by reviewing the lists and files. (Measure 13.2) Action: Action: All Chief Judges and Chief Justice of the Federation.

Public Confidence in the Courts

Introduce random inspections of courts by the ICPC. (Measure 16.3) Action: Independent Commission for the Prevention of Corruption.