

Safety
Security and
Accessible
Justice

Putting policy into practice

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For more detailed information on particular topics, the Governance Resource Centre (www.grc-dfid.org.uk) can provide bibliographies and lists of websites.

Further advice and information on safety, security and access to justice can be obtained from the Governance Department of the Department for International Development.

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accessible justice**
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Department for International Development

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Contents

1 INTRODUCTION	
1.1 Objectives of the guidelines	12
1.2 The justice sector	12
1.3 Why do safety, security and accessible justice matter to poor people?	13
1.4 Why do safety, security and accessible justice matter for governance and development?	13
1.5 Why a new approach?	14
1.6 DFID's contribution	14
2 DIAGNOSIS	
2.1 Taking a strategic approach to the sector	15
2.2 The sector assessment process	15
2.3 A strategy for sector reform	18
2.4 What help and information is available	19
3 COMMON IMPLEMENTATION ISSUES	
3.1 Introduction	20
3.2 The role of SSAJ in implementing Human Rights	20
3.3 Understanding user perspectives	20
3.4 Developing Partnerships	21
3.5 Tackling Constraints	21
4 SAFETY AND SECURITY	
4.1 Introduction	26
4.2 The case for an intervention.	26
4.3 Towards an effective strategy	27
4.4 Planning and appraising an intervention	30
4.5 Responding to Requests for Assistance	33
4.6 Monitoring and Evaluation	34
5 ACCESSIBLE JUSTICE	
5.1 Introduction	35
5.2 The case for intervention	35
5.3 Towards an effective strategy	36
5.4 Planning and appraising an intervention	39
5.5 Monitoring and Evaluation	44
6 THE PENAL SYSTEM	
6.1 Introduction	45
6.2 The case for intervention	45
6.3 Towards an effective strategy	46
6.4 Planning and appraising an intervention	49
6.7 Monitoring and Evaluation	50

Appendix 1: “Justice and Poverty Reduction”, DFID Issues Paper, December 2000	51
Appendix 2: Linkages in the system – examples from South Africa	62
Appendix 3: Checklist for appraising police reform programmes	63
Appendix 4: Checklist for appraising accessible justice	64
Appendix 5: Checklist for appraising the penal system	66

List of Acronyms

APOS	Associate Professional Officers Scheme
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CRC	Convention on the rights of the Child
CSO	Civil Society Organisation
DFID	Department for International Development
FIDA	International Federation of Women Lawyers (Spanish acronym: Federación Internacional de Abogadas)
GD	Governance Department (Department for International Development)
JLOS	Justice/Law and Order Sector
MASSAJ	Malawi Safety Security and Access to Justice
NGO	Non-Government Organisation
PCN	Project Concept Note
PRSP	Poverty Reduction Strategy Paper
RRRT	Regional human Rights Resource Team
RSA	Republic of South Africa
SMR	United Nations Standard Minimum Rules for the Treatment of Prisoners
SSAJ	Safety, Security and Accessible Justice
SWAP	Sector-Wide Approach
TORs	Terms of Reference
UNCICP	UN Centre for International Crime Prevention

Glossary

Administrative law	The branch of law dealing with the legal control of the executive and administrative actions and decisions. <i>See also Commercial Law, Criminal Law, Customary Law, Family Law and Land Law.</i>
Admissible evidence	Evidence which the judge rules should be taken into consideration when deciding a case. Some types of evidence are excluded by the judge eg because the manner in which they were obtained was unfair (including confessions unfairly obtained).
Advocate	Term used in some countries for somebody who is qualified to represent others in court. <i>See also: Attorney, Barrister, Notary, Solicitor.</i>
Alternative dispute resolution	Settlement of disputes by means other than litigation in court. Alternatives to formal courts include mediation, <i>arbitration</i> and <i>small claims courts</i> .
Amicus curiae	Latin for “friend of the court,” a party who is not a litigant but who is allowed to submit legal arguments in the case due to a general interest or expertise in the issue. For example, an environmental NGO may be allowed to participate in planning or pollution litigation even though its own legal rights are not in dispute.
Appellate Court	(Also Court of Appeal). A court empowered to hear appeals: to reconsider the decision of a lower court. There may be several types of appellate courts organised in a hierarchy involving different named courts eg Supreme Court.
Arbitration	Settlement of disputes outside of the court using a neutral person or panel selected by the parties; does not have the enforcement power of a court.
Arraign	To bring a criminal defendant to appear before the court.
Attorney	Term used in some countries for somebody who is qualified to represent others in court. <i>See also: Advocate, Barrister, Notary, Solicitor.</i>
Attorney General	Meaning varies between: (a) government’s chief law adviser; (b) head of Ministry of Justice; (c) head of prosecution service. Usually a political appointment.
Bar Association	Term used in some countries for a professional organisation of barristers or similar. Often has self-regulating disciplinary powers over the profession.
Barrister	Term used in some countries for somebody who is qualified to represent others in court. <i>See also: Advocate, Attorney, Notary, Solicitor.</i>
Bench	Collective term referring to the judges in a legal system.
Burden of proof	The requirement that the <i>plaintiff</i> (in a civil trial) or prosecution (in a criminal trial) show that all the facts necessary to win a case are true.
Burglary	Theft of property from a building which the defendant has entered unlawfully (<i>cf. theft</i>).
Capital offence	Most serious category of offence, for which death penalty may be applied.

Case-law	Law as established by the decisions of judges in previous cases.
Cause of action	The legal and factual basis on which a <i>plaintiff</i> founds their case.
Chambers	Usually, the private office (ie not public courtroom) of a judge.
Circuit	A system used in some <i>common law systems</i> whereby centrally-based judges travel to regional courts to hear local cases.
Civil law	Law concerning private rights; generic term for non-criminal law (NB: this term applies to category of law within a country, and is not the same as <i>civil law system</i> , which refers to entire national legal system).
Civil law system	Systems found in nearly all countries other than English speaking countries and most Commonwealth countries. Distinguished from <i>common law system</i> by a wide range of substantive and procedural differences. Tend to emphasise codes rather than common law.
Clerk (of the court)	Official who handles the business of a court or a system of courts, maintains files of each case, and issues routine documents.
Commercial law	The branch of law governing the rights, relations and conduct of persons and businesses engaged in commerce, merchandising, trade and sales.
Common law	Law derived from judicial precedent rather than from statutes or codes.
Common law system	Systems found in English-speaking and most Commonwealth countries that tend to emphasise judge-made law. Distinguished from <i>Civil law system</i> .
Community service	A sentence applied by a judge to a defendant which orders the defendant to perform certain services for the community eg working in a social welfare organisation such as a school, hospital or old people's home, or on an environmental work placement. One alternative to imprisonment.
Constitution	Almost always a written document that outlines the political and legal structure of the state. Constitutions tend to have the status of a superior form of law that can override other types of law. May require special procedures to change them.
Constitutional court	Found more frequently in <i>civil law systems</i> , a special court with responsibility for deciding the constitutionality of acts of other arms of the state, sometimes including compatibility of statutes.
Court of first instance	A court where a trial started; distinguished from <i>appellate court</i> .
Criminal law	The branch of law governing criminal offences and punishments.
Criminology	The study of the socio-economic and institutional aspects of crime and criminal justice.
Custom	(Also traditional law, informal law) Rules or patterns of practice enforced by community sanctions rather than the state legal system; <i>see also Customary law</i> .
Customary law	Law based on custom, enforced by the state legal system.
Defendant	The party sued in a civil trial or prosecuted in a criminal trial.

Delegated legislation	(Also secondary legislation) Legislation which comes into force under powers granted to the executive by the legislature in a statute, and therefore does not usually require a vote in the legislature to take effect. The executive's powers in this regard are limited by the terms of the 'parent' statute and are sometimes conditional on certain legislative approval procedures.
Deposition	The taking and recording of testimony of a witness under oath.
Disclosure	The process of revealing to one's opponent in a case the documents in one's possession which are relevant to the case.
District Court	Term used in many countries for a lower court; it may either be a <i>court of first instance</i> or an <i>appellate court</i> .
Diversion	Arranging for a matter to be dealt with in, usually, a less formal way, for example diverting a case from the courts to arbitration or mediation.
Due process	A fundamental principle of fairness which the courts in many countries are charged with applying. Guards against prejudicial or unequal treatment.
Family law	The branch of law governing marriage, divorce, inheritance, adoption, maintenance, and other family matters; may be subject to special family courts.
Fundamental rights	Often a chapter or section of a <i>constitution</i> that sets out protections for basic civil liberties and <i>human rights</i> .
Habeas corpus	Latin for 'produce the body'. A legal order that can be used to protect against illegal imprisonment, such as holding a person without charging them.
High Court	Often an <i>appellate court</i> from decisions of the District Courts, although <i>plaintiffs</i> are obliged to start some types of cases here (eg if over a certain financial value). In some countries (eg Australia) the High Court is the final court of appeal.
Human Rights	A set of basic rights protected in <i>international law</i> that apply to all individuals regardless of gender, race, religion, ethnicity, and so on. In national constitutions, human rights are sometimes referred to as <i>Fundamental Rights</i> .
Immovable property	(Also real property) All land, structures built on the land, anything growing on the land, and all rights over such property, including leases, rights of way, ownership etc. Distinguished from <i>movable property/personal property</i> .
Indictable offence	More serious category of offence eg murder, manslaughter, rape, kidnapping, grand theft, robbery, burglary.
Indictment	The process by which the prosecution sets out the specific crime with which a defendant is charged.
Informal law	<i>See Custom</i> .
Injunction	An order made by a court directing somebody to do something or refrain from doing something.

International law	The law governing relations between countries (as distinct from the law within countries). The most important source of international law is the <i>treaty</i> .
Judge/magistrate	In many common law systems, the distinction is based on qualifications/seniority. Judges are more senior. In many civil law systems, there is a tradition of 'investigating magistrates' who have a more proactive role in establishing the facts of a case (cf. the common law adversarial system where the judge has little power of independent inquiry).
Judicial Review	1) <i>Judicial review of administrative action</i> : the process by which a judge exercises scrutiny over the legality of an administrative decision or action by the executive branch of government; 2) <i>Judicial review of legislation</i> : the process by which a court decides whether a particular statute is compatible with the <i>Constitution</i> (usually the <i>Fundamental Rights</i>).
Jury trial	A system familiar to most <i>common law systems</i> but less common in <i>civil law systems</i> , whereby the judge's role is limited to establishing the law, whereas the facts (and therefore, ultimately guilt or innocence of a defendant) are decided by a group of citizens. Used mainly in criminal cases.
Juvenile court	In some countries, a special court which deals with juvenile defendants charged with crimes. The definition of juvenile varies but is usually for persons under 16 to 18 years of age.
Land law/property law	The branch of law governing transactions in and rights to land, including leases, ownership, mortgages, rights of way etc.
Law Society	Term used in some countries for a professional organisation of <i>solicitors</i> or similar. Often has self-regulating disciplinary powers over the profession.
Lay	Not legally qualified.
Legal aid	System providing free or subsidised legal services, sometimes including representation in court. Source of funding varies - can be state or private.
Legal profession	Collective term for all professionals in a legal system who provide legal services. Constituent parts vary, but will include a selection of: <i>Advocates, Attorneys, Barristers, Notaries, Solicitors</i> .
Limitation period	In most systems, there is a time limit within which a <i>plaintiff</i> must initiate a case, referred to as the limitation period. Its rationale is to provide legal certainty, but it can also constitute a barrier to justice.
Locus Standi	Latin for 'place of standing'. Someone is deemed to have <i>locus standi</i> before the court when they have satisfied the <i>rules of standing</i> , especially in <i>judicial review</i> (of administrative action) cases.
Magistrate	<i>See Judge</i> .
Movable property	All movable assets (things, including animals) which are not <i>immovable/real property</i> , money or investments.
Neighbourhood watch	Systematic local vigilance by householders to discourage crime, especially against property.
Notary	A person authorized by the state to eg administer oaths (swearings to truth of a statement), certify legal documents and take depositions. <i>See also: Advocate, Attorney, Barrister, Solicitor</i> .

Paralegal	A non-lawyer given basic training in legal matters and available to give basic legal advice, often for free.
Parole	The period after a prisoner's release from custody, during which he must observe certain conditions (in particular not commit any further offences) in order to remain free.
People's Court	A court whose power is regarded as vested in the people.
Personal property	<i>See Movable property.</i>
Plaintiff	Person who brings a case, alleging that the defendant has caused them loss or injury.
Pro bono (publico)	Latin for 'advancing (the public) good'. Work done by a lawyer on a charity basis - either at a reduced fee or free of charge.
Probation	Similar to <i>parole</i> , a sentence applied to a defendant which orders the defendant to observe certain conditions which are designed to address the reasons for the defendant's criminal behaviour eg attending counselling, reporting regularly to a probation officer. One alternative to imprisonment.
Property law	<i>See Land law.</i>
Public Interest Litigation	(Also social action litigation, strategic impact litigation, or class action litigation). A law suit representing the interests of a group of individuals or the general public (or sometimes a single individual) rather than the narrow legal interests of a private party, for example, litigation over air pollution that affects the population of a whole city. The possibility of bringing such litigation often depends on <i>rules of standing</i> .
Real property	<i>See Immovable property.</i>
Recidivism	Repeat offending by an individual.
Registrar	Normally the head of the <i>registry</i> , sometimes a judge.
Registry	The name in some court systems for the section of the court where cases are listed for hearing, processed, archived and prepared for appeals or to be published, usually staffed by administrative (non-judge) personnel.
Remand prisoner	A defendant who has been ordered by the court to stay in custody pending trial.
Robbery	Theft of property by force (cf. <i>theft</i>).
Rules of Standing	The rules governing whether a person can initiate a case. Of particular significance in <i>judicial review</i> and other <i>administrative law</i> cases, because the rules in some systems limit the category of individuals who can challenge executive actions or decisions.
Secondary legislation	<i>See Delegated legislation.</i>
Settlement	The resolution of a legal dispute before the court gives its final judgment. Often, settlements are achieved by negotiation between the parties, or mediation or arbitration involving a third party.

Shari'a	(Also, Shariat). Islamic law, based in part on the Quran, relating mainly to family matters and certain crimes. Applied to different extents and according to different interpretations in various Islamic states and in some territories in decentralised systems (eg Nigeria, Indonesia).
Small claims court	A tribunal in which claims for small amounts can be heard and decided quickly and cheaply without legal representation.
Solicitor	Term for a legal professional who is normally limited to supplying legal services other than appearing in court. <i>See also: Advocate, Attorney, Barrister, Notary.</i>
Solicitor General	Post found in some common law countries. Meaning varies, but usually junior to Attorney General.
Statute	A written law passed by a legislative body.
Subpoena	An order of the court for a witness to appear (usually at court) to testify and/or produce documents.
Suspended sentence	A penalty applied by a judge to a defendant convicted of a crime which the judge provides will not be enforced (ie is suspended) if the defendant meets certain conditions eg does not commit any further offences for a given period. One alternative to imprisonment.
Theft	Generic term for any crime whereby a person takes property belonging to another without the other's consent.
Tort	A breach of legal duty (other than under contract) leading to liability for damages.
Tortfeasor	The person who commits a <i>tort</i> .
Tortious	The adjective describing behaviour which amounts to a <i>tort</i> .
Traditional law	<i>See Custom.</i>
Treaty	An agreement between two states (bilateral treaty) or many states (multilateral treaty) setting out their mutual obligations in international law; in most <i>common law systems</i> the provisions of a treaty cannot be directly enforced in national courts unless they have been included in a national <i>statute</i> .
Tribunal	Any court, body or board which has judicial or quasi-judicial functions.
Vigilante	Commonly refers to somebody who takes the law into their own hands. Can also refer to a member of a vigilance committee or similar body (vigilance committee: a self-appointed body for the maintenance of order) which may enjoy some degree of official recognition (eg South Africa).
Writ	Meaning varies and includes: (a) a written order of a judge requiring specific action by the person or entity to whom the writ is directed; (b) the document which must be served by a <i>plaintiff</i> on a defendant to initiate a case.

1 Introduction

These guidelines suggest ways of making justice systems work better...

...but different cases need different answers: we do not know them all and the guidelines should not be read as a manual.

Justice systems vary, and have many components.

DFID's objective is to help make justice systems work better, especially for poor people, in ways which are appropriate to the local culture and within available resources.

This note assumes an understanding of the concepts behind DFID's Safety, Security and Accessible Justice (SSAJ) policy in Appendix 1. The Governance Resource Centre can provide references to other sources which explain and develop these ideas.

This Guidance Note is one component of the support available from Governance Department to those seeking to develop SSAJ initiatives in-country. Others include the SSAJ team in HQ, the Governance Resource Centre, and the Index of SSAJ Sources of Expertise.

1.1 Objectives of the Guidelines

These Guidelines have been written for governance advisors and programme managers in DFID. But others in DFID, and officials in other development agencies and in developing or transition countries, may also find them useful.

The emphasis is on how to put SSAJ policy into practice. Our aim is to provide practical guidance based on our experience so far on the issues which may arise at various stages: ideas to look for; and ways of dealing with common problems. It is not intended to be comprehensive, nor is it a manual. We do not pretend to know all the answers. There are no magic formulae, and arrangements that work well in one country may not work somewhere else.

1.2 The justice sector

Structures vary from place to place. The main components include:

- the legal framework (constitution, statutes, case law);
- the police, including eg Local Government municipal police, plus any non-state policing mechanisms – private security guards, neighbourhood watch schemes, etc;
- social crime prevention initiatives;
- the prosecution services;
- the legal profession including legal aid lawyers, public defenders;
- the judiciary and the courts – including magistrates and higher state courts;
- Councils of Chiefs and other traditional rulers as well as customary or traditional courts;
- Parliament and parliamentary oversight committees;
- Attorney General and other government lawyers;
- mediators and arbitrators;
- the penal system – remand prisons, prisons for sentenced prisoners, and alternatives to prison such as probation services;
- bodies responsible for law reform, legal aid and human rights;
- complaints bodies, Ombudsmen, the Ministries to which they are accountable;
- civil society organisations concerned with the justice sector including law and Bar Associations, police associations, human rights groups, legal aid organisations, penal reform organisations, etc.

A wider definition of the security sector would include the military, paramilitary and intelligence services. Separate guidance on assistance in these areas is available in:

Understanding and Supporting Security Sector Reform
(Conflict and Humanitarian Affairs Department 2002)

and may be relevant for example when looking at the boundaries between the military and the police or between military and civil justice. The transition from military to civil policing raises special problems that should be handled with the benefit of comparative experience. Please contact the SSAJ team in GD for further details.

1.3 Why do Safety, Security and Accessible Justice matter to poor people?

Because:

- poor people themselves say so¹;
- poor people and vulnerable groups suffer disproportionately from crime – eg the impact of theft is more severe if the victim is poor;
- poor people are less likely to invest in improving their own futures if they feel insecure
- poor people's efforts to get out of poverty are hampered by corrupt police and judicial officers;
- insecurity can prevent poor people from accessing Government services;
- poor safety and security incline citizens to form self-help policing initiatives that can grow into vigilantism, and generally reduce respect for the law;
- lack of access to justice fosters corruption.

We know that justice matters to poor people...

...who suffer most from malfunctioning systems...

1.4 Why do Safety, Security and Accessible Justice matter for governance and development?

Because the provision of law and order is a core government responsibility and is part of the necessary framework for economic and social development:

- the rule of law is correlated with economic growth and investment. An effective justice sector promotes better livelihoods for poor people;
- the rule of law is necessary for the protection and promotion of economic and social as well as civil and political rights;
- a strong independent judiciary is necessary to constrain the arbitrary exercise of state power;
- an effective justice sector is a safeguard against corruption;
- the justice sector offers one means of resolving disputes and preventing conflict.

...which hamper development...

In many countries, despite the fact that the justice sector accounts for a significant proportion of government expenditure, expenditures are poorly managed. The justice sector is often an extreme example of state failure.

...and encourage abuse of state power and corruption.

¹Poverty Trends and Voices of the Poor, World Bank, May 2001:
<http://www.worldbank.org/poverty/voices/overview.htm>

DFID policy encourages a sector approach which looks at crucial linkages...

...and looks at the sector from the point of view of the poor and vulnerable.

SSAJ issues should be addressed in the PSRP process.

1.5 Why a new approach?

Justice system reform has been relatively neglected by the international development community. Development assistance has typically focused on strengthening individual institutions, such as the police or the courts. DFID's policy brings in two 'new' elements:

- basing interventions on a sector, rather than single institutions. Because the components of the justice system are connected, improvements in one part of the system can be stymied for want of improvements elsewhere, and may be necessary to improve performance elsewhere. For example because prisons are a breeding ground for crime, reducing the prison population may be a crucial part of crime prevention strategy. In turn, reducing the prison population may depend on increasing the use of fines and bail by the courts. (This is not to say that it is necessarily useful to catalogue all the problems of the sector);
- assessing problems from a user's perspective, and particularly from the point of view of poor people and vulnerable groups including women, children, the elderly and minorities. Their concerns are likely to highlight issues of safety and security and greater access to justice systems, both state and non-state, and the importance of reducing corruption.

Where countries are engaged in a Poverty Reduction Strategy process, providing support to ensure that SSAJ issues are properly addressed is critical, both because of the poverty-reducing effects of a functioning justice system, and because PRSPs are a means of developing country owned pro-poor justice reform programmes, around which donors can base their support.

1.6 DFID'S contribution

The distinctive emphasis on the poor, and on a sector approach, will provide DFID with comparative experience of sector reform to help support national reform initiatives and to influence the agenda of other donor programmes.

2. Diagnosis

2.1 Taking a strategic approach to the sector

This means making the starting point for any intervention a sectoral – rather than an institutional – assessment. Sector diagnosis may take the form of formal consultations with potential partners in government and civil society as well as other donors; participatory research; literature reviews; or a combination of these methods. This approach should help us to understand:

- the critical problems faced by poor people and vulnerable groups, directly or indirectly, in obtaining legal protection and access to justice;
- linkages in the system which will influence how constraints are addressed;
- underlying causes of problems common to justice sector institutions;
- existing reform initiatives and co-ordination structures, and gaps.

The resulting diagnosis should, in turn, help to locate potential entry points in their wider context.

Taking a strategic approach to sector diagnosis does not mean taking on the whole sector in the sense of developing a SWAP. But it does mean interventions should be designed to make a contribution to development of the sector as a whole. In Bangladesh for example, the sector strategy concluded that the greatest access problems relate to policing. This resulted in a focus on improved policing as the entry point for wider sector reform.

It will not always be the case that country teams will be able to accommodate the addition of the justice sector to the list of country sectoral priorities. In these circumstances, an entry point may sometimes be provided through an intervention in another sector – public health projects need to take account of the health risks posed by poor prison conditions, eg as regards the spread of TB and HIV (see Box 6.4); rural livelihoods and urban development projects must ensure that poor people have secure title to their land and housing; private sector development needs a proper legal framework eg for enforcement of contracts. In all these cases the design of an SSAJ component needs to take account of the linkages with the rest of the justice sector, as well as with the other sector concerned.

2.2 The sector assessment process

In spite of the large number of justice institutions and stakeholders, and the use of legal terminology, legal processes are relatively straightforward. When in doubt, return to first principles and ask who are the main actors, what is their role, how do they go about their work, and what are the critical problems they face.

What kind of sector diagnosis?

This will depend on factors such as the nature and pace of reforms already taking place, the ownership of and commitment to reform, the quality of existing analytic research and baseline data, and the level of DFID familiarity with the context. Earlier mission TORs are available from GD. The timetable for the sector diagnosis in Nigeria is given in Box 2.1. Progress was facilitated by having a GD APOS in Nigeria to do a lot of preparatory work and maintain momentum; and by the fact that SSAJ was in the agreed Country Strategy.

The sector approach helps to focus on the problems of the poor, and the linkages...

...and to find suitable entry points...

...which may be via an intervention in another sector.

Legal processes look more complicated than they are.

TORs for previous assessment missions are a guide...

Box 2.1: Diagnosis and Appraisal: Nigeria

Timing	Event
Jun 2000	Joint Donors Mission to assess possibilities for supporting reform (DFID Governance Adviser plus other donors).
Aug	PCN (Country team plus GD SSAJ Advice).
Sept	One week scoping mission (Team as for PCN) to plan appraisal mission and identify areas needing primary research.
Oct – Nov	Primary research commissioned and carried out by Nigerian Academics and NGOs.
Nov– Dec	Three week appraisal mission (Team as for PCN plus: Nigerian human rights lawyer; lawyer/academic with specialist experience in access to justice; South African criminologist with expertise in non-state systems of justice in Africa; Malawi based barrister/NGO activist with Africa-wide expertise on prisons and penal reform; lawyer/economist with Africa expertise; and 2 police consultants.
Dec	Preparation of short synthesis report of sector appraisal analysis.
Jan 2001	Circulation of synthesis report; large stakeholder workshop to discuss approach and sector issues.
Feb – Apr	Drafting programme documentation.
Jun	Development Committee meet and approve programme.

NB: Throughout the period, DFID Nigeria supported promising small-scale initiatives, contributing to the demand for reform, from the Governance Fund and from the appraisal budget.

*...Governance Reviews
and the Framework
should help.*

Using the Governance Review Framework

Part 5 of the Governance Review Framework (“Personal Security and Access to Justice”) provides useful guidance on the questions to ask (see Box 2.2; the full framework can be found on the Governance Resource Centre website). If there has been a Review this should cover the basic ground, and should include a bibliography giving additional guidance on country-specific sources of information.

Box 2.2: Governance Review Framework

Key Capability:
**“to ensure personal safety and security in communities
 with access to justice for all”**

- 5.1 How free are all people, especially poor and vulnerable groups, from physical violation of their person, and from fear of it?
- 5.2 How equal, secure and affordable is the access of people, especially poor and vulnerable groups, to justice, to due process and to redress in the event of maladministration?
- 5.3 How efficient and predictable is the justice system in dealing with both civil and criminal cases?
- 5.4 How independent are the courts and the judiciary from the executive, and how free are they from improper interference and corruption?
- 5.5 How much confidence do people have, especially the poor and vulnerable, in the legal system to deliver fair and effective justice?
- 5.6 To what extent are the police free from corruption, and publicly accountable for their activities, both nationally and to local communities?
- 5.7 How far do the criminal justice and penal systems observe due process -rules of impartial and equitable treatment in their operations?
- 5.8 To what extent is the penal system free from overcrowding and abuse?
- 5.9 How effective and accountable are informal or non-state legal processes and procedures, especially for poor and vulnerable people?
- 5.10 Are the traditional/pre-modern forms of justice linked into the state system in a useful and efficient manner, e.g. African customary law?
- 5.11 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?
- 5.12 What institutional and other resources are there within the country to work on the improvement of the sector?

The parameters of sector assessment

Prior to conducting a sector appraisal, it is useful to identify the broad parameters of the assessment process. The kind of issues to consider are:

- **what is the political context?** To what extent does the justice system (in particular the police and the judiciary) enjoy political independence and financial support? Do the formal institutions have effective control over all regions of the country? Is the executive constrained by legal rules?
- **is there social demand for safety, security and justice?** If so, how much? What matters to people most? Conventional supply-side institution building interventions are unlikely to have much beneficial impact without a social demand for reform.
- **to what extent are ‘traditional’, informal, or non-state systems of justice available?** Such systems (eg community courts, or local policing mechanisms) are often trusted and used far more than the formal state system. Do such institutions exist? Do they apply norms that are broadly supported by all sectors of the community? Are their rules and decisions consistent with international human rights standards? Are these systems amenable to funded projects/ interventions or are they socially and politically immune from donor intervention? How do the state and non-state systems interact? Are the latter formally recognised by the state system?

*Set the assessment in
the local political and
social context...*

...and remember that the linkages between institutions can be as important as the institutions themselves.

Look for entry points that give greatest impact...

Understanding linkages

The literature is usually better on individual components of the system than it is at explaining the linkages between them. These linkages are crucial: successful sector programming depends on a detailed understanding of any linkage malfunction; and improving the system means improving the linkages as well as the institutions. Linkages may be procedural – the formal processes by which users pass through the system; or between informal and formal systems; or between the institutions and the bodies holding them accountable. Appendix 2 contains some examples.

Identifying entry points

The most effective entry points will bring different parts of the sector together on issues of common concern. Whatever entry point is chosen, maximum impact will be derived from using the intervention to make linkages to wider sector issues, or influencing the direction of larger donor interventions. It will also involve combining approaches eg pull and push influencing, top down and bottom up interventions, supporting government reform and external advocacy by civil society. Exposure to comparative experience is also likely to be valuable.

Box 2.3: Possible entry points

- Supporting inter-agency working in one district eg *Chain Linked Uganda*
- Strengthening sector policy making, leading later to SWAP eg *MASSAJ Malawi* or *JLOS Uganda*.
- Interventions in 'gaps' in the reform agenda – typically either poverty relevant (eg police/community interface – *Lesotho, South Africa*) and/or linkage areas (family law/women/children's rights eg *RRRT Pacific*).
- Establishing pre-conditions for reform (improving the evidence base, strengthening policy-making processes, building coalitions for reform, piloting new approaches eg *Nigeria*).
- Support reformers' (eg Ministers/Ministries of Justice) agendas to begin wider reform process eg *Ghana*.
- Support reform in a non-contentious area (eg conflict prevention policing *Sierra Leone*).
- Build coalitions for reform eg work to raise demand for reform (support to watchdog and advocacy CSOs), work with government to expose those interested in change to best practice, small scale pilots etc – "ideas aid" eg *Indonesia, Pakistan*.

Even in the absence of political leadership and/or bureaucratic commitment, DFID can still play an important role in working to put in place the pre-conditions for successful reform, and developing some multi-stakeholder agreement on a reform agenda.

2.3 A strategy for sector reform

...and an appropriate strategy.

The strategy adopted will depend on context and the approach taken to assess it. By way of illustration, the following four SSAJ programmes currently designed or in development share the focus on poverty reduction as well as system linkages, but each is designed differently.

Box 2.4: different approaches to project design

“Incremental” approach – Bangladesh: a sector assessment revealed that (a) the public saw the police as the major problem but that (b) the donor community saw them as too intractable a problem and were concentrating on other parts of the system. But the Police decided to initiate reforms and requested assistance from DFID. DFID have started to bring together the Police and “watchdog” CSOs, to help the Police develop their own reform agenda guided by a better understanding of what the public wants. This will be used to work incrementally out into other parts of the system through existing linkages between the police and eg the lower courts and the prosecution service. An Accessible Justice Fund will explore other potential links eg through pilot schemes with CSOs; beneficiaries will be expected to share experiences and build coalitions. Time from PCN to DFID approval: about 1 year.

“Programmatic” approach – Malawi: Research demonstrated problems at every level of the system. The ‘Programmatic approach’ began with projects in the different institutions and moved from there to a wider focus on institutional linkages and the development of the building blocks for a SWAP – a joint donor approach with an emphasis on strengthening government procedures so that funding will ultimately be centrally delivered. Time from PCN to DFID approval: about 2 years.

“Go straight to SWAP” approach – Uganda: 6 donors including DFID are supporting a SWAP Development Fund. A sector SWAP Secretariat was established in 2000 and a fully joined-up process should be in place by 2002/3. Progress is good on the commercial justice front but has been much slower on the criminal justice side. Development period: ongoing.

“Thematic approach” – Nigeria: an innovative approach concentrates on policy development at Federal level, improving institutions at State level, and coalition building including CSOs. The aim is a Nigerian-led reform process, starting from the perception of poor people that existing mechanisms do not respond to their needs. Themes will be developed from existing initiatives, and an SSAJ coalition developed. Time from PCN to DFID approval: about 9 months.

2.4 What help and information is available?

The country team, usually led by the Governance Adviser, would normally initiate a sector assessment. SSAJ specialists in GD, and the Governance Resource Centre are available to provide back-up advice and support including:

- assisting the country team to locate potential consultants, comparative experience, and advice;
- providing access to experience from other DFID programmes;
- advising on strategy, entry points and programme development (including selection and appointment of programme managers).

For a rapid and early appreciation of the issues, there is no substitute for some first hand exposure to police stations, courts and prisons.

...GD and the GRC can provide support...

...but there is no substitute for first-hand exposure to local institutions.

3. Common implementation issues across the sector

3.1 Introduction

This chapter looks at the common issues affecting interventions anywhere in the sector, and common problems.

Common issues include...

3.2 The Role of SSAJ in implementing human rights

The state structures embraced by an SSAJ strategy are pivotal to the legal protection and enforcement of human rights, although in states with a poor history of adherence, human rights are generally poorly understood by those working in the justice system.

...human rights...

An SSAJ intervention can help by:

- promoting fairer legal processes such as the right to a fair trial;
- increasing respect for and protection of women's rights as in CEDAW by addressing sources of legal discrimination against women; and
- improving protection of wider social and economic rights, and states' obligations to fulfill those rights, by improving people's ability to bring successful claims on issues such as housing, education and health.

3.3 Understanding user perspectives

Getting information from the poor on their engagement with the justice sector may be difficult. Poor people often show a deep distrust of legal institutions and generally prefer to avoid involvement. This may be due to a strong social stigma against using the law, or simply a rational response to the opportunities and risks that the justice sector presents. Alienation is inevitable when police malpractice goes unpunished, courts operate in a foreign language with formalistic procedures and obscure technical terms, and where the outcome is often determined by bribes or influence. Moreover, the poor sometimes live in circumstances of perpetual illegality – in squatter settlements, trading in violation of formal regulations, and engaging in illegal income-generating activities (such as using prohibited forest resources or selling sexual services).

...establishing the views of the poor...

It is also important to understand the perspective of groups particularly vulnerable to discrimination – women, children and young people; minorities (language, religious or ethnic); elderly people; non-nationals; and refugees – and to look for ways of improving their position.

...and the vulnerable...

Large-scale programmes might consider a research component explicitly designed to gather data through user surveys, interviews, and so on. At the stage of designing an intervention, however, the information can probably be drawn from secondary sources. As such it will be indicative rather than comprehensive. Potential sources of information include:

- anecdotal accounts in anthropological studies, newspapers, survey results, and studies such as Voices of the Poor;
- CSO documentation and interviews;
- human rights reports (eg UN Committees, Human Rights Watch, US State Department);
- reported crimes and reported crime-to-conviction rates;
- victim surveys for data on unreported crimes;
- representative field interviews;
- participatory stakeholder consultation processes.

3.4 Developing partnerships

DFID has the capacity to act as a catalyst in a reform process and to influence the nature of reform. But there is no substitute for country ownership and commitment. This can be encouraged by supporting partnerships between stakeholders within the sector.

The state on its own cannot provide SSAJ. The provision of law, order and justice is also the concern of civil society. But justice sector CSOs have a tendency to conflictual relations with government – the challenge is to bring them together to form alliances, and (where appropriate) to work with government (eg providing victim support services).

The most common model of positive change in the SSAJ arena is based on coalition building between state and civil society, and one of the most creative approaches is to bring stakeholders together to address common issues (eg delays, corruption, ‘bad’ law).

...building local stakeholder partnerships...

...while minimizing conflict between CSOs and government...

Box 3.1: Police/CSO cooperation in Venezuela

In Venezuela, Women and Children’s Units form a network of specialised integrated services and support in the field of family and sexual violence, based both in police stations and in civil society organisations. They were set up in response to the Women’s Movement’s long-standing demands for action on family and sexual violence. An NGO, *Grupo Venancia*, works with the Units in police stations and engages in awareness-raising with the stations’ female staff and women police officers.

3.5 Tackling constraints

a. Influencing public opinion

Public attitudes – encouraged by the language of politicians and media – are often expressed as a wish for tougher action and harsher punishments. Public interest needs to be engaged in more intelligent debate. A public information strategy may be needed. This should be realistic about the time needed for reforms to have an impact: for example, crime may well increase in the short term as the police grapple with reform; and criminals may re-offend whilst on bail or after being released “too soon”.

...winning over unenlightened public opinion...

Box 3.2: Influencing public opinion in Russia

DFID is funding an intervention to establish non-custodial alternatives in pilot areas, with Russian CSOs supervising non-custodial sentences. A large component of the programme is focused on influencing public opinion (which tends to be punitive and biased against non-custodial options) through radio, magazine articles and the worldwide web. Without this, non-custodial measures were likely to prove electorally unpopular, resulting in a crucial loss of political support.

Increasing use of imprisonment is often blamed on public demand. But a properly informed public will support effective non-custodial measures: a community service scheme in Zimbabwe was sceptically received at first, but now commands widespread acceptance and support on cost-effectiveness grounds (Box 3.3). Similarly, action was taken in South Africa to build acceptance of the greater use of bail (Box 6.3).

Box3.3: Community service in Zimbabwe

A scheme was started in Zimbabwe in 1992 in response to a rapidly rising prison population and costs. 60% of convicted prisoners were serving sentences of 3 months or less. The community service scheme costs \$20 per person per month as against \$120 per prisoner. In addition, the community benefits from the work done by offenders. For example a headmaster complained that he had no books or pencils for his students. But he had a piece of land attached to the school. The local magistrate ordered offenders suitable for community service to work the land, plant it and harvest the crop. At the end of the season, the proceeds from the sale of the crop enabled the headmaster to purchase the stationery and books that he needed.

b. Containing opposition

There may be considerable opposition to the reform agenda both from within the legal institutions and from outside. For example, the police may see themselves as defenders of the state, rather than as servants of the people, and resist changing an authoritarian approach. Vested interests, including the rich and powerful, will often defend the status quo.

*...and stakeholders
opposed to reform...*

A strategy to manage the risks posed by opponents needs to be developed at design stage. This may include:

- starting interventions in areas where no threat is perceived – such as basic training or engaging civil society in projects such as legal aid or crisis centres; or in locations that are remote from the centre such as rural communities;
- presenting up front the powerful economic arguments for reform;
- exposure to comparative experience of reforms elsewhere;
- targeting quick wins;
- building incentives into the programme, eg staff incentive schemes in plans to improve outputs from prison farms and industries.

But in the end fundamental reform requires support from the top, and unless this is in prospect it is usually not worth starting a major intervention.

Box 3.4: Developing Sectoral Solutions

In many countries, the major institutions of the justice sector – the police, prosecution, courts, prisons, probation service, legal aid bodies, and so on – frequently work under different ministries without mechanisms to promote cooperation. Experience shows that coordination within the justice sector offers real opportunities for improved performance. Co-operation can be encouraged through various means:

- Joint conferences and stakeholder meetings to exchange views (eg Ekiti State in Nigeria).
- Common policy-making initiatives through inter-departmental committees (eg Criminal Justice Committee in India).
- Joint training where similarity of topic and grade permit (eg Human Rights Training in Pakistan).
- Common management committees – such as the Criminal Justice Committees in Nigeria and the Chain Linked Project in Uganda.
- Joint projects such as the implementation of shared information technology (eg Guatemala).

c. Lack of resources

The sector is often under-resourced, with most money within the sector going to the police. Financial flows may be unpredictable. Pressure from reform coalitions together with

more liberal public attitudes and donor support can lead to increased funding. These efforts can be supported by:

- developing capacity in justice sector bodies to negotiate and manage budgets;
- promoting linkages between justice reform and anti-corruption or crime reduction programmes which do attract public support;
- highlighting the cost-effectiveness of reform initiatives such as alternatives to imprisonment;
- highlighting the general economic benefits of an effective justice system for individual entrepreneurship as well as to create an enabling environment for the private sector.

...tackling a lack of resources...

d. Lack of accountability

Although legal institutions have an important role in holding government agencies to account, justice sector institutions are themselves often relatively unaccountable for their performance. Separation of powers means that judicial performance is not open to government or parliamentary scrutiny, and the mandate of Ombudsmen typically excludes the judiciary. Many countries lack effective watchdog agencies – Police Complaints Authorities, Independent Judicial Service Commission, National Human Rights Commissions.

...and of accountability...

Clear accountability arrangements are essential for efficient and effective performance. At the national level, police and prisons should be accountable to the government for their financial and operational performance. Judges and magistrates should also be held accountable for their performance, possibly by senior members of the judiciary or by an Independent Judicial Service Commission.

Where possible arrangements for public oversight and accountability should also be developed. These can include prison visitor schemes, prison standards commissions, inspectorates, media access, parliamentary committees, etc. Police-community relations councils can provide effective civilian oversight of policing (though there is a danger of their becoming politicised and partisan).

Box 3.5: Local accountability in Malawi

Community policing, which involves consultation with the community, has been linked to traditional/customary structures. This enables community representatives to raise concerns directly with the police, to be involved in police/community initiatives, and to be able to question police about their actions – or lack of action.

e. Corruption

Surveys typically put the police and the judiciary at the top of the list of institutions which respondents believe to be corrupt. Corruption occurs at all levels: victims pay bribes to police or court officials to gain access to the system; offenders pay bribes to keep out of it; prisoners pay bribes to be released on bail; victims bribe both police and witnesses to attend court and give evidence; litigants bribe the magistrate or judge in the hope of a favourable verdict. In some police forces, appointments offering opportunities for high bribe income are bought and sold.

...and dealing with corruption...

Corruption is often endemic, and very difficult to root out. A public-sector wide assault may be necessary rather than one limited to the justice sector. Within the sector action may be required to:

- address low pay levels, especially for police and prison officers, though pay reform on its own is unlikely to be sufficient;

- introduce codes of conduct, disclosures of income and assets for judicial officers, together with independent audit and investigative bodies; (eg Commonwealth Judges and Magistrates Association);
- establishing independent complaints and oversight bodies, with powers of investigation (and possibly) prosecution; eg Botswana;
- improving transparency and public access to court decisions and police actions; eg Karnataka;
- reducing discretionary powers of court officials and judges over which cases will be heard, possibly by computerising of case management systems; eg Bangalore, Chile;
- monitoring the consistency of court decisions; eg Chile, India;
- simplifying judicial procedures by imposing time constraints, and reducing the number of steps involved in hearing cases in court; eg Chile, India;
- increasing the range of alternative institutions which citizens can use to resolve legal disputes; eg Russia;
- in police services anti-corruption strategies usually comprise a wide spectrum of both repressive and preventive measures. The most frequently used measures are the introduction of stricter punishments for corrupt behaviour, ethically based training programmes, and stricter recruitment criteria: eg Police Integrity Commission, Queensland, Australia; Independent Complaints Department, South Africa; Proactive Police Anti-corruption Action, Sierra Leone. Interpol have produced “Global standards to combat corruption in police forces/services”². See also “Understanding and Preventing Police Corruption; Lessons from Literature” (Police Research Series Paper 110, Tim Newburn, Home Office 1991).

Box 3.6: DFID Judicial corruption project

DFID is working with Transparency International to support a group of 10 Chief Justices from Australia, Canada, India, Nepal, Bangladesh, Sri Lanka, Nigeria, Uganda, Tanzania and RSA to develop concrete action programmes to reduce corruption within these jurisdictions. The group has developed a code of conduct and a survey instrument and will finance pilot action programmes in Sri Lanka and possibly Uganda. UNCICP will finance a parallel programme in Nigeria.

...and sometimes an inappropriate legal structure.

f. Law reform

Bad law is a constraint to structural reform. But passing new legislation in itself is often a difficult process.

²<http://www.interpol.int/public/corruption/standard/Default.asp>

Box 3.7: The necessity and difficulty of legal reform

- In Nigeria, the introduction of alternatives to imprisonment requires the amendment of the criminal law in each of its 36 states.
- India, like many Commonwealth countries, retains the colonial doctrine of government immunity that shields the government from civil liability under tort law. The Indian Law Commission drafted legislation in 1967 to amend this anomaly, but the Indian Parliament has still to pass it.
- In Rwanda, Anglophone common law models have inspired many recent proposals for law reform, but since the underlying institutional and procedural framework derives from a Francophone civil law model, extra care must be taken to ensure that the new laws will actually work.
- In Uganda the law on defilement prescribes a minimum sentence of life imprisonment for sexual relations with a girl aged below 18. This is a blackmailer's charter and is responsible for the majority of remand prisoners and a high proportion of the High Courts' case backlog.

In many developing countries, legislation is often outdated, sometimes going back to colonial times. It may not reflect current international human rights obligations, or even fundamental freedoms subsequently enshrined in the constitution. It can stand in the way of bringing about practical change. The main constraints which arise in law reform include:

- the lack of a Law Reform Commission or similar body to draft appropriate legislation;
- the practice of “cut and paste” legal reform using foreign legislative models without attention to differences in legal and institutional structures;
- inadequate parliamentary time or commitment to pass new legislation.

4. Safety and security

4.1 Introduction

Providing safety and security³ for its citizens is a major responsibility of government. Its most visible form is a state-funded police force⁴. In many countries the state police are supplemented by non-state structures such as community guards, neighbourhood watches and private security. This combination is commonly referred to as policing. State and non-state policing are both integral to improving safety and security.

Policing, which includes both state and non-state...

...must be adequately integrated into the justice system.

This section covers state and non-state policing, as well as other issues that impact on peoples' perceptions of safety and security, including crime prevention, and support to the victims and survivors of crime.

A recent DFID synthesis study⁵ concluded that there must be greater integration of policing with the rest of the justice system, and noted the need not to ignore the extent to which communities prefer to use more traditional solutions – including non-formal systems of policing.

4.2 The case for an intervention

Good policing needs competence and partnerships.

The old authoritative approach has often failed...

...a focus on community needs may be better...

Good policing is founded on the police doing their specific tasks well, and developing and sustaining effective partnerships with a range of other state institutions, civil society structures and business.

Many developing and transitional countries inherited a paramilitary model of policing, usually a national police force, controlled and directed by government. These had a predominantly reactive, authoritarian approach, based on deterrence and enforcement. Relatively little emphasis was given to crime prevention and to the needs of victims or the rights of suspects. That approach did not secure the trust, co-operation and involvement of the community, particularly women, and in many countries it has also failed to control crime. It has failed rural communities because of their remoteness, and urban squatter communities because of their illegal status.

A different approach is to help develop state and non-state policing systems, including crime prevention and victim support systems, focusing on community needs and community involvement. Evidence suggests this is more cost efficient, more accountable, and can be more effective in securing safety and security. Citizens are protected from harm and victimisation, achieved partly through the efforts of the police, and partly through the co-operation of different sectors of civil society. This approach demands a professional

³This deals with internal safety and security rather than threats from outside which are normally dealt with by the military.

⁴**The police** are an institution employed by the state and given primary responsibility to use legitimate force to safeguard peace and order. In a democracy a police service exists to support and protect democratic rights so that all sections of the community can enjoy a safe and secure environment.

⁵Biddle K, Clegg L, Whetton, J. Evaluation of ODA/DFID Support to the Police in Developing Countries – Synthesis Study. Centre for Development Studies, Swansea, October 1998.

police service, working alongside CSOs and non-state systems⁶ which are focused on crime prevention and committed to partnership with the police.

4.3 Towards an effective strategy

An effective safety and security strategy ideally combines three components:

- **improving core functions of the state police:** patrolling/guarding, receiving charges from the public, detection, preparing (and in some countries conducting) prosecutions;
- **mobilising a wide range of stakeholders**, including the police, in sustained efforts to prevent crime. This is sometimes referred to as community policing. It does not replace the core historical functions of the police, but enhances them;
- **emphasising that the police are an integral part of a wider system of justice**, fostering linkages with other parts of the system and relevant civil society structures.

a. Improving the core functions of the police.

A drastic public policy revision is often needed to ensure that policing takes the interests of the poor seriously – and community policing can be one element in such a strategy.

...but this is a major change...

The process of change can involve the following paradigm shifts:

Box 4.1: Examples of what needs to be achieved

PARAMILITARY/ENFORCEMENT FROM A FORCE ...	DEMOCRATIC POLICE ... TO A SERVICE
From meeting the interests of the rich and powerful.	To servicing the needs of all citizens.
From centralised command and control and isolation from the community.	To community consultation, participation and partnership.
From secrecy and lack of democratic accountability.	To local accountability and openness.
From reactive.	To proactive and responsive.
From law enforcement driven.	To the prevention of crime.
From unsympathetic.	To victim focused.
From detachment.	To integration with other elements of the justice sector.
From abuse of human rights and unethical behaviour.	To the protection of human rights and ethical policing practices.

⁶In many developing countries non-state policing systems have developed in line with village structures, and include vigilante groups and community guards. They are an important element in securing safety and security for people living in remote areas. Other non-state policing includes private security companies, often used by the wealthy, or by municipal authorities to provide an alternative or additional visible policing presence. Non-state bodies can resort to mob justice, can easily fall under the control of political factions and can be guilty of prejudice and discriminatory practices particularly towards women eg they may discriminate against victims of rape and child abuse.

... local ownership and solutions that will work locally are crucial.

Catching and prosecuting criminals remains important...

...community policing needs cooperation...

...which can help focus crime prevention.

Important lessons from experience⁷ include:

- foreign assistance cannot produce reform against the wishes of the host government or against the wishes of the police. Unless elements in a police force are committed to reform, it will not occur;
- foreign experts tend to recommend what they are familiar with at home regardless of its local applicability. The most ‘developed’ police systems are not necessarily the best models;
- the impulse to democratic reform may be weakened by a public belief that it will increase their vulnerability to crime and disorder;
- civil unrest tends to undermine the separation of police and military responsibilities
- CSOs have to learn to work with, and not just against, the police;
- indiscipline and corruption can stall or prevent reform.

b. Community policing and crime prevention

This is not just about consulting with the community; it is also about responding to their concerns and involving them in problem solving. It is as much about developing trust and good behaviour as about operational effectiveness – but enforcing the law and catching criminals remain important and vital functions, essential to crime prevention and reduction. Special provision should be made for dealing with women and children.

The community policing approach works only if the police, the government, the local community and civil society are willing to work together. Where police/community relations are poor, external facilitators – eg NGOs used to working at grass roots level – might be able to bring the two sides together.

Box 4.2 Use of third parties in Lesotho and South Africa

In these countries relations between the police and the community or elements of the community were very poor. In both countries civil society has been successfully used to bring the police and the community together and to train both in consultation, joint problem solving etc.

The strength of a community policing approach is its flexibility. Any innovation which brings the police and the community together in a working partnership should be encouraged.

Crime prevention is more effective if properly prioritised and targeted, for example on cases of repeat victimisation or crime ‘hot spots’. It is also more effective when a ‘partnership’ approach is adopted.

⁷“Democratising the Police Abroad, What to do and How to do it”. David H Bayley, School of Criminal Justice, State University of New York at Albany, October 2000.

Box 4.3 Examples of crime prevention approaches

Social Crime Prevention ⁸	Situational Crime Prevention ⁹
<ul style="list-style-type: none"> ● Revitalisation of communities. ● Youth Programmes. ● Drug education and prevention programmes. ● Job training programmes. ● Diversion programmes. ● Provision of leisure facilities. ● Guards. ● Creation of job opportunities. ● Sentencing and criminal justice policies. ● Support for parents. ● Public shaming/humiliation. 	<p>Reducing Opportunities</p> <ul style="list-style-type: none"> ● Target hardening – locks and bolts. ● Neighbourhood Watch. ● Women's transport. ● Property marking. ● Animal branding. <p>Increasing Risks</p> <ul style="list-style-type: none"> ● Better crime detection. ● Community Guards. ● Street lighting. <p>Reducing Rewards</p> <ul style="list-style-type: none"> ● Discouraging purchase of stolen goods.

c. Linkages

Effective safety and security provision needs effective linkages between the police and other agencies. In most countries most crime is committed, and suffered, by young men aged 15 –25. Other government agencies, CSOs and business can help: employment, skills related training courses, sports and leisure activities and community work or service can assist in diverting young people from crime. Improved support and compensation to victims and survivors can be provided by government, through CSO's or volunteers working closely with the police and in the courts. Training can be made available to assist in this process.

It needs linkages with other agencies...

...and with civil society.

Box 4.4: Examples of partnership approaches

Crime prevention panels.	Local authorities, communities, police, business.
Schools programmes, including school safety plans.	Education, Health, Social Welfare, Police.
Watch schemes.	Communities, business.
Crime prevention campaigns (national and local).	Government, police, other agencies.
Domestic violence units.	Police, civil society, local authorities, welfare, health.
Community policing.	Police, communities, local authorities, business.

⁸**Social Crime Prevention** focuses on the offender and the causes of crime. It is aimed at tackling social conditions and factors which influence and motivate individuals to become offenders, and includes measures that attempt to remove the social and motivational causes of offending.

⁹**Situational Crime Prevention** or primary prevention relies on a preventive approach that focuses on the act of crime and on the settings of crime. It aims to reduce opportunities for crime, to reduce the rewards, and to increase the risks for the offenders.

Linkages help ensure effective performance.

Effective linkages are also critical to institutional performance: investigating officers need to liaise with prosecutors about the soundness of evidence; community structures need to be kept informed about the timing of bail applications; communities need to keep the police abreast of their problems; police, prisons, court administrations, prosecutors and witnesses need to keep in touch about court dates and appearances. The aim is to ensure that information flows efficiently through the system, within and between institutions – with particular emphasis on successful prosecutions and crime prevention. Better co-operation can also help improve case management, file preparation and the meeting of agreed targets.

Change needs new thinking...

4.4 Planning and appraising an intervention

The main parties involved in the reform process are the government, police, and civil society. The pace of change is not in DFID's hands. It will usually require some new thinking about the relationship between the police, civil society and relevant parts of the state. The key questions are set out at Appendix 3; the answers will help put together preliminary ideas for discussion with host governments.

...and major reform takes time...

Getting started

a. How to work with the state police

It will take time for people to accept that yesterday's authoritarian police officer is today's friendly, co-operative one – they are usually one and the same person. In dealing with the state police consider a progressive approach (Box 4.5). Think about starting by strengthening positive aspects of the existing system, as well as working towards the acceptance and ownership of a new one – for example improving management competence and understanding, introducing incremental improvement to capacity alongside the envisioning and modelling of a community policing/crime prevention approach.

Look to involve and encourage civil society groups to assist in the process, in contrast to working in opposition to the police.

Box 4.5: Progressive approaches

A project in the Free State, South Africa focused on capacity building in the Provincial Ministry of Safety and Security, and in the senior echelons of the police service, but was also engaged in capacity building at community level in supporting the development of elected Community Police Forums through NGO's.

Introduction of Victim Support Units in Zambia, Community Relations in Lesotho and Community Relations and Liaison Units in Zimbabwe has greatly helped the police to become more people friendly.

...not least because of resource constraints.

The police are usually poorly resourced – both in material and human terms – and this affects their capacity for absorbing and implementing change.

Box 4.6: The Scale of the Problem

Problem	Comment
Police/ population ratio (UN recommended 1: 450)	Many developing countries have ratios of 1:1000 and above. Apart from recruiting more officers (expensive) there is a need to ensure effective deployment and support from alternatives.
Logistics and Geography	Most forces have inadequate vehicle fleets and poor communications, preventing timely response and impeding access to many rural communities. Support for police access to remote areas may be required at an early stage. Likewise support to transport prisoners to court for remand/trial hearings.
Quality of Human Resources	Many junior officers are illiterate or semi-literate. Insufficient investment in training means officers are under-skilled – particularly managers who will be responsible for implementing change. Focused training will help.
Corruption	Can be institutionalised and flows from the top. Self-interest will ensure resistance to change. Effective discipline procedures and an effective change management strategy will be required at an early stage (see also Chapter 3)
Budgets	Usually inadequate with irregular and unpredictable funding that prevents effective planning and development. Poor pay and conditions do not attract quality recruits. Improving financial management is important. Improving conditions of service will attract better recruits and help to reduce corruption.
Human Rights Abuse	Police should protect Human Rights, but have been one of the main abusers. Safeguards include Lay Visitors to police stations, improved interview skills and prisoner records and better supervision by external agencies. New accountability structures are often required.

If policing is not independent of party political influence, action will be required to de-politicise it and restore community confidence. Is there a need for new legislation and/or the reform or modernisation of the legal framework?

It may need new legislation.

Box 4.7: Law reform in Lesotho

Following democratic elections support was provided by DFID to formulate and implement a new Police Act. The Act was designed to prevent political interference in the Police and to establish systems and structures to monitor police performance and standards.

In designing interventions it is important to identify entry points where it can be demonstrated that change is possible, and will be supported by adequate human and logistical resources (Box 4.8). Look for areas where resources are available and/or there has already been some progress in the transition from law enforcement to public service delivery. Often this will depend on a key individual or structure being identified to drive change.

Choose entry points carefully...

Box 4.8: Examples of commitment

Recent police training development work in Pakistan had limited success due to the inability of the police to provide their agreed contributions. On the other hand, in Ethiopia a very impoverished police force made genuine efforts to maintain its resource commitments to sustain the police development project work.

b. How to work with non-state police

Establish what systems exist, how credible they are and what people think of them. Are they trusted, do they discriminate against women or ethnic groups, do they work within accepted human rights norms? If private security or other non-state policing exists, is it controlled/regulated? If not should it be? How can the state police work with non-state bodies to improve safety and security? Can training help? Can national or local structures be established which will bring those responsible for policing together?

...find out about the non-state police...

...and their standards...

...and see how they can work alongside the state police.

Successful initiatives with non-state policing usually depend on state police involvement, and/or the development of internal controls to safeguard against discrimination or vigilantism. Where credible such arrangements can help the police and enhance the benefits of community policing. The provision of training in responsible and lawful techniques, basic equipment (e.g. bicycles, torches, whistles) and access to police radio systems, can improve effectiveness at little extra cost. Setting up of accountability processes may also help.

Box 4.9: Volunteer Peace Keepers in South Africa

Peace keepers are trained (communication skills, mediation skills, etc.) and serve for six months. They assist the community in every kind of unarmed conflict, mediating domestic conflict, reporting crime to the Police, conducting general foot patrol and giving lectures at local schools eg on domestic and sexual abuse and crime prevention. They are paid a small monthly sum (but this jeopardises sustainability and may be replaced by provision of transport and meals only), and are given vocational training – e.g. as electricians, carpenters, secretaries – to improve their future prospects.

The peace keepers have strong community support and a healthy relationship with the local Police. Their presence seems to have been instrumental in a significant reduction in crime.

c. How to work with civil society

Most crime is local, and requires a local response involving local people who understand local issues. There is a need to work with groups that can help to devise effective joint strategies to enhance feelings of safety, and which can help sensitise and train both state and non-state policing systems particularly in relation to crimes against women and children (Box 4.10). For example:

Encourage local partnerships...

- organisations/groups concerned with the administration of justice, and with health, welfare and education (the latter reach deep into the community, and can often detect domestic violence and child abuse);
- the voluntary sector – which can provide or enhance support to victims particularly women and children;
- NGO's working in the fields of human and civil rights, legal representation and legal literacy who can provide support to victims and suspects.

Consider establishing structures to bring these groups together.

Box 4.10: South Africa – Western Cape Community Safety Forum Project

This Project has established pilot Community Safety Fora to bring together the key players in the justice system – local government, justice, correctional services, police, education, business and the community – to implement a National Crime Prevention Strategy (NCPS). They jointly develop a community safety plan, identify who can do what from existing budgets and raise funds from all levels of state, business and the donor community for new projects. In effect they are implementing a local version of the NCPS.

While in some countries local government is in its infancy it can play an important role in improving safety and security and promoting crime prevention. Generally this will be the responsibility of the police, but experience shows that crime prevention can be more effective when it is driven by a partnership approach involving, or as in the UK led by, local authorities.

...and if possible involve local government.

4.5 Responding to requests for assistance

Equipment

Many police forces have large-scale logistical assistance as their top priority. However, experience shows that logistical support alone does not necessarily bring about sustainable improvements. Save in extreme cases of emergency (eg Sierra Leone) the provision of large amounts of equipment and vehicles is not usually a good plan, although there may be a need for limited logistical assistance to address specific needs or gain public confidence by improving effectiveness or access to remote communities. Otherwise it is necessary to ask what the request will achieve. For example partners often argue that access to modern investigation techniques (use of DNA; electronic automatic fingerprint identification) will enable them to become as skilled as western models. However, it is not appropriate to implement such techniques if fundamental investigation skills have not been developed – as is usually the case. Moreover the technical architecture for such systems is itself sophisticated, and without substantial investment is unlikely to be robust enough to support their use. The emphasis should be on persuading recipients, at least initially, to focus on improving basic skills and techniques of evidence gathering. In the first instance it may be more effective to bring in technical skills to help upgrade workable manual systems.

Large scale logistical support is usually not the answer...

...and basic skills may need honing before latest investigation techniques are introduced.

Training

In many cases what is needed early on is the provision of fundamental management and policing skills training and re-training.

Public order training

Many requests are received to improve the capacity of state police to deal with public order in a manner that complies with Human Rights Conventions and Treaties. This may entail public order equipment such as riot shields and batons. An approach is to consider support for skills training in conflict management and public order planning and management from the perspective of reducing tensions and the potential for community violence, through consultation processes.

Perception surveys may be the best way of monitoring progress.

4.6 Monitoring and evaluation

Measuring progress and achievement is difficult. An over-simplistic approach based on quantitative performance indicators, such as the level of crime, can be misleading – greater confidence in the police may result in more crime being recorded, not less.

Issues of quality of service, perceptions of safety, and confidence in policing are crucial, and can be measured by victim/perception surveys. Base line data is required as a yardstick to establish progress.

Box 4.14: Examples of possible performance indicators – State Police

Core Activities	Goals	Performance Indicators	Targets
Reassurance of community.	To promote community safety.	Public perceptions of level of safety. (Survey)	To improve on last years' perception.
Response to community.	To respond promptly to calls from the public.	The level of public satisfaction with the police response to calls. (Survey)	To achieve a satisfaction level of more than ...%.
Prosecutions.	To deal speedily with young offenders.	The percentage dealt with within target time.	In partnership with other justice system agencies to deal with 90% in ... days.
Crime Management.	To prevent and reduce violent crime and the fear of violent crime.	The number of violent crimes per 1000 population.	To reduce to...
Crime Detection.	To increase the number of burglaries detected.	The % of offences detected per officer.	To increase to...

Other important indicators include:

- effective use of the budget;
- the profile of the force – gender, ethnic minorities;
- numbers deployed to operational posts;
- effectiveness of estate and vehicle fleet management;
- the number of volunteer programmes that are sustained, eg victim support, CSO initiatives, safer schools programmes, etc.

It is far more difficult to measure non-state policing, although perception surveys can also be used here.

5. Accessible justice

5.1 Introduction

Poor people enjoy access to justice when they are able to use institutions that are quick, relevant, and effective in meeting their legitimate needs. Justice systems that are remote, unaffordable, slow, or incomprehensible to ordinary people effectively deny them legal protection.

This chapter covers the elements of accessible justice through state and non-state means. It emphasizes in particular the obstacles that the poor may face in securing just outcomes as well as the types of strategic responses that may be developed in collaboration with government and civil society partners.

Poor people often face obstacles in securing justice.

5.2 The case for an intervention

Vision and objectives

Individuals enjoy access to justice when a legitimate grievance can be resolved quickly and effectively. The grievance may be against the government, a business, a private individual, or a member of the family. It may mean access to legal defence when accused of a crime, or having available the institutional resources to vindicate a legal entitlement to housing, schooling, or fair treatment at work. It may be available through a community leader or traditional council rather than through the state legal system.

An accessible system enables grievances to be resolved quickly and efficiently...

Whether formal or non-formal institutions are used, they are accessible only when they are non-discriminatory, and fair to the poor.

...and fairly.

Box 5.1: Compulsory Mediation in Argentina

In 1995 the Government of Argentina introduced a scheme requiring litigants to see a mediator before bringing a case to court. Parties were not required to reach a mediated agreement, but were required to attend the first mediation session or face a fine of some \$300. Only when the mediator issues a certificate testifying that mediation has been attempted may the parties seek redress in court. Despite some teething problems, the scheme is widely regarded as a success, achieving agreement rates between the parties of some 31% and substantially easing the strain on over-burdened courts.

The realisation of accessible justice also requires inputs from civil society. It demands lawyers and other legal professionals who can deliver appropriate and affordable legal services as well as CSOs that can raise legal awareness and bring representative court actions. A functioning justice system requires the effective supply of justice services by state and non-state entities as well as the expression of effective demand by people who trust the system enough to use it. Definitions of accessible justice vary from society to society. The primary focus must be on what the users of the system want. Box 5.2 suggests what the main elements might be.

It requires a good state system, support from civil society, and public trust.

Box 5.2: Elements of Accessible Justice

- **Political independence** of courts and other justice institutions: justice sector institutions (whether state or non-state) free from political interference, with institutional autonomy, and secure sources of funding.
- **Just laws** that accord with popular conceptions of justice and international human rights standards. Mechanisms for identifying and revising laws that are outdated, discriminatory, or anti-poor in their effects.
- **Procedural rules** that provide speedy, fair, and effective disposal of cases.
- **Robust institutions** that are well managed, free from corruption, and effective in delivering services sensitive to the needs of the poor and other disadvantaged groups.
- **Appropriate and accessible legal services** provided by lawyers, paralegals, mediators, or traditional advisers, for accused persons and victims of crime as well as for those involved in disputes over family relations, inheritance, land, unpaid wages, and so on.
- **Legally accountable government** with institutions (ombudsman, public complaints commissions, human rights commissions) which provide the poor with a real hope of redress if officials act in arbitrary or abusive ways. Judicial review available to public interest groups to check systemic abuses of power and raise matters of general public concern.
- **Mediating civil society organisations** that can help to formulate demands, conduct advocacy, and bring representative cases on behalf of low income or disadvantaged groups.
- **Legally literate citizens** who have sufficient trust in the justice system to seek redress for legitimate complaints, and who have access to both the financial resources and institutional skills necessary to use the justice system to vindicate their rights.

These elements interact and are to a large extent mutually dependent. So even if the judiciary is institutionally strong and free from political interference, it will be unable to provide effective remedies to the poor unless the laws are broadly appropriate to meet their needs and there are NGOs or legal aid schemes capable of bringing suits on their behalf.

Colonial law usually allowed only the injured party or an individual with a direct legal interest to bring a case to court. In recent years countries such as India, Bangladesh and South Africa have liberalised the rules of standing so that anyone acting on behalf of an indigent person or group can bring a case to court. This simple change has greatly improved access to justice for the poor.

Box 5.3: Public Interest Litigation in India

India's public interest litigation movement began in the early 1980s, and has had a real impact in addressing state violence, social oppression of women and low caste groups, environmental degradation, and bureaucratic inefficiency. A main innovation is the change in court rules to allow any citizen to file a case by writing to the court. Indian courts have piloted the use of non-adversarial proceedings, and commissions of inquiry to report on matters of common interest to the poor. Indian case law is now cited in courts around the world, and can provide an important example for judges and lawyers in other jurisdictions.

5.3 Towards an effective strategy

Adopting a pro-poor approach

One of the problems with many justice sector reform programmes in the past is that they have often looked at the operation of the institutions from the perspective of officials

(judges, government lawyers) or elites (business people, commercial lawyers) rather than from the perspective of the poor. It is critical to the success of an SSAJ programme that the operation of the institutions is understood from the bottom up.

Understanding the stages of legal process

It is common for users to express their experience of the justice sector in general terms – “the courts are corrupt”, “laws serve the rich, not the poor” etc. It is important to gather information on specific examples and actual experience. Users will quickly come up with a list of problems, but this may omit key issues and fail to create an analytical framework for understanding the process. A more systematic approach is to think of the barriers at the various stages that an individual must go through in seeking a just outcome – see Table 5.1. The stages described – naming, blaming, claiming, winning, and enforcing – are indicative rather than comprehensive¹⁰.

Start by looking at the system from the users' perspective...

...and use a systematic approach to get beyond superficial impressions.

Table 5.1: The stages of accessing justice

Naming:	Blaming:	Claiming:	Winning:	Enforcing:
Identifying a grievance as a <i>legal</i> problem.	Identifying a culprit.	Staking a formal legal claim.	Getting rights and legitimate interests recognised.	Translating rights into reality.
An example from Criminal Law				
A village seamstress is raped by a local landlord. She files a complaint with the police. They fail to take it seriously. She knows this is a violation of her rights.	She blames the police sergeant for not investigating the case.	She works with the women's group in her church to contact a lawyer from FIDA who will press for an investigation and prosecution to take place.	The landlord is prosecuted, tried, and convicted.	The landlord is sentenced and imprisoned. An order for compensation to be paid to the seamstress is complied with.
An Example from Civil Law				
A washerwoman uses a stream for drinking and cooking water. A new dye factory begins to pollute the stream. She knows this is an offence.	She blames the factory owners, and the municipal corporation as the public body responsible for preventing harmful effluent.	She gets help from a public interest lawyer who brings a case in court on her behalf.	The court issues an injunction against the dye factory to cease polluting the stream.	The dye factory stops polluting the stream after publicity in the local press and a public demonstration by market women makes the social cost of non-compliance too high.

¹⁰Michael Anderson (1999) “Access to Justice and Legal Process: Making Legal Institutions Responsive to the Poor People in LDCs” drawing on F. Felstiner, R. Abel, and A. Sarat (1981) ‘The Emergence and Transformation of Disputes: Naming, Blaming and Claiming’ LAW AND SOCIETY REVIEW vol 15, p. 631 ff.

Box 5.5: More effective enforcement in Singapore

In Singapore, stiff fines failed to deter companies from polluting common water resources. A statute was introduced allowing the courts to sentence company managers to community service – collecting litter beside the road and in public parks. The community service orders, which involved a degree of public shame for business executives, were far more effective in securing compliance.

The legal system may be simpler than it looks.

Assessing the existing system

A strategic approach to accessible justice requires an understanding of the structure and operation of the legal system. This may appear a daunting task – legal systems typically use intimidating technical vocabulary and procedures. The following points may help:

- legal processes are relatively straightforward once a few basic concepts are understood. When in doubt, return to first principles and ask who are the main actors, what is their role, how do they go about their work, and what are the critical problems they face;
- the checklist in Appendix 4 provides an indicative guide to the kinds of information needed to conduct an initial mapping of the system. (The list is not exhaustive, or a substitute for the advice of legal consultants.);
- draw upon the existing literature. The operation of the legal system is a matter of concern for both government agencies (Attorneys General, Law Reform Commissions, etc) and civil society organizations (eg Bar Associations, Human Rights NGOs). In most countries there will be official reports and other studies that describe the operation of many parts of the legal system, even if they do not adopt a pro-poor approach.

Linkages with safety and security are crucial...

Linkages (see also sections 4.3, 6.3 and 6.4)

A critical dimension of accessible justice is the way that it interacts with safety and security. Accessible justice depends upon safety and security as well as the efficient operation of the policing and prison systems. For example, if women feel that they are safe to venture into public spaces free from violence or harassment, they are more likely to have access to complaint mechanisms and other forms of redress. In turn, improved access to justice may enhance the ability of individuals and communities to hold police and bureaucrats accountable for abusive behaviour.

...linkages with non-state systems are important.

There are also linkages between the state and non-state dimensions of the system. Where the state justice system provides effective protection of women's rights, the non-state system is less likely to impose patriarchal family law rules in an unchecked manner. And where non-state institutions can settle differences before they turn into disputes, the state courts are less likely to be overloaded with litigation.

Key linkages include:

- where the courts rely on the timely presentation of effective evidence, are the police able to supply it?
- does a lack of co-ordination between police, prison service, prosecution, and the courts (for example in sharing information) cause delay?
- do the rules of evidence allow the courts to take account of information gathered by informal dispute resolution processes?

Identifying a change strategy

The right strategy to achieve accessible justice will depend on the political and social circumstances. For example, in a regime that implements discriminatory and authoritarian policies – such as South Africa under apartheid or many countries under military rule – a

Different situations need different strategies.

strategy that focuses on containing human rights abuses by the state may be the most helpful to low income groups. In such circumstances, cooperation with state agencies may be politically difficult for donors, thus favouring support to civil society groups. A different strategy is called for in a country with constitutional government, free elections and an independent judiciary, but poor institutional performance as shown in long courtroom delays and ineffective enforcement of judgments.

There can be no single set of guidelines for developing an effective strategy, but it will be useful to draw upon comparative experience and to identify the relationship between change agents and the reform process.

5.4 Planning and appraising an intervention

Apart from the usual caveats about building ownership, there are several specific points that arise in respect of building partnerships with legal professionals:

- access to justice may be a relatively new topic for DFID, but lawyers, judges, and legal policy-makers have been discussing it for decades. Concern about the effects of the justice system on the poor has a similar history, despite the singular lack of effective justice for them. There will usually be studies or policies on aspects of the topic (for example, legal aid);
- most stakeholders in the legal system are likely to welcome DFID's interest, and many will find the SSAJ approach raises new questions and opportunities that have not been previously considered. There may be a presumption that accessible justice means more money for courts and legal aid, so it is important to emphasize the strategic dimensions of SSAJ – including the sectoral approach¹¹, the emphasis on the poor, and the extensive involvement of civil society.

Local justice sector personnel are likely to have given thought to justice for the poor...

...and to welcome DFID's interest.

Box 5.6: Paralegal Services

A "Community-based Paralegal Movement" was created in South Africa with donor funding during the struggle against apartheid. These were barefoot lawyers who had one or more years university training but had not completed their degrees. They ran advice offices in areas where lawyers were inaccessible. They educated poor people about their rights; helped them to access state services (such as pensions, maintenance grants and official documents); acted as a conduit for access to free legal services at public interest law firms; and provided mediation services and a lobby group for poor people's rights. They were taken seriously by the government. They remain one of the few means by which a poor person can use the state courts. There are some 400 active members. But even after 15 years the government has not made a commitment to fund them, and they remain dependent on donors.

¹¹Most judges and lawyers have not given serious thought to penal reform or community policing.

See what has been done to address barriers...

Identifying relevant interventions

Table 5.3 suggests a number of possible interventions to address barriers which impede access to justice.

Table 5.3: Suggestions for removing Barriers to Accessible Justice

A. Legal framework

Problem	Possible solution
1. Outdated or biased laws – statutes and legal rules out of date, ineffective, or biased against poor.	<ul style="list-style-type: none"> ● Support to CSOs engaged in producing law reform proposals. ● Support to the law reform commission ● Engagement with government and parliament on reforms. See sec. 3.5(f).
2. Ineffective implementation of international standards – human rights standards not incorporated into national laws and procedures and hence unenforceable.	<ul style="list-style-type: none"> ● Support for domestic implementation of treaties (esp. CRC and CEDAW) ● Judicial training on human rights. ● Support to CSOs engaged in human rights litigation and activism.
3. Diffuse authority – unclear who is responsible for enforcing particular rights and duties.	<ul style="list-style-type: none"> ● Provide experts (eg paralegals) to help identify responsible agencies. ● Promote legal literacy programmes to make responsibilities known. ● Support legal reform to remove overlapping or duplicate institutional jurisdictions.
4. Political interference.	<ul style="list-style-type: none"> ● Support CSOs promoting rule of law and human rights. ● Support enhancement of judicial independence eg by ring-fencing funding and tenure of office.

Table 5.3: Suggestions for removing Barriers to Accessible Justice – *continued***B Institutions of Justice**

Problem	Possible solution
1. Ineffective institutions – inefficient, under-funded, unco-ordinated.	<ul style="list-style-type: none"> ● Support improved management and budgeting. ● Support for ministry coordinating body to deal with overall justice policy.
2. Corruption – Judiciary or court officers (eg registrars) accept bribes to delay listing of cases or to rule in favour of highest bidder.	<ul style="list-style-type: none"> ● See sec. 3.5 (e).
3. Delay: “Justice delayed is justice denied” – court process slow and badly managed with multiple adjournments.	<ul style="list-style-type: none"> ● Support improved case management systems – court rule reform, training, record keeping. ● Computerisation of courts.
4. Inaccessible courts – too few, too remote, too congested.	<ul style="list-style-type: none"> ● Creation of local courts, small claims courts, and other courts.
5. Inappropriate legal procedures – poor alienated by complex or arcane procedures and rules, and use of language other than the vernacular.	<ul style="list-style-type: none"> ● Support for state and non-state alternatives to courts (see below). ● Support for use of vernacular in the courts. ● Support for reform of overly technical legal rules.
6. Ineffective enforcement – agents (bailiffs, police) corrupt, inefficient and/or afraid to act against powerful individuals; officials unwilling or unable to carry out court orders; courts lack capacity or inclination to supervise enforcement.	<ul style="list-style-type: none"> ● Support for more creative and effective enforcement measures (see box 5.5). ● Programmes to involve civil society (including the media, CSOs, and NGOs) in monitoring the enforcement of awards.
7. Lack of alternatives to courts within the state system – lack of support to arbitration and mediation; rigid legal rules requiring litigation.	<ul style="list-style-type: none"> ● Support to ombudsman schemes to monitor enforcement. ● Modify court rules to encourage pre-trial mediation or arbitration. ● Support to pre-trial diversion measures.

Table 5.3: Suggestions for removing Barriers to Accessible Justice – *continued***C. Civil society**

Problem	Possible solution
1. Unawareness, powerlessness – people not aware of their rights, or regard them as unenforceable against the strong.	<ul style="list-style-type: none"> ● Encourage class action/public interest litigation on name problems affecting vulnerable. ● Promote legal literacy programmes – posters, pamphlets, radio etc ● Use local notions of justice in pressing the claims of the poor and vulnerable.
2. Inaccessible legal services – too few lawyers/paralegals; access difficult eg for prisoners or those in remote areas.	<ul style="list-style-type: none"> ● Support to paralegal services, university law clinics, community law centres. ● Change university law training to emphasise paralegal and pro bono work. ● Support to ombudsmen, public complaints commissions, and other non-judicial forms of redress.
3. Lack of non-state alternatives for preventing and resolving disputes – traditional systems biased eg in favour of men, the rich, dominant ethnic group; inadequate linkages between state and non-state sectors.	<ul style="list-style-type: none"> ● Human rights and gender awareness-raising initiatives in existing non-state systems. ● Support to community initiatives to establish alternatives to state courts (eg street committees, community councils, etc.). ● Law reform and training of judges to enable recognition of decisions by non-state entities. ● Support liaison between state and non-state institutions in the justice sector.

In selecting interventions consider priorities, sequencing, dependencies and cost-effectiveness.

Technical appraisal of possible interventions

As Table 5.3 indicates, there are many possible interventions. In evaluating them, relevant factors to consider include:

- *What are the main barriers to accessible justice in this context, and which interventions might address those barriers?*
- *Are there sequencing issues to consider?* For example, there is no point enhancing the supply of legal services through legal aid if the judges are corrupt; judicial corruption would have to be tackled first.
- *Will the proposed intervention become effective independently or does it depend on other interventions?* Eg it is no use training judges in criminal case management if they still have to rely upon poorly prepared and dubious evidence presented after years of delay. Simultaneous programmes may be needed for the courts, prosecution and police so that all three become involved in the production and timely use of good-quality evidence.
- *Can the same end be achieved through another intervention of lower cost and higher long-term benefit to the poor?* It may be cheaper and more effective to support community councils to resolve land disputes than to tackle the compounded problems of outdated laws, corrupt court administrators, high lawyer costs, and years of delayed litigation.
- *Will the intervention actually improve accessible justice for the poor?* Some interventions (eg many types of judicial training) may have no demonstrable effect on the operation

of the legal system at all. Others (eg improved court libraries, case management in commercial disputes) may enhance the general operation of the justice system, but have few tangible benefits for the poor.

- *Does historical and comparative experience suggest that the initiative is likely to be effective?*
Many initiatives in the justice sector have not been subject to careful monitoring and evaluation. Nevertheless, comparative experience can be useful in identifying potential strengths, weaknesses, and unintended consequences. The Governance Resource Centre will be able to answer queries.

Responding to requests for assistance

Certain requests are common in the legal sector, and should be evaluated carefully despite the enthusiasm of stakeholders:

Support to legal aid. Increasing support for legal aid is a popular proposal among those in the legal sector who work with the poor. Legal aid is an important component of any legal system, particularly since governments are required by international human rights standards to ensure that accused persons have effective access to legal representation. Yet comparative experience shows that legal aid can be both expensive and unsustainable. In many cases there will be more cost-effective ways to improve legal services to the poor (see box 5.7). When evaluating proposals on legal aid, bear in mind that there are many different types of legal assistance schemes in operation, and that the supply of legal services should be considered for civil cases as well as criminal trials.

Box 5.7: Cost effective and sustainable legal aid in Tanzania

Under the Tanganyika Law Society Ordinance, every advocate in mainland Tanzania is required to accept legal aid briefs assigned by the Society. The scheme applies to civil cases only, and is cost-free to the state since in such cases the advocate is entitled to costs if the case is won, but is paid nothing if the case is lost. The winner-take-all-loser-take-nothing approach increases the incentives for advocates to put their best efforts into winning plausible causes while discouraging clients from pursuing frivolous claims.

Judicial training. Stakeholders are accustomed to donors supporting judicial training and other types of legal education. A critical question is what real impact this may have for the poor. In general, there is a presumption against support for judicial training abroad, or training for the highest levels of the judiciary on its own, unless it serves a specific strategic purpose. Provision of in-country training in the lower courts on topics and processes directly relevant to the poor is likely to be more cost effective.

Support to “traditional” justice. A thorny issue to be addressed is how to engage with traditional systems of justice to make them more accessible and appropriate. Given the patriarchal nature of many, but not necessarily all, traditional systems, fair treatment for women and children becomes the big challenge once there is a constitution in place that supports equality principles. The really difficult strategic consideration is how to engage constructively with traditional systems so that the good of the systems – the combination of social support and social control – is not lost in the process of change.

Legal aid schemes may not be sustainable...

...and training judges may not be the best way of helping the poor...

...traditional systems have deficiencies as well as good points.

Data generated for monitoring and evaluation can help with policy formulation too.

5.5 Monitoring and evaluation

Good quality empirical information on the operation of justice sector institutions is often lacking. Crime statistics and court case-load information may be unreliable or even unavailable. A programme that generates such basic information may contribute to policy formation as well as monitoring and evaluation objectives. Some typical indicators are set out in the table below:

Goals	OVI	MOV
Institutions are well-managed and efficient in achieving stated goals.	Strategic Management plans are in place and operational.	<ul style="list-style-type: none"> ● Institutional Reports. ● Field visits.
Legal processes are efficient and free of corruption.	Perceptions of corruption and efficiency improve.	<ul style="list-style-type: none"> ● Public perception surveys. ● Lawyer perception surveys.
Cases move efficiently through the system.	Case management techniques in use.	Reports and visits.
Cases are decided fairly without discrimination against the poor.	Percentage of cases decided in favour of women increases.	Case reports.
Criminal cases are processed quickly.	Number of person-years of prisoners awaiting trial declines.	Prison reports.

6. The treatment of offenders and penal reform

An effective penal system should help to prevent crime by deterring potential offenders and rehabilitating those who are caught. It should respect human rights. And it should use cheaper and more socially effective alternatives to imprisonment for minor offenders and those awaiting trial for lesser offences.

6.1 Introduction

This chapter discusses approaches to the issues associated with the treatment of offenders. It recommends an approach that encompasses the functioning of the criminal justice system, the prison service and the police.

Much of the discussion centres on the use of prisons. This is because they are over-used as a sanction by justice systems in many developing countries in ways that are disproportionate and discriminatory. They are also largely ineffective in deterring crime or rehabilitating criminals and thus have serious impacts on society. The case against prisons, for all but serious offenders, is based not just on the violation of the human rights of prisoners. The over-use of imprisonment is part of the failure of states to provide an effective justice system.

6.2. The case for an intervention

Ineffective treatment of convicted offenders and those accused of crime, relying mainly on imprisonment, contributes to insecurity and hampers development, discriminates against the poor, and is of serious concern on human rights grounds:

- in many countries over 70% of the prison population is awaiting trial, and the majority of convicted prisoners are being held for relatively minor offences which could be dealt with more effectively in other ways. Convicted prisoners often re-offend. Most prisoners are young men from poor families. It is very unusual to find rich people in prison;
- the socio-economic costs of imprisonment include preventing people from contributing to their local economies. Families not only lose the labour of their imprisoned relatives but may also have to find resources to help support them in prison;
- prisons are expensive, using scarce state resources which could be put to better use in strengthening other parts of the justice system;
- prisons harbour serious health hazards such as TB and HIV which they export to the wider community;
- young people in prison are often subject to abuse and exploitation by guards and adult prisoners.

Although overused¹², prison does remain an important sanction against offenders from whom society is genuinely at risk, such as those convicted of serious and dangerous crimes. If these prisoners are not to pose a future threat it is important that prisons seek to rehabilitate them and reintegrate them into society. Most developing countries spend very little effort on rehabilitation and re-integration and concentrate only on warehousing inmates.

¹²However, several developing countries have relatively small prison populations, due to the general inefficiency of their justice systems particularly as regards securing convictions.

The treatment of offenders is often characterised by the over-use of imprisonment...

...which contributes to insecurity, discriminates against the poor...

...is expensive...

...and creates reservoirs of disease.

Where prison is appropriate, rehabilitation is important.

Problems often originate in other parts of the system...

...public and political resistance to reform need to be addressed...

...government/the judiciary need to keep sentencing practices under review...

6.3 Towards an effective strategy

A strategy to address the treatment of offenders and contribute to crime prevention usually requires a multi-dimensional approach. Weak linkages, for example where responsibilities for prisons and criminal justice are split between two ministries, can lead to incoherent and ineffective policies and increased cost. Problems can arise from weaknesses in another part of the system; for example prison overcrowding can result from delays in court proceedings (long remands) or poor sentencing policy (imprisonment for minor offences). External actors can play an important role in analyzing these weaknesses and improving dialogue between different parties.

A strategy will also have to take into consideration political will and public opinion. The most common response to problems within the penal system from both the general public and politicians is “build more prisons – get tough on criminals”, with resistance to reforms which improve conditions and reduce the prison population. Ways of containing opposition and building support for penal reform include:

- public education;
- highlighting the cost-benefit and effectiveness of alternatives to prison;
- highlighting public health risks;
- bringing allies on board, such as prison officers who often experience appalling conditions themselves;
- evidence from evaluations of existing penal policies.

Depending on the local situation, the key objectives of an intervention will usually involve strengthening the justice sector to:

- provide alternatives to imprisonment for minor offenders;
- reduce the incidence and length of pre-trial detention;
- improve prison conditions;
- rehabilitate offenders.

The key questions are set out at Appendix 5.

Alternatives to prison

Revision of sentencing policy by the responsible ministry, in conjunction with ‘justice cluster’ ministries, is a good start. Systematic and prompt reviews of sentencing practice can ensure that lesser offenders are not sent to prison if more appropriate penalties are available. Most alternatives fall into the following categories:

- fines;
- compensation to the victims;
- suspended sentences;
- parole;
- community service sentences;
- diversion projects (mainly for juveniles).

Note that a formal probation service can be expensive and probation officers may not be readily accepted in some societies. Alternative ways of organising supervision within the community can be explored, for example supervision by local councils, the village headman, community paralegals, mediators, or someone else in a position of respect and trust.

The courts’ failure to use existing alternatives may be due to unawareness, lack of confidence in them, or lack of a clear sentencing framework. Research also suggests that

alternatives may simply be used as alternatives to each other, rather than to imprisonment. The use of sentencing guidelines and the training of judicial officers and prosecutors in the range of sentencing options available can encourage more use of alternative penalties.

Box 6.1: The use of sentencing guidelines in Zimbabwe

The place of community service in the sentencing framework in Zimbabwe has been made clear by a series of judicial guidelines. It was decided by the judiciary that community service should be used only for those offenders whose offence could attract a prison sentence of one year or less. However, it soon became clear that there was no consensus on equivalencies – magistrates did not know how to convert x months in prison to hours of community service. A working party was therefore set up to draw up some guidelines. The guidelines also set out the steps magistrates should follow before making a community service order.

Reducing pre-trial detention

Typically around 70% of the prison population is made up of prisoners awaiting trial – many of them for relatively minor crimes for which remand in custody may be unnecessary. Sluggish courts and/or poor record keeping can result in these prisoners being held for unacceptable periods: it is not uncommon for them to get ‘lost in the system’ and spend years in jail on remand.

Reducing pre-trial detention will simultaneously reduce overcrowding, free up resources to deal more effectively with sentenced prisoners, create opportunities to engage in rehabilitative efforts on sentenced prisoners, and improve the image of the justice system. It may therefore also be the best place to start interventions, as it can be achieved within a relatively short period of time with relatively few resources.

The range of strategies includes:

- reforming and updating the bail system;
- increasing access to legal advice;
- closer judicial oversight, particularly with a team of dedicated inspecting judges;
- accurate record keeping of those awaiting trial;
- the use of para-legals to review the cases of those in jail awaiting trial;
- joint police/prison action to improve the transportation of prisoners to court (including special mobile cells);
- measures which enhance the ability of police to collect evidence needed for trial.

Box 6.2: Camp courts in India

In India special ‘Camp Courts’ are held inside prisons. Judicial officers pick out small time offenders and give them speedy justice. This is seen as a useful way to reduce overcrowding, speed up justice delivery and restore the ‘hope’ factor in the life of prisoners.

Bail systems requiring payment naturally discriminate against poor prisoners who are often unable to raise their own bond. An alternative is a bail system which does not require payment, but makes offenders periodically report to police stations. Authorities can be reluctant to make greater use of bail or reporting systems if long delays in bringing the cases to court would create the impression amongst the police, public and victims that justice is not being done. This again highlights the importance of a sector wide approach

...reducing pre-trial detention is usually the most important strategic intervention.

which simultaneously improves court performance. There may also be a need to change public perceptions.

Box 6.3: Community involvement with bail hearings in South Africa

In South Africa local residents, through their community policing fora, are encouraged to help the courts decide on the danger of an accused person to the local residents during bail procedures. In countries where mob justice is widespread, many ordinary people do not understand the notion of bail; even less so when it appears the offender is never tried for the original offence. This relaxation of procedure includes the community in the process and reduces the risk that the offender will be dealt with summarily if released.

As discussed in chapter 5, many cases not involving serious or dangerous crime can be diverted from the formal criminal justice system altogether. Other options include the use of alternative dispute resolution, restorative justice and traditional justice systems. Diverting young offenders from the courts is an increasingly favoured strategy in juvenile justice.

Improving prison conditions

In a resource scarce environment it is important that any strategy to improve prison conditions aims for self-sufficiency so far as is practicable. Often it is not only the prisoners, but also the prison staff, that have to endure poor conditions. It is important that this is taken into consideration.

Possible approaches include:

- better prison management (at all levels) and training of prison staff and managers;
- encouraging self-sufficiency where prisons improve the use of existing resources such as land or workshops;
- training prisoners and using prison labour for prison maintenance and works, both to reduce costs and to help the prisoners learn a trade. This approach can also help to enhance security as it is now generally acknowledged that prisons run more safely and positively with the cooperation of prisoners;
- converting institutions into low-security or 'open' prisons. 40 years' experience in India has shown that open establishments are cheaper to run, require less infrastructure and can be managed by fewer staff, as prisoners earn money and can cater more for their own needs. Open prisons have lower escape rates than closed ones.

Possible approaches to improving the health of prisoners are linked to other actions to improve conditions, and include:

- improving basic sanitation;
- training prison staff in preventative and primary healthcare;
- improving prison rations eg through the use of prison farms.

Don't overlook the needs of staff when helping to improve prison conditions...

...and aim for more self-sufficiency through better management...

...use of resources, human as well as physical.

Open prisons are cheaper as well as more salubrious...

Box 6.4: TB in former Soviet Union prisons

In Russia and elsewhere prisons have become a breeding ground for TB due to overcrowding, lack of fresh air, poor hygiene, inadequate health care and nourishment as well as poorly trained staff. Prisoners have much higher rates of TB than the population at large: eg Kazakhstan with a population of 17.2 m has a TB infection rate of 66:100,000; but the rate for the 77,000 prisoners is 21,000:100,000 – over 300 times as high.

The Pavlodar Project was designed to deal with the problem. It recognised that improvements in drug supply and treatment monitoring were pointless without improvements in living conditions, and that living conditions would remain poor so long as prisons remained overcrowded. The project has three elements: staff training; TB treatment; and promotion of alternatives to imprisonment. It included grants to rehabilitate prison establishments. The training element has positively influenced the TB element, changing the attitude of the staff which is reflected in their treatment of prisoners. Activities relating to alternatives to imprisonment are being developed.

...unhealthy prisoners are a risk to the wider community.

Vulnerable groups in prison include women and children, foreign nationals and the mentally, terminally ill and drug dependent.

Re-integration and rehabilitation

Even if all of the above approaches were introduced, prisons in most parts of the world would still fail to re-integrate and rehabilitate offenders. The process of moving towards rehabilitation and re-integration does not have to be an expensive one. People are sent to prison as punishment, not for punishment. Prisoners should be kept busy with meaningful work for the prison and for the state. In South Africa for example, prisoners make all the civil service office furniture. Elsewhere, many prisons are self sufficient in food production. Skills transfers and literacy training can also be introduced relatively cheaply. In South Africa also, conflict reduction training of prisoners and prison staff has been highly successful.

Rehabilitation and reintegration are cheaper than recidivism.

6.4 Planning and appraising an intervention

Responding to requests and entry points

Requests are commonly for additional resources to the system, for example to increase prison capacity or to improve prison infrastructure and enhance security measures. It goes without saying that the provision of additional resources in an environment of poor policy and inefficient management is unlikely to be sustainable. However, requests can provide a good entry point for exploring some of the wider policy issues and linkages in the sector. For example a request for more prison buildings can prompt consideration of overcrowding and actions needed in other parts of the justice system.

Use requests for more resources to start a debate on reform...

In evaluating requests other than for additional resources, it is important to consider alternatives. For example, if reducing the number of remand prisoners is the favoured intervention, is that more important than supporting alternatives to prison? Reducing prison populations by reducing numbers on remand is good for prison management (and its budgets); it forces the police and courts to speed up trials, getting witnesses and the accused to and through the courts; it promotes swift justice, with all the spin-offs on public appreciation, victim satisfaction and greater symbolic messages about the certainty and speed of justice; and it provides some politically profitable “quick wins”. But it does not address the most strategic and problematic question facing prisons, namely the failure to re-integrate or rehabilitate offenders. (No country has a recidivism rate below 65%.) All the relevant factors, including donor staying power, have to be considered at the time of the request.

...private prisons may not be the right answer

Private prisons Some countries are inviting proposals from private companies to set up new private prisons. There is evidence for and against private prisons. In South Africa private prisons have successfully improved prison conditions. In others however they have not. The main perceived disadvantage of private prisons is that they may create (as in the US) a new and possibly powerful vested interest keen on making more use of imprisonment.

6.5 Monitoring and evaluation

Examples of OVIs for prison reforms include:

- percentage of remand prisoners: time it takes for a case to be processed to disposal (including appeal);
- the use of bail processes (police and courts);
- numbers of juveniles in custody and type of offence;
- deaths in custody, medical conditions (scabies, bloody diarrhoea, TB and other curable diseases);
- the number of human rights violations in prisons reported;
- improvements in prison diet and in access to recreation, education and work;
- refresher courses for prison staff (short modules repeated in situ through the year are preferable to one-off or centralised courses);
- the numbers of regular visits by judicial officers and NGOs/ religious groups;
- internal audit recommendations.

Appendix 1

“Justice and Poverty Reduction”, DFID Issues Paper, December 2000

Introduction

1. In its White Paper *Eliminating World Poverty: A Challenge for the 21st Century*¹³ the Government recognises that poor people, particularly women, are the most vulnerable to all forms of crime and civil conflict, including domestic violence; and that in very many cases, formal justice systems fail to protect them.
2. In the Strategy Paper *Making Government Work for Poor People*¹⁴ DFID recognises that in order to meet the International Development Targets for poverty reduction, it is necessary for governments to develop the capacity to ensure safety, security and access to justice for all.
3. Those papers set out DFID’s broad policy on safety, security and accessible justice. This paper focuses more closely on the importance of justice systems for improving the lives of poor people, and the contribution which DFID can make¹⁵.
4. The objectives of safety, security and accessible justice strategies are:
 - to make all people safe from violence and intimidation in their communities, homes, work and schools;
 - to make people’s property secure from theft and damage; and
 - to ensure that everybody has access to systems which dispense justice fairly, speedily and without discrimination.
5. These objectives have been identified by developing countries as priorities within the Poverty Reduction Strategy Paper process. DFID is ready to support governments in poor countries to realise these objectives. Our approach is inclusive of all people but gives priority to the problems of poor and disadvantaged people.

Why safety security and accessible justice matters

6. While the cost of crime and its control is equivalent to 5% of GDP in the developed world, the figure rises to 14% in developing countries¹⁶. Poor people suffer more from crime. In South Africa for example, the victims of crimes of violence are predominantly poor people¹⁷.
7. The impact of crime on poor people is more serious. The reason is that when you have very little, losing what you have can bring with it real catastrophe. The theft of a bicycle can mean the loss of livelihood for the owner. Poor people also face real barriers in seeking the protection of the state. The police often abuse their powers and act oppressively. Courts are usually distant, expensive, and use procedures which are difficult to understand. Corruption is often widespread.

¹³November 1997.

¹⁴June 2000.

¹⁵Earlier Policy Statements, Conflict reduction and humanitarian assistance and Poverty and the security sector, deal respectively with DFID’s role in relation to war, civil war and natural disasters, and in relation to the military, paramilitary and intelligence services. References to “safety and security” in this Policy Statement refer to the mainstream justice sector (see footnote 8 below for a definition).

¹⁶International Centre for the Prevention of Crime (1999).

¹⁷Shaw and Louw: Crime in Post-Apartheid South Africa: Extent, Impact and Responses, Institute for Security Studies (1998).

Box 1: Voices of the Poor

"If a poor man is beaten by a rich man and goes to file a case against the rich man, the officer concerned does not even register the case." – Bangladesh

Recent participatory exercises, including the World Bank's 1999 Consultations with the Poor, which involved 20,000 poor people at 468 sites in 23 countries, have confirmed that safety, security and justice issues, and in particular insecurity caused by crime, are a major concern for poor people, ranking in importance with hunger, unemployment and lack of safe drinking water.

One striking finding in Consultations, was the extent to which the police and other authorities side with the rich and victimise poor people. There was astonishing consistency across communities in the negative impacts of the institutions of law and order on the lives of the poor. The police were the subject of many complaints, being perceived as lax, corrupt and often brutal. Poor women had added concerns about domestic violence and sexual abuse, and about the fact that these matters were often not taken seriously by the authorities.

8. Failure of states to provide protection from crime and access to justice impedes development. All people have a right to go about their lives in peace, free to make the most of their opportunities. They can only do so if the institutions of justice and law and order protect them in their daily lives. Poor farmers cannot be expected to invest in livestock or the cultivation of cash crops if their animals and produce are likely to be stolen. They are less likely to spend time and money improving their land if there is no way of resolving land disputes fairly.
9. States with poorly functioning legal systems and poor crime control are unattractive to investors so economic growth also suffers. The World Bank points out¹⁸ that crime and violence have emerged in recent years as major obstacles to development objectives – "Where crime is significant, we see economic growth down by 1-2 per cent"¹⁹.

Programme design

10. The design of programmes to improve safety, security and access to justice is the responsibility of governments working with civil society. DFID will support governments to develop programmes through:
 - **Consultation:** The starting point should be to consult all the interested parties – and not least the poor and vulnerable themselves. What do poor people see as major safety and security issues? What do they think of the justice system, and in particular what do they see as its main deficiencies? What are their priorities for reform? Governments need to understand how vulnerable poor people are to crime and violence, including abuse at the hands of the police; what access they have to both the formal and non-formal justice systems and how they find them; how aware they are of their legal rights and whether they have access to legal advice and information.
 - **Sector-wide assessments:** Diagnosis is essential. The analysis has to be sector-wide in approach²⁰ in order to identify the linkages between the different parts of the system. For example, improving the efficiency of the police may lead to the

¹⁸A World Bank study of local entrepreneurs in sixty-nine countries found that states with 'high levels of crime and personal violence and an unpredictable judiciary' are not credible with investors.

¹⁹Crime and Violence as Development Issues in Latin America, World Bank (1998).

²⁰The "sector" can include: customary and traditional justice systems, judiciaries, "modern" alternatives for dispute resolution, legislatures, law commissions, other (e.g. human rights) commissions, the police, prison and prosecution services, agencies responsible for non-custodial sentences, lawyers, paralegals and Civil Society Organisations/NGOs active in the field.

arrest of more suspects, but with an unreformed remand system and sluggish courts it will also lead to bigger court backlogs, longer remands and worse overcrowding in prisons.

- **Collaboration between donors and governments:** Development assistance will be more effective if it is organised to support a coherent set of objectives and policies to which the government is committed. Donors should where possible pool resources to finance implementation of sector-wide reform, where there is sufficient local commitment to this objective.

11. In Uganda, a new initiative is underway which demonstrates this approach.

Box 2: Legal Sector Reform, Uganda

The Government of Uganda is planning the world's first sector-wide approach to justice/law and order reform.

The initiative is a result of extensive consultation. The World Bank's Participatory Poverty Assessment, together with the Government's Poverty Eradication Action Plan, showed how the criminal justice system was failing to provide an adequate service, particularly to the poor. Earlier efforts to reform the commercial justice system are accordingly being developed into a sector-wide approach starting with criminal justice reforms.

The Government has proposed a multi-agency, multi-donor partnership to develop a strategic plan for the sector. A Sector-Wide Budget Framework Paper has been produced by a working group consisting of representatives from all the institutions in the sector. These include the police, prosecution, judiciary, prison service, Ministry of Justice, Ministry of Internal Affairs, Law Reform Commission and Judicial Services Commission. This was followed by a joint sector statement to the Consultative Group of donors. Both documents emphasise that the developing sector-wide approach is necessary for successful reform and to prioritise financing.

Various donors including the Netherlands, Ireland, Norway, Sweden, Austria and the UK are collaborating with the Government in the preparation of the criminal justice sectoral reform programme. These donors will provide financial support to the development of a strategic plan through a consolidated fund. It is intended that this will lead to more substantive collaboration and budgetary support to the sectoral reform programme once established.

12. The following sections describe the challenges facing governments and the kind of actions they can take to improve firstly, safety and security and secondly, access to justice.

Improving safety and security

13. The lack of safety and security directly affects the welfare of poor people. It can cause injury and death, reduce family income and generate a climate of fear. Improving safety and security involves measures to prevent crime, as well as responding effectively when it happens. Communities, the police and other agencies all have to be involved throughout.

I. Crime Prevention

14. Crime prevention is up to eight times more cost-effective in reducing crime than reactive measures²¹. Prevention means reducing the opportunities for crime, for example through neighbourhood watch schemes. It is also about addressing the risk factors such as youth unemployment, or the availability of firearms and drugs. Effective basic services including housing, education and health can also help to tackle the

²¹Work Programme of the National Crime Prevention Centre, South Africa Department of Safety and Security.

underlying causes of crime and violence. Partnerships are needed between the police and other agencies. The involvement of municipal authorities, for example in safer city projects can be crucial.

Box 3: Urban safety and security, Jamaica

Poor people's access to physical security, police protection and justice has completely broken down in parts of urban Jamaica which are under the control of armed gangs. Making urban communities safer has been a priority issue for the Jamaica Urban Poverty Project, supported by DFID.

The project is being piloted in Jones Town, a deprived inner-city district in Kingston. The police acting alone have not been able to provide law and order. Agencies outside the criminal justice sector have therefore been asked what they can do to help prevent crime.

Examples of actions taken by these agencies include:

- community farm projects for urban youth;
- inter-community sports festivals to strengthen peace initiatives between rival communities;
- improving streetlighting in crime-vulnerable areas;
- putting up street signs so that when the police need to get to a troublespot quickly they can find it easily;
- homework classes for children so they can do their homework under supervision, in a quiet and safe environment.

In the first year of the project, the rate of violent crime has been cut by 37%. Resident perception studies have shown that women and children feel safer to walk the streets again, local business activity has improved, there is increased demand and investment in housing and a more trusting relationship with local police. As a result, the project has now been rolled out to ten other inner-city communities.

15. Effective prevention requires effective policing: when the police offer no real deterrence, crime prevention strategies are also likely to have limited impact.

II. Community policing

16. Community participation is often key to effective policing. The people who live and work in an area are best placed to identify the problems facing them and possible solutions to those problems. Community policing initiatives, which provide mechanisms for consultation and co-operation between the police and the public, have been shown to help tackle rising rates of crime.

Box 4: Community policing, Malawi

A police reform project in Malawi aims to improve safety and security, especially for the rural poor. Its purpose is to use community policing initiatives to prevent and reduce crime and the fear of crime. The principles supporting this process include regular local consultation between the police and the community, joint problem solving and joint action.

Examples of project activities include:

- the training of community police officers;
- the establishment of community policing pilot sites to test and design a national community policing model;
- the establishment of community/police consultative groups to identify concerns and policing needs as well as to provide a police accountability mechanism;
- establishing linkages to traditional community systems e.g. village heads;
- the implementation of joint police/community patrols;
- the establishment of local crime prevention panels and joint police/community approaches to the prevention of crime.

During a recent review villagers at two pilot sites indicated that crime and the fear of crime had been reduced and relations with police had improved. As one village head man said "we are now able to sleep at night without the fear of harassment".

17. Community policing is one model of policing which offers the scope for positive change. However broader conditions underlie the formation of a professional, independent police service working on behalf of society as a whole.

III. A professional police service.

18. Given the risks that the police will abuse their powers, issues of transparency and accountability are as important as issues of efficiency and effectiveness. A professional police service is built on the following elements:

- adequate budgets and safeguards from improper political interference, so that the police can be held accountable for their performance;
- investigative skills and equipment so that the police can build cases on evidence rather than on confessions;
- relevant and practical human rights training to improve police treatment of vulnerable groups;
- effective accountability systems and redress mechanisms such as independent complaints commissions, ombudsmen and civil society organisations representing the public in their dealings with the police.

Box 5: Improving safety and security, Bangladesh

A justice sector-wide assessment in Bangladesh emphasised the need to improve the protection of poor people by the police. This led to the design of an initiative designed to improve policing at the local level. This focus offers an entry point to begin addressing problems in the justice sector more widely.

The project involves: (1) community participation in policing at the local (Thana) level; and (2) strategic reforms in the Bangladesh Police Service designed to make it more service-orientated.

Project activities include:

- the use of public attitude and user surveys to generate public awareness and improve accountability;
- joint police-public problem solving on issues such as victim support;
- establishment and/or strengthening of police community forums;
- the use of an Accessible Justice Fund, open to government and non-government organisations, for local level innovations or national strategic initiatives;
- training and technical assistance to enhance police capacity for data collection, research, and policy analysis.

The success of this initiative will be monitored through public perception surveys or 'report cards' on policing in the pilot Thanas.

19. Police treatment of vulnerable groups is another important aspect of safety and security, including the extent to which they protect women and children against domestic violence and sexual abuse. A project in Jordan seeks to address these issues.

Box 6: Family protection, Jordan

The Family Protection Project aims to combat domestic violence, child abuse and sexual assault. One of its objectives is to improve police treatment of victims. It does this through:

- a programme to sensitise the police and to mainstream a victim-centred approach to family violence in all its forms;
- discussions to agree common definitions of sexual abuse, child abuse and domestic violence;
- the establishment of a model Family Protection Unit (the first of its kind in the Arab world) within the police;
- the creation of "at risk registers" to alert police and others;
- the use of systems to ensure that victims receive sensitive treatment;
- the implementation of joint-agency training for the police and others;
- an ongoing information campaign to raise social awareness about family protection issues.

Early indications are that the model Unit has encouraged more women to report incidents of domestic violence. In its first 20 months of operation, the Unit received 762 cases which represents a 60% increase in the number of domestic violence cases reported.

Improving access to justice

20. Access to justice means that where people do need help, there are effective solutions available. Justice systems which are remote, unaffordable, delayed, or incomprehensible to ordinary people effectively deny them legal protection.
21. In developing countries the law is often discriminatory and legal processes are expensive, slow and complex. The result is that people, and particularly poor people, have inadequate and unequal access to justice through the formal legal system. For these reasons, they tend to rely much more on customary justice systems, but these can be discriminatory. Improving access to justice requires that both formal and customary systems be made to work justly and equitably.
22. Improving access to justice also means more than reforming legal procedures. It can also mean law reform, making courts more user friendly, improving customary systems and improving the treatment of offenders.

I A fair and equitable legal framework

23. There can be many reasons why poor people are unable to use the law to obtain the protection to which they are entitled. Sometimes laws are not framed in their favour. For example, in South Asia many laws contain provisions which discriminate against poor people and/or women. They were not designed to enhance government accountability or promote citizen rights. Poor people are unlikely to know what their rights are or be able to pay for legal advice or representation. Actions to improve the legal environment for poor people include:
- law reform which removes discriminatory provisions and incorporates rights conforming with international standards;
 - promoting the use of public interest litigation by advocacy groups and others to challenge the legality of discriminatory government measures;
 - paralegal schemes offering assistance and advice;
 - improved access to legal aid so that poor people can afford legal representation;
 - practical, problem-based legal rights education which helps poor people to protect their livelihoods.

II Courts which are accessible and dispense justice speedily

24. Courts are often inaccessible. They are usually located in towns away from the rural poor and use languages and procedures which are difficult for them to understand. Many are run inefficiently. Criminal cases can take years to proceed from arrest to trial. The sheer volume of cases pending across the system can bring it to a state of near paralysis. Courts can be made more accessible and provide a better service through:
- the use of local languages;
 - allowing people to give evidence in narrative form;
 - appointing people from the community to sit as lay magistrates;
 - establishing mobile courts to service rural communities;
 - providing information about the courts to the public;
 - improving case-flow management by computerisation of court records and strengthening court administration;
 - awareness raising for judges in new developments affecting juvenile justice, alternatives to prison etc.;
 - better co-ordination between courts and other agencies (see box).

Box 7: Improving access to courts, Uganda

In Uganda, the logjam of cases in the courts constitutes a major obstacle to poor people's access to justice. Delays in administering justice are chronic. For example, in one magistrate's court over a nine-month period, only a single case was disposed of.

The Government initiated the "Chain Linked" programme in Uganda, which aims to cut delays in the Masaka Magisterial Area. The programme is supported by several donors including DFID.

Ineffective communication and coordination between the criminal justice agencies is the main cause of delay. Now a Case Management Committee comprising senior local representatives of the various agencies, such as police, probation, prosecution, prisons, magistracy and judiciary, meets on a monthly basis. It identifies causes for delay in specific cases, agrees solutions with the institution concerned and monitors implementation and impact of the agreed action.

Action taken to cut delays includes:

- better control of case files;
- statistical reports to identify bottlenecks;
- trials held on consecutive days to reduce adjournments;
- steps to encourage better witness attendance.

In the first year, the number of cases disposed of has tripled and the project will now be rolled out nationally.

III Improved customary justice systems and a greater role for alternative dispute resolution

25. In many developing countries, traditional or customary legal systems account for 80% of total cases. They are usually better attuned to the needs of local communities. However, the danger is that such systems do not always protect the rights of the poorest and most vulnerable members of society.

26. Customary justice systems will work more effectively if measures are taken to encourage:

- customary systems to operate more fairly e.g. by providing paralegal representation;
- awareness-raising in human rights for traditional leaders;
- customary systems to work more effectively with the formal system, eg in some cases the formal courts could hear appeals from the customary courts;
- measures to make traditional forums more representative of the community as a whole and to encourage participation of women in proceedings.

Box 8: Improving traditional justice, Bangladesh

"Shalish" is a traditional system of dispute resolution used in Bangladesh which often fails to offer fair treatment to women and other disadvantaged groups. In practice, it is a loud and passionate event which is generally open to the whole community but is largely male-dominated. The treatment of women is often discriminatory.

In an attempt to address this short-coming, the Madaripur Legal Aid Association is organising village-level mediation committees on which women are represented. Funding is provided to train women to sit on these committees. Measures are also being taken to educate communities about domestic violence as well as to encourage women to participate in hearings. This type of training is being rolled out by other NGOs in Bangladesh and for the first time women have a voice in community justice.

MLAA reports that disputes are successfully resolved in 80% of its shalish cases.

27. In some circumstances, it is necessary to go to court, but for most people, most of the time, litigation should be the method of dispute resolution of last resort. There is also a range of alternatives to litigation which can be used to resolve disputes, for example in family or commercial matters. These include:

- arbitration, where the arbitrator's decision is binding, but the process is quicker and cheaper than going to court;
- mediation, in which a mediator facilitates an acceptable agreement between the parties. This can also provide the basis for a more constructive relationship in the future;
- tribunals, which decide cases brought before them on a less formal basis than the courts, free from strict rules of evidence and procedure.

IV. Penal reform

28. Prison conditions in most developing countries are appalling. The prison system is often corrupt, oppressive and abusive, especially of juveniles and women. Prison staff are often unqualified and unprofessional. They are rarely exposed to human rights principles. Moreover, imprisonment is generally accepted to be ineffective in reducing repeat offending²². In most developing countries 80% of the prison population consists of those awaiting trial, sometimes for many years.

29. Sentences which put reparation before retribution, and alternatives to prosecution and prison, are more humane and cost-effective. There is an urgent need to decongest prisons and improve conditions in line with minimum international standards²³.

Improvements can be made by:

- reviews of sentencing policy so that people are not sent to prison for minor offences²⁴;

²²"The number of prisoners we have in our jails cannot allow for any meaningful rehabilitation to take place. This explains the rather high incidence of recidivism in Kenya. The current situation simply makes some criminals actually turn into hard-core type of criminals. Short-term convicts mingle with long-term convicts learning from the latter how to introduce sophistication and improve on their criminal activities": Hon. Amos Wako (Kenya's Attorney General) addressing the symposium on Extra Mural Penal Employment held in Nairobi in December 1995. Quoted in Prison Conditions in Africa: Report of a Pan-African Seminar (PRI, October 1997).

²³International standards include the UN Standard Minimum Rules for the Treatment of Prisoners 1957; the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) 1985; UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) 1990; the UN Minimum Rules for Non-Custodial Measures (the Tokyo Rules) 1990; and the UN Rules for the Protection of Juveniles Deprived of their Liberty 1991.

²⁴60% of the prison population of the world are serving sentences of less than one year. Source: A New Agenda for Penal Reform, International Penal Reform Conference 1999.

- the use of community service, suspended sentences, cautions etc. for less serious offences and decriminalisation of the most minor offences;
- the use of approved schools for juvenile offenders and the segregation of children from adults in prison;
- the use of bail for those awaiting trial;
- improvements in prison conditions eg through prison farms, open prisons and better disease control, including over the spread of TB and HIV/AIDS.

Box 9: Supporting community service, Zimbabwe

A scheme was started in Zimbabwe in 1992 in response to a rapidly rising prison population and costs. 60% of convicted prisoners in Zimbabwe were serving sentences of 3 months or less. A National Committee was set up which recommended the use of community service. The EU and DFID funded a pilot scheme.

From inception in 1992 to June 1998 over 21,000 community service orders had been made on offenders who otherwise would have been sent to prison for up to one year. Offenders do practical work of benefit to the community in a social welfare organisation such as a school, hospital or old people's home, or on an environmental work placement. The re-offending rate is only 6%. Costs per offender per month are \$20 for community service against \$120 for prison. The prison population, which had been rising, has reduced from 22,000 to 18,000 in spite of rising levels of crime.

The scheme has secured public approval through its visible results. The demand for "placements" now outstrips supply. The Zimbabwean government has taken on the funding and extended the project to encompass early release of similar offenders from prison. All aspects of supervision are managed by local magistrates and allow links with the community to be maintained or developed.

As a result, similar schemes are now being introduced in several other African countries.

Wider challenges

30. The reform of law and order and justice systems is only possible if governments – and the public at large – accept that reform is necessary and important. This will require debate on these issues. Such debate should be led within countries. But the international development community has a role to play in facilitating the dialogue and supporting civic awareness programmes, for example on penal reform.
31. Another, related challenge, is the chronic under-resourcing typically experienced by this sector. Affordable strategies to address these problems would be facilitated by effective systems relating budgetary allocations, and donor support, to sector reforms.
32. An effective judiciary requires freedom from political interference to ensure impartiality in the delivery of judicial decisions. In some countries political patronage in judicial appointments and interference in judicial proceedings is a problem. Measures to buttress judicial independence include: transparent criteria for the selection, promotion and removal of judges administered by an independent body; security of tenure; and improved standards of professionalism in the judiciary.
33. Another serious challenge is to root out corruption in this sector which is often worse than in other areas. In this regard, judicial independence can also be abused in order to deter investigation and action. Corruption is a denial of justice. Where it is prevalent, the integrity and impartiality of the police and courts is compromised and the whole legal system is brought into disrepute. Commitment by the heads of the government, the police and the judiciary is essential to combat corruption. Possible actions include:

- improving pay and conditions;
- strengthening the transparency and accountability of the courts and police through court users committees, lay visitor schemes, etc;
- establishing and strengthening oversight mechanisms such as police complaints commissions;
- removing responsibility for court administration from judges;
- strengthening capacity to investigate and prosecute offences.

DFID policy and resources

34. DFID is ready to consider support for programmes of reform in this sector. It is already supporting the projects described in the boxes. Decisions on engagement by DFID will be taken on a country-by-country basis, and on the basis of local commitment to take effective action and to pursue reform in the context of poverty eradication objectives.

35. The development and implementation of DFID's policy is led by its Governance Department and its regional and country programmes.

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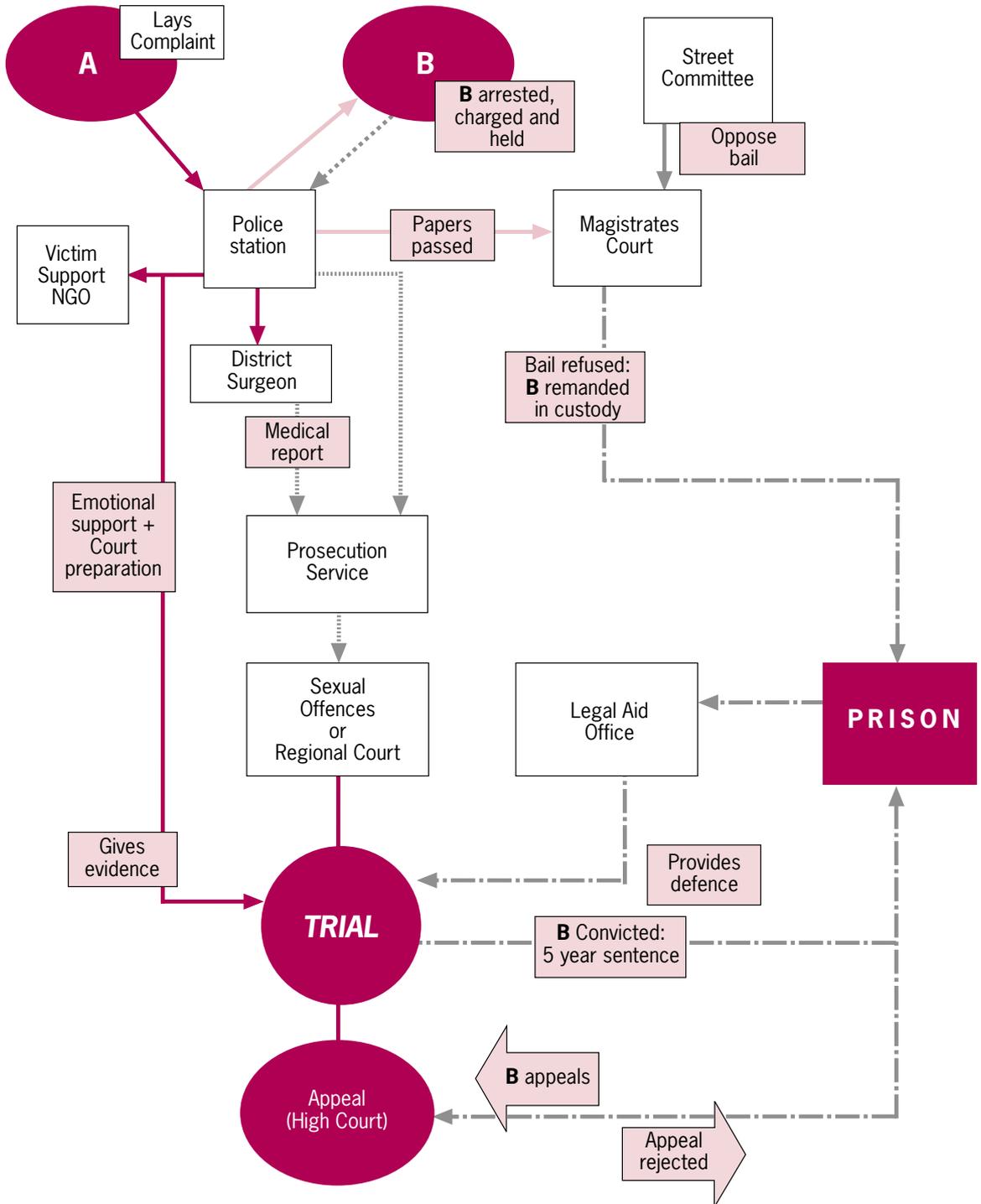
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Appendix 2

Linkages in the system

The following diagram illustrates the process and linkages in a rape case – A is the victim and B the perpetrator. It is based on a South African model; in other jurisdictions the court structure might be different, and there could be differences of process too. Also this is a criminal case: civil cases would follow a different trajectory.



Appendix 3

Checklist for appraising police reform programmes

- What is the nature of the political control and accountability of the police?
- Is the police leadership de facto accountable directly to the President or Parliament?
- What is the nature of the relationship between the police and the military?
- Is there political commitment to police reform initiatives within the police?
- Are the police interested in institutional reform or only in acquiring material support?
- What is the balance between law enforcement and crime prevention?
- Are the police a paramilitary organisation, or are there elements of service to the general public?
- How serious is corruption within the police, and what is their approach to corruption in other parts of the state?
- What is the balance between requests from the police for support for community policing and crime detection and prosecution?
- Are there CSOs prepared to work in partnership with the police; do they need support to hold the state to account, provide research and help develop policy?
- Is the police leadership equipped and motivated to lead the organisation into a reform process?
- Is there evidence of innovative thinking at different levels in the police?
- What is the nature of the existing linkages and routine co-operation between the police and the rest of the justice sector?
- What proportion of the national budget is allocated to SSAJ?
- How do the police currently respond to issues of safety and security, especially for the poor?

Checklist for appraising accessible justice

Institutional Appraisal

Courts: Number, variety, jurisdiction (topical and geographical), hierarchy, funding, legal status, independence from political interference, probity, training. The lower courts are most important for the poor, although an innovative and pro-poor apex court may be able to introduce doctrinal changes that can have a profound impact on justice at all levels.

Legal Profession: Number, distribution, education, organisation, capacity for delivering services to the poor through pro-bono work or other methods. Capacity for working on public interest litigation cases.

Legal Assistance or Legal Aid: State and non-state provision of legal representation in key sectors: criminal defence, family law, personal injury litigation, tenancy disputes. Geographical distribution of legal aid schemes. Funding. Effectiveness. Accessibility to the poor.

Oversight of legal policy: Is there any office (in the Ministry of Justice or elsewhere) concerned with the linkages between institutions in the justice sector and the overall coordination of legal policy?

Special provision for vulnerable groups: What institutions and processes are in place to deal with juvenile justice? Do special courts exist? What protections are in place for women's rights and minority rights?

Legal Appraisal

Legal Materials: Are the national (and state or local, if relevant) statutes compiled and available for consultation in an accessible form? Are court decisions reported regularly and accessible for use?

Laws: What is the balance of statutory law and judge-made law? What are the key statutes in the areas that most affect the poor (apart from police powers and criminal procedure, look at laws relating to marriage and divorce, property, inheritance, children, wages, employment, debt, forced labour, education, and health care). Are the statutes outdated (possibly drafted under colonial rule) or have they been revised recently?

Constitutional Order: Does the Constitution contain a bill of rights or a section on Fundamental Rights? Do those rights accord with international human rights standards? What are the legal mechanisms for the enforcement of constitutional rights? Is the standing to sue for the enforcement of rights open to concerned citizens and NGOs or is it restricted to parties with a direct legal interest? Does the constitution contain enforceable provisions with respect to equal enforcement of the right to health, education, and social security?

Law Reform: Are proposals for reform of substantive laws (eg statutes) and legal procedures generated by university faculties, NGOs, or a Law Reform Commission? If proposals for law reform are generated, are they acted upon by the government?

Appraisal of Traditional Justice Systems

General: What is the number of traditional or informal justice institutions? Are they distributed evenly around the country? What types of disputes do they deal with? What sorts of disputes or issues do they eschew?

Knowledge of the Traditional Systems: Is the operation of the traditional systems well described in the existing literature? What is known of the processing and outcomes of cases? How are women, children, and minority groups treated by the traditional institutions?

Caveat: Academic descriptions of traditional justice systems have often succumbed to one of two stereotypes: either the justice they mete out is perfectly harmonious and fair, with the complete support of the community, or they are arms of local despots which are incapable of due process and fair outcomes. Both stereotypes are misleading, and are best countered with solid empirical information of how real issues involving real people are actually resolved.

Sources of principles applied in traditional institutions: How are local rules and standards determined? Is there any reference to official statutes or other state laws? Are 'customary' rules written down or held as part of an oral tradition?

Relations with state institutions:

What are the different ways in which the state and non-state legal systems relate to each other? There tend to be four modalities:

- **First:** the state recognises the traditional systems and makes their courts and structures an integral part of the formal system. But in doing so it tampers with the jurisdiction of the structures by imposing a distinction between criminal and civil cases, and reducing the criminal jurisdiction of these structures to a meaningless minimum. Appeals can be taken up the ladder, as in Uganda, Zimbabwe, Malawi, and Kenya.
- **Second:** The state does not recognise non-state structures and criminalises them, or at best tolerates them in an uneasy tension (South African urban informal structures until 2001)
- **Third:** the state attempts to regulate but not incorporate the informal system, excising any criminal jurisdiction from such structures (examples: India, Indonesia, South Africa after 2001, Western Samoa).
- **Fourth:** the state re-invents and legislates for the creation of defunct traditional justice systems in a new mould (examples: Gacaca tribunals in Rwanda; Panchayati Raj institutions in India after 1992).

How do the structures and procedures of the state system need to change to make them more accessible?

Checklist for Appraising the Penal System

There are a number of areas which need to be considered when appraising the penal system, assessing the current situation and the relevance and applicability of a particular strategy of reform in any given situation.

Prison population: What is the total population per 100,000? Do desegregated figures exist – eg: how many women, women and children, juveniles, foreign nationals, mentally ill, terminally ill?

Prison conditions: a society can be judged by the way in which it keeps its prisoners – what are conditions like (use the SMR as a guide)? What does the prison diet consist of? What are medical conditions like? How many people die each year from curable diseases? What is the climate like in prison – is it one of fear? Are there any open prisons?

How open is the system to outside scrutiny? To what extent are CSOs and religious groups allowed in? What other bodies exist (constitutional or otherwise) to inspect conditions – eg Board of Visitors, Prisons Inspectors etc?

Torture and deaths in custody: are inquests held? How many escapes are there each year? Are leg irons or other instruments of restraint used? Are there punishment cells – eg dark cells or prolonged solitary confinement?

Legal oversight: in many countries magistrates and judges are required to visit prisons regularly – to what extent is this requirement followed? Do prisoners have access to legal advice? Are juveniles represented in court? Is there any para-legal service in action?

Remand prisoners: are there any custody time limits in operation? How long has the longest remand prisoner been held in custody? Is ‘bail’ applied by the police/courts properly – do the members of the community understand it? Are prisoners produced before the courts regularly? Are police allowed to remand prisoners directly to prison (without going through the courts)?

Convicted prisoners: how many had access to legal representation at trial? Do convicted prisoners have assistance with drafting appeals? Are appeals heard regularly in the higher courts? Are prisoners legally represented at these appeals?

Alternatives to prison: fines are often unaffordable to the poor person – to what extent do alternatives exist, such as community service, victim-offender mediation, diversion of juveniles? Are fines paid or are offenders too poor to pay them and end up serving a sentence in default?

Sentencing practice: what are the powers of sentencing in the lower courts? Can informal/traditional courts sentence persons to prison? What review mechanisms by the formal courts exist? Are they effective or rubber stamps? What would a snap survey in one prison of sentences passed disclose? What is the percentage of prisoners serving 12 months or less – ie for crimes committed at the lowest end of the criminal scale?

Productivity: is there a prison farm system producing tangible results? Is there a prison industry programme? Could the prison service be more self-sufficient?

Staff terms and conditions of service: are they tied to the police, army, and immigration departments? Is there a career structure?

Training: what training is provided for prison officers on recruitment and in-service?

Management: is it centralised or is there room for initiative by junior officers? Are budgets set and managed by the centre, or is there any delegated authority to manage funds at the regional/district levels? To what extent are prisoners included in the decision making process (viz: conditions, human rights observance, productivity)? Are prisoners categorised according to risk (ie: is there any reward mechanism for good behaviour with onward transfer to an institution which offers better access to training and family contact?)

Complaint mechanisms: what exist within the prison system (for prisoners and staff)? What effective recourse does a prisoner have to a body outside of prison – eg: Ombudsman, Human Rights Commission or CSO?

The law: how old is the primary legislation? Does it reflect contemporary realities and incorporate constitutional and international human rights norms and standards? Are Standing Orders for prison officers effective or outdated?

Department for International Development

The Department for International Development (DFID) is the UK government department responsible for promoting development and the reduction of poverty. The government first elected in 1997 has increased its commitment to development by strengthening the department and increasing its budget.

The central focus of the Government's policy, set out in the 1997 White Paper on International Development, is a commitment to the internationally agreed target to halve the proportion of people living in extreme poverty by 2015, together with the associated targets including basic health care provision and universal access to primary education by the same date. The second White Paper on International Development, published in December 2000, reaffirmed this commitment, while focusing specifically on how to manage the process of globalisation to benefit poor people.

DFID seeks to work in partnership with governments which are committed to the international targets, and seeks to work with business, civil society and the research community to this end. We also work with multilateral institutions including the World Bank, United Nations agencies and the European Community.

The bulk of our assistance is concentrated on the poorest countries in Asia and sub-Saharan Africa. We are also contributing to poverty elimination and sustainable development in middle income countries in Latin America, the Caribbean and elsewhere. DFID is also helping the transition countries in central and eastern Europe to try to ensure that the process of change brings benefits to all people and particularly to the poorest.

As well as its headquarters in London and East Kilbride, DFID has offices in many developing countries. In others, DFID works through staff based in British embassies and high commissions.

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