Chapter 5.
Strengthening the Rule of Law

SUMMARY

A rule-of-law environment exists when all persons, institutions and entities (public and private), including the state, are held accountable to laws that are publicly promulgated, equally enforced and independently adjudicated. The mission, in close cooperation with the host government, has both a responsibility and the capacity to influence how quickly and firmly the state is able to recover and extend its authority, legitimacy and capacity to apply equitable laws in a fair manner. This requires a comprehensive understanding of the actors involved in the rule of law, including those who provide security, policing and judicial services; those who manage those services; and those who hold service providers to account. The MLT therefore plays a crucial role in crafting a comprehensive and holistic approach to strengthening the rule of law. Where there is non-state service delivery of security and justice, regardless of who provides security or justice services, they should equally be held accountable to the law and formal governance structures. All actions should be carried out in close consultation with all parties to the peace process as well as with civil society. Strategies should be needs-based and long term, and donors should be encouraged to remain engaged and stay the course.

This chapter discusses a set of seven **operational-level outputs**, each with its own set of activities, risks and benchmarks, which together contribute to the overall outcome of strengthening the rule of law:

1. ***Human Rights and Protection Promoted***. This output reflects the centrality of human rights in the work of the UN system. It is essential to maintain a strong spirit of partnership on all human rights issues within the UN and with other humanitarian, development, political and related actors. The MLT should be aware, however, that the promotion of human rights may at times, from a short-term perspective, leave the mission torn between difficult questions of peace versus justice. This illustrates one of the core leadership considerations on polarities, whereby both peace and justice should be supported and neither neglected.

2. ***Legal Framework Strengthened***. This output highlights the tendency of conflict to weaken legal frameworks over time, ranging most commonly from usurping or destroying institutional infrastructures to simply undermining their effectiveness through authoritarian control. A strong legal framework based on the rule of law and the principles of human rights provides a mechanism by which a state frames its laws in response to the will of the people. This forms the foundation for an effective rule of law environment.

3. ***Justice Sector Strengthened***. This output emphasises the importance of a sound and well-respected judicial sector, supporting reform of the police and corrections services, to a transition to a sustainable peace. It requires, among other things, a national comprehensive security strategy recognizing the linkages between justice and security. Needs assessment and mapping will identify the many activities required to support judicial reform. As capacity building in the justice sector takes time, there may be pressure for rapid justice to meet public expectations and provide evidence of reform. A balance must be found between initiating a judicial reform process that responds to the needs assessment and the capability of the host government and population to absorb the reforms.

4. ***Security Sector Strengthened***. This output stresses the need for the establishment and maintenance of effective, accountable and sustainable security services, within a framework of the rule of law and respect for human rights, in order to assure long-term security and the rule of law. This sector includes police, corrections, defence and the governance of these institutions. This is a complex and highly political process, involving contentious issues such as governance and accountability, which are often linked to the structural causes of the conflict. It will often lead to questions of national sovereignty and tensions between the mission and the host country and donors. Early on in the peace process, discussion is required with national, regional and international actors on how the mission will support SSR efforts and the most appropriate mechanisms for guiding, implementing and monitoring these activities.

5. ***Police and other Law-Enforcement Sectors Strengthened***. This output underlines the importance of an adequate level of policing and other law enforcement, without which it is impossible to reinforce the rule of law or achieve sustainable peace and security. Police and other law-enforcement agencies are the most visible expression of governmental authority. Transition to police responsibility for law and order, away from the military, is an important step towards re-establishing the rule of law and signals to a population that the government is re-establishing the rule of law within a human rights framework.

6. ***Corrections System Strengthened***. This output draws attention to the non-existent or weak security and poor conditions in post-conflict corrections systems, which generally result in violations of prisoners' basic human rights and a lack of coherence between the elements of the criminal justice system. A corrections system that conducts itself in a humane, fair and coherent manner gains public trust, legitimacy and international respect. The corrections system must be the partner of strengthened legislative, judicial, police and other law-enforcement agencies as evidence of a legitimate and credible rule of law.

7. ***Defence Sector Professionalized***. This output points to the fact that it is of critical importance that the military re-establishes its credibility in the eyes of the public and the international community, especially if it has been implicated in conflict. The ultimate goal of professionalizing the defence sector is civilian control of the military. Professionalizing the defence sector should not simply aim at rebuilding troop levels and training military actors; it implies the holistic reconstruction and development of both the armed and non-armed elements of the defence sector, as well as its civilianized governance structures, including with regard to normative values and traditions.

Inevitably, these seven outputs, which go to the heart of a nation's sovereignty, are deeply sensitive and often long term in nature. As such they generate numerous polarities, articulated as **considerations** which, however difficult, must be recognized and managed. For example:

» Balancing the relationship with the host state and the peace process with the need to report/denounce human rights violations, especially when perpetrated by the host government.

» Balancing international standards through external and donor support with the ownership expediency of local customs, religions and laws.

» Balancing the need for representative legislative and legal and judicial frameworks for the whole of society, including minorities, while advancing the reform process with the elite structures of governance.

» Managing the need and demand for results with the fact that reform related to the rule of law is a long-term process without a fixed end date.

» Supporting national ownership while incorporating principles of good governance, accountability and respect for human rights.

» Supporting what is effective and works while promoting what is right. In this sector this is often seen as a balance between credibility and legitimacy.

Strengthening the Rule of Law with Respect for Human Rights

A rule-of-law environment exists when all persons, institutions and entities (public and private), including the state, are held accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.[22] The rule of law serves to uphold human rights and justice; good governance of the security sector is thus an essential pillar of the rule of law. In creating this environment, the supremacy of the law, equality before the law and accountability to the law should be demonstrated in a transparent manner, both legally and procedurally.

The mission, in close cooperation with the host government, has both a responsibility and the capacity to influence how quickly and firmly the state is able to recover and extend its authority, legitimacy and capacity to apply equitable laws in a fair manner. More specifically, the role of the MLT in strengthening the rule of law is likely to include:

- supporting political dialogue on rule of law (security and justice) needs, norms and standards;
- supporting national assessment of needs, gaps and capacity, in relation to international standards and good practice;
- supporting development of national strategies in relation to the security of the state and its people, with a focus on the effectiveness and accountability of security and justice; and
- facilitating international support.

This requires a comprehensive understanding of the actors involved in the rule of law, including those who provide security, policing and judicial services; those who manage those services; and those who hold service providers to account. The MLT therefore plays a crucial role in crafting a comprehensive and holistic approach to strengthening the rule of law. Where there is non-state service delivery of security and justice, regardless of who provides security or justice services, they should equally be held accountable to the law and formal governance structures. All actions should be carried out in close consultation with all parties to the peace process as well as with civil society. Strategies should be needs based and long term, and donors should be encouraged to remain engaged and stay the course. Capacity building on the rule of law should include the full spectrum of functions and institutions that administer justice, such as ministries, police and other law-enforcement agencies, prosecuting authorities, public defenders' offices, courts, prisons,

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22 United Nations, 'Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies', S/2004/616, 23 August 2004.

oversight bodies, law-reform agencies and legal-education institutions. SSR is inextricably linked to strengthening the rule of law. Implementing institutional reforms is a complex change-management process and is inherently political. Each function of the criminal justice system requires internal institutional capabilities that include human resources, budgeting, logistics, administration and training.

Recognition by the mission of the critical importance of local ownership at all levels of the system and all stages of the process will enable the provision of a functional and relevant rule-of-law environment. At times, however, this recognition needs to be balanced with a certain level of intrusiveness in order to help combat corruption and strengthen institutional integrity and accountability of the police and other law-enforcement agencies that would otherwise derail rule-of-law and SSR efforts.

Supporting the rule of law also depends on interactions with informal justice systems, non-state actors and the general population. In fact, non-state actors and informal institutions may offer many of the services that the state is unable or unwilling to provide. The MLT therefore needs to understand the culture, and cooperate with those systems which already exist and have credibility with the population. In order to create the conditions for success in strengthening the rule of law, prioritization of activities that yield medium- and long-term results is critical.

The MLT may wish to consider the following in determining priorities:
- Is the environment safe and secure?
- Who is providing justice and security?
- Does the country have the capability to absorb reform initiatives?
- Are there active spoilers who can destabilize the environment and how can they be managed?
- Is there a geographic area that can support the rule of law reform process without it being derailed by spoilers, and where a quick win may help build confidence in the reform?
- Is the host government stable enough to undertake reform, and is there ownership for the reforms or can it be stimulated?
- Is the rule of law responsive to the gendered perceptions of security, law and order, and other social, economic and administrative issues?
- Are the police and other law-enforcement agencies able to maintain law and order/public order within a framework of human rights?
- Are there some areas of justice and SSR that need to be addressed before reform in other areas can begin?

Ultimately, strengthening the rule of law is necessary for a sustainable peace and a smooth transition from peacekeeping to peacebuilding and, while a long-term process, should be part of mission planning from the outset.

Preconditions for success

· All significant parties to the conflict have signed a peace agreement and have shown commitment to its implementation.

· A comprehensive needs assessment and a peace and conflict analysis constitute the basis for configuring prioritized and sequenced support.

· A sufficient level of willingness on the part of the host state to carry out justice and security reform is displayed.

· Bilateral donors have agreed to support the strengthening of the rule of law with adequate resources in a harmonized and coordinated way.

Benchmarks

· A strong legal framework provides guarantees on non-discrimination consistent with international human rights norms.

· The roles of women and minorities have been factored into development of a legislative framework that is also responsive to local concerns, traditions, culture, knowledge and history.

· A public administration that is rules-based and accountable, with adequate systems of appeal in place.

· A strong and independent judicial sector able to withstand external pressures from a variety of actors.

· Separation of powers is in place and checks and balances have been framed to ensure fair and equitable interpretation of laws.

· A strengthened police and other law-enforcement sector is responsive to the needs of the population, with consideration for women and minorities regardless of political actors.

· A reformed and strengthened corrections system consistent with UN human rights standards.

· Structural mechanisms and mediation processes for the peaceful resolution of conflicts have been established.

· Functioning internal and external oversight and accountability mechanisms are in place.

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Outputs

In summary, the seven perational outputs that contribute to a strengthened rule of law are:

1. Human Rights and Protection Promoted
2. Legal Framework Strengthened
3. Justice Sector Strengthened
4. Security Sector Strengthened
5. Police and other Law-enforcement Sectors Strengthened
6. Corrections System Strengthened
7. Defence Sector Professionalized

5.1 Human Rights and Protection Promoted

Human rights are at the centre of the work of the United Nations. They are one of the three mutually reinforcing pillars of the UN system, alongside development, and peace and security.

Human rights principles, information and analysis should inform a UN peace operation's strategic planning. All peace operations personnel have a responsibility to ensure that human rights are promoted, respected and protected through and within operations in the field. The HoM and the MLT are accountable for ensuring that the promotion and protection of human rights is instilled as a fundamental principle of peace operations and that all staff are aware of their human rights responsibilities (*see 1.3.2: A human rights mindset*). If UN personnel (whether military, police or civilian) commit human rights abuses, they must be held accountable. Alleged human rights abuses that are brought to the attention of the HoM and/or the MLT by victims, witnesses or other sources, should be shared with the Conduct and Discipline section and investigated.

The UN's HRDDP specifies that before providing any support to a non-UN security force, the mission must first conduct an assessment of the potential risks and benefits involved. This assessment must include considerations of the human rights record of the intended recipient of support and the adequacy of the measures put in place to prevent human rights violations.

Human Rights sections in missions

The Human Rights section helps mainstream human rights across all mission activities and leads the human rights-related work of other components of the mission. It conducts monitoring, investigations, assessments, reporting, advocacy and interventions; gives human rights advice; and provides support for institutional reform and capacity building to host governments.

The Head of the Human Rights section acts as the human rights adviser to the HoM and as the representative of the UN High Commissioner for Human Rights in the area of operation. They are responsible for keeping the both the High Commissioner and OHCHR informed, as well as for consulting with them on key policy and operational issues and developments. As such, the Head of the Human Rights section has dual reporting obligations with regards to the HoM and the High Commissioner.

The MLT should also meet regularly with national and international human rights organizations, civil society and host-state authorities in

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order to ensure transparent dialogue on the human rights situation. It is now standard operating practice for missions to issue jointly produced and regular public reports on issues of human rights concern. The MLT should also solicit feedback on the impact of the mission's work in promoting and protecting human rights. In addition, human rights monitoring and investigations should feed into the mission's work related to evaluation, training and assessment, and advice on the formulation of legislation.

In addition to the Human Rights section, a number of other sections can play a significant role in the promotion and protection of human rights, not least the Child Protection section, which is usually established and operated in close coordination with the SRSG for Children and Armed Conflict and the UN Children's Fund (UNICEF). Other relevant sections include Gender, and Rule of Law. Some operations also benefit from dedicated components that address specific aspects of transitional justice. It is essential to maintain a strong spirit of partnership on human rights issues within the UN and with other humanitarian, development, political and related actors. The MLT should be aware, however, that the promotion of human rights may at times, from a short-term perspective, leave the mission torn between difficult questions of peace versus justice. This illustrates one of the core leadership considerations on polarities, whereby both peace and justice should be supported and neither neglected.

Conflict and post-conflict situations typically exacerbate levels of risk to which women are exposed. Conversely, women have a distinctive and important role to play in promoting human rights and achieving sustainable peace. Although these issues are widely understood and accepted, they are not always acted on or may even be overlooked due to misconceived "gender-blind" approaches to human rights.

Conflict-related sexual violence

Sexual violence frequently occurs during armed conflict or in fragile states, particularly when ill-disciplined military or police forces or other armed groups believe they can act with impunity. CRSV consists of violent acts of a sexual nature, such as rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity against women, men, girls or boys.

CRSV is a crime against international human rights law, criminal law and refugee law. It can be centrally orchestrated as part of a deliberate campaign of terror against a specific group, and as such can be part of a genocidal effort or mass atrocity with the purpose of destroying families

and communities or supporting ethnic cleansing of an area. It may also occur in a more decentralized manner due to a general lack of discipline within units, or due to a general lack of security and stability.

The mission should solicit women's views regarding CRSV and, if they do not already exist, it may be possible to facilitate the creation of women's groups to provide insights on CRSV and other issues. Women's groups, NGOs, the media and CSOs can increase awareness, generate the communal interest to eliminate CRSV, conduct local activities, implement and strengthen local norms in accordance with international standards, share information, form coalitions, and advocate to generate political pressure to eliminate CRSV. However, it should be noted that discussing or dealing with CRSV and SBGV is culturally taboo in many cultures. Working in the context of such cultures can be particularly challenging and context awareness and locally anchored approaches to prevention methods should be adopted.

Preventing and combating CRSV and SGBV are multi-dimensional activities and demand the integrated capacity of the UN system. The UN system will normally establish a sub-cluster or working group to address SGBV and CRSV in all aspects of the response. The need to deploy sufficient numbers of uniformed women in the military and police components is an essential prerequisite. UNPOL may deploy specialized teams consisting of a limited number of experts with special skills in areas such as investigations and SGBV. It is essential that the UN itself does not compound the situation by ill-discipline and predatory behaviour against the population; and here the MLT supported by the mission's Conduct and Discipline section must be alert (*see 1.3.4: Conduct of personnel*).

Child protection

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Children have particular needs as a consequence of conflict. Provisions for the protection of children are included in several peace operations mandates. Children may have been mobilized or recruited into armed forces at a young age, been the victims of sexual violence, or be parties to or the victim of killings, maiming or abduction. They may also lack access to humanitarian relief or child-sensitive DDR programmes. As a consequence, actions will need to be taken to address any abuses committed against children by armed groups, and to identify and support the needs of children affected by conflict, through humanitarian assistance, relocation, reunion with family members, reintegration programmes, education and

Key UN Policies & Guidance

UN Policy: Mainstreaming the protection, rights and well-being of children affected by armed conflict within UN Peacekeeping Operations

other forms of support. Peace operations also have a role to play in early-warning of signs of attempted recruitment and the use of child soldiers, as well as in reporting grave violations against children.

With support of child-protection advisers, the MLT must identify—jointly with UNICEF, the UNCT and national actors as appropriate—the child-protection priorities in the mission area.[23] This may require advocacy with national actors and other partners.[24] Peacekeeping personnel should not conduct interviews with children, take pictures of child survivors or give money. Grave violations against children should be referred to child-protection advisers and other experts to manage.

5.1.1 Operational activities

Key operational activities in support of this output include:

- Conducting regular monitoring of the human rights situation, which involves active collection, verification, analysis and use of information to prevent and address human rights violations.
- Conducting in-depth investigations into serious human rights violations or emblematic cases where appropriate and where possible, with reliable national actors, to document the widespread or systematic nature of such incidents.
- Monitoring and reporting any grave violations of children's rights, such as killing and maiming, the recruitment and use of children, abduction, sexual violence, attacks against schools and hospitals, and denial of humanitarian access.
- Conducting threat and vulnerability assessments for specific groups (e.g. women, children, IDPs and minorities) to advise the mission on protection responses that could prevent further incidents.
- Incorporating human rights and protection concerns (e.g. the protection of women and children) into mission planning processes.
- Preventing human rights violations through mission-wide early-warning mechanisms.
- Establishing joint-protection teams consisting of military, police and civilian components and deploying human rights or multidisciplinary mobile teams to remote areas where necessary and possible.
- Conducting regular proactive patrols.
- Ensuring appropriate security conditions to guarantee temporary

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23 DPKO/DFS, Mainstreaming the protection, rights and well-being of children affected by armed conflict within UN Peacekeeping Operations', 1 June 2009.
24 UN Security Council Resolution 1612 (2005) established the UN-led Monitoring and Reporting Mechanism on grave violations against children in situations of armed conflict, and the Security Council Working Group on Children and Armed Conflict.

demilitarized zones intended to allow the safe transit of humanitarian aid into, and/or refugees out of, a crisis region.

· Undertaking advocacy and intervention actions at local, national and/or international levels to address human rights concerns, for instance through quiet diplomacy or public statements.

· In conjunction with the OHCHR, issuing public reports on human rights issues in the country; and supporting institutional reform and capacity building by working closely with and advising the host government and civil society.

· Monitoring all detentions by UN personnel and obtain unconditional access to detained persons held in UN premises at all times, as well as to all documents relating to the taking, handling and management of detained persons.

5.1.2 Benchmarks

Short-term

· Monitoring and reporting mechanisms and processes established for grave violations.

· The mission's strategic planning and policies are informed by human rights principles, information and analysis.

· Strategic communications plan formulated and implemented.

· Main roads and volatile areas such as markets, water points, and schools are patrolled.

· Cross-cutting protection concerns incorporated into mission planning processes, and mainstreamed into mission activities, including the work of military and police components.

· Integrated coordination mechanisms on cross-cutting protection issues established within the mission.

Medium-term

· Devise and implement strategies to prevent and respond to CRSV and SGBV.

· Ensure accountability for violations, and remedies for CRSV and SGBV victims.

· Support and develop civil society's ability to monitor the human rights situation and promote change, assist victims and develop human rights programmes.

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Long-term
- Empower the host population to assert and claim its human rights.
- Enable state and other national institutions to fulfil their human rights obligations.
- Provide human rights training to state authorities, schools and teachers.
- Assist in the development and implementation of National Human Rights Action Plans.

5.1.3 Responsibilities and coordination

Within the mission, the Human Rights section is responsible for promoting and implementing the necessary human rights required by the mandate. The head of the Human Rights section must have effective direct access to the MLT and be part of the integrated senior management group and other relevant decision-making bodies, including the SMT (albeit as the OHCHR designate) and operational planning bodies.

5.1.4 Resources

The MLT should ensure that sufficient resources are available in the mission budget to facilitate human rights efforts more widely.

5.1.5 Challenges and risks
- Expectations of the local population exceed ability and capability of the mission to prevent egregious violence against civilians.
- Local consent could be jeopardized by the scope and content of the required mitigation measures.
- A lack of local capability to internalize mapping and vetting processes might lead to these processes losing credibility.
- Insufficient engagement by host-country decision makers in designing and implementing monitoring and evaluation mechanisms could hamper effective benchmarking.
- Corruption and political affiliations could hamper reforms.

5.1.6 Considerations

Balancing host-state relations and the peace process against the obligation to report human rights violations

There will always be a tension between the duty to speak out and the need to advance a peace process. Peace and justice are two important objectives in any mission and can represent a polarity which must be managed either by e.g. silent diplomacy or by long-term "light" advocacy for human rights.

Balancing the need to support local security forces in assuming responsibilities against the need to advance and protect human rights standards

Another tension may occur between the need for the local forces to represent the host government's willingness and ability to exercise its monopoly on the legitimate use of force and the need for the mission to comply with HRDDP. There should be a balance between expediency and mapping and vetting that will reinforce the legitimacy and credibility of the process among civil society. Therefore, engagement with representatives from the local forces at all levels, as well as groups representing different sectors of the population, such as minorities and women, will have to be balanced against short-term security interests.

Balancing the interests of and relationships between the host government and civil society groups

The host government and civil society groups may sometimes be in conflict with each other. Maintaining a good relationship with both is essential for realizing the mission's short-, medium- and long-term human rights benchmarks. It is therefore important to be aware of this dynamic when initiating new cooperation or activities.

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5.2 Legal Framework Strengthened

Conflict can destroy institutional infrastructures or simply weaken their effectiveness. A strong legal framework based on the rule of law and principles of human rights provides a mechanism by which a state frames its laws in response to the people's will. This is the foundation of an effective rule-of-law environment. Legal frameworks that discriminate against certain segments of a population, and/or fail to pass laws that promote rights of all citizens, can also contribute to conflict. Legal frameworks should be internally consistent while adapted to cultural norms and ensure the equitable participation of women and minorities.

5.2.1 Operational activities

The key operational activities in support of this output include:
- Assessing needs and mapping existing legislative frameworks.
- Supporting legislative reform.
- Coordinating donor support.
- Raising public awareness using strategic communications campaigns.
- Engaging with civil society, including women's and minority groups.

5.2.2 Benchmarks

Short-term
- Needs assessment and mapping of legislative frameworks completed.
- Donors and areas of engagement identified.
- Planning with host government on needs for legislative reform carried out, and obstacles to reforms identified.

Medium-term
- Plans for legislative reform initiated by host government, including the participation of minorities and women.
- Donor support prioritized.
- Popular support for reform observed.

Long-term
- Legislative reform implemented.
- Civil society support strengthened.
- Constitutional processes initiated.

5.2.3 Responsibilities and coordination

Within the mission, MLT members are responsible for promoting the rule of law with their respective national counterparts while balancing local ownership against the goals of the mission. The host government has ultimate responsibility for devising rule-of-law frameworks that respond to the local or national environment. Coordinating efforts will be difficult and the MLT will be required to manage tensions. Continued political engagement on the part of the MLT will also be needed to support legislative reforms.

5.2.4 Resources

Sufficient expertise and resources must be allocated to support the mandated tasks. The MLT should do its utmost to generate donor interest, as well as to encourage sustained support for this sector. Long-term success also depends on continued political engagement, as well as continued donor support through the provision of the financial and material support required to sustain a successful reform process.

5.2.5 Challenges and risks

- International actors could seek to impose legal systems that are inappropriate to the local context, or local consent may be jeopardized by the pace and style of legislative reform.
- A lack of local capability to absorb legislative reforms might lead to a loss of legitimacy or credibility.
- Insufficient engagement and ownership by host-country stakeholders in designing and implementing monitoring and evaluation mechanisms could hamper effective benchmarking and long-term results.
- Tensions between the MLT and the host government might affect the implementation of plans or priorities for overarching legislative reform.
- Local laws, traditional justice as well as customary and religious systems, while having popular support, might clash with international human rights norms and standards.
- Corruption and political affiliations could distort the course of reforms.

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5.2.6 Considerations

Timeframe required for legislative reform

The short-term need to meet budgetary cycles, as well as donor and local expectations of observable change, will have to be balanced against the realization that sustainable legislative reform is a long-term process. If the reform process is rushed and fails to factor in variables such as cultural norms, gender perspectives and citizen participation, the outcomes from the process will not be sustainable. If the reform represents a substantive shift from previous legislative frameworks, and the MLT is not sensitive to the time factor, spoilers may simply wait out the mission or begin to challenge its legitimacy and credibility. Finally, building the capacity of the existing legislative frameworks to adapt to or absorb change may require time.

Balancing international norms against local customs, religions and laws

In implementing legislative and judicial reforms, there may be a discord between international standards and local customary and religious systems and their formal legislation, for example regarding women's access to voting, inheritance, land ownership, and so on. Precipitous or over-zealous encouragement of legislative reforms to conform to international norms may create negative tension between the MLT, the host government and elements of the population.

Balancing the need for representative legislative frameworks against elite structures of governance

Another trade-off may occur between the need for legislative frameworks to represent the whole of society, including minorities and women, and responding only to those who hold power. While support from those in power is imperative to drive the reform process forward, responding only to those in power is unlikely to ensure the desired outcome. There should be a balance between expediency and legislative reform that will reinforce the legitimacy and credibility of the process. Engagement with advocacy groups representing different sectors of the population, such as minorities and women, will have to be balanced against the interests of those in power.

5.3 Justice Sector Strengthened

A sound and well-respected judicial sector linked to the police and corrections departments is a vital element in a country's transition to sustainable peace. A strengthened justice sector will support reform of the police and corrections services. Thus, a national comprehensive security strategy recognizing the linkages between justice and security is necessary. Furthermore, foreign direct investment for development and commercial growth will prefer to operate in jurisdictions where the predictability and the integrity of the justice system are not in doubt.

While the focus may be on criminal justice, issues of civil justice (e.g. family and inheritance law, land reform and commercial law, as well as constitutional and administrative law) can be critical structural factors in reducing the incidence of crime and disorder. If civil disputes are not addressed, they can escalate into unrest or even violent conflict. If, however, citizens trust that the judicial system will not try and punish them arbitrarily, but will instead apply justice evenly and fairly, this also engenders trust in the host government and the entire justice system.

The international community should assess whether, with its comprehensive support, national counterparts would be willing and able to confront systemic threats to the judicial sector and thus to the rule of law. A mismatch between the degree of threat to judicial reform and the rule of law, and the authority and resources afforded the mission, is a prescription for failure. For example, it is not unusual for police reform to outpace judicial reform. This is unwise and negatively impacts all reforms.

The MLT is only one actor among those supporting judicial reform. The mission's role as championing and supporting the national coordination of an overarching process will help add legitimacy and credibility to both the mission and the host government. Other international actors will remain engaged in judicial sector reform long after the peacekeeping mission has ended. The MLT may therefore find it useful to engage with them early on, in order to support and help coordinate all efforts. A strengthened judicial sector is a critical part of peacebuilding.

Based on the needs assessment and mapping, the MLT team will be aware of the many activities required to support judicial reform. As capacity building takes time, there may be pressure for rapid justice to meet public expectations. The MLT will have to consider which activities will avoid destabilizing the peace process while, at the same time, providing evidence of reform. The MLT will also need to strike a balance between initiating a judicial reform process that responds to the needs assessment and the host government's capacity to absorb the reforms.

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In meeting the requirement for rapid justice, the MLT may need to consider whether this requirement can be met using interim justice mechanisms or by supporting customary law, both of which can be extremely sensitive.

The expectations of the host country and the international community are likely to create tensions that the MLT will have to manage to avoid losing the support of either the host government or donors, whose long-term engagement is critical. Quick wins that demonstrate change might result in increased patience or tolerance that will provide the leverage needed to create sustainable judicial reform. The unintended consequence may be a quick win that does not meet the requirements for sustainable judicial reform in the longer term.

5.3.1 Operational activities

The key operational activities of the mission in support of this output include:

- Conducting needs assessments and mapping existing judicial mechanisms, including traditional, customary and/or non-state mechanisms.
- Promoting judicial and prosecutorial independence, professionalism, accountability and transparency through improved management and oversight.
- Promoting effective enforcement of laws and equitable access to justice, including support for independent public defenders' offices for the most excluded members of society.
- Raising public awareness through information campaigns, ensuring that civil society perspectives are included, especially with regard to women and minorities.

5.3.2 Benchmarks

Short-term

- Needs assessment and mapping completed.
- Judges and all state officials in sector are paid.
- Obstacles to reform identified.
- Environment for judicial reform created.
- Public information campaign planned and implemented.

Medium-term

- Decrease in the number of people being detained illegally without a court appearance.
- Vetting processes for prosecutors/defence lawyers, discipline and judicial appointment systems supported through secondments and international partnerships.
- Budget and staffing requirements analysed.
- Donors coordinated to minimize overlap.
- Judges, prosecutors, defence lawyers and court administrators held accountable in transparent processes.
- Increased access to, and use of, justice mechanisms, particularly for women and minorities, and increased representation of women in the judicial sector.

Long-term

- The judiciary is independent and free from politicization of its financial affairs and the selection, promotion and disciplining of judges.
- Judges, prosecutors and lawyers are held accountable for misconduct without any international involvement.
- The legal profession adheres to rigorous standards of conduct.
- The justice system performs essential criminal and civil law functions effectively.
- Measures to protect human rights, such as a human rights commission or ombudsman, are effective.

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5.3.3 Responsibilities and coordination

The host government retains the lead role in ensuring that a strengthened judicial sector enforces the legal codes developed by the legislative body. Within the mission, the MLT is responsible for balancing local ownership of the judicial sector against the goals of the mission. In most instances, the MLT can support the strengthening of a judicial sector by providing political leadership and facilitating the coordination of long-term donor support. By championing and coordinating, the MLT can help create a political environment in which judicial reform can prevail over time.

A major factor in supporting the creation of legitimacy and credibility in the judicial sector is mitigating the risks inherent in the timeframe for achieving the mandated tasks related to judicial reform, while not jeopardizing the local ownership of and public support for judicial reform. Linking with women's and minority groups that advocate on behalf of equitable access to justice and overall judicial reform will also be a critical area for coordination.

5.3.4 Resources

Sufficient resources and expertise should be allocated to support the strengthening of the judicial sector. Key national experts with knowledge, skills and abilities, and international expertise in the relationship between culture, context, law and balancing what is possible in the given circumstance will be important for mentoring and supporting judicial reform. Personnel will be needed within the mission with experience and expertise in political, legal and human rights mentoring and advice. The long-term nature of judicial reform requires sustained donor assistance.

5.3.5 Challenges and risks

- The potential clash between national and international norms on judicial reform.
- A shattered or non-existent formal legal system lacks sufficient actors to undertake the breadth of measures required.
- A weak civil society is unable to contribute to judicial reform, which limits judicial legitimacy and credibility.
- Organized crime and corruption with ties to political power influence reform of the judicial sector.
- The logistical and resource challenges of undertaking large-scale changes to court administration and management.
- Weak national management and/or leadership culture.
- Integration of marginalized and vulnerable groups is challenged.

5.3.6 Considerations

Balancing political stability against the accountability of judicial sector

Political and criminal influence over the judicial sector is an obstacle to the rule of law. However, tackling this may have political consequences that could destabilize the peace process. In times of conflict, a variety of interests (e.g. legal, political and economic) are often implicated in criminal activity, which can have an effect on post-conflict recovery and judicial reform. The hasty removal of judges, for example, can create a vacuum in power structures, which may have a longer-term negative impact on strengthening judicial reform.

Balancing results and time

Judicial reform is a long-term process without a fixed end date. The need for results on the part of the mission and the donor community should be balanced against the time and local skills required to build judicial reform that is responsive to culture, context and capacity.

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The absence of a strong professional legal community (i.e. judges, prosecutors, defence lawyers, court managers) results in undue reliance on international experts who are not likely to be engaged in the long-term development of a judicial core that can implement the judicial reform processes. At the same time, the short-term expedient use of international expertise may help prevent detention for extended periods while local expertise is developed.

Addressing entrenched corruption while supporting judicial reform

There are often ties between organized crime and corruption, especially when the host government has not paid judges and other staff employed in the judicial sector. Corrupt practices often become the standard means through which the population gains access to justice. If this practice is generally accepted, there are likely to be fewer incentives for—and greater resistance to— reform of the judicial sector. For the host country, there is often substantial resistance to changing institutionalized corruption.

Supporting local or international norms

Strongly developed traditional forms of justice, which have met the needs of the local population, often exist in a post-conflict environment. These sometimes fail to adhere to international norms, especially with regard to women and minorities. There is likely to be a need to balance cultural norms (expediency) against international norms (standards). Customary dispute resolution, whether formal or informal, should be acknowledged and brought into the overall strategic consideration of judicial reform Furthermore, cultural norms should not be used to entrench violations of human rights, especially with regard to women and minorities.

5.4 Security Sector Strengthened

SSR is the overarching process that helps to define the norms and standards under which the security and justice sectors will operate, the needs and gaps that exist, and the means by which these gaps will be overcome. It is a critical activity for ensuring long-term security and rule of law in any country. Only the establishment and maintenance of professional security services that respond to the security needs of the population and the state, while adhering to human rights standards, will assure long-term security and sustained peace. This section reviews the conditions for the overarching support to the process of SSR. Subsequent sections provide further details on the strengthening of the police, corrections and defence sectors (*see Chapters 5.5, 5.6 and 5.7*).

The mission's role will primarily be to assist the national authorities with reforming the security sector. This is a long-term process that does not have a fixed end date and is unlikely to be completed within the timeframe of the peace operation. Therefore, a long-term approach is needed that goes beyond the activities that can be carried out within the period of a mission's mandate. Support to SSR needs to be closely monitored by the MLT and will involve interactions between several mission components, the UNCT and a host of external actors.

SSR focuses on building effective, accountable and sustainable security sectors within a framework of the rule of law and respect for human rights. It is a complex and highly political process that is often linked to the structural causes of conflict. It may lead to questions of intrusion into national sovereignty and tensions between the mission and the host government and donors. In recognizing this, the MLT will need to consider early on in the peace process, in discussion with national, regional and international actors, how the mission will support SSR efforts and the most appropriate mechanisms for guiding, implementing and monitoring these activities.

National ownership and leadership are key elements of a successful SSR process. Weak national capacity or a lack of genuine political will on the part of national actors is likely to undermine the process. The political roots of internal conflict may continue into the post-conflict phase and are often played out in competition within and between security institutions. Therefore, external technical and financial support for this process must be complemented by active political engagement to resolve political issues.

The national SSR strategy reflects the host country's culture, sensitivities and historical conceptions of security. It does not seek to implement a Western paradigm of the security sector, and understands that a Western

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model may not be appropriate. Nonetheless, SSR planners cannot adopt a lax attitude to security practices that contribute to conflict or instability. As with the broader campaign plan, the SSR strategy will seek to resolve the underlying sources of conflict while preventing new security crises.

5.4.1 Operational activities

Providing support to SSR may entail reform of a number of sectors and actors including the police, other law-enforcement agencies, corrections, defence and intelligence services, the ministries that manage these services, parliamentary accountability mechanisms as well as assistance to institutions responsible for border management, customs and civil emergencies. In order to ensure long-term security, SSR should also include efforts to promote good governance and civilian oversight of these services.

Initial investment in the creation of an integrated approach to supporting national SSR efforts through joint assessment and analysis, planning and adoption of a shared work plan and benchmarks will pay dividends in the medium to long term. This integrated approach should take account of the close relationship between SSR and strengthening the rule of law, and should include all relevant mission components and sections (i.e. UNPOL, Justice and Corrections). Hiring and retaining high-quality personnel in these areas will be essential.

The key operational activities of the mission in support of this output include:
- Conducting multi-agency assessments of the security sector in support of the national SSR process.
- Providing political and technical support to the national dialogue aiming at a shared vision of, and a national strategy on, the security sector.
- Supporting the implementation of the security sector strategy and its related plans in the different sub-sectors.
- Helping create conditions for a more gender-equitable security sector providing equal opportunities and services for women and men.
- Establishing the principles and structures of the security sector's accountability to civilian political leadership to ensure good governance (e.g. through parliamentary oversight bodies, ombudsman institutions and civil society).

5.4.2 Benchmarks

In addition to short-, medium- and long-term benchmarks (see below), the following indicative list contains both process- and results-oriented benchmarks, which provide a framework for the reform process of the security sector as a whole.

- *A national concept of security developed.* The host country develops a concept of security that reflects the security and justice needs of the people, underpinned by good governance and transparency and enjoys a political consensus around it.
- *All-security-sector framework or strategy established.* SSR should encompass all security sector actors. It provides a framework for structuring thinking about the diverse security challenges facing the host country and its population. The framework should ensure civilian involvement and oversight and be both coherent and coordinated.
- *Cooperation with and among civil authorities developed.* Security services must develop SSR approaches in cooperation with the public and led by the civil authorities. Effective strategies should be reflected in a comprehensive strategy that encompasses the numerous functions of the security sector.
- *Human rights norms respected.* SSR must be based on democratic norms and abide by the principles of international human rights. SSR should enhance the institutional and human capacity of security actors to function effectively, and help ensure that justice is delivered impartially and is consistent with the rule of law.
- *Monitoring systems created.* It will also be important to create and implement monitoring systems to track developments and changing needs to continually update the effectiveness and accountability of the security and justice sectors.

Short-term

- Assessment of the security sector completed.
- National dialogue initiated on a shared vision for the security sector and on key elements of a national security sector strategy. This includes a delineation of clear roles of the different security services (especially between the police and the military), chains of command, and governance and accountability structures.
- Mission provides political support to overarching SSR process and technical support to sub-sectors of the security sector.

- Funding and support mechanisms are agreed, national ownership and a light international footprint promoted within the UN and with other international actors, including development banks and bilateral donors.
- Mission and UNCT activities coordinated in support of DDR (*see 4.6: Disarmament, Demobilization and Reintegration*).

Medium-term
- A national SSR strategy has been agreed upon by key national stakeholders, promoting the security interests of the population at large and the state.
- Oversight mechanisms in place and functioning, including both state actors and civil society.
- Sector-wide plans (including plans for each sub-sector) have been finalized and are being implemented.
- The mission and the international community support the implementation of the national SSR strategy and agree on mechanism to harmonize support to avoid overlapping/duplication of efforts.
- National and international expectations managed effectively, with a public information strategy supporting the process.

Long-term
- SSR has advanced in its implementation with continued political commitment from key national stakeholders and support from the international community.
- Public confidence in the security sector and its respective services restored.
- Oversight bodies are functioning and capable of leading, challenging, reproaching and controlling the security sector.
- National and international policies and responses are better integrated with long-term development frameworks.
- Meaningful input from civil society actors established and legitimized.
- Monitoring system established to track changes/progress and identify evolving needs.

5.4.3 Responsibilities and coordination

SSR is a far-reaching systemic endeavour and requires careful coordination on the part of the MLT. The SSR and DDR divisions or sections of the mission (which are often combined) are in the lead, supported by justice and corrections, and the police and military components. Multiple actors may provide support to the security sector concurrent with the UN's activities. It is therefore essential to coordinate and achieve rationalization among these efforts. External assistance should not undermine host government ownership and legitimacy. National institutions, laws, and processes—however weak—should play a central role in formulating and implementing programmes and processes. External planners should be careful to respect host country sovereignty by involving the host government in planning and execution. SSR processes should be closely coordinated with DDR programmes.

5.4.4 Resources

Some SSR-related programmatic activities may be funded by the peacekeeping assessed budget, if approved in the mission's budget. However, a fully-fledged SSR process takes time, requires strategic as well as operational resources and is likely to require donor support beyond the lifespan of the mission. For this reason, coordination with the UNCT, the World Bank and bilateral donors at an early stage is essential to ensure sustainability of effort.

5.4.5 Challenges and risks

A host-country's level of development is an important consideration in SSR planning. Poverty and corruption will significantly challenge SSR efforts. Individual and institutional corruption typically lead to poor economic growth, inadequate or excessive government revenues, and a chronically under-resourced public sector. Additional challenges and risks may be encountered:

- National elites' divergent political interests derail SSR process.
- Security sector services' infrastructure is severely degraded.
- SSR reforms do not keep pace with DDR processes or political reforms.
- State revenues are low, and funding of SSR is inadequate, leaving the security sector weak and disaffected, and creating substantive hurdles for good governance and the rule of law.

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5.4.6 Considerations

Effective SSR requires unity of effort and a shared vision by those contributing to the reform process to support the nationally owned process. Integrated programmes that consider relationships among organizations, sectors and actors increase the likelihood of success, minimize unforeseen developments
and ensure the most effective use of resources. Four principles should be taken into account when designing and supporting SSR:

1. Support national ownership while incorporating principles of good governance and respect for human rights.

2. Balance efforts to enhance operational capacity against support to ensure effective governance.

3. Foster transparency, accountability, dialogue and trust.

4. Balance "do no harm" against "do what works" and "what is right".

In addition to these four principles, there are a number of specific considerations for the MLT in peace operations.

National or sector focus

The decision to initiate SSR at the national or sub-national level must depend on assessed needs and security requirements. Resources may not be available to professionalize all parts of the security sector in parallel, and trade-offs relevant to geography and culture should be considered.

Balancing short-term security imperatives against investments in broader security reform

Perhaps the most critical trade-off faced by the mission will be choosing between an urgent need to address security and public order issues—possibly by lending legitimacy to less-than-democratic processes and actors, redundant layers of security provision and organizations that have reputations for corruption and lack of professionalism—and establishing legitimacy for patterns of governance and actors that support accountability, transparency and other processes critical to good governance. While quick wins might build credibility, they can undermine deeper reform of the security sector (*see 4.5: Public Order Established*).

5.5 Police and other Law-enforcement Sectors Strengthened

Police and other law-enforcement agencies are the most visible expression of the security sector and governmental authority.[25] In many post-conflict societies, police agencies may lack legitimacy due to their involvement in the conflict, their perceived corruption, human rights abuses and their unresponsiveness to the security and rule of law needs of the population. In cases where the military has assumed responsibility for internal security, transition to police responsibility for law and order is an important step towards re-establishing the rule of law. There may also be high levels of organized and transnational crime, with links to corruption and political power, creating a threat to security and undermining the rule of law. Strengthening policing and other law-enforcement agencies is therefore one of the first positive signals to a population that the government is re-establishing its authority.

Without an adequate level of policing and other law enforcement, it is impossible to reinforce the rule of law or achieve sustainable peace and security. The MLT's support to strengthening police and other law-enforcement agencies, including customs and border services, is therefore critical to a strengthened rule-of-law environment. However, as per UN Security Council resolutions 2185 and 2382, any police-related activity should be undertaken in full conformity with the Strategic Guidance Framework for International Policing (SGF), including its Guidelines on Police Command, and form part of an overarching national security plan.[26]

Key UN Policies & Guidance

UN Strategic Guidance Framework for International Policing

UN Guidelines on Police Command

The SGF defines the "what" of UN police peacekeeping (policy) and the "how" (guidelines) on the four core pillars of a UN Police Peacekeeping component outlined in the Policy:

1. Police Administration

2. Police Capacity-Building and Development

3. Police Command

4. Police Operations.

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25 The terms "policing" or "police" as used in this study follow UN terminology and include all national security agencies (such as the police and the gendarmerie) that exercise police powers, especially the powers of arrest and detention.

26 UN Security Council Resolution 2185, 20 November 2014; UN Security Council Resolution 2382, 6 November 2017.

In prioritizing support for police and other law-enforcement agencies, the MLT may wish to consider whether: (a) the proper infrastructure is in place for local actors to be responsive to reform; (b) reform will be sustainable; (c) comprehensive reform might be premature; (d) the state of security is such that police reform can be implemented; (e) resources exist so that reform will be supported with the right skills; and (f) the level of political will exists in the host government for police and other security reforms.

5.5.1 Operational activities

The key operational activities support of this output include:

- Conducting needs assessments and mapping existing police and other law-enforcement agencies.
- Supporting the police and other law-enforcement agencies' responses to protection issues, and including the perspectives of women and minorities on, for example, SGBV.
- Supporting the increased participation of women and minorities in the police and other law-enforcement agencies.
- Providing operational support to the police and other law-enforcement agencies in accordance with the mandate.
- Supporting the management and oversight of the police and other law-enforcement agencies within the host government, including support for budgetary, regulatory and legal frameworks.

5.5.2 Benchmarks

Short-term

- Needs assessment, census and mapping of police and other law-enforcement agencies completed.
- Planning with host government on reform, restructuring and rebuilding, and plans for recruitment and training, initiated.
- Role of police and other law-enforcement agencies in providing internal security clearly delineated from that of the military.
- Clarity on national police, vision and strategy, and the roles that UNPOL personnel will play as trainers, mentors, advisors or operational support, achieved.
- Governance and accountability framework to oversee the provision of police, security and justice established.
- Donors and areas of engagement identified.

Medium term
- Vetting, selection and recruitment of police and other law-enforcement personnel undertaken.
- Accountability mechanisms reinforced.
- Management and oversight of police and other law-enforcement agencies strengthened.
- Institutional capacity of police and other law-enforcement agencies strengthened.

Long term
- Police and other law-enforcement agencies are able to respond to the needs of the population.
- Police and other law-enforcement agencies trained to operate within human rights frameworks with consideration for women's and minorities' needs.
- Information-sharing and operational modalities on transborder and other serious crimes institutionalized between neighbouring states, and regional and international forums.

5.5.3 Responsibilities and coordination

The leadership role within the mission rests with the Police Commissioner who is responsible for the mission's support to this sector. The MLT may need to ensure that mission activities among the multiple actors who are engaged in different areas of strengthening the police and other law-enforcement agencies are coordinated. Since it is a broad system that includes judges, prosecutors, the courts, corrections, customs and border services, as well as court management and administration, these multiple efforts may require the attention of the MLT to avoid overlap, duplication and gaps. The political management of the police and other law-enforcement agencies (e.g. in a ministry of the interior or of justice), are important to the overall credibility and legitimacy of these agencies. Therefore, the MLT should foster support for reforms at these political levels.

5.5.4 Resources

Continued human and capital resources to support long-term reform processes are critically important. Moreover, having police and other law-enforcement mentors and advisers whose skill sets include political awareness, cultural and gender sensitivity, and integrity, adds to the legitimacy of the reform process. Increasingly, there is a demand for

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technical expertise in specialized areas of policing and other law enforcement, as well as in areas related to the reform, restructuring and rebuilding of institutions. Donor and bilateral aid based on long-term commitment is critical if the police and other law-enforcement agencies are to be reformed, restructured and rebuilt. As noted above, these processes are long term in nature, and dependent on capability and capacity, as well as local perceptions of legitimacy and credibility.

5.5.5 Challenges and risks

- It must be recognized that reform is an inherently political process, especially reform in the area of policing and the security sector. All dangers, sensitivities, and intricacies are likely to surface during the process of reform, but opportunities will also present themselves.

- Lack of political will—or, conversely, undue political interference in the management and operational activities of police and other law-enforcement entities—can compromise their effectiveness and professionalism.

- Lack of infrastructure and resources in the police service and other law-enforcement agencies inhibits the capacity for reform.

- The police, other law-enforcement agencies or political management may be resistant to reform.

- Entrenched corruption is an obstacle to accountable and legitimate policing and other types of law enforcement.

- Police leaders must have knowledge of and capability for strategic planning and implementation of change management processes. The SGF plays a critical role in overcoming some of the challenges of coherence in policing approaches, which may surface in the planning process. Police leaders must also have the ability to use analytical tools to make the best use of information and intelligence to enhance decision making.

- Leaders must manage diversity and implement gender-related policies. This is challenging in any environment but more so in those that have not previously experienced gendered approaches.

5.5.6 Considerations

When balancing the points of consideration outlined below, the SGF should be front and centre.

Providing external support while promoting self-sufficiency

While support from the international community may be needed in the short term to strengthen the host-state police force and other law-enforcement agencies, over-reliance on international expertise, capacity and resources can result in dependency rather than self-sufficiency.

Quality versus quantity

An excessive focus on providing material resources, infrastructure and the recruitment, training and vetting of police and other law-enforcement agencies can result in the presumption that reform is taking root. Failure to address institutional capacity and accountability needs, the promotion of a positive organizational culture or management of the sector may result in increased local capacity quantitatively in the short term, but not qualitatively in the longer term. Building professionalized and reformed capacity among the police and other law-enforcement agencies while also ensuring effective and transparent governance of the sector will be essential if change is to be sustained and successful.

Perceived legitimacy versus perceived credibility

An imperative to manage security and law and order may result in putting host-state police officers on the streets too quickly and without proper vetting. The legitimacy of the police may be compromised in the long term if care is not taken to vet out undesirable elements. At the same time, if UNPOL are perceived as assuming responsibility for police services instead of the host-state police, this may affect the longer-term credibility of police and other law-enforcement agencies and their ability to respond to the population. Maintaining a "light footprint" will require the MLT to consider the trade-off between immediate security needs and building the capacity of the host-state police and other law-enforcement agencies for long-term legitimacy and credibility.

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Differentiated perceptions

People have differing views of the rule of law and security depending on their power, position, status, location (e.g. rural versus urban), needs and roles. These factors affect how the police and other law–enforcement agencies are perceived and valued. As a result, the MLT should be sensitive to diverging views as it conducts its activities in support of the rule of law. The mission should be attentive to the views of those groups whose perceptions are generally not considered in the dialogue on the rule of law, such as women and minorities.

5.6 Corrections System Strengthened

In post-conflict contexts, rule-of-law institutions are frequently undermined, and prisons are by no means an exception. Situated at the end of the criminal justice chain, the corrections system is often forgotten, unprioritized, lacking host government political support and operating with insufficient resources. Post-conflict corrections systems are generally characterized by lack of resources, non-existent or weak security and poor conditions with significant overcrowding, many instances of arbitrary and prolonged detention, inadequate separation and classification of prisoners, and poorly trained and ill-equipped staff. These result in violations of prisoners' basic human rights and a lack of coherence between the elements of the criminal justice system.

Support to corrections is critical, and if not adequately catered for, can jeopardize other security and rule of law efforts, have a detrimental effect on security and stability. The corrections system must be the partner of strengthened legislative, judicial, police and other law-enforcement agencies as evidence of legitimate and credible rule of law. A functioning criminal justice sector that adheres to rule-of-law principles is essential to combat impunity, extend state authority, protect civilians, and ensure law and order. A corrections system that conducts itself in a humane, fair and coherent manner gains public trust, legitimacy and international respect. Moreover, prisons can provide useful insights for the mission into the issues and concerns of a community that can endanger peace and security. While the corrections system is often the most easily overlooked element of the judicial system—and is the most difficult sub-sector for which to attract donor support—it represents the culmination of the judicial process and is no less critical to the comprehensive application of the rule of law.

5.6.1 Operational activities

The key operational activities in support of this output include:
- Supporting the host government with needs assessments and a mapping of the corrections system.
- Support the early functioning of key corrections areas.
- Increasing access to legal advice and counsel for prisoners.
- Assisting in the development of independent reporting procedures on prison conditions and practices, including abuse by prison personnel.
- Supporting the development of accountability mechanisms.
- Laying the foundations for reform by supporting effective prison management and administration, and development of budgetary, legislative and legal frameworks for the corrections system.

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5.6.2 Benchmarks

Short-term

- Needs assessment and mapping of corrections system completed.
- Reliable numbers and categorization of prison population established and registered.
- Recruitment, vetting and selection processes initiated.
- Strategies to accommodate the basic needs for prisoners such as food, water, health care, sanitation facilities and access to legal representatives in place.
- Differentiation of prisoner categories (e.g. women and children separated into appropriate sections).

Medium-term

- National plan for corrections reform, including training, in place.
- Construction of new facilities or structural repairs and improvements to existing facilities.
- Clear procedures introduced to ensure that a properly authorized legal document is required before a person is detained.
- Prison system able to manage inmate population consistent with the UN's Standard Minimum Rules for the Treatment of Prisoners.

Long-term

- Legislation governing management and administration of corrections system in place, including a clear separation between the agencies that investigate crimes and the prison authorities.
- Population trusts the corrections system.
- Independent internal and external oversight mechanisms in place.
- Prisons and detention centres operate in compliance with international human rights standards, particularly with regard to vulnerable groups such as women, children and minorities.
- Sufficient budget allocated to prison administration.

5.6.3 Responsibilities and coordination

The MLT should ensure that a focus on corrections is an integral part of the mission's overall effort to strengthen the rule of law and human rights, and that the issue receives attention from the host government and international donors. The mission can provide mentoring and advice to corrections personnel in the host country and ensure that local criminal justice stakeholders put in place mechanisms to coordinate and collaborate. The MLT can also be supportive in gaining donor support for this sector, which is generally overlooked. As strengthening the corrections system is a long-term process not likely to be completed within the timeframe of the mission, early engagement with developmental actors that can support long-term development of the corrections system will be important.

5.6.4 Resources

Sufficient resources must be allocated to support a strengthened corrections system, including key experts with appropriate experience, skills and competence related to corrections systems. Technical advisers, as well as experts in detention and rehabilitation, are critical to successful reform of the corrections system, as well as in the initial pre-mission assessment. Long-term financial support will be needed if reforms to the correction system are to be sustainable. In order to ensure such support, specific language on corrections in the mission mandate, as well as a clear and defined budget separate from other Rule of Law sections, will be vital. Experience has shown that corrections officers in many missions are seen as belonging to the police component, which causes problems in terms of budget and logistics.

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5.6.5 Challenges and risks

- The existing culture of impunity, arbitrary sentencing and detention practices affect the reform process.
- Lack of political support and insufficient budgeting for corrections reform from host government.
- Overcrowded prisons, often due to the high number of prisoners awaiting trial.
- Limited trust from the population.
- Limited or non-existent access to public counsel for the accused.
- Low capacity, numbers and insufficiently trained prison staff
- Limited international access to the corrections system, resulting in a lack of transparency.
- Limited interest of the international community in corrections reform.

5.6.6 Considerations

Maintaining popular and host government support while strengthening the corrections system

In a post-conflict setting, strengthening the corrections system may be a low priority for the host government and may also not enjoy local support. If resources are generally scarce, there may be resistance to allocating them to prisoners or prison administration. The MLT may need to balance these views against the importance of supporting a strengthened corrections system consistent with the rule of law and human rights.

Local versus international norms

Local perceptions of prisoners often lead to abrogation of their fundamental human rights. Prisoners are sometimes not regarded as being entitled to fair treatment. Given the sensitivity of their status, political prisoners may be at heightened risk of having their rights overlooked. Depending on the nature of the conflict, the MLT may have to consider the political aspects of corrections systems reform.

Ensuring donor support while managing expectations

Notwithstanding that the responsibility to ensure adequate resources are allocated to the corrections system lies with the host government; corrections systems reform is a long-term process that also requires sustained donor support. It is often not a popular sector for donor support as the results are not usually immediate and may not be substantial enough to attract long-term resources from donors. This will require active engagement on the part of the MLT.

Local capacity and needs

Even if there is political will, host governments are often unable to meet the basic needs of a corrections system in a post-conflict setting. While encouraging the host government to meet its obligations to respond to these needs, the MLT may need to consider the local capacity to do so.

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5.7 Defence Sector Professionalized

As part of SSR, a peacekeeping mission may be tasked to select, train, advise, mentor, support and provide institutional development for the defence sector. This may include training in the areas of human rights, IHL, child protection and the prevention of gender-based violence. It is of critical importance that the military and police re-establish their credibility in the eyes of the public and the international community, especially if they have been implicated in the conflict (*see 4.5: Public Order Established*). In many cases, incidents of poor discipline, inappropriate standards, accelerated induction or strained resources will have been catalysing factors in a return to conflict.

The ultimate goal of professionalizing the defence sector is civilian control of the military. Professionalizing the defence sector should not simply aim at rebuilding troop levels and training military actors; it implies the holistic reconstruction and development of both the armed and non-armed elements of the defence sector, as well as its civilianized governance structures, including with regard to normative values and traditions. Training is a critical part of this process and should include decision makers from the entire sector.

5.7.1 Operational activities

The key operational activities of the mission in support of this output include:

- Securing agreement by the military to undertake institutional reform.
- Conducting multi-agency assessments of defence sector.
- Securing funding for restoration of facilities and infrastructure, supporting the establishment of appropriate recruitment and selection systems, and regularizing payment for the military.
- Establishing the principles and structures of defence accountability to civilian political leadership.
- Introducing a training and reorganization process to harmonize military systems with the prevailing security conditions.

5.7.2 Benchmarks

Short-term

- Assessment completed, training and reorganization plan accepted by host government and military authorities.
- Procurement for equipment and facilities initiative finalized.
- Trainees selected, and trainers and mentors deployed.
- Standards agreed.
- Plan coordinated in support of DDR.
- Roles and responsibilities of the police and military delineated.

Medium-term

- Essential equipment and facilities procured and available, and administrative and financial systems in place and functioning.
- Oversight mechanisms in place and functioning.
- Payment and human resource systems in place and functioning.
- National and international expectations managed effectively through a public information strategy supporting the process.
- Agreement within the donor community to prevent overlapping priorities and efforts.
- Military able to conduct small unit exercises.

Long-term

- Military reorganized and able to conduct operations in accordance with plan.
- Support structure for the military established and functioning with limited international assistance.
- Public confidence in the military restored.
- Oversight bodies are functioning and capable of leading, challenging, reproaching and controlling the military.
- National and international policies and responses are better integrated with long-term development frameworks.
- Meaningful input by civil society actors established and legitimized.

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5.7.3 Responsibilities and coordination

Support to the defence sector may include many actors as a result of multiple bilateral and multilateral agreements running concurrently with the UN's activities. Coordination and rationalization among all of these efforts is therefore essential. External assistance should not undermine the legitimacy of the host government; national institutions, laws, and processes—however weak—should play a central role in the formulation and implementation of programmes and processes. Defence sector support should be part of a national SSR process and closely coordinated with DDR programmes.

5.7.4 Resources

Resources consist of time, funds, facilities and equipment as well as trainers and advisers, who may be funded by donors and through bilateral and multilateral agreements with the host government. An integrated and synchronized plan with the host government should account for the funding, procurement, allocation and distribution of resources necessary to support and professionalize the defence sector. A long-term programme should include sustainment plans that provide for the life-cycle management of materiel systems.

5.7.5 Challenges and risks

- Military infrastructure has been severely degraded.
- Military support and professionalization is not keeping pace with development of political reforms, and/or defence reforms not keeping pace with DDR.
- Significant elements within the military are disaffected, particularly with the peace agreement, and impede reform efforts, distance themselves from the wider peace process or, at worst, resume fighting.
- Funding is inadequate, leaving the military weak and disaffected.

5.7.6 Considerations

Balancing immediate security requirements against gradual defence sector reform

There may be tension between the need to field forces quickly and the need to gradually develop a professionalized force. The immediate requirement to protect civilians may conflict with the need to develop the capability and capacity of the national authorities to take on this mission. With limited resources, it may be difficult to balance short- and long-term requirements. The need for immediate security may divert donor resources and energy from long-term defence sector efforts.

National versus sector focus

The decision to focus on defence reform from a national or regional level may depend on the assessment of the needs and security requirements. Resources may not be available to professionalize all parts of the defence sector simultaneously, and trade-offs relevant to geography and culture should be considered.

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