Covid-19: Crisis & catalyst for security & justice reform

June 2020

The implications of Covid-19 are wide-ranging and far-reaching. The pandemic has brought about developments which challenge human and state security within democratically governed, accountable, and effective security sectors. The crisis has resulted in security providers being called upon to carry out tasks not normally within their mandated roles and responsibilities, and highlighted multisectoral cooperation as a crucial component in delivering security and justice to all. How governments respond to Covid-19, its immediate threats, and long-term recovery, will have implications down the road for governance and eventual reform of the security sector.

The pandemic is revealing and exacerbating existing gaps in security and justice systems, and in some cases, highlighting new areas for reform. These reforms can play an important role in building resilience to respond to future crises and in ensuring security remains accountable and effective at a time when the needs are greatest and vulnerable communities are particularly at risk. Security sector governance and reform (SSG/R) remain highly relevant in the current context and international support is more important than ever to ensure hard-won gains in governance and human rights are not undermined by responses to Covid-19.

This paper highlights the **implications of Covid-19 for security institutions and oversight actors**, and outlines **how DCAF has adapted its current programming** to support partners in their crisis response, in a way that reinforces security governance. It also **identifies priorities for DCAF Member States and donors**, and offers insights into: emerging issues to be addressed to ensure effective and accountable security and justice delivery during the crisis and its aftermath; and ways to better anticipate, prepare and build resilience for future crises.

In the coming weeks and months, DCAF will be reaching out to its partners and donors to discuss how current projects could best be adapted to meet urgent needs - and which new areas of programming could be considered in order to integrate and build on lessons from the pandemic.

Implications of Covid-19 for security and justice providers and oversight bodies

The Covid-19 pandemic has numerous implications for security institutions and oversight bodies, ranging from evolving roles and health safety concerns to an increased demand for their services. The emergency nature of health crises can reveal vulnerabilities in national security and public order, as well as in human security and critical infrastructure. Oversight mechanisms are as important as ever during such periods. Government responses often extend the scope of duties for security institutions or consolidate power to facilitate rapid decision making, both of which heighten the risk of abuse of power. Security institutions have a key role to play in mitigating the devastating human costs of infectious outbreaks, but they can only succeed if personnel are trusted and respected by all segments of the public, respond effectively to the different security needs of the entire population, are recognised by other actors responding to the emergency, and are held accountable to democratic oversight mechanisms.

Security and justice providers: In response to Covid-19, many security actors have been tasked with responsibilities not normally under the aegis of their role. In addition to the rights of the security providers themselves, many questions remain concerning whether they have the proper structures, training, equipment (in addition to PPE), as well as the normative or legal framework to deal with pandemics.

For instance, in many contexts, the **armed forces** are being deployed to support domestic police functions and health authorities, as well as monitor border restrictions. These tasks, while technically within the scope of their legally-mandated responsibilities, can lead to increased risk of human rights abuses if militaries are not trained for these duties. Similarly, **civil defence forces** have taken on roles and responsibilities not usually within their mandates, and for which they may not be adequately prepared. This discrepancy thus has the potential to lead to increased vulnerability not only for themselves but also for the populations they are tasked to assist.

With patterns of crime changing as a result of the outbreak of the pandemic[1], **law enforcement agencies** are playing a key role in both supporting the implementation of public health measures to contain the outbreak (e.g. restricting movement, imposing public order, contact tracing, securing the delivery of emergency supplies) and in preventing specific criminal activities arising from the new circumstances (intimidation and deliberate contamination; the spread of fake and counterfeit medical products; fraud and scam schemes; and cybercrime[2]).[3] Due to the risk of increased crime, including domestic violence, as a result of the gaps left by these forces in their efforts to prioritise other tasks, proper and alternative governance structures may be needed to ensure that existing forces are not stretched too thin.

Since the outbreak of Covid-19, many states have closed their borders, prohibiting the entry of non-nationals into their territory.[4] This has led to increased reliance on **border security and customs** personnel being deployed to various entry points via land, air, and sea to address cross-border trafficking of persons and goods. **Intelligence agencies** are working to centralise and analyse data and assist in contact tracing — efforts which require oversight to ensure proportionality and adherence to legal frameworks.[5]

Overcrowded **detention facilities** represent high-risk settings for Covid-19 transmissions. To pre-emptively prevent outbreaks, some states have released those detained for minor offences, or those who have served two-thirds of their sentences.[6] However, pre-existing challenges related to the absence of normative frameworks that facilitate alternatives to prison can be exacerbated during a crisis.

Reports indicate that the modalities of **judicial** operations have also been affected, with restrictions on courtroom activities, adoption of remote work, and in some cases, virtual audiences.[7]

Particularly in fragile contexts, the pandemic puts further emphasis on the role that the **private sector** can play in promoting security, development and respect for human rights. This reinforces the need for multi-sectoral partnerships involving the business community in SSG/R processes. In some cases, the private security industry is being called upon[8] to provide vital additional support to state security providers, including in relation to medical facilities. In addition to being given new and unfamiliar roles, there remain significant concerns in some contexts regarding training, vetting, and oversight of private security that may come more into focus due to pandemic-related activities.

Security oversight bodies: Covid-19 sheds a new and troubling light on what was already a significant challenge for oversight: the asymmetric relationship between the overseers and those overseen. During an emergency, many of the regular functions of overseers may face additional challenges including movement restrictions and the expanded authorities granted to security providers. Beyond the immediate difficulties, there is also the challenge of safeguarding the return to normalcy and ensuring emergency powers are not retained indefinitely.

The proper functioning of **parliaments** is an important safeguard for the survival of the democratic order. Where the executive has claimed far-reaching emergency powers, there remains a significant risk of deliberate abuse of power for improper motives, and the undermining of human rights and rule of law processes well beyond the immediate crisis.[9] The role of parliament and other oversight bodies is essential in resolving the conflict between "urgency" and "legality" and ensuring the executive functions in accordance with democratic values and principles. While parliaments may have been constrained in their ability to conduct investigations or site visits and compel the provision of information through testimony and other means, they are also adapting to the lockdown by defining

innovative procedures around remote work and the use of technology.

The declaration of a state of emergency, or measures brought in under disaster risk response, often authorizes government agencies, for a limited time, to issue regulations that go against existing laws or limit or suspend civil liberties and human rights. This can constrain the work of **civil society organisations** (CSOs) in providing both services and oversight in a context in which access to communities is already limited due to health and safety measures. In some settings, Covid-19 is also being used as an excuse to crack down on free speech and the right to free assembly. New measures have imposed restraints on the **media**, impeding access to information and stifling critical reporting which might provide additional oversight. When the media space is closed, civil society struggles to be heard by decision makers, a challenge that is exacerbated by the urgency of the pandemic response. Nonetheless, creative solutions can and are being found through online platforms.[10]

Finally, Covid-19 threatens to erode trust in public institutions more broadly, especially if citizens perceive that their respective authorities mishandled the response or are not transparent regarding the scope of their response to the crisis.[11] As existing resources have been reallocated towards managing the global public health crisis, public financial management systems will need to be responsible and flexible, while ensuring effective use of state resources and minimising fraud and corruption.[12]

DCAF's response

While the above analysis has relevance for all countries affect by the virus, DCAF's response is focused on our key constituents and national partners. Covid-19 has both identified new security governance needs and exacerbated existing gaps, confirming that DCAF's mandate remains as relevant as ever. DCAF's partners are operating in difficult, if not unprecedented, circumstances. From the outset we have strived to adapt the way in which we support our partners as well as the substance of that support in order to respond to urgent needs, emerging challenges and opportunities for positive change.

- In the area of **law enforcement**, we have gathered emerging global best practices and guidelines for police operations during Covid-19 and shared this knowledge with partners including the Ethiopian National Police. In Honduras and Morocco, we have offered concrete recommendations for police responses to specific challenges, including increased domestic violence. In Niger, we helped **internal inspection** units to define their approach and carry out inspections to oversee operations in response to the pandemic. When in-person training was not possible for police assigned to extractive industry operations in Nigeria, DCAF developed online modules on human rights that are now being integrated in the national police training curriculum.

- To highlight and analyse the **gender dimensions of Covid-19**, DCAF co-organised a webinar with UN Women and OSCE/ODIHR on gender dimensions of security and justice responses to the pandemic.

- As part of our ongoing analysis of Covid-19 implications and trends, we have published analysis and recommendations for donors on providing support related to **states of emergency** and **disaster risk reduction (DRR)**, as well as co-organising a webinar on DRR with the UN, EU and OECD. Upcoming events for donors will include webinars on post-Covid-19 bilateral support to security and justice reform and how the crisis may impact efforts related to **preventing violent extremism**. Advisory field support to donors and multilaterals is also being adapted to include Covid-19 as a key factor in scoping studies, assessments and evaluations.

- In response to the role the **private security** industry has played during the crisis, DCAF has engaged with **local CSOs** and private security personnel in Guinea to promote key message on preventing the spread of the virus and on human rights compliant security practices. In Kenya, as movement and other restrictions have constrained civil society's ability to oversee private security, we have also used video conferences with journalists, community radio and other media to highlight the existing legal framework for private security.

- We continue to maintain a strong emphasis on **oversight and accountability**. In on-going work with the **media** in Mali, training has been updated to include a focus on the role of the security sector in times of crisis. Engagement on security sector oversight in Palestine has been adjusted to focus on **amending the legal framework** governing the state of emergency and providing guidance to law enforcement officials on **compliance with human rights obligations** during the emergency. A recent dialogue hosted as part of DCAF's work on links between SDG-16 and SSG/R was also reframed around Covid-19, offering participants an opportunity to learn from parliamentarians around the world about challenges and opportunities for **parliamentary oversight** during the pandemic.

- Thanks to our existing networks across a wide range of security sector actors, DCAF is facilitating the **sharing of experiences within and across regions**. While it is too early to fully take stock and identify lessons, we are actively working with partners in the Asia-Pacific region through questionnaires and webinars to capture observations and prepare for a more in-depth analysis in the future, which could produce evidence-based recommendations for reforms. We have organised a series of webinars to facilitate the exchange of experience and cross-border cooperation among police from the EU and Western Balkans. We are also facilitating the sharing of experiences among donors and multilateral organisations on supporting security and justice in the Covid-19 context.

Needs and entry points for security and justice reform

While the Covid-19 crisis poses many challenges for security and justice reform, it has also revealed the urgency of reforms and the centrality of security sector governance in effective crisis response. In some settings it has provided an opportunity for DCAF to engage with partners in new and unforeseen ways, including support to crisis management as a potential entry point for broader reforms.

- The Covid-19 crisis has heightened awareness of the need to better **anticipate, prevent and mitigate the risks of disasters.**

  » Supporting partners in this area is an opportunity to increase resilience and collaboration between security institutions, other government organisations, and civil society.

  » Focusing on crisis response can be a pragmatic way to identify and address shortfalls in management functions including strategic and operational planning, human and financial management, and communications.

- In many countries, enforcing movement restrictions has put **security providers** in closer contact with local communities. While this comes with certain risks, it has also underscored the importance of public confidence in security actors.

  » Complaints mechanisms, internal inspections, and related capacities must be strengthened where needed, with efforts made to increase public awareness of options for reporting security force misconduct.

  » This is a critical time to support initiatives which build trust and confidence between communities and security forces.

  » Many security forces would benefit from new guidance on engaging with and meeting the different security needs of various groups, including the most vulnerable and underserved communities.

  » With security providers under considerable pressure, organisations such as armed forces ombuds institutions will also require support in ensuring the fundamental rights of service members themselves are safeguarded.

- In the **justice sector**, there is now a reinvigorated debate in many countries on incarceration rates, criminal justice policy, and the overall state of prison systems.

  » A window of opportunity exists to initiate important criminal justice and prison reforms, which might not otherwise have been a prominent focus.

  » Focusing on a priority issue such as pre-trial detention could have a positive impact on the entire justice chain; subsequent efforts could include modernising judicial administration and integrating technological solutions to enable wider access to justice.

- The continuous functioning of **parliaments** and their vigilance on government action is an important safeguard for the survival of democratic order.

  » For parliamentary committees with security and intelligence oversight responsibilities, there is a need for immediate support in areas including but not limited to: clearly defining legal thresholds in cases related to state surveillance, oversight of security providers during a state of emergency, and safeguarding against corruption upon invocation of emergency spending legislation.

- **Media and civil society** are playing an essential role in developing community awareness of the importance of pandemic response measures. Future SSG/R efforts could capitalise on this to open the door to more constructive engagement between media, civil society, and security institutions.

  » Media training on security sector oversight should be adapted to cover effective communication during crises, gendered aspects of the pandemic response, and fake news and avoiding unverified information.

  » Civil society should be supported in analysing and conveying the security needs of vulnerable or underserved communities, which in many cases have been overlooked in initial responses to the pandemic.

What does this mean for DCAF Member States and donors?

As the security sector steps into new or expanded roles in combatting the spread of the virus and the unintended consequences of quarantine, it will only succeed if it is trusted and respected by all and operates under full democratic control, within a framework of the rule of law, respect for human rights, and gender equality. It is urgent to understand and act upon the full potential of SSR as a tool for contributing to effective responses and building the foundation for risk mitigation and social cohesion.

- An effective and accountable security sector is central to human and state security in times of crisis. The current crisis has highlighted many deficiencies in security governance and service delivery, but has equally created opportunities for systemic and positive change.

- International support for SSG/R programming is more important than ever to ensure hard-won gains in security governance and human rights are not undermined by the response to Covid-19. With expected pressure on budgets, it will also be particularly important for the donor and multilateral community to provide coordinated and cost-effective support.

- With the right support and guidance, Covid-19 responses can be human-rights compliant and even catalyse longer-term reforms.

- By focusing on human security, widespread access to security and justice, drivers of public trust in governments, and participatory democratic oversight, SSG/R can also be an important part of broader efforts to "build back better" and develop resilience at the individual, community, state and global levels.

- • DCAF is a trusted partner for state and non-state actors and has extensive national, regional and global networks. We are well positioned to facilitate cooperation and provide innovative, outcome-oriented support that can be scaled and adapted to different contexts.

DCAF has already adapted our programming to meet immediate Covid-19 related needs of our partners. As noted above, Covid-19, while challenging security governance norms in many contexts, can also be a catalyst for change. It has highlighted new areas of potential engagement, around crisis and disaster management for example, while also reinforcing the need to deepen our focus on certain aspects of SSG/R, including the relationship between security providers and communities.

In the coming weeks and months, DCAF will be reaching out to its partners and donors to discuss how current projects could best be adapted to meet urgent needs - and which new areas of programming could be considered in order to integrate and build on lessons from the pandemic.

References and further reading

1   INTERPOL, 'Preventing crime and protecting police: INTERPOL's COVID-19 global threat assessment' (INTERPOL, 6 April 2020) <https://www.interpol.int/News-and-Events/News/2020/Preventing-crime-and-protecting-police-INTERPOL-s-COVID-19-global-threat-assessment> accessed 14 April 2020.
2   Cybercrime as an emerging security challenge will be addressed in a separate briefing note.
3   INTERPOL, 'INTERPOL issues international guidelines to support law enforcement response to COVID-19' (INTERPOL, 26 March 2020) <https://www.interpol.int/News-and-Events/News/2020/INTERPOL-issues-international-guidelines-to-support-law-enforcement-re-sponse-to-COVID-19> accessed 14 April 2020.
4   Andrea Salcedo, Sanam Yar, and Gina Cherelus, 'Coronavirus Travel Restrictions, Across the Globe' (The New York Times, 7 April 2020) <https://www.nytimes.com/article/coronavirus-travel-restrictions.html> accessed 9 April 2020.
5   Ronen Bergman, 'Israel's Not-So-Secret Weapon in Coronavirus Fight: The Spies of Mossad' (The New York Times, 12 April 2020) <https://www.nytimes.com/2020/04/12/world/middleeast/coronavirus-israel-mossad.html> accessed 17 April 2020.
6   Reuters, 'Coronavirus: Indonesia frees 18,000 inmates, as it records highest death toll in Asia behind China' (South China Morning Post, 2 April 2020) <https://www.scmp.com/coronavirus/asia/article/3078172/coronavirus-indonesia-frees-18000-inmates-it-records-highest-death> accessed 9 April 2020; Parisa Hafezi, 'Iran temporarily frees 85,000 from jail including political prisoners' (Reuters, 17 March 2020) <https://www.reuters.com/article/us-health-coronavirus-iran-prisoners/iran-temporarily-frees-85000-from-jail-including-political-prisoners-idUSKB-N21410M> accessed 17 April 2020.
7   Paulo Roberto Dornelles Junior, 'Report on world's judicial activity during the coronavirus pandemic' (International Association of Judges, 26 March 2020) <https://www.iaj-uim.org/news/report-on-worlds-judicial-activity-during-the-coronavirus-pandemic/> accessed 14 April 2020.
8   New Zealand Security Magazine, 'Covid-19: Is private security an essential service?' (DEFSEC, 24 March 2020) <https://defsec.net.nz/2020/03/24/Covid-19-alert-levels/> accessed 17 April 2020. See also, New Zealand Security Magazine, 'Security deemed essential' (DEF-SEC, 25 March 2020) <https://defsec.net.nz/2020/03/25/security-deemed-essential-service/> accessed 17 April 2020.
9   Matt Pollard, Mathilde Laronche, and Viviana Grande, 'Covid-19 Symposium: The Courts and Coronavirus (Part I)' (OpinioJuris, 3 April 2020) <http://opiniojuris.org/2020/04/03/Covid-19-symposium-the-courts-and-coronavirus-part-i/> accessed 14 April 2020.
10   https://c19peoplescoalition.org.za/
11   United Nations Secretary-General, 'Secretary-General's remarks to the Security Council on the COVID-19 Pandemic [as delivered]', (United Nations, 9 April 2020) <https://www.un.org/sg/en/content/sg/statement/2020-04-09/secretary-generals-remarks-the-security-coun-cil-the-covid-19-pandemic-delivered> accessed 14 April 2020.
12   Srinivas Gurazada, Jens Kromann Kristensen, Mirja Channa Sjoblom, Moritz Piatti, and Khuram Farooq, 'Getting government financial management systems COVID-19 ready' (World Bank Blogs, 20 March 2020) <https://blogs.worldbank.org/governance/getting-government-fi-nancial-management-systems-covid-19-ready> accessed 14 April 2020.

> **Impact of COVID-19 on Security Sector Governance:** www.dcaf.ch/sites/default/files/publications/documents/Covid19_BN_DCAF_0.pdf
> **Thematics in Practice: Security & Justice Reform Response to COVID-19:** https://issat.dcaf.ch/Learn/SSR-in-Practice/Thematics-in-Practice/Security-and-Justice-Reform-Response-to-Covid-19-Crisis
> **General list of newsletters:** https://issat.dcaf.ch/Learn/Resource-Library/Other-Documents/Monthly-Digest-ISSAT-SSR-Newsletter
> **For further information on DCAF's Covid-19 response, please read DCAF's Sub-Saharan Division (SSAD) most recent newsletters here:**
  >> **May newsletter**
  >> **April newsletter**