To support sexual violence preparedness efforts, this tool provides a list of key questions an organisation should endeavour to answer about the legal environments in its countries of operation.

The following questions should be adapted to reflect the possible legal settings where a proceeding could take place. A survivor may bring legal proceedings in the country where the incident took place, their home country, the country of the alleged perpetrator, or the country in which the organisation has its headquarters. The following questions are meant as guidance and are not an exhaustive list.

General

* What are the legal definitions and understandings of sexual assault/rape in the country of prosecution?
* What is the rape/sexual assault prosecution process from beginning to end?
* How does the survivor file a complaint?
* Where is the complaint made?
* Should the complaint be written or verbal?
* To whom is a complaint made?
* How quickly must the report be made after the incident?
* Is there any statute of limitations on the prosecution of rape/sexual assault?
* Does the government take responsibility for the prosecution?
* What role does the survivor play in pressing for prosecution?
* At what point will the report and/or proceedings become a matter of public record?
* Does the law protect the identity of the survivor?

Forensic evidence

* What forensic evidence is required for a successful prosecution?
* What is the local capacity to gather evidence and analyse it?
* What requirements does the law impose with respect to the collection of that evidence?
* Must the evidence be collected by a particular individual (such as a state-certified gynaecologist) or collected in the presence of a particular individual?
* How must the evidence be handled and accounted for after it is collected? Must it be secured? How is lab work done? Who maintains the ‘chain of custody’?

Arrest and court proceedings

If the alleged perpetrator is a member of staff, the following questions should also be considered from their point of view. It should be noted that the organisation has a duty of care towards both the survivor and the alleged perpetrator in these circumstances.

* If an arrest is made, can the accused be released on bail after being charged?
* What charges may be brought against the alleged perpetrator?
* Do the police have a specific unit or department for dealing with sexually violent crimes?
* Does the survivor have to identify the alleged perpetrator before the individual is charged with a crime?
* What is involved in the identification? Is it a line-up? Is the identity of the survivor protected?
* May the survivor always be accompanied by an attorney or another representative?
* What kind of court process is used for the trial? (Jury trial? Bench trial? Other proceedings?)
* Does the survivor have to testify in court and/or in the presence of the defendant (that is, the alleged perpetrator)?
* Does the defendant have the right to cross-examine the survivor?
* Are there any subjects about which the defendant may not inquire with respect to the survivor?
* What are the risks the defendant faces if arrested (such as assault while in prison)?
* What are the penalties should the defendant be convicted?
* Can the prosecution proceed if the survivor no longer resides in the country? If the survivor becomes unwilling to proceed, can legal action be taken against them?
* What is the recent history of successful prosecutions of this nature?
* What are the chances of conviction in this particular case?
* Will the government be supportive of such a prosecution?
* How traumatic can the legal process be in this jurisdiction for both the survivor and the alleged perpetrator?
* What are the cultural implications of this case? (For example, if a man makes an accusation? If a woman accuses a man? If a visitor to the country accuses someone who is a national of that country?)
* What are the cultural and legal implications of accusations of same-sex sexual violence cases?
* Are there potential security implications for the survivor who chooses to prosecute?
* Will the decision to prosecute put other staff at risk?
* What is the potential impact should the survivor choose not to prosecute?
* What is the typical relationship between the survivor, counsel to the survivor and the prosecution?
* What are the legal implications of moving an alleged perpetrator who is a member of staff out of the country where the incident took place for security/duty of care reasons?