
Nepal In Transition : Strengthening Security and the Rule of Law

Findings of Nepal Police - Civil Society Dialogue



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FOREWORD

The United States Institute of Peace (USIP) is an independent, nonpartisan national institution based in Washington D.C., USA. Founded in 1984, USIP was established and is funded by the United States Congress, and is governed by a Board of Directors. USIP's goals are to: 1) help prevent and resolve violent conflicts; 2) promote post-conflict stability and democratic transformations; and 3) increase peacebuilding capacity, tools, and intellectual capital worldwide. These goals are achieved through research, operational support and grants, and programmatic initiatives and partnerships. USIP's Nepal programs over the past years have included providing grants to organizations and individuals engaged in peacebuilding activities or research in Nepal; holding public events in Washington, DC on rule of law and political transitions in Nepal; hosting a Senior Fellow this past year from Nepal; and engaging in Rule of Law- related programs in Nepal.

The Rule of Law Program is one of USIP's Centers of Innovation. It works to assist institutions and processes that will best bring about rule of law-based management of international conflict and justice development. The Rule of Law Program engages in activities and projects around themes including: constitution making, law reform, criminal justice and police reform, combating serious crimes, customary and non-state justice systems and transitional justice. Based upon these themes, it develops tools for rebuilding the rule of law in transitional and post-conflict environments; and engages in rule of law-related projects that are specific to the needs of a country.

The Rule of Law Program began working on Nepal in 2005 focusing on issues including strengthening rule of law and security following the conflict, and addressing post-conflict serious crimes. This work included a series of consultations in Nepal with a variety of individuals and institutions, including civil society representatives and Nepal Police, in April and May 2006 to discuss rule of law issues following *Jana Andolan II* (April 2006 People's Movement). In September 2006, USIP hosted Nepal Police officials in Washington, DC to discuss the rule of law challenges facing countries emerging from conflict. Additionally, in August and September 2006, USIP held an interactive program on the role of civil society in justice and security reform. The Role of Civil Society." The program addressed issues facing civil society and the importance of their inclusion and consultation in nation-building, including a review of justice and security reform case studies. Through these efforts, it became apparent that bringing together civil society and Nepal Police to establish a dialogue was crucial step in to the peacebuilding process given the significant security and rule of law challenges facing Nepal.

Accordingly, "Developing Security and Rule of Law Strategies," was organized by USIP in Kathmandu, Nepal in February 2007 as the first interactive program between the Nepal Police

and members of civil society, with a debriefing to government and political party representatives. Following recommendations by the participants for local-level dialogue sessions, six district-level interactive programs, "Nepal in Transition : Strengthening Security and the Rule of Law," from May – August, were subsequently facilitated throughout the Terai of Nepal.

This report is based on the findings from sessions between the Nepal Police and civil society. It represents the challenges to security and the rule of law in Nepal from their perspectives and on-the-ground experience. It also serves as a compilation and documentation of the recommendations set out in the "Joint Outcomes" from each session. While some challenges and recommendations from participants serve to address issues specific to their district or zone, others are focused on national needs. We hope that this report will provide an overview of the security situation as viewed by civil society and police, but more importantly that it will assist in profiling some of the areas of needed reform or change to strengthen security and the rule of law in Nepal and serve as a foundation for progress.

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OVERVIEW

In February 2007, the Rule of Law Program of the United States Institute of Peace organized the first of seven interactive programs between civil society and the Nepal Police that took place in Kathmandu, Nepal. From May – August, six district-level programs were held throughout the Terai of Nepal.*

These programs, which discussed challenges to security in states in transition and guiding principles for developing security strategies, were forums for constructive dialogue between civil society and the Nepal Police. After meeting separately to identify challenges and recommendations, members of civil society and the Nepal Police met jointly to identify agreed-upon challenges to, and recommendations for, strengthening security and the rule of law in Nepal. This resulted in a list of “Joint Outcomes.” The list was then shared and discussed with local political party representatives and the Chief District Officers during a debriefing session.

The program provided space for participants to share perspectives on security, begin communication and relations between the Nepal Police and civil society, and to identify recommendations from each sector to share with policymakers for consideration and possible action. Working with local partners and the Nepal Police, participation included both senior and junior officers from the police and representatives of the development, media, women’s rights, and human rights communities, as well as academia, business, Janjati, Dalit, Kamaiya (bonded laborers), Madhesi, Muslim, and other indigenous groups. During the debriefing sessions representatives of the eight-party alliance and the RPP, as well as the CDO, participated.

Civil society and the Nepal Police drew from their personal experience and knowledge to identify security and rule of law challenges facing Nepal during its transitional period. These included political pressure and interference in policing, politicization of crime and of civil society, lack of resources and support for the police, outdated laws, a weakened judiciary, an increase in criminal activity, public distrust of the police, the slow implementation of political commitments, a traditional and feudal mindset in society, and continued poverty, discrimination, and marginalization of parts of society.

Although the recommendations that came from the sessions identify many starting points for transformation to a more functioning democratic system and based on the rule of law. The recommendations were extensive and included:

* District-level programs: Banke; Siraha; Kailali; Jhapa; Chitwan; Rupandehi

- The need for political will for strengthening security and the rule of law
- Implementation of agreements including the Comprehensive Peace Agreement
- Independent judiciary
- Institutional reform within the police
 - ~ Independent police
 - ~ Expanded community policing and community engagement
 - ~ Implementing a merit-based process for transfer and promotion
 - ~ Increase in state resources and support of the police
 - ~ Improvements in benefits and working conditions
 - ~ Improving and increasing training
 - ~ Vehicles and communication equipment and conditions
- Legal reform
- Constructive engagement with the police by civil society
- Specific activities for civil society.
 - ~ Civic education,
 - ~ Public education on laws and regulations

While the Nepal Police and civil society dialogue program began to explore ways to strengthen security and the rule of law, they have also provided a foundation for further discussion. In each program, police and civil society identified focal points for future and continued dialogue. After these dialogue programs, nearly every district has seen a continuation of police and civil society meetings to discuss security, and specific issues and cases. These meetings have often included representatives of political parties and CDOs. This ongoing dialogue is encouraging. It will help break down barriers and misperceptions, build trust and provide opportunities to jointly address security and the rule of law.

INTRODUCTION

Despite entering a post-conflict* and transitional period, Nepal has, like many other transitional states, seen increasing crime, and the use of violent methods for political, economic, and social transformation. Similarly, causes and contributors to the more than 10-year armed conflict, as well as continued impunity, have gone largely unaddressed and have contributed to the potential for increasing violence. As the country moves toward a Constituent Assembly Election scheduled for November 2007 to vote for an interim legislative body that will draft a new constitution for the country, security and rule of law[†] are primary foundations for a legitimate election, and for stabilizing the country and a sustainable peace.

With Nepal facing numerous security challenges, weakened state institutions, and the sidelining of the rule of law, USIP - in consultation with Nepali organizations and individual's working in the justice and security sectors - determined that programming on security and the rule of law would be important for stabilizing the country. To begin this work, USIP's Rule of Law Program, along with local partners[‡], organized a series of interactive sessions between the Nepal Police and civil society on strengthening security and the rule of law in Nepal. The first program took place in February 2007 in Kathmandu, Nepal followed by six district-level programs carried out from May – August 2007.

While the program was largely interactive, general information and case examples were provided on security and rule of law challenges faced by other states in transition as well as guiding principles for developing security and rule of law strategies. Civil society and Nepal Police representatives first met separately to identify security and rule of law challenges from their perspectives and

* *Post-conflict* refers to situations in which violent conflict as formally ceased. Such situations are commonly marked by a peace agreement. Using the term “post-conflict” does not mean that all violent conflict has ended, however. Although conflict may have officially ceased, some level of violence may well persist. Source: Colette Rausch (ed), *Combating Serious Crimes in Postconflict Societies: A Handbook for Policymakers and Practitioners* (USIP Press: 2006).

[†] *The rule of law* refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency. Source: UN Secretary-General, "Report on the Rule of Law and Transitional Justice in Conflict and Post-Conflict States," paragraph 6.

[‡] Forum for Social Awareness and Development (FOSAD); Human Rights, Environment, and Community Development Service Centre (HUREDSC); Informal Sector Service Centre (INSEC); Women's Rehabilitation Centre (WOREC).

experiences. Then, they met together in a second session to report back, and began discussing challenges and jointly identifying recommendations to strengthen security and the rule of law. After agreeing to a prioritized list of recommendations, a final briefing session was held with political party representatives to discuss the findings from the police-civil society sessions.

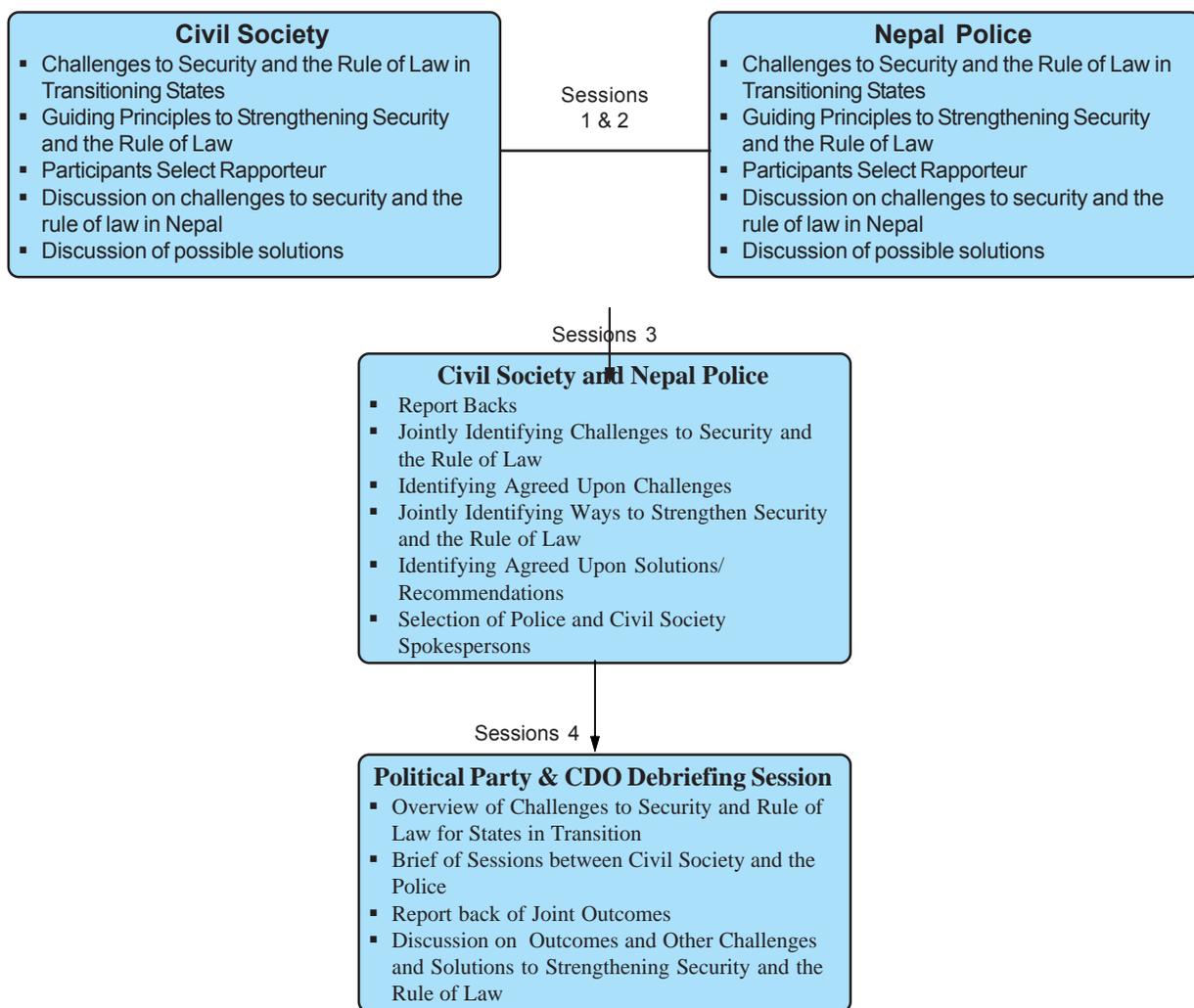
This process was carried out to generally assess the security situation and generate recommendations for the policy level. It was also meant to begin communication and cooperation between the police and civil society, as well as with local political party leaders. These sessions were intended to initiate a conducive and constructive environment for strengthening security and the rule of law, as well as begin a national dialogue on needed institutional and societal transformation for sustainable peace and a sound democratic state. Following many of the district-level programs further meetings and discussions were initiated between police, civil society, and political parties on their own accord.

The following report reviews the methodology and process of the dialogue sessions, the challenges to security and rule of law as identified by participants, and the recommendations jointly agreed to by the Nepal Police and civil society. The findings derive directly from these sessions and the participants. They cover a broad spectrum of the security and rule of law challenges Nepal faces during the transitional period, many of which have long-term implications for the stability of the country. At the same time, the findings are not exhaustive given the limitations of geographic and institutional representation and the constantly changing situation on the ground. However, the challenges and recommendations laid out in the report provide a base for understanding the security and rule of law situation as well as ways to yield positive changes to strengthen security and the rule of law in Nepal.

METHODOLOGY

Process

As discussed in the foreward, after consultations with the Nepal Police and various individuals and organizations in Nepal and in Washington D.C., USIP organized a program that would provide a constructive forum to identify some of the challenges and possible solutions to strengthening security and the rule of law in Nepal. USIP also began a discussion on these topics through the dialogue sessions between the Nepal Police and civil society, as well as Chief District Officers (CDO) and representatives of political parties.



As discussed in the introduction, on the first day, civil society and the Nepal Police met separately to discuss - from their perspective - the challenges to security and the rule of law, as well as identify ways in which to strengthen these areas. On the following day, the police and civil society met together to report back to one another and continue the discussion. In addition, they identified shared perspectives and recommendations preparing these in a final “joint outcome.” These outcomes (see annexes) were identified without previewing the outcomes from previous sessions. The final session of the program was a debriefing for CDOs and political party representatives. The police and civil society participants’/spokespersons reported on the outcomes and discussions, which was followed by discussion on security and the rule of law.

Participants

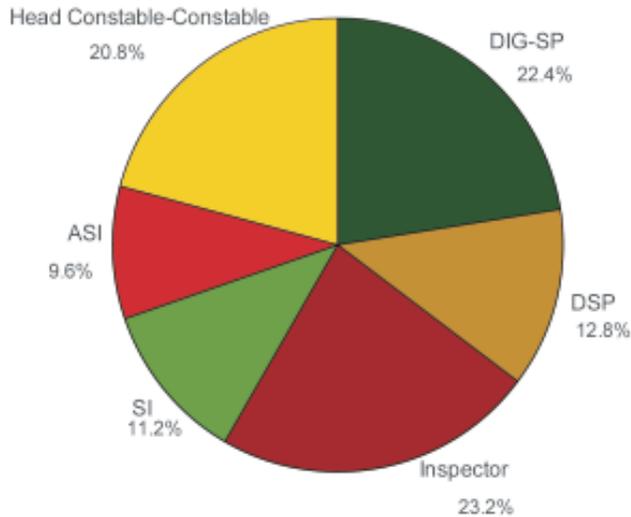
Because the Nepal Police is responsible for maintaining law and order, and face the security challenges and obstacles to the rule of law on a daily basis, it was imperative that they be included in discussions regarding these two focus areas. Similarly, civil society can provide a new perspective on security and rule of law in Nepal both from the information received from those sections of society they work with, and from their expertise within their profession. Civil society often serves as the bridge between the general public and state institutions, therefore open communication and a working relationship between the police and civil society can provide opportunities to strengthen security and the rule of law. However, understanding that national progress ultimately relies upon political will, it was important to share the results of the police-civil society sessions and include representatives of political parties in discussion. Additionally, given their role in administration of security, CDOs were also included.

To ensure diversity of input, the participants were chosen from the administrative and central-levels and from field personnel as follows:

- **Nepal Police:**
 - ~ 15-20 police per session
 - ~ Kathmandu Program: Deputy Inspector Generals (DIG); Senior Superintendents (SSP); Superintendents (SP); and Deputy Superintendents (DSP)
 - ~ District-Level Programs: Zonal Senior Superintendents; District Superintendents; Deputy Superintendents; Inspectors (IP); Sub-Inspectors (SI); Assistant Sub-Inspectors (ASI); Head Constables; Constables
 - ~ Permitted to "speak freely"

Some 125 police officials participated in the interactive sessions. Police participation is illustrated in the pie chart below, categorized by rank.

Police Participation

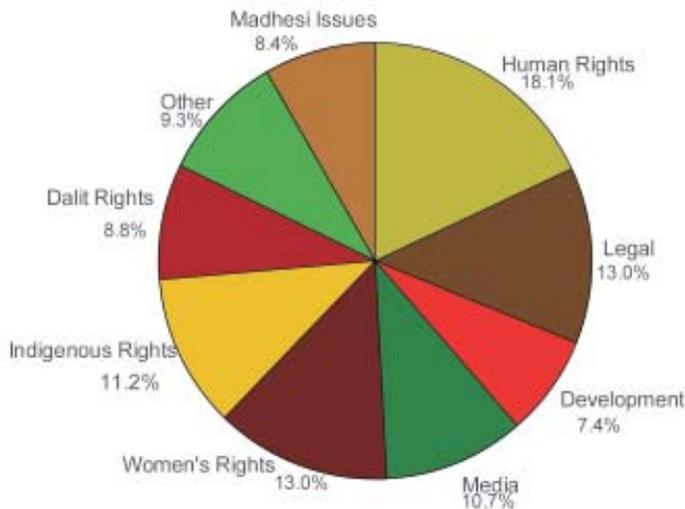


▪ **Civil Society:**

- ~ 15-20 representatives of civil society per session
- ~ Representation: Legal profession; human rights; business; academia and education; development; women’s rights; children’s rights; media; Janjati, Dalit, Kamaiya, Madhesi, Muslim and indigenous rights

Some 144 members of civil society participated in the interactive sessions, representing a variety of sectors, illustrated in the pie chart below. "Other" refers to sectors that represent education, peacebuilding activities, religious issues, Kamaiya rights, and the business sector.

Civil Society Sector Representation

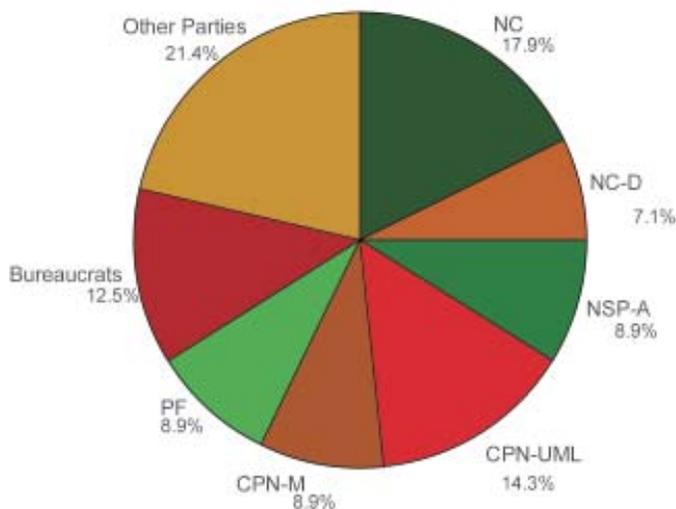


- **Political Parties:**

- ~ In Kathmandu parliamentarians, party representatives, and student leaders were invited
- ~ Representation from each of the District Offices of those parties in the Eight Political Party Alliance were invited, and the Rastriya Prajatantra Party, as a party in parliament, was invited to participate
- ~ The Chief District Officer of each district was invited to participate, as the CDO is the bureaucratic office responsible for security in the district

A total of 56 political party representatives, bureaucrats, and legislators attended the debriefing sessions. Participants represented the Nepali Congress (NC), Nepali Congress – Democratic (NC-D), Communist Party of Nepal – United Marxist Leninist (CPN-UML), Communist Party of Nepal – Maoist (CPN-M), Nepal Sadbahavana Party-Anandevi (NSP - A), the People’s Front (PF), Communist Party of Nepal – Unified, Communist Party of Nepal – Marxist Leninist (CPN-ML), Rastriya Prajatantra Party (RPP), and the Nepal Workers and Peasants Party (NWPP). While some parties were unable to send representatives to all debriefing sessions, the "other parties" category on the pie chart below represents legislators, CPN-ML, NWPP, RPP, and CPN-Unified.

Participation in Debriefing Sessions



Objectives

- Initiate communication, begin confidence building measures, and establish the foundation for cooperation between the police and civil society
- Bring concerns and recommendations from those working throughout the country on security and the rule of law to the policy and district administration levels for viable implementation
- Provide a conducive environment for the police and civil society to share their concerns and perspectives openly

- Provide a forum for civil society and the police to articulate concerns and build consensus
- Initiate a discussion nation-wide on security and the rule of law issues
- Conduct an abridged security assessment on the ground from the perspective of the police and active members of civil society

Program Schedule

The dialogue sessions between police and civil society were held according to the following schedule:

February 20-23, 2007	Kathmandu
May 16-17, 2007	Nepalgunj, Banke
May 30-31, 2007	Lahan, Siraha
July 1-2, 2007	Dhangadhi, Kailali
July 31-August 1, 2007	Bhadrapur, Jhapa
August 12-13, 2007	Bharatpur, Chitwan
August 23-24, 2007	Butwal, Rupandehi

Program Sites

In addition to the first session in Kathmandu, six districts were selected to hold the interactive program between police and civil society. These districts were selected because they have either faced security threats in the past or are vulnerable to such threats in the future. Factors considered included location of cantonment sites and refugee camps, poverty, activity of armed movements, religious diversity, and being at-risk or having experienced increasing violence and crime. In addition to representation from the selected districts, both police and civil society from other districts attended sessions. A total of 21 districts were represented during the seven interactive programs.

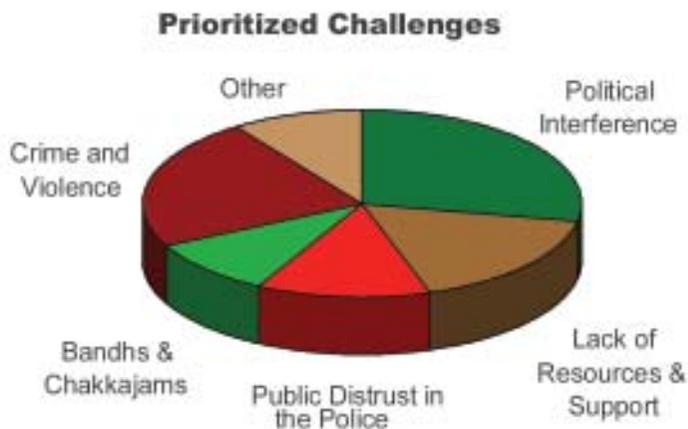
- 1 Kailali
- 2 Banke
- 3 Mustang
- 4 Baglung
- 5 Kaski
- 6 Syangja
- 7 Kapilvastu
- 8 Rupandehi
- 9 Nawalparasi
- 10 Chitwan
- 11 Makwanpur
- 12 Rautahat
- 13 Kathmandu
- 14 Lalitpur
- 15 Sarlahi
- 16 Dhanusha
- 17 Siraha
- 18 Udayapur
- 19 Saptari
- 20 Morang
- 21 Jhapa



Empirical Security Assessment: Challenges and Recommendations

There were six primary challenges identified during the seven dialogue sessions: political interference; lack of police resources; *bandhs* (shutdowns) and *chakkajams* (traffic blockades); public distrust of the police; violence carried out by Maoist splinter groups and newly formed armed groups, and crime. Based on these six challenges, the participants identified six primary recommendations: implementation of agreements; civic education, civil society – police coordination; community policing; reforms within the institution of the police; and legal reform. While other challenges and recommendations were addressed, the aforementioned were prioritized and are shown below in pie charts illustrating the average percentage of time and consideration given to these priorities during sessions.

Although the dialogue sessions were not designed to produce a comprehensive assessment of security and the rule of law in Nepal, the sessions did reflect the perspectives of the police and civil society, set forth their on-the-ground and long-term concerns regarding security and the rule of law in Nepal, and provide a starting point for future dialogue on reform and positive change.



The major challenges and recommendations set forth above have been grouped into five main categories: Law and Order; Politics and Security; Legal Reform and Judicial System; Civil Society; and the Nepal Police. Each of these focus areas are key to strengthening security and the rule of law. Appropriately, during the opening of the session between police and civil society in Nepalgunj, a Nepal Police official stated that, "security is an integrated approach that includes the police, but also includes other security agencies, government offices, political parties, the judiciary, the legislative, and, importantly, civil society."

Prioritized Recommendations



Law and Order

During transitions, states often experience an increase in armed activity, minor or street crimes and more serious crimes that have roots in the previous conflict and can hamper the peacebuilding process and destabilize the country. In addition there are political and economic challenges that if unaddressed can increase insecurity or the prospects for violence. Examples of political and economic challenges faced by countries in transition are demands for political representation and access to economic development from marginalized groups. Therefore, prioritizing and strengthening security and the rule of law are essential for a durable peace and transition to a democratic system. The following law and order challenges were presented during the police and civil society dialogue sessions:

Challenges : Law and Order

- ~ *Increase in crime: rape, trafficking, smuggling, drugs, deforestation, illegal weapons*
- ~ *Political pressure and interference in arrest, investigation and detention*
- ~ *Protection of criminals by political parties or their affiliations*
- ~ *Splinter and newly armed groups*
- ~ *Movements that employ violent methods*
- ~ *Abductions and Extortion*
- ~ *Increasing threat of communal violence*
- ~ *Cross-border crime*
- ~ *Parallel policing and courts*
- ~ *Bandhs and Chakkajams*
- ~ *Distrust of the police*
- ~ *Threats and attacks based on ethnicity, caste, and political affiliation, as well as against human rights defenders and journalists*
- ~ *Increase in social crimes: discrimination, domestic violence, child marriage, polygamy, prostitution*
- ~ *Poverty and lack of education*
- ~ *Impunity and Corruption*

Recommendations to Law and Order Challenges

The recommendations participants made to address the law and order challenges fall into four general categories: preventing violence; abiding by agreements and commitments; prioritizing security and the rule of law; and strengthening civil society and police coordination. Each of these recommendations is discussed below.

Preventing Violence

While looking at immediate challenges facing law and order, participants also considered long-term security needs. As a result, several recommendations addressed measures to prevent crime. Public education programs on citizen responsibility and security that can be carried out jointly by civil society and the police were considered to have both short and long-term benefits, while programs that address economic and social reform were viewed as having significant long-term effects. Participants also identified specific measures to prevent the spread of conflict and crime, such as addressing the grievances of marginalized groups, increased monitoring of cantonments and barracks, and guaranteeing the basic needs of refugees. While a contentious issue, the reintegration of former combatants as part of a national strategy for progress was decidedly a matter that requires national discussion and planning. Accordingly, the participants proposed the following recommendations related to preventing violence:

- Provide public education on:
 - ~ The role of police
 - ~ Laws, rules and regulations
 - ~ Citizen responsibility
- Launch and support poverty alleviation programs
- Provide equal access to a quality education
- Modify the education curriculum to include
 - ~ Civic education on rights and responsibilities
 - ~ Information to prevent drug use, on sexual abuse, and other human security issues
- Commit and take appropriate actions to resolve issues raised by marginalized groups through dialogue
- Establish mechanisms for marginalized groups to have access to the policy-level, state institutions, and justice
- Ensure that the basic needs of refugees are met to prevent spillover of criminal activities
- Increase monitoring of former combatants and army in cantonments and barracks
- Formulate, through consultation, a national vision and strategy that includes prospects for reintegration of former combatants as vital parts of society

Agreements and Commitments

The actions and decisions by the government and the eight-party alliance have a direct affect on law and order. Lack of implementation of agreements and commitments have resulted in movements, *bandhs* and *chakkajams*, and continuing illegal activities and violations of the Comprehensive Peace Agreement. Political interference has resulted in impunity, release of charged criminals, and inability to combat crimes such as smuggling. Government and political party commitment and active implementation of agreements are essential for maintaining law and order. Therefore, participants recommended the following measures be taken:

- Commitment from political parties to refrain from
 - ~ Interfering with detaining those charged with crimes
 - ~ Using criminal elements for political purposes
 - ~ Pressuring police, prosecutors or other officials to dismiss, undermine or not pursue criminal cases
 - ~ Calling *bandhs* or *chakkajams*
- Implement the Comprehensive Peace Agreement including
 - ~ Dismantling parallel systems
 - ~ Establishing mechanisms for return of property
- Implementation of commitments to disenfranchised groups (e.g. rehabilitation of Kamaiya)

Prioritizing Security and the Rule of Law

Political will to actively prioritize strengthening security and the rule of law includes supporting police efforts to combat serious crimes, initiating mechanisms that aggressively address corruption and impunity, strengthening the legal framework, and increasing resources for the police. The participants made the following recommendations regarding prioritization of the rule of law:

- Allow police action to combat smuggling, trafficking, deforestation, and other crimes without bias or political pressure
- Establish an anti-corruption campaign
- Take strong measures to address impunity
- Increase resources to police
- Engage in legal reform

Civil Society and Police Coordination

While these sessions were often the first time police and civil society had sat together to discuss the overall security situation and jointly identify solutions, it was agreed that similar discussions,

as well as further meetings on specific issues, should carry on. By continuing communication and coordination, with possible joint activities, misperceptions could dissipate, relevant information could be shared, trust could be built and working together would ultimately increase security and the rule of law. The participants made the following recommendations to strengthen civil society and police coordination:

- Hold regular meetings on security between civil society and the police
 - ~ Engage in information sharing
 - ~ Discuss ongoing challenges to security and case-based issues
 - ~ Map high-risk areas for crime and illegal activities
 - ~ Clarify positions and information
- Coordinate on public education and other security and rule of law programs
- Ensure inclusion of civil society in developing security strategies
- Hold ongoing security meetings between political parties, CDO, police, and civil society

Politics and Security

It is increasingly important that security and the rule of law are prioritized by the state and political stakeholders during periods of transition because states in transition tend to experience more violent crimes, and crimes that can destabilize the country and peace process. Financial, moral, and technical support is required from the state to strengthen the bodies that ensure law and order. However, it is equally important that security agencies, such as the police, are independent and free from political influence and interference. Without independence, the law will not be applied equally thereby sidelining the rule of law, and the public will continue to distrust the police, reducing the police's ability to provide security or even to properly file cases. Similarly, civil society can play an important role as change agents for the country, but civil society organizations risk becoming ineffective if politicized. The participants identified the following challenges related to politics and security:

Challenges: Politics and Security

- *Political pressure and interference in policing*
- *Police used as a state or political tool*
- *Politicization of civil society*
- *Political pressure and interference in judiciary and prosecutors' offices*
- *Political parties and affiliations calling or taking part in bandhs and chakkajams*
- *Lack of implementation of the Comprehensive Peace Agreement and other commitments or understandings*
- *Unclear security role of the Maoist's Young Communist League (YCL)*
- *Politicization of crimes*
- *The eight party consensus on issues currently supersedes the rule of law*
- *Political protection of or involvement in certain criminal activities (e.g. smuggling)*
- *Party politics and voter politics currently take precedent over national interests*

Recommendations to Address Political and Security Challenges

The recommendations participants made to address the political and security challenges fall into two general categories: fostering commitments to security and the rule of law from political parties and affiliates; and fostering government commitment to security and the rule of law. Each of these recommendations is discussed below:

Commitments from Political Parties and Affiliates

Participants reported numerous incidents in which political party cadre pressured prosecutors, and courts to withdraw cases, and pressured the police to release those charged with crimes or to ignore criminal activities. Similarly, petty crimes and accidents have reportedly been used as political platforms. This has occurred where political party cadre have used an automobile accident victim's family to call for a *chakkajam* to pressure the government for compensation, thus creating instability. Politicization of the police has also resulted in public distrust of the police, biased policing, and favoritism within the police institution.

Public distrust in the police and illegal activities have continued due to the slow implementation of the Comprehensive Peace Agreement. *Bandhs* and *chakkajams*, which have negative economic and security impacts on the country, have been called by political parties or have seen the active participation of party cadres and party affiliations. Public commitments from political parties and political will to implement needed reforms and support an independent police are necessary to have an effective and trusted police that can operate by the rule of law. The participants made the following recommendations related to fostering the commitment of the political parties and affiliates to rule of law and security:

- End pressure and political interference in policing
- End pressure and influence in judicial and legal system
- Resist politicizing crimes and other public incidents
- Abide by the rule of law
- Agree that the law should be applied equally, regardless of political affiliation
- Resist calling for or participating in *bandhs* and *chakkajams*
- Fully implement the Comprehensive Peace Agreement
- Define the CPN-Maoist's Young Communist League's (YCL's) role in society

Government and Security

A national security vision and strategy will serve to map out reforms and initiatives necessary to strengthen security and the rule of law. Considering the need for civil society's role in a democracy as providers of oversight on rule of law mechanisms, it is crucial that they are included in the consultations for developing this strategy. As the agency responsible for law and order, the Nepal Police should receive an increase in state resources to boost their effectiveness and morale. Similarly, to facilitate the local-level state – police initiatives on law and order, appointed bureaucrats should be knowledgeable about that community and security and the rule of law. Finally, to

further prevent movements that have the potential to turn violent, the state will need to pursue dialogue with groups voicing their grievances, fulfill commitments made to disenfranchised communities, and implement recommendations and mechanisms for addressing past abuses, which will also begin combating the culture of impunity in Nepal. The participants identified the following recommendations on fostering the government's commitment to security and the rule of law:

- Develop a national security strategy that takes into account the transitional period, the constituent assembly elections, and the long-term security needs of the country
- Prioritize state resources for security and the rule of law
- Fulfill commitments
- Establish mechanisms to combat impunity and corruption
- Implement recommendations by commissions and other mechanisms of accountability for past abuses
- Increase resources and support to the Nepal Police (*see Nepal Police section*)
- Encourage the Ministry of Education to make civic education a compulsory part of the curriculum
- Support police efforts to control criminal networks and armed groups
- Pursue dialogue with those groups launching legitimate movements, and with other marginalized groups
- Appoint and deploy Chief District Officers based on capacity, professionalism and knowledge of security and procedures to ensure appropriate and timely security measures and actions

Legal Reform and Judicial System

Just as it is imperative to have a strengthened legal code for upholding the rule of law, an independent judiciary and prosecutors office are necessary for security and rule of law. The legislative and judiciary are both components of the security sector, as they support the thorough and fair practice of the rule of law. Weak laws or a weakened judiciary or prosecutor's office can adversely affect the ability of police to carry out their duties effectively. The participants identified the following challenges related to legal reform, the judiciary and the prosecutor's office :

Challenges: Legal and Judicial System

- *Outdated Police Act*
- *Lack of kidnapping law; other laws are often employed that have lesser penalties in order to arrest perpetrators*
- *Absence of or deficient laws*
- *Inadequate coordination between police and prosecutors' offices*
- *Corruption with the judiciary and prosecutors' offices*
- *Political interference in the judiciary and prosecutors' offices*

Recommendations to Address Legal Reform and Judicial System Challenges

The recommendations participants made to address the challenges involving legal reform, the judiciary and prosecutor's office fall into two general categories: enacting and amending laws; and strengthening the investigative and judicial process. Each of these recommendations is discussed below:

Enact and Amend Laws

Many laws and acts are outdated or need to be amended and clarified to adhere to the principle of the rule of law. For example, the Police Act dates back to the 1950's and is not amenable to the needs of today. While a new Police Act is being drafted, consultation on the draft Police Act with the police, other components of the justice and security sectors, and civil society can aid in ensuring a comprehensive, responsive, and democratic police institution. Operational, professional, and ethical considerations can be addressed within the act, thereby transforming the police into public servants, and not a tool of any particular party or government. Also, there is an absence of criminal laws to address certain crimes, criminal networks, and modern or high-tech crimes. Participants of the sessions placed considerable emphasis on the need to enact a kidnapping law, citing that to arrest and prosecute perpetrators, police and prosecutors must employ other laws that generally carry lesser penalties. The participants made the following specific recommendations related to law reform:

- Enact a new Police Act that is
 - ~ Drafted through a consultative process
 - ~ Reflects a democratic and independent police institution
 - ~ Establishes the police as public servants
 - ~ Includes internal and external mechanisms of accountability
 - ~ Clear and transparent
- Enact a comprehensive Kidnapping Law that addresses both political abductions and socially or financially motivated kidnappings
- Amend the Arms and Ammunition Act and the Public Offence and Punishment Act to reflect a democratic system that upholds the rule of law, and supports the efforts of the police
- Enact new laws to address extortion, hooliganism, and cyber crimes
- Conduct a comprehensive review of current laws to determine which laws need amendment and clarification

Strengthening the Investigative and Judicial Process

The independence and accountability of the judicial system is central to the rule of law. Participants noted that the judicial system has been weakened due to political pressure and corruption, with cases often being withdrawn or with the tampering of evidence. A timely and comprehensive investigation and prosecution requires resources, independence, and coordination between the police and prosecutors' offices. In the absence of these, victims may seek alternatives methods

for justice, such as revenge, mob justice or parallel policing and courts. Therefore, the participants made the following recommendations to strengthen the investigative and judicial process:

- Ensure that investigations are carried out jointly by the police and prosecutors' offices
- Increase resources and materials for courts and prosecutors' offices, particularly information regarding legal and constitutional provisions
- Develop mechanisms to ensure and protect the independence of the judiciary
- Ensure that the judiciary and prosecutors' offices, and their staff, are accountable and free from corruption or political influence

Civil Society

To strengthen security and the rule of law, a vibrant and independent civil society can effectively and constructively engage the state and its institutions, as well as educate the public. Civil society can assist in developing a democratic and secure society that follows the rule of law by identifying areas of needed reform, calling to account the actions of both state institutions and the public, and enhancing the human rights culture in the security sector. Other activities contribute to reducing crime and violence, such as calling for dialogue to address problems or misunderstandings, developing poverty alleviation programs, and advocating for inclusion of marginalized groups.

Open communication with the police will serve both sectors, and some of civil society's activities regarding security and the rule of law can be carried out in coordination with the police. Such coordination could include developing public information campaigns on the role of the police or identifying areas where the police's role as human rights protectors can be enhanced. At the same time, it is important that civil society act professionally and not become politicized or use its civil society role to create divisions among society. Overall, constructive engagement with the police on issues of security and the rule of law will protect human security and strengthen institutions that maintain law and order. The participants identified the following challenges related to civil society:

Challenges: Civil Society

- *Political interference in civil society and its activities*
- *Politicization of civil society*
- *Division among civil society*
- *Biased or unverified reports in media*
- *Civil society organizations, human rights defenders, and journalists face increasing threats and attacks*

Recommendations Related to Civil Society

The recommendations participants made to address the civil society challenges fall into three general categories: advocacy; public education and awareness; and programs and activities. Each of these recommendations is discussed below:

Advocacy

Civil society has the opportunity to be agents of change through their ability to identify and call for needed reforms, commitments, and implementation. While state institutions often face a conflict of interest in advocating for change, civil society can play a role in calling for the independence, reform and strengthening of the security sector. Civil society, with access to the public and the state, can serve as watchdog and advocate for adherence to the rule of law. The participants identified the following areas where civil society could engage in advocacy:

- For an independent and accountable police institution
- For an independent and accountable judiciary
- For increased resources for the police in order to increase effectiveness
- For the Eight Political Parties to operate by the rule of law
- For the general public to abide by the law
- For the equal application of the law regardless of any political, social, or economic standing
- For the right to education
- For civic education to be part of the required school curriculum
- For establishment of mechanisms for inclusion

Public Education and Awareness

Public education and awareness campaigns can directly affect the way in which the public views the law and law enforcement agencies, as well as their civic responsibilities. Participants believed that with an increased understanding of issues related to the rule of law, the public will have more reasonable expectations of the police. This will in turn translate to a decrease in the number of *bandhs* and *chakkajams*, and an increase in the police's ability to actively combat crime. The participants recommended that the following public education and awareness topics be developed:

- Laws and regulations, and due process
- Democratic rights and responsibilities
- The role of the police and police procedures
- The importance of reporting crime and cooperation with the police during investigations

Programs and Activities

There are a number of programs and activities that civil society can engage in that will enhance the rule of law and security. For example, constructive engagement by civil society with the police, including sharing information and continued joint discussion on security issues, will increase police effectiveness. Also, civil society organization programs that address the root causes of crime, such as poverty and lack of education, can have lasting impacts for security and preventing crime.

Further, the media can fulfill an important role by holding state institutions accountable as well as boosting public confidence in the police and police morale by showing the positive steps taken by

the police. Finally, civil society can play an important role by developing and supporting victim assistance programs. Such programs would be quite important because participants conveyed concern over the lack of investigation of certain crimes, such as rape, and it was determined that often victims do not immediately report crimes or do not understand the filing, investigation, and judicial process. The participants recommended the following specific programs and activities that civil society could support:

- Effective poverty alleviation programs
- Constructive engagement of the police
- Continued communication and interaction with the police
- Victim assistance during reporting the crime, the investigation, and judicial process
- Verification of information for media reports
- Media reporting on the progress and good work of the police

Nepal Police

Policing in a democracy requires transparency, accountability, political independence, and responsiveness. It also requires that the police are public service minded and that the institution of the police is comprised of officers who represent the diversity of a community. Police in a democratic system are public servants and defend the rights of the citizenry of the country. Considerable state resources and support are required to effectively maintain law and order, as are political will and public confidence. This support will increase the morale and therefore the effectiveness of the police. However, it is also important that the operational and strategic development of the police reflect democratic principles. Sustainable institutional change and reform will rely upon a long-term strategy developed with the involvement and acceptance of civil society and the public. The participants identified the following challenges related to the Nepal Police:

Challenges: Nepal Police

- *Political pressure and interference in policing*
- *Lack of logistic resources*
- *Lack of qualified personnel*
- *Inadequate specialized training (e.g. investigations)*
- *Low morale*
- *Insensitivity or lack of understanding of local issues and cases regarding marginalized groups (e.g. rape, discrimination, etc...)*
- *Inadequate training in democratic policing, human rights, and proportional use of force*
- *Corruption, nepotism, and favoritism*
- *Unclear directives or lengthy bureaucratic process*
- *Unclear role of the Armed Police Force*
- *Public distrust in the police*

Recommendations Related to the Nepal Police

The recommendations participants made to address the challenges related to the Nepal Police fall into seven general categories: creating an independent police institution; providing resources; developing training; building trust; strengthening sensitivity and inclusion; fostering institutional change and providing directives. Each of these recommendations is discussed below:

Independent Institution

Political pressure has interfered in efforts to uphold the rule of law and undermines law and order. While civilian oversight is imperative, a police service that is independent of political interference both in fulfilling duties and managing the institution will increase the police's ability to provide security through democratic norms and values and adherence to the rule of law. Accordingly, the participants made the following recommendations:

- Ensure civilian oversight, but independence of the police as public servants and not a tool of the state or any political entity
- Foster a commitment from political parties and bureaucracy that there will not be political pressure on the police
- Establish a transparent mechanism to ensure merit-based transfers and promotions, and fair and equal reward and punishments

Resources

It was reported during sessions that Nepal's police to population ratio falls short of international standards. Therefore, participants suggested that an increase in human resources is required for a responsive police force. However, to ensure capable and professional policing, the minimum criteria for recruitment should require an appropriate level of education and social awareness. In addition to human resources, participants also indicated the need for logistic resources that improve the ability to respond and coordinate, as well as take appropriate action. Even equipment such as protective gear will provide confidence in the police's own security and reduce the likelihood for police action based on fear, rather than training. In summary, the participants made the following resource recommendations:

- Increase human resources
- Increase minimum criteria for recruitment to ensure a qualified and professional police force
- Increase Logistic Resources including
 - ~ Protective Gear
 - ~ Communication Equipment
 - ~ Vehicles
 - ~ Fuel
 - ~ Computers
 - ~ Cameras (investigative purposes)

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- ~ Less than Lethal Equipment for use of force situations
 - ~ Training on use of the logistical resources
 - ~ Improved living conditions, particularly at police posts

Training

Effective training requires time, repetition, and resources. As the police were militarized due to the armed conflict, re-orientation for the new context is required, as is orientation on the community to which they will be deployed. While senior officers often have opportunities for trainings, it is equally important that all levels of the police receive these trainings. Training in areas of specializations (e.g., criminal investigations, crowd control, forensics) will also increase the competence and responsiveness of the police. The participants made the following recommendations regarding training needs:

- Training opportunities should be granted to senior and junior officers
- Orientation and increased training are needed for the new and democratic context on topics including
 - ~ Rule of Law
 - ~ Human Rights
 - ~ Social and Human Security
 - ~ Democratic Policing
 - ~ Proportional Use of Force
- Specialization Training is needed on the following topics:
 - ~ Investigation
 - ~ Traffic
 - ~ Intelligence Gathering
 - ~ Technology and science

Building Trust

Participants indicated that the public has a low level of confidence in the Nepal Police because the police were mobilized in the armed conflict, were used as an instrument of the government during *Jana Andolan II* (April 2006 People's Movement), and have traditionally been used as a tool for those in power. Also, the public has a poor understanding of the role of police and their limitations, thereby creating unreasonable expectations of the police and people taking the law into their own hands. Engaging the public through community policing, taking part in social and community activities, and working with civil society on public education programs will over time build confidence and relations with the public. The public should also have increased access to police services, be able to lodge complaints without repercussions, and take part in evaluations of police, which can be considered during the process for transfer and promotion. The participants made the following recommendations for building public trust of the police:

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- Enhance the Community Policing Program by
 - ~ Increasing resources for this program
 - ~ Developing clear policies and procedures for community policing
 - ~ Extending the Community Policing Program to the district-level
 - Actively engage the public and participate in social and community activities
 - Make efforts to build relations with the community known to the public
 - Include input from the public in police performance evaluations
 - Improve police response time to incidents and crimes
 - Conduct public awareness campaigns, in coordination with civil society on topics such as
 - ~ Laws, rules, and regulations
 - ~ Role of the police
 - ~ Democratic rights and responsibilities
 - ~ Public security
 - ~ Police procedures, and process for filing cases or complaints
 - Establish a point of contact within each level of the security agency
 - ~ Train contact point in public relations
 - ~ Sharing information
 - ~ Point of contact for verification of information

Sensitivity and Inclusion

Part of policing in a democracy is to establish a police force that is representative of the people in the country and is sensitive and responsive to their needs and to victims. Participants reported that victims of discrimination, domestic violence, and rape were either not taken seriously at or turned away by police. This was determined to be in part due to a lack of understanding and awareness, which could be addressed by providing sensitivity training and information on the communities they are policing. Facilities and security for women being detained on charges were addressed, as participants cited incidents of gang rape and abuse. The women's cell was considered an important part of actively addressing gender-based violence and in improving the conditions for women in detention. However, increased resources, training and making the women's cell fully operational at the district-level are all needed. The participants set forth the following recommendations to enhance sensitivity and inclusion:

- Ensure that an inclusive and representative Nepal Police be part of the long-term security strategy
- Strengthen the women's cell and make it fully operational at the district-level
- Ensure adequate facilities and personal security for women in police custody
- Provide information to increase understanding about the community to which police are deployed

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- Conduct sensitivity training on topics such as
 - ~ Victim relations
 - ~ Marginalized groups
 - ~ Social Crimes: child marriage, prostitution, domestic violence, polygamy, etc.

Institutional Change

Strengthening security in transitional states often requires institutional reforms to ensure operational effectiveness, oversight and accountability, and good morale. To determine what reforms are needed, a comprehensive assessment of the security situation, the legal framework and justice and security institutions is needed. Recommended reforms can be made at the end of a comprehensive assessment. As participants noted, institutional reforms might include implementing fair and independent recruitment, transfer, and promotion practices to promote professionalism and ensure appropriate personnel are rewarded according to merit and placed in appropriate positions. Such reforms where police are treated respectfully and fairly within their system can have the benefit of increasing police respect shown to the public.

Participants also noted that while transparency and accountability mechanisms are imperative, it is equally important that these mechanisms consider the chain of command responsibility rather than placing sole responsibility of wrongdoings on junior officers. Participants pointed out that the work of the police is fundamental to the stability and progress of the country, and therefore benefits, salary, and working conditions should reflect their significance. Specifically, the participants made the following recommendations for institutional changes:

- Establish a commission to review the police structure and recommend reforms and improvements
- Carry out a needs assessment for the security sector
- Build a culture of respect within the police structure
- Establish a transparent oversight mechanism to ensure merit-based transfers and promotions, and fair and equal reward and punishments
- Ensure the transfer policy takes into account ability, professionalism, and performance so the appropriate person is deployed to the appropriate place
- Establish accountability mechanisms that are transparent, and take into account the chain of command and responsibility of those who issued orders
- Provide benefits, reasonable working hours, an increase in salary and rations, and paid leave; this can be a deterrent to corruption and increase morale
- Ensure that the retirement policy is consistent with the Nepal Government's Civil Act

Directives

Media reports and civil society have asserted that the Nepal Police have acted as bystanders or have taken excessive action. However, during sessions, participants noted that in many cases

the police were prevented from acting by special orders or directives, which were not made public. This lack of transparency placed the police in a difficult position and caused the police to be scapegoats for public anger over their apparent lack of responsiveness. Therefore, publicly known standing instructions that address the transitional period are required. There is also a lengthy bureaucratic process for police action requiring direction or confirmation from CDOs and the Home Ministry. This often results in an escalation of violence prior to police receiving official direction. In addition, the role of the Armed Police Force (APF) in maintaining law and order has been unclear. Some joint operations have resulted in an ambiguous chain of command, despite the APF officially being back-up for the Nepal Police. Additionally, emphasis on instructing and briefing junior officers prior to police action can prevent excessive use of force. Specifically, the participants made the following recommendations regarding directives:

- Increase transparency: make directives public
- Directives should be clear, consistent and appropriate for the changing context of Nepal
- Expand Criminal Investigation Bureau to operate at the District level
- Provide clarify the role of the APF and operating guidelines for joint action
- Increase on-site police authority in order to ensure effective, timely, and appropriate responses
- Clear briefing and instruction to junior officers prior to action, to prevent excessive use of force

CONCLUSION

It is the hope of the participants in the dialogue sessions that their recommendations will assist in strengthening security and the rule of law in Nepal. Implementation of the recommendations will require political will and commitment from civil society, the police, political parties and other institutions to move forward on the process of strengthening security and the rule of law. From the dialogue sessions, civil society and the police have taken extraordinary steps in beginning this process. In each district, focal points from civil society and the police were identified and lines of communication have been established. In nearly all districts in which the program has been held, civil society and the police, as well as some CDOs, have taken initiatives to continue these dialogues and have held discussions on security as well as on cases and issues arising in the district. Genuine commitment at the central level to prioritize resources for police and address the many political and economic issues that have contributed to instability will significantly contribute to decreasing crime that could destabilize the country as it moves towards a democratic state.

ANNEX 1

Nepal in Transition: Developing Security and Rule of Law Strategies

Interactive Dialogue Sessions – Joint Outcomes

Kathmandu, Nepal February 20-23, 2007

The following is a list of agreed challenges, observations, and solutions developed by participants during the Nepal Police – Civil Society dialogue on security and the rule of law in Nepal, held in Kathmandu, Nepal on February 22, 2007.

Ongoing Violence

- Although Nepal is in the post-conflict and transitional phase, conflict and violence continue throughout the country.
 - There are splinter groups and others carrying out violent activities, including abductions and extortion.
- The comprehensive peace agreement and ceasefire code of conduct should be followed and implemented to the fullest extent.

Changing Context

- While there is some commitment to addressing security and the rule of law, it has not translated into effective implementation.
- Decision-makers, in order to provide a more secure future for Nepal, should consider security and the rule of law under the new and changing context.
- A national strategy and vision are absent, but are necessary for developing appropriate security and rule of law strategies for the new context of Nepal.
- Former combatants must be part of the nation-building process. Therefore, a program that reintegrates them as vital members of society, in conjunction with a holistic plan for the nation must be developed.
- Civil Society should be committed to and participate in developing and implementing the plan to combat serious crimes.
- The rule of law must prevail and be applied equally and without allowing any group or individual to act with impunity. The rule of law must be carried out without facing undue political pressure or other interference.

Providing Security

- There are resource constraints for providing security and upholding the rule of law.

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- In order to provide more appropriate and immediate security and rule of law, more authority should be provided to field commanders.
 - The needs of the security sector should be identified, which provides information on the organizational challenges and needs of that sector; then reforms can be implemented as needed.
 - Civil society should advocate for a police institution that is free from undue interference and lengthy administrative processes.
 - In providing security and upholding the rule of law, the police should be able to take appropriate and proportional actions against any person carrying a weapon.

Judicial and Legal System

- The judicial system needs to be strengthened and reformed as necessary, as it is a supporting mechanism for security and the rule of law.
- Currently many laws are outdated or weak. Therefore, existing laws need to be reformed, and new laws introduced to address crimes such as kidnapping and hooliganism, to strengthen the rule of law in the country.

Transforming Society

- There is a continuing culture of impunity in nearly every sector of society that must be addressed for the adherence to the rule of law.
- Avenues of dialogue and political process should be pursued before holding public demonstrations or protests.
- Regardless of who is responsible, any unrest or loss of life and property is a loss for all of Nepali society, and is a loss for each political party.
- Public education should be carried out so that all understand the practices of policing and providing security under a democracy.
- All are equal before the law and the rule of law and security must be carried out under that fundamental premise.
- Civil society must educate the public on security and rule of law issues.
- To strengthen and support the police in their efforts to uphold the rule of law, a joint police/civil society coordination committee could be formed, with specific regard to the local level.
 - This will assist in developing communication and addressing issues or concerns more efficiently and constructively.

ANNEX 2

Nepal in Transition: Strengthening Security and Rule of Law Interactive Dialogue Sessions – Joint Outcomes

Nepalgunj, Nepal

May 16-17, 2007

translated to English from original Nepali

The following is a list of agreed challenges, observations, and solutions developed by participants during the Nepal Police – Civil Society dialogue on security and the rule of law in Nepal, held in Nepalgunj, Nepal on May 17, 2007.

Guiding Principle

Security is an integrated approach that includes the police, but also includes other security agencies, government offices, political parties, the judiciary, the legislative, and, importantly, civil society.

Transitional Period

- Develop security strategies to address the transitional period
- Special instruction for the Nepal Police regarding the transitional period, which should be disclosed to the public
- Mindsets need to be changed to fit the new context
- Equal enforcement of the law, regardless of affiliation
- Continuing violence and an increase in illegal activities and crimes
- Illegal demonstrations and use of arms
- Violations of the peace agreement

Legal System

- Judiciary and prosecutors' offices must be responsible and operate without political interference
- Existing laws are inappropriate for the changing context
- Some laws are outdated, including the Nepal Police Act

Security and the Public

- Enhance relations between the police and people (increase public awareness about the responsibilities of the police)
- Increase public access to police services

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- Increase public awareness regarding illegal arms and process for handing over the weapons to the police
 - Initiatives should begin for the creation of community police
 - Police should actively participate in community and social activities to increase public interaction and trust

Nepal Police

- Police are protectors of the rights of people:
 - Committed for public service
 - There should be no unnecessary political interference
 - The police should be able to exercise their authority, transparently, and with government oversight
- The Nepal Police should be restructured
- The Police Service Commission should be established
- Reform transfer policies (the right person should be placed in the right position)
- Increase specialized trainings: investigation, intelligence gathering, traffic, etc...
- Ensuring a fair and equal process for selecting participants for trainings
- Establish a transparent internal accountability mechanisms

Civil Society and the Police

- Civil Society and the Police share common issues and concerns about security
- Information sharing and coordination:
 - Regular assessment meetings
 - Information sharing
 - Mapping the at-risk and high-risk areas for crime and illegal activities in Nepalgunj
 - Carry out an assessment of the roles of civil society and the police, their coordination, and processes for fulfilling those responsibilities
 - Inclusive meetings; that reflect the diversity of Nepalgunj

Eight Political Parties

- There should be common strategies and an integrated approach regarding security strategies
- End political interference in order to strengthen the rule of law and security
- There must be clear, consistent and transparent instructions for the police
- There is distrust in state institutions, due to unfulfilled political commitments, which often translates into distrust of the Nepal Police

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- Prioritize state resources for strengthening security and the rule of law
 - There is a lack of awareness about the roles and responsibilities of the police among the political parties
 - There is lack of political will to end impunity
 - Strikes:
 - Negatively impacts essential services of the people, including health
 - Diverts the attention of police from ensuring security and law and order
 - Dialogue should be pursued, rather than strikes, for resolving problems

ANNEX 3

Nepal in Transition: Strengthening Security and the Rule of Law Interactive Dialogue Sessions – Joint Outcomes

Lahan, Nepal

May 30-31, 2007

translated to English from original Nepali

The following is a list of agreed challenges, observations, and solutions developed by participants during the Nepal Police – Civil Society dialogue on security and the rule of law in Nepal, held in Lahan, Nepal on May 31, 2007.

Transitional Period

- Illegal demonstrations and use of arms
- Violent activities from newly emerged armed groups is increasing
- Carry out public awareness by civil society regarding the rights and responsibilities in a democratic system
- Conduct awareness programs to reduce the unrealistic ambitions of the people
- Develop collective security strategies to address the transitional period
- Formulate a special policy on the transitional period for police, which should be made public
- Equal enforcement of the law and develop an accountability system

Legal System

- Amend those existing laws that are inappropriate for the changed context, including Arms and Ammunition Act, Some Public Offence and Punishment Act, etc.
- Effective implementation of existing laws
- Judiciary and prosecutors' offices must be responsible and operate without political interference
- Immediately draft some new laws, including on abduction, extortion, etc.
- Establish the rule of law, instead the rule of individuals

Public and Security

- Increasing attacks on human rights organizations and defenders, and journalists

- There is a lack of clarity about security mechanisms e.g. role of armed police should be identified in the new context
- Ensure the security of the people
- Establish a contact office and person within the security agencies, to contact in order to help verify incidences and news reports for human rights defenders and journalists
- Police need to take initiatives to increase public confidence
- Increase the cooperative attitude and discourage the negative mindset, from both the police and the public
- Initiate a partnership program between police and people (the concept of community policing into practice and establish small community units comprised of local people in cooperation with the community)
- Civil society should initiate activities that increase trust between police and civil society, such as understanding the role of the police, procedures for enforcement of the law
- Increase and make easy access to the police for the public
- Police should actively participate in the community and social activities to increase public interaction and trust
- There is a need to change the prejudiced mindset
- Police should immediately address local problems such as caste discrimination, rape, etc.

Nepal Police

- A Study should be undertaken to investigate the legality of police action, and action should be taken if the law is violated
- Police should seriously consider the issues raised by human rights defenders and news published and aired by journalists
- Establish effective reward and punishment policies
- Increase the skilled human resources within the police
- Reform the recruitment and selection process in the police
- Enhance police morale
- Establish an independent commission for internal review
- Police are protectors of the rights of people:
 - Accept the supremacy of people
 - Committed for public service
 - There should be no unnecessary political interference

Civil Society and the Police

- There is a need to remain away from allegations/blame and to take responsibility for actions
- End the distrustful environment

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- Carry out self assessments
 - Implement a policy of coordination, cooperation and co-relation
 - Separate the wrongdoings of individuals from the wrongdoings of an institution
 - Civil society should be involved to increase the legal awareness of ordinary civilians
 - Protection of on-the-scene evidence and cooperation for testimonies for effective investigations
 - Information sharing and coordination between police and civil society:
 - Regular assessment meetings
 - Information sharing
 - Carry out an assessment of the roles of civil society and the police, their coordination, and processes for fulfilling those responsibilities
 - Discussion on local problems
 - Working coordination

Media

- End the practice of publishing and airing news reports without verification (cheap publicity), which encourages communal violence
- Enforce the code of conduct established by the media for the media
- Responsible and accountable journalism
- Respect the profession

Eight Political Parties

- There is lack of political will to end impunity
- End the practice of ruling the country based on consensus of eight political parties, instead the country should be run based on the law
- End the pressure on police from political sectors during the implementation of laws (particularly the police receive pressure from political actors to release persons involved in crime)
- There should be common strategies and a collective approach regarding security strategies
- There must be clear, consistent and transparent instructions for the police
- Increase state resources for the police
- Dialogue should be pursued, rather than strikes, for resolving problems
- Security and other government agencies should carry out their work responsibly to create a conducive environment for carrying out their duties
- Strikes and Blockades:
 - Negatively impacts on essential services
 - Distracts the police from ensuring security

Nepal in Transition: Strengthening Security and the Rule of Law Interactive Dialogue Sessions – Joint Outcomes

Dhangadhi, Nepal

July 1 – 2, 2007

translated to English from original Nepali

The following is a list of agreed challenges, observations, and solutions developed by participants during the Nepal Police – Civil Society dialogue on security and the rule of law in Nepal, held in Dhangadhi, Nepal on July 2, 2007.

Bandhs and Movements

- Bandhs are called for insufficient reasons, which disturbs public life and diverts the police's attention from other law and order issues.
- Violence and public disturbances are the only way in which groups can gain the government's attention, resulting in an increase in bandhs, vandalizing, and armed groups.
- Mechanisms should be developed for marginalized groups to have their voices heard by policy-makers, and the government should include these groups in decision-making. This would decrease the number of chakkajams and bandhs, as well as prevent violence, which are often the only ways for the government to listen.
- Public education should be carried out on law and order and on democratic rights and responsibilities to decrease the number of unnecessary bandhs.

Boosting Police Morale = Boost in Effectiveness

- Improve facilities; currently many posts do not have clean water, shelter, etc... and police are living at sub-human standards
- Provide appropriate benefits; ensure paid leave and reasonable working hours

Police Institution

- Strengthen the Women's Cell
- Increase resources and Manpower. This will also assist in reaching remote areas and responding to cases more effectively
 - Vehicles
 - Fuel
 - Communication Equipment
- Modernize Equipment and Weapons. Current equipment and weapons are outdated, or are inappropriate for the current situation.
 - Less than lethal weapons
 - Shields and more effective gear

- A new system on Leave and Work Management is needed
- New training and orientation is needed on policing in post-conflict and in a democracy; the police were militarized to combat the insurgency and are not adequately prepared for their daily duties of maintaining law and order.
- Training opportunities, promotion, and transfer should be merit-based
- Rules for transferring and promoting should be transparent
- Recruitment should focus on getting educated (SLC)
- Recruitment to police must be more inclusive; the police need to be more representative of Nepal's population
- The public or community should also be part of the evaluation of police up for transfer or promotion

Legal Action

- Amend or develop new Police Act that is updated and relevant to a democratic Nepal
 - a Police Act that establishes the police as providing service to the public and not as a tool of the state
 - it should make the police accountable to the public
 - it should be clear and transparent
- Joint investigation with police and prosecutor's office
- Some existing laws are too vague and therefore can be manipulated

Central Level

- Divisions within the 8-party alliance make it difficult for consensus and decisions, and of implementation of agreements.
- Breaches of the Comprehensive Peace Agreement need to end immediately
- Need political will and commitment to strengthen security and the rule of law, and strengthening the police as the only agency and legitimate actor for upholding law and order
- Orders and directives need to be clear and consistent, and made public
- The role and responsibility of the Armed Police Force (APF) must be clearly defined and made public, along with a clearly stated chain of command when police and APF are working simultaneously; the APF should be used only in emergency situations
- Fulfill political promises, such as rehabilitation of freed Kamaiya
- CDO's should be selected and deployed based on capacity, professionalism, and knowledge of security and procedures so that they can make appropriate and quick decisions and coordinate security actors
- Security needs to be prioritized and focused on especially because there must be more security for the CA elections to take place in a free and fair environment
- Groups launching peaceful movements for inclusion should be listened to and their issues addressed by the government

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- The political parties need to change and operate under the new context

Law and Order

- Confiscation of land by CPN-M/PLA should end, and property should be returned as agreed to in the CPA
- Former combatants should not leave cantonment areas with weapons
- YCL activities that have a negative impact should end
- The law should be upheld equally and there should be no undue interference from political parties or other political elements
- Action should be taken against smuggling regardless of political affiliation or ties
- As the CPN-M has joined the government, parallel policing, courts, governance, etc. should end
- Deforestation should end and action should be taken against those responsible regardless of political affiliation or ties
- Continuing discrimination, domestic violence, and dacoit crimes
- Culprits of any crime should not be protected or released from custody by political party influence
- Increase coordination among security actors; the local security committee should be made more effective
- Police should be able to collect illegal weapons and charge those carrying

Police and the Public

- There is distrust of the police and a gap between the public and the police'; civil society can be the middleman
- In order for community policing to work there must be an increase in resources and in developing clear cut policies on procedures and management
- Sensitive and respectful response to victims should be increased within police
- Communication between police and victims, or those filing case, needs to improve
- Continue civil society-police meetings to discuss issues affecting security in Kailali

Civil Society

- Civil Society is facing difficulty to work due to the security situation, as well as being divided or unorganized
- Political interference and pressure of civil society should end
- Public awareness on the police's role, responsibilities, and rights should be undertaken
- Pressurize the 8-party alliance to operate by the Rule of Law
- Launch initiatives that guide and support women in order for them to file cases immediately upon being victimized (rape cases, domestic violence, etc...)

Nepal in Transition: Strengthening Security and the Rule of Law Interactive Dialogue Sessions – Joint Outcomes Bhadrapur/Chandragadhi, Nepal July 31 – August 1, 2007

translated to English from original Nepali

The following is a list of agreed challenges, observations, and solutions developed by participants during the Nepal Police – Civil Society dialogue on security and the rule of law in Nepal, held in Bhadrapur, Nepal on August 1, 2007.

Bandhs and Chakkajams

- Fully implement the consensus and understandings agreed on between political parties and police/administration [in Jhapa] to create a “free-area” from *bandhs*, and *chakkajams*
- Conduct collective awareness programs to remove the false understanding of the ordinary people about movements
- Disseminate information on positive changes to the people to reduce the activities of *bandhs*, and *chakkajams*

Ongoing Security Concerns

- All sectors should support the ongoing police efforts for investigating serious crimes
- Control the activities of anarchic and criminal groups
- Civil society and political parties should support the Nepal Police in efforts to neutralize provoking elements that may create disturbances in communal harmony
- The illegal activities of the YCL should end, even though these activities are not as prevalent as in other parts of the country
- Basic needs for the Bhutanese Refugees should be provided in order to prevent a spillover of criminal activities from the refugee camp into local communities, in order to reduce local deforestation

Nepal Police and Civil Society Initiatives

- Police and Civil Society should carry out awareness programs, led by civil society, about the rights and duties of the people
- Police and civil society should regularly interact with local communities to increase the confidence of people in policing in order to make it easier for investigation processes
- Civil society should regularly advise and provide suggestions to the police

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- Civil society should support the implementation of the “special security plan” prepared for the security of the refugee camps [in Jhapa]
 - Civil society should monitor to ensure the impartiality of the police/administration while carrying out their duties
 - Civil society should assist people who have complaints/concerns and may be denied justice, and bring those concerns as well as identified weaknesses of the police to higher authorities of the police
 - Civil society should advocate for the needs of the police for strengthening security and the rule of law to policymakers
 - Civil society should support police for law enforcement but also act as “watchdog” over police activities
 - Continuous dialogue should be held between the civil society, political parties and police/administration to address the situation of the transitional period

Nepal Police

- Develop Specialization within the Nepal Police such as in “Investigations,” the following will be needed for this:
 - Qualified human resources
 - Training in each specialization area
 - Equipment and logistics, such as cameras for crime scenes and computers for documentation of criminal records
- Processes for transfer, promotion and other professional opportunities should be based on work performance and qualification, which should be fully implemented
- Nepal police should be developed as an independent and inclusive institution
- Issues related to “untouchability” and women should be seriously addressed
- To increase the morale of police the following should take place:
 - Training
 - Appropriate facilities and salary
 - Paid leave
 - Increase police personnel at the police posts
- Increase the resources for strengthening the “Women’s Cell” and appropriate training should be provided after recruiting women from local communities
- Minimum qualification for police recruitment should be elevated to develop the police as an institution with capable human resources

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- Retirement policy of Nepal Police should be made consistent with the Nepal Government's Civil Act
 - Expand the "Criminal Investigation Bureau" to operate at the District-level

Political Parties

- Ongoing movements aiming to create political instability that emerge based on ethnicity, language, sectors, etc should be politically resolved
- Implement the commitments made to the people during and after Jana Andolan- II
- Political entities should not put any form of pressure to hide criminal activities or to release criminals from police custody
- Police and civil society should not be politicized
- There should not be any form of political interference during law enforcement, despite the ongoing need for dialogue and consensus of the eight political parties during the transitional period
- Political parties should be committed to ending the culture of corruption and fully implement that commitment
- Political parties should instruct their local level cadres to stop all type of interference in policing duties
- Practice of dialogue, discussion and consensus should be continued at the local levels to strengthen the security situation

ANNEX 6

Nepal in Transition: Strengthening Security and the Rule of Law Interactive Dialogue Sessions – Joint Outcomes

Bharatpur, Nepal

August 12 – 13, 2007

translated to English from original Nepali

The following is a list of agreed challenges, observations, and solutions developed by participants during the Nepal Police – Civil Society dialogue on security and the rule of law in Nepal, held in Bharatpur, Nepal on August 13, 2007.

Political Parties and Affiliations

- Political pressure or interference in policing and prosecuting cases should end
- The political parties should sign a written commitment to not interfere in policing and to allow due process
- CPN-M should end any continuing parallel systems
- The YCL should review their cadre and expel all criminal elements
- A clear decision from the EPA on the role of the YCL in security should be made
- Political parties should focus on national interest rather than focusing on power politics
- Political parties should end the old mindset of the Nepal Police as an instrument of a party or government
- The political parties and other groups should begin viewing the police as providing service to the public
- The politicization of crime must end
- Political parties should support policing efforts, and prioritize and operate by the rule of law and due process
- Political parties should refrain from participating in or calling for *bandhs and chakkajams*
- Impunity must end
- Political parties should understand that there are limits and challenges to providing security for a free and fair election, and should therefore prioritize security needs
- Political parties should work closely with the police on conducting the Constituent Assembly Elections

Nepal Police

- Social crimes such as child marriage, polygamy, and prostitution can be better addressed through community policing programs
- There needs to be an increase in qualified human resources
- Training in human rights and other areas should extend beyond the higher ranking police, to the constable level
- Logistic resources for the Nepal Police should increase, including:
 - Communication equipment
 - Vehicles
 - Computers
 - Better Living Accommodations
 - Modernize the police – update equipment and training
- For the police to be responsive it is important to provide them adequate resources, accommodations, and livelihood: the salary for police should increase so they can provide for their family
- The police will need to increase their ability to rapidly respond in order to decrease parallel policing that takes place
- Promotion, recruitment, and transfers in the Nepal Police should be based on fair practices and merit
- Criteria for recruitment should be increased for a more qualified police force
- Sensitivity training and information on the community in which a police officer is deployed are important to building understanding and trust with the public
- The police should be an active member of their community, which will increase trust and communication with the public
- Core values and a vision for the police should be more fully developed, and should include compassion, courage, and respect
- To increase morale and effectiveness, a culture of respect and dignity within the police institution should be implemented
- Community policing efforts should be made known to the public
- Specialization in Investigation should begin, and scientific capability strengthened
- Technological advances will assist in effective investigation of high-tech crimes

Laws and the Judiciary

- There is corruption in the justice system, which further decreases access to justice for victims

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- Laws that address certain crimes need to be introduced, such as a kidnapping law
 - Laws need to be strengthened or updated
 - Public law should be applied equally regardless of affiliation or profession
 - The courts and legal offices need to be better equipped; they often do not have enough information on legal and constitutional provisions
 - The rule of law should be applied equally

Education

- Civic education, particularly on rights and responsibilities, must be introduced into the curriculum and should be made a priority by the Education Ministry
- Education on issues such as sexual abuse, drug use, etc... should be introduced in schools to decrease crime
- Education should be available to all sectors of society; if communities are educated crime rates will go down, and social crimes such as domestic violence, child marriage, and prostitution will diminish

Civil Society & the Public

- Civil society is not as strong as it has been in the past
- Politicization of civil society should end
- Civil society should advocate for civic education to be a part of the standard curriculum in the country
- Civil society can play a role in bridging the public and the police and increasing coordination between them
- Civil society should educate the public on laws and due process
- Civil society can build public awareness to increase respect for female police officers
- Civil society should conduct and advocate for poverty alleviation programs, social welfare, and education – all of which will reduce crime
- The integrity of the public should be improved to build mutual trust and respect (e.g. improve public facilities)
- Civil Society and the police should continue to communicate and interact to develop mutual understanding and coordination
- The media should act responsibly
- The media can play a role in increasing police morale and building public-police trust by showing news of the positive steps the police take
- Civil society should constructively engage the police

Nepal in Transition: Strengthening Security and the Rule of Law Interactive Dialogue Sessions – Joint Outcomes

Butwal, Nepal

August 23 – 24, 2007

translated to English from original Nepali

The following is a list of agreed challenges, observations, and solutions developed by participants during the Nepal Police – Civil Society dialogue on security and the rule of law in Nepal, held in Butwal, Nepal on August 24, 2007.

Politics and Security

- Political parties, their affiliates, and cadres of political parties should end their pressure and interference in policing
- Civil society should be independent and not be politicized
- The Comprehensive Peace Agreement should be implemented
- Any continuing parallel systems of policing or for justice should be discontinued
- Former PLA combatants and Nepal Army must not leave the cantonment areas or barracks with weapons
- Crimes, even petty crimes and road accidents, are being politicized, which should end
- Political parties should support policing efforts, and prioritize and operate by the rule of law and due process
- Strong initiatives to end impunity should be undertaken
- Lower ranking cadres should be informed and held accountable to abiding by the agreements made by their parties or affiliations
- *Bandhs* and *Chakkajams* should be discouraged by the political parties
- Political parties should focus on nation building, rather than voter politics

Nepal Police

- The organizational structure of the police should be modernized and reflect the new context of the country
- A commission to improve the institution of the police should be set up
- The institution of the police should improve gender equality
- The women's cell should be strengthened

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- Provisions for women in custody should be made to ensure their security and that their basic needs are provided
 - There should be an increase in qualified human resources in the police
 - Recruitment policies should be improved to ensure that the minimum criteria will provide the police with qualified personnel
 - A culture of respect within the ranks of the police force will increase morale
 - The police should operate independently, as public servants and not the tool of any political party
 - Logistic resources for the Nepal Police should increase and be modernized
 - Transparency should increase and information not deemed confidential be shared more with the public
 - Clear directives should be given to the police, and the responsible agencies for issuing orders should take responsibility for the consequences
 - Poor living conditions for some re-established police posts must be improved, which would also improve the morale and motivation of those police
 - Social security should be part of the training or educational curriculum for police
 - The police should interact with the community; community policing programs should expand to the district and local levels
 - Capacity should be built for investigations to be carried out effectively
 - Authority should be given to onsite police to assess the situation and determine appropriate action
 - Prior to police action, briefing and instruction to junior officers should be improved to prevent excessive use of force
 - More training is needed on proportional use of force
 - Training opportunities should be provided for junior officers and constables as well as senior officers
 - A transparent oversight mechanism for police action should be initiated that addresses transfers, promotions, rewards and punishments, as well as police action; this can protect junior officers who have followed orders, while holding accountable seniors who order commands, ensure a fair and merit-based system, and increase public trust in the police
 - Corruption within the police should end; providing adequate resources and income by the state would help deter corruption practices

Civil Society & the Public

- Civil society continues to be divided and is often not independent
- Politicization of civil society should end; civil society should act neutrally
- To be effective as watchdogs, civil society should be nonpartisan
- Civil society should act as advocates for the public and political affiliations to abide by the rule of law
- Public awareness should be raised on the limited resources and challenges to providing security, as well as the importance of reporting crimes and cooperation with the police
- Civil society should carry out public awareness programs on rights and responsibilities
- Civil society and the police should have good cooperation to improve security and the rule of law
- In addition to identifying shortcomings of the police, civil society and the media should mention the good works as well
- The media should also be non-partisan and neutral
- Trust and confidence should be built between the police and civil society
- Civic education should be part of the educational curriculum
- The expertise of the private sector can be utilized for policing efforts
- Civil society should call to account those elements of intimidation operating in society

Directives, Laws, and Process

- The Police Act should be updated
- Laws that address certain crimes need to be introduced, such as a kidnapping law, and a law to address cyber crimes
- Clear directives should be provided to reduce confusion and that are appropriate for the new context
- Directives should be issued that specifically address the increasing criminal elements and armed splinter groups
- Public education on existing laws and regulations should be carried out
- The practice of resolving road accidents on site should end, moving the process for filing and resolving cases to police stations and the courts
- The law should be applied equally regardless of affiliation
- The interim parliament should hold discussions on the gap between political decisions and the law



**Nepal In Transition : Strengthening
Security and the Rule of Law**