

RECOMMENDED SECURITY SECTOR REFORM PROGRAMS IN NEPAL

While this is not an exhaustive list of SSR programs that are required for Nepal, it is a snapshot of programs that can address the priority areas set forth by the civil society members, including representatives of Nepal's human rights, dalit and janjyati rights, development, student, media, and academic communities, who participated in the USIP program on security sector reform and the role of civil society. The recommendations are divided along the lines of strategic recommendations and programmatic recommendations.

Strategic Recommendations

1 First Principles

Returning to “first principles” is a process by which a country identifies its core values and national interests through public discourse. In a country, such as Nepal, where competing ideologies exist, it is vital to conduct widespread and meaningful public engagement in seeking to concretely identify Nepal’s core values and national interests. It is crucial to identify a common basis in terms of values and interests in advance of undertaking any form of SSR. Recognizing the inherent difficulty in deriving a universally agreed upon set of values and interests, a process of national dialogue may serve as a valuable foundation for the development of the security sector and will inform SSR programs. Civil society can play a central role in highlighting the importance and need for a national dialogue on first principles.

2 Defense Review and Threat Assessment

As Nepal identifies its core values and national interests, it will also need to decide how it will use its institutions, such as the military and police, to defend those interests at home and abroad. The crucial question is “how will Nepal use its strategic and government instruments to defend, project, pursue, and protect its national interests and core values?” The process of determining how security instruments should defend these interests will inform policy, doctrines, and how the security sector is equipped. A defense review and a threat assessment are inherent elements of the debate on any potential military or police reforms. A *defense review* assesses every aspect of defense institutions and essentially determines what is and is not working within the context of the country and its needs as informed by the first principles. The process should be inclusive and should be conducted with the participation of state and non-state actors. A defense review will also inform laws, roles, and policy of the defense sector, as well as recruitment strategies and the process for integration during a DDR program. A *threat assessment* is a review of the internal and external threats, as determined by Nepal, that are priorities in the country. This comprehensive assessment of security determines options for addressing threats

caused by natural disasters, as well as criminal activities, cross-border security issues, and continuing hostilities by splinter groups. These will inform the strategy for SSR and for both the security and development agendas of the country.

The assessment and review should be civilian-led with the participation of a wide variety of stakeholders. It should also be conducted based on Nepal's world perception and perception of security issues within the country, rather than being determined or unduly influenced by external actors. Again, civil society will be key in calling for these exercises to take place and should be included in both of the processes.

Programmatic Recommendations: A 10-Point Plan

1 Combating Corruption and Nepotism in the Security Sector

Without pre-empting its findings, a defense review of Nepal would most likely identify the combating of corruption and nepotism in the security sector as a priority. As such, legislation, informed by civil society, would need to be passed to create mechanisms for transparency and accountability and to include corruption and nepotism as criminal offenses under Nepali domestic law. As part of efforts to combat corruption and nepotism, the legislature could pass legislation on the criteria for promotion within the police and military as an important safeguard. The military or army act should also address the issue of corruption and nepotism, as well as establishing appropriate conduct for the army. Legal reforms are an important facet in the fight against corruption. Changing the mindsets and deeply-entrenched institutional practices of corruption and nepotism could, however, take at least one generation. Civil society has a responsibility to bring these issues to the attention of the parliament, as well as during a defense review.

2 Code of Conduct

A code of conduct, informed by the first principles and by the Constitution of Nepal, should be implemented for the army and for the police. This too will assist in combating corruption and nepotism, but will also be vital in holding the security forces accountable for their actions. The code of conduct should contain the legal requirements of the security forces, but should also be a list of "do's and don'ts". Guiding principles, such as professionalism, accountability, and operational mandate and doctrine should be the basis for the code of conduct. As a prerequisite to joining the army or the police, new members would be required to agree to abide by the code of conduct. Civil society should advocate for the code of conduct and should furthermore be included in informing the substantive content of the document.

3 Joined-Up Government

Civil society believes that the various security and development institutions of the government must effectively communicate and coordinate with one another in the course

of their work. The ministry of defense, home ministry, finance ministry, ministry of water resources, ministry of local development, for example, must work jointly with the justice sector and security institutions, particularly as Nepal transitions out of conflict. First an evaluation of policy and the mechanisms required to achieve each security and development goal should be conducted. Only then can the appropriate agencies begin to work on effective inter-agency dialogue and coordination.

4 *Representation and Equal Opportunity*

A lack of representation and equal opportunity in the security sector are problematic. Civil society proposes that there should be public discourse and continued dialogue among government and civil society bodies, on ways to determine appropriate and proportional representation within the security sector. Criteria could be based on geographic representation or ethnicity, language, and gender. A list of criteria should be included in legislation that provides mechanisms for implementing these representative principles. While representation in the security sector may not be equal to the proportionalities in Nepal, targets should be set that satisfy the general public. This will lead to greater acceptance of the security sector among the people and to greater accountability from the security sector. Legislation will also need to address equal opportunity, possibly tempered with positive discrimination programs to increase representation within the higher ranks. The targets and frameworks should be reasonable and not jeopardize the operational effectiveness of the security institutions. Civil society again will be a primary agent calling for change and representation, while raising awareness among law-makers of the link between representation, confidence in the security sector, and accountability to the people.

5 *Increasing Transparency & Combating Impunity*

In order to increase transparency, democratic oversight of the security sector needs to be strengthened. Civil society proposes to lobby political leaders to focus on democratization of the security sector and to lobby for strengthening democratic oversight. In tandem with civil society's strategy to increase transparency and combat impunity, development donors may also play a significant role through the use of mentoring programs that assist or advise government oversight bodies for building capacity.

In an effort to increase transparency, many members of civil society strongly believe that the military court system, which has been frequently abused in the past, should be disposed of and replaced by a single, public court system.

6 *Justice Reform*

In order to combat the serious criminality that is plaguing Nepal in its transitional period and to ensure enhanced access to justice and recourse for criminal acts committed against the civilian population, there is a great need to establish additional courts, and to increase

the numbers of lawyers and judges operating outside of the capital. Capacity-building programs may also be carried out for lawyers, state prosecutors and judges.

Due to the concerns relating to a lack of judicial independence and the politicization of the judiciary, civil society believes that it is imperative for legislation to be introduced to safeguard judicial independence and impartiality.

It is also important, in civil society's view, to ensure that laws on witness protection are used to protect witnesses that are under threat. Access to justice, particularly in rural areas, could require exploring local or indigenous justice systems, and possibly integrating those local systems into the wider justice sector in Nepal.

As a larger process for restorative or transitional justice may be in Nepal's future, Nepal's civil society believes that there is a current need to begin to explore the viability of investigatory commissions on issues such as disappearances. Strengthening capacity for investigation, evidence collection, and analysis of evidence would assist in beginning the longer-term justice initiatives.

7 *Police Reform*

In the view of civil society, reform programs aimed at strengthening Nepal's police force's operational effectiveness are required. The police, rather than the army, should receive comprehensive training on crowd control, riot control, and other areas of internal policing and security matters. The police have been weakened as the army and armed police were deployed for internal security. Therefore, an assessment of their operational needs such as equipment and number of personnel should be undertaken. Significant thought must be given to the policies and principles that underlie the actions of the police, including the need to operate under democratic policing principles (such as representative policing, responsive policing and accountable policing). Civil society has a strong human rights contingency and would be willing and able to provide training on human rights and humanitarian laws. Civil society could also act as an advocate for the police by lobbying for strengthening their effectiveness and professionalism, as well as lobbying for effective democratic oversight.

8 *Defense Reform*

Nepali civil society is unanimously of the view that the Nepal Army needs to be redefined. The mandate of the army should be restructured, according to a valid threat assessment and defense review. In the absence of a threat assessment and defense review, a number of potential areas of reform have been identified by civil society which relate primarily to the defined tasks of the Nepal Army. The Nepal Army, in the view of civil society, should be deployed internally only for the purposes of humanitarian and reconstruction initiatives, to monitor Nepal's borders and for international peacekeeping missions. With regard to the deployment of Nepali peacekeepers, civil society believes that there should be strict guidelines to ensure equal opportunities and to prevent those

who have committed human rights violations from serving in international peacekeeping missions. In addition, in the long-term the army must also be right-sized; personnel and equipment should be proportionate to the threats and needs of the country, as well as being affordable.

9 Confidence-Building Measures

As defense and police reform take shape, there is need to build confidence and trust between the Nepali people and the security sector. The army has long been viewed as an ally only to the palace, and may face difficulty from the people while trying to operate under a different mandate. The public and the army should be informed of each other's concerns and needs for reform, as well as the progress of SSR. To many Nepalis, the police are often ineffective due to the limitations brought on by the 10-year conflict. Accordingly, people have lost faith in their ability to maintain law and order. Public relations and 'bridge-building' should represent a core element in defense and police reforms in order to rebuild ties between the public and the security sector.

10 DDR

Although the initial agreement for arms management has been signed, civil society is concerned that lack of a comprehensive reintegration and integration strategy could result in the rearming or joining of criminal groups by ex-combatants. The process for disarmament or decommissioning will need to be conducted in stages and in conjunction with integration, reintegration, reconstruction, rehabilitation, reconciliation, and restorative justice programs. Counseling, education, trainings, and other incentives for reintegration should be developed and conducted for former combatants. However, a cash-for-weapons program is strongly discouraged as it can create a gun economy, considering the ease with which arms can flow across the border.

The process for integration, at all levels in the security sector, as well as of the justice sector, still needs to be developed and in consultation with civil society. Similarly, as the country moves towards constituent assembly elections, a transitional security arrangement must be made while considering the needs of the parties to the conflict, and in particular the concerns of the people.

A new donor strategy for Nepal is necessary as the country transitions and begins a long post-conflict process toward democratization and development. A plan for long-term financial support of the five "R's" (listed above) that civil society has stressed should be included in donor strategy for Nepal. Many donors in Nepal have primarily funded organizations based in Kathmandu or other urban areas, rather than diversifying funds between rural and urban – based organizations. Increasing their grantee base, as well as preparing for a broad SSR program, will assist Nepal in achieving its security and development goals. DDR is an expensive program that will require significant donor assistance. Nepal could also benefit from a multi-donor initiative to establish a trust fund for DDR, which the government would have full access to for its DDR priorities, but the financial management and oversight would be conducted by a donor-hired private

company. Regardless, due to the root causes of the conflict (poverty, discrimination, poor education, lack of development, etc...) being unresolved, donor and international support should not be solely focused on the security agencies nor on arms management and demobilization alone. Development agendas are equally important for the security of the country, and for the sustainability of peace.

NEPAL CIVIL SOCIETY'S ACTION PLAN

Civil society has played a central role in Nepal, and will continue to do so throughout its transition. One role that civil society can play in Nepal is to bridge the national and local levels. Despite being somewhat politicized, civil society has been able to unify on a number of causes, and SSR appears to be an area in which there is general consensus for its need. As civil society has begun to lobby the government on SSR and to conduct activities that support an SSR agenda, an action plan was developed. Research, advocacy, and education were identified as some of the entry points for civil society.

1 *Promoting Awareness and Education*

Civil society can play a vital role promoting awareness through educating people on the concepts and benefits of SSR and DDR programs. Civil society plans to share conceptual information on SSR and DDR with local leaders and local communities, who will be most affected by SSR programs. Also, national-level leaders, and the government and Maoists leaders, will benefit from information and research on SSR and DDR, particularly as they try to consolidate democratic principles within the government and security sector.

2 *Stimulating Discussion*

Civil society is an obvious focal point for discussion on SSR and DDR. It can create an environment that enables open dialogue on the sometimes contentious issues within SSR. Civil society plans to organize interactive sessions and roundtables with the political leadership, including the Maoists, to discuss SSR and DDR. Follow-up will include concept papers, briefs, and research findings on international practices of SSR and local realities. Likewise, civil society will organize community discussions at the grass-roots level on areas of SSR that relate to the needs and realities of that community. For example, a community discussion can be held to discuss the local population's perception of the security forces and their development needs (i.e. food, clean water, medical station...), as well as provide those communities with information on the role of a professional and democratized security sector.

Civil society plans to also continue internal discussions to build consensus and support for their action plan, as well as develop continuing strategies and inclusive efforts to encourage and inform SSR.

3 *Research*

While many members of civil society have worked extensively throughout Nepal at a grass-roots level and have a grasp of the needs of the people, validated academic research, rather than conjecture, provides additional credibility and evidence for the purpose of lobbying and information-sharing with policymakers and the public.

Nepali civil society's action plan has designated three short-term priority areas for research: "Building Good Governance in Support of SSR in Nepal"; "Understanding DDR in the Context of Nepal"; and "Understanding the Role of Civil Society in Promoting Security in Nepal." Three medium-term priority areas for research have also been laid out in the action plan: "Methodologies for Resocialization of Ex-Combatants in Nepal" with an emphasis on women, children, and marginalized groups; "Analysis of the Socio-Economic Condition of the Youth & Prospects for Mainstreaming Young People into Society"; and "Promoting Effective Civil-Military Relations in Nepal." Other areas of research that civil society believe are of particular importance when looking at DDR include risk analysis, profiling ex-combatants, and on a reintegration agenda.

4 *Public Opinion Survey*

Civil society plans to conduct public opinion surveys nationwide to collect information and statistics on the concerns of the public regarding the security forces and what changes are necessary. Rural communities are often poorly educated and are unaware of state structures, institutions or the appropriate activities of the security forces. Consequently, public awareness campaigns on the basics of security and development are required in advance of a public opinion survey, and would be carried out by civil society. Likewise, prior to the opinion survey, civil society will establish a methodological basis for identifying which groups to target while conducting the survey, with a particular emphasis on including marginalized groups. Once the public opinion survey has been conducted, its findings should be analyzed and subsequently presented to policymakers to inform the SSR process.

5 *Lobbying and Advocacy*

In order for SSR to be appropriate for Nepal several strategy – level activities need to take place. Civil society plans to lobby for a national exercise to identify the first principles of Nepal's core values and national interests. Civil society also plans to lobby for a defense review and threat assessment. Civil society will also advocate for the preparation of a code of conduct for the security forces to increase accountability, professionalism, and democratization. Each stage and program of SSR should be planned based on wide consultation, inclusion, and should incorporate ideas and information from civil society.

6 *Peace & Security Network*

Civil society members agreed that a network should be established that focuses specifically on issues of SSR and DDR. This network should be inclusive, have the

support of well-established civil society leaders, but be driven by young professionals in civil society. Although there are many active human rights networks throughout the country, a network focused on security that could operate independently can benefit both civil society as well as the security sector.

Civil society plans to establish a Peace and Security Network. The Peace & Security Network will carry out some of the activities contained in the present action plan. The network will be a clearing house for information on SSR and DDR. In addition, it will develop coordinated responses to security issues, and build upon ongoing strategies for civil society's role in SSR. Finally, the network will establish a basis for communication throughout the country so that civil society can coordinate and share information pertaining to peace, security, and development.

CONCLUSION

While there are many other potential SSR programs that are relevant to Nepal in its time of transition, this report has attempted to address limited high priority areas, as identified by Nepal's civil society during the course of the USIP program. Civil society is active and will continue to push an SSR agenda. In order for SSR to move ahead, thereby increasing the chances for a successful transition to a democratic state built upon the rule of law, international support for SSR programs is vital, as is strong donor involvement, wide-consultation, inclusion, and political buy-in.

Civil society has already begun its efforts by forming the Peace and Security Network, and to advocate for SSR both in public forums and in roundtable sessions with parliamentarians. The discourse on SSR is increasing, although basic information is still needed in the public domain and among political leaders. Although political will to reform state security structures appears to remain weak despite the peace agreement and agreement on arms management, civil society continues to be robust and has not wavered in its calls for reform, democratization, rule of law, and justice.