



# Building Peace

Practical Innovations from USIP

*Building Peace No. 1* June 2011

## Justice and Security Dialogue in Nepal

A New Approach to Sustainable Dialogue





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### Problem Identified

- *As Nepal has discovered, maintaining law and order gets tougher, not easier, once a peace agreement is signed. Crime rises and politics spills into the streets. Civilians want protection, but they don't trust the security forces. Those forces can't tackle soaring crime without community support. Building trust and cooperation between the public and the security forces is not an optional extra; it's essential to postconflict stability.*

### Action Taken

- *In Nepal, USIP's Justice and Security Dialogue (JSD) program has been bringing together members of the civilian police and local communities to dispel prejudices, nurture relationships, and develop joint responses to common concerns. JSD also involves political party leaders, local government officials, NGOs, and businesspeople.*
- *JSD works by emphasizing partnerships: international-national, national-local, police-civilian, etc. JSD evolved from and is still steered by a partnership between the top ranks of the Nepal Police and leading figures from Nepal's civil rights community.*

### Lessons Learned

- *Partnerships take time to build, but they're worth the effort. Partnerships encourage buy-in from all sides, prevent outsiders ignoring local needs, let everyone play to their strengths, and enable JSD to operate on multiple levels simultaneously.*
- *JSD delivers practical results that all stakeholders appreciate. Local communities work with the police to tackle crime and defuse conflict in villages and towns. The Nepal Police gets data with which to push for more resources and internal reforms. The government feeds local-level ideas into its policymaking process.*
- *JSD can be customized to work in other countries emerging from conflict. JSD has been distilled into a flexible framework for use in Iraq, Sudan, and Afghanistan. UN and U.S. agencies are considering other applications.*



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The full text of this report is available at  
[http://www.usip.org/publications/justice\\_and\\_security\\_dialogue\\_in\\_nepal](http://www.usip.org/publications/justice_and_security_dialogue_in_nepal)

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*Cover Photo: Prime Minister Madhav Kumar Nepal with Shobhakar Budhathoki (USIP Representative), Kapil Srestha (a member of the JSD national focal group), Bhola Mahat and Rajendra Mahat (USIP local partners), representatives of the Nepal Police, and members of the local community, in the Jumla District of Nepal, December 2008. Source: USIP Kathmandu Project Office Archives.*

*The views expressed in this report are those of the author alone. They do not necessarily reflect views of the United States Institute of Peace.*

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The Building Peace series reports on innovative work by USIP that has practical applications for peacemakers and peacebuilders. The goal is to get useful knowledge into the hands of practitioners promptly. Some of the work reported in Building Peace is recent, some is ongoing. All of it has been tested, usually in the field, but this is work in progress and feedback is warmly welcomed. Please send all comments on this report to the director of USIP's Rule of Law Center of Innovation, Colette Rausch, at [crusch@usip.org](mailto:crusch@usip.org).

# Introduction

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## A New Approach

Over the past four years, the United States Institute of Peace (USIP) has pioneered a new approach to promoting dialogue and cooperation between civil society and security agencies in countries emerging from conflict. Developed in Nepal, where a fragile peace process is being buffeted by a surge in crime and constant political turmoil, the Justice and Security Dialogue (JSD) program seeks to bridge the gulf of mistrust between the civilian police and local communities by nurturing communication, cooperation, and recognition that justice and security are two sides of the same coin. JSD engages a remarkably wide variety of actors—including the human rights community, the judiciary, other security and justice stakeholders, government at both local and national levels, and the country’s political parties—in the process of finding joint solutions to shared problems.

Broadly defined, the long-term goal of JSD is to help Nepal enhance its public security and usher in a society that respects the rule of law. More specifically and immediately, the goals are

- *to educate* about the nature and conduct of a society governed by the rule of law;
- *to build trust* by dispelling myths, fostering understanding, and building relationships between civil society and the police at both the local and the national level;
- *to encourage cooperation* in the form of information sharing, joint problem solving, and constant interaction and discussion;
- *to deliver concrete results* in terms of tackling crimes, respecting human rights, and enhancing security;
- *to feed local-level ideas into the national policymaking process*; and
- *to develop local capacity and empower local actors* so that they gradually assume full control of the dialogue process, ensuring its local relevancy and self-sustainability.

JSD pursues these goals in various ways. At the core of the program are facilitated meetings at which members of the Nepal Police (NP) and civil society formulate, express, and discuss their concerns about the justice and security situation, develop ideas for tackling those challenges, and present those ideas to representatives of political parties and local government administration. Once communication has been established, the program then encourages regular, frequent NP–civil society dialogue at the local level—dialogue that (if all goes well) becomes self-sustaining and generates concrete action to enhance security and respect for human rights and rule of law. The

results of local-level dialogue are fed into the policymaking process at the national level either directly through contacts between JSD and senior government officials (who have consistently endorsed JSD) or indirectly via the national-level steering group made up of top-ranking police officers and nationally respected human rights activists. Among its other activities, JSD has conducted a survey—unprecedented in its scope for Nepal—of opinion among the public and selected professions on access to security and justice in the country; the results of this survey are informing discussion about reform among policymakers and other interested groups.

This report describes and analyzes the evolution of JSD in Nepal. It sketches the history of the violent conflict in 1996–2006 that alienated the NP from the people of Nepal, and the peace process that since 2006 has sought to heal that and other rifts in the country. The report then focuses on the development of JSD, which sought to seize the opportunity for bridge building presented by the signing of the Comprehensive Peace Agreement in November 2006. JSD has grown from the fusion of informal partnerships between USIP and NP officers and human rights activists into a series of nested partnerships between international, national, and local actors. As it has evolved, it has acquired its own momentum, with the national partner orchestrating an array of activities and assembling a large cast of local partners. Along the way, the partners have learned a number of lessons, both positive and negative, about the circumstances in which JSD can be effective, the elements of JSD that appear to be vital to its success, and the kinds of missteps and misjudgments that can undercut its effectiveness.



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*Discussion in Banke District with women civil society leaders on access to security and justice in January 2010. Source: USIP Kathmandu Project Office Archives.*

USIP has distilled the essence of JSD and created a framework for applying the JSD approach in other countries emerging from conflict. The framework is flexible—indeed, it demands customization to fit the particular context in question—but the essential elements of the Nepal program are about to be applied in Iraq, a pilot has already been launched in Sudan, and trials in Afghanistan are planned.

In Nepal, local partners have increasingly assumed ownership of JSD and undertaken their own initiatives. As this report concludes, the prospect of JSD becoming fully locally self-sustaining may be just a few years from realization.

First, however, the report looks at the three principles that form the methodological motor that drives JSD.

### **The Three P's at the Heart of JSD**

JSD has developed in the field, evolving in response to Nepal's emerging needs and to a growing recognition—by domestic and foreign actors—of how those needs might be addressed. Changes in the political and security environment have presented both challenges and opportunities. Some of those challenges have been surmounted; others have called for plans and schedules to be rewritten or even abandoned. Where opportunities have been taken, they have occasionally led to dead-ends, but more often they have led to further avenues for productive work.

But while JSD has not grown according to a predetermined strategy or blueprint, it has from its early days adhered to three general principles that together form JSD's basic methodology. Those principles are the three P's of partnership, process, and pragmatism. Adherence to this trio is giving communities the tools, the incentives, and the organizational structure to make JSD locally sustainable and nationally influential.

JSD depends on forming a variety of *partnerships* at different levels: international-national, national-local, NP-civil society, and so forth. These partnerships are crucial for three reasons. First, JSD does not insist on particular diagnoses or impose particular prescriptions. To the contrary, JSD assumes that the actors at a given level are best equipped to understand and address problems at that level. Second, action at one level will generate sustainable results only if supported at other levels. Third, partnerships enable the most efficient division of labor; instead of one actor providing everything, each actor contributes the resources (intellectual, financial, operational, human, political, etc.) that actor is best equipped to provide. The ties between partners are sustained and strengthened by constant consultation and by collaboration in the conceptualization as well as the implementation of programs. The partners treat each other as partners, not as donors or recipients, nor as clients or competitors.

The *process* of working together is seen as no less important than the accomplishment of specific goals. By emphasizing process, JSD gives stakeholders the opportunity to set

their own objectives and the tools with which to pursue them in a sustainable fashion. This approach is highly appropriate for a program that seeks to promote the rule of law, because a secure and just society is one that allows all its members to express their concerns, enables them to work with others to address those concerns, and encourages them to see that justice and security are two sides of the same coin. By engaging in a process like the JSD—which is not a negotiation but an attempt to create synergy—a society thus moves closer toward a society that respects the rule of law.

In JSD, the aim is not merely to open lines of communication between mistrustful groups but to create a sense of accomplishment among participants and to make a *pragmatic* difference in people's lives. Processes such as fostering mutual understanding, sharing information, and joint problem solving are intended to lead to concrete improvements in the levels of justice and security within the society. JSD teaches stakeholders techniques and exposes them to ideas that they can take and apply in the field, making a tangible difference to their own lives rather than generating results solely to satisfy criteria established by international donors.

Table I summarizes how these three principles have been implemented as JSD has evolved.<sup>1</sup>

None of these three elements is unique to JSD, of course. All forms of facilitated dialogue value inclusivity, respectfulness, transparency, openness, and authenticity. All emphasize the process of learning how to stop lecturing the other side and start listening to it. Like JSD, they seek to enhance mutual understanding, build trust, discover shared interest, and “reframe the conflict from a zero-sum, mutual-blame situation, to a more nuanced understanding of mutual needs.”<sup>2</sup>

Some dialogues do not try to move beyond this step. They leave it to their participants to decide if and how to build on what they have learned in the dialogue. JSD, by contrast, has created a process that offers numerous ways to make this transition. For instance, JSD takes ideas voiced at the local level and feeds them directly into the national policymaking process.

In terms of pragmatic goals, many dialogues try to help their participants use their newly acquired mutual understanding to engage in joint problem-solving, analyzing the nature of their conflict and, perhaps, charting a course to move beyond it. There are numerous examples of facilitated dialogues, as well as some ventures in the field of interactive conflict resolution, that have encouraged participants to brainstorm and thrash out the terms of a peace agreement. Concrete results are also pursued by peace education projects that bring together members of opposing sides to construct organizations, institutions, and even buildings that will symbolize or promote reconciliation.

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*The process of working together is seen as no less important than the accomplishment of specific goals.*

In the case of JSD dialogues, the progression from improved understanding to cooperating on joint proposals is built into the dialogue itself. And participants are encouraged not only to turn joint proposals into joint action subsequent to a dialogue session but also to develop an ever-expanding variety of joint activities. One of the most distinctive aspects of JSD is that its structure enables cooperative relationships to be built on multiple levels simultaneously: geographically, at the local and the national levels; professionally, at junior as well as senior levels; socially, at the grassroots, among the middle strata of society, and within the elite.

JSD's emphasis on partnership is akin to the efforts by other dialogues to create a sense of "joint ownership." However, the closeness and the openness of the partnerships that characterize JSD are unusual. Also distinctive is JSD's progression from a partnership initiated by international and national-level actors—but highly responsive to local-level concerns and highly committed to empowering local actors—to a partnership in which local stakeholders decide for themselves the content and structure of their dialogue while the national and international partners take a back seat and offer support only when requested. In Nepal, JSD's multi-tiered partnerships allow the program to operate at different levels of society—grassroots, mid-level, and elite—and to serve as a conduit between them.

**Table 1: Defining Characteristics of JSD**

**Limited international management:** An international actor (or actors) helps launch the JSD process and shepherds it, at least through its early stages, but international involvement is deliberately limited and focused on facilitation and provision of technical advice rather than direction

**Maximum local ownership:** The spectrum of local involvement extends from input to participation, cooperation, management, ownership, and control; constant efforts are made to maximize local involvement and ownership

**Stakeholder readiness for dialogue:** JSD is launched only when one or more stakeholders has shown an interest in building understanding or even cooperating with other stakeholders at the local and/or national levels

**Partnership mode:** The international actor (the "international partner") forms a partnership (not donor-recipient or vendor-client relationships) with a national-level actor (the "national partner") to develop and implement JSD programs; the national partner forms partnerships with local-level actors (the "local partners") and coordinates and monitors local JSD activities while feeding back information to the international partner

**Good reputation and access of partners:** All partners are and are seen to be credible, committed, trustworthy, and independent; each has access to leading figures and officials at its level; partners must be seen as either politically neutral individually or as politically balanced collectively

**Local focus informed by general principles:** JSD introduces stakeholders to general rule of law principles and typical post-conflict reconstruction roles, but dialogues focus on local issues and perspectives

**Diversity of participation:** JSD brings together groups that tend not to work closely together; the participants representing those groups are also varied (in rank, profession, area of interest, political affiliation, geographical location, gender, ethnicity, etc.); the staff of the national and local partners are also diverse in terms of gender, ethnicity, etc.

**Equal respect for the interests, values, and agendas of all stakeholders:** The concerns and ambitions of the police are treated as no less important than those of civil society; all active local political parties are afforded equal opportunities to hear and be heard; cultural awareness and sensitivity are vital

**Justice and security seen as mutually supportive:** Security and justice are seen as two sides of the same coin; security is interpreted broadly to mean a society that not only maintains civil order and enforces laws but also respects human rights and reflects social diversity; justice is understood to mean not only an independent judiciary and due process of law but also popular conceptions of fairness, equality of treatment, and accountability

**Long-term perspective:** By necessity or design, JSD takes a long view: partnerships take time to form; initial dialogues last only a few days but are intended to kick-start an enduring process of regular consultation and cooperation between local actors; immediate concrete results are welcome but not expected; some initiatives may bear fruit quickly but there is no less merit in planting seeds that will not germinate for a long time; local-level ideas and achievements percolate slowly upward into national-level policymaking; much of the focus is on establishing relationships and structures that will naturally sustain themselves once the international partner departs

**Consultation and sharing of information:** The partners consult constantly with one another and regularly with all stakeholders at all levels; information is shared on an ongoing basis except where confidentiality, safety, or program effectiveness dictate otherwise

**Maintenance of close contact and good relations with government:** Contact with the national government extends beyond consultation to involve cooperation and coordination in some areas, but the JSD process must remain independent from government

**Ongoing evaluation of activities:** Assessment of major initiatives as well as ongoing programs is crucial, with steps taken being chronicled, reasons for success or failure analyzed, and lessons drawn and woven into future plans

**Calibrated public outreach and profile:** JSD initiatives are publicized in advance and their results disseminated in print and/or online reports, but the media are kept at a distance early in the process and invited to cover later activities on a case-by-case basis; JSD program's public profile is usually kept low and continually monitored and adjusted in light of current initiatives, changes in political conditions, and shifts in the agendas of stakeholders

# The Origins of JSD

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## A Tumultuous Prologue

The past twenty years of Nepal's history have been among its most tumultuous, with cycles of hope and despair playing out against a revolving backdrop of political accommodation and violent confrontation. Among the many casualties of this turmoil has been the population's faith in the ability and the desire of the security services and the legal system to mete out justice and protect them.

That faith was modest to begin with. More than two hundred years of absolute monarchical rule had left the people of Nepal in no doubt that the police and the judiciary served the king and his courtiers, not any notion of impartial justice. In 1990, however, the first of two "people's movements" was launched by a coalition of leftist and centrist political parties. Faced with a tide of popular discontent, King Birendra was forced to accept constitutional monarchy and to reinstitute multiparty democracy through constitutional reform. But high hopes for a brighter future for one of the region's poorest countries were soon dimmed, with increasing corruption and social and economic inequities continuing to deny most Nepalis access to justice, political power, and economic opportunity.

In 1996, the Communist Party of Nepal—Maoist (CPN-M) declared a "people's war" against the regime. Over the next decade, fighting between the government's security forces and the CPN-M's People's Liberation Army (PLA) claimed more than thirteen thousand lives.<sup>3</sup> Almost all the rural areas of the country fell under the control of the Maoists, who established parallel judicial and governance structures. The insurgents enjoyed the support of many marginalized ethnic groups and castes, as well as backing from the poorest sectors of society. Even those Nepalis who did not agree with the Maoist political agenda and feared the PLA and its often brutal tactics were likely to be equally apprehensive of the security forces, which are alleged to have killed more civilians and committed more human rights abuses than the PLA.<sup>4</sup>

Convinced that multiparty democracy could never defeat the insurgents, in February 2005 King Gyanendra (who had become king after a mysterious massacre of members of the royal family in 2001) declared a state of emergency, suspended civil and political rights, and reinstated absolute rule. But rather than defeat the Maoists, Gyanendra unwittingly helped them into power. His totalitarian rule drove the seven largest political parties to join forces not only with one another but also with the CPN-M. Together, in late 2005, the eight-party alliance drew up a program aimed at restoring democracy. Just six months later, the second "people's movement" erupted. Nineteen days of violent strikes and mass protests cost twenty-five lives (and widened the divide between the security forces and the public) but succeeded in forcing the king to agree to

reinstate the House of Representatives. An interim government was formed and a Comprehensive Peace Agreement (CPA) between the CPN-M and the government was signed in November 2006.

### **Stuttering Peace and Soaring Crime**

Hopes grew once again that Nepal would finally achieve a stable, accountable, peaceful political system concerned for the welfare of all Nepalis. The democratic momentum seemed unstoppable—at least for a while. In January 2007, Maoists entered the Interim Parliament, which had stripped the monarchy of its powers and adopted an Interim Constitution. In April 2007, Maoist leaders became part of the interim government and looked forward to elections in May for a Constituent Assembly that would draft a new constitution. But then the impetus behind the peace process began to stutter. The elections scheduled for May were postponed first to November and then to April 2008. Meanwhile, outside of parliament, masses of demonstrators were returning to the streets of Kathmandu, and outside of the capital, a wave of crime and insecurity was washing over the country.

This rising tide of criminality and violence has yet to turn. The border with India is home to dozens of organized criminal groups engaged in cross-border smuggling, banditry, killings, extortion, abduction, and human trafficking. In the area north of the



*A march by Maoist cadres through the streets of Kathmandu, part of one of the many bandhs that have disrupted the city in recent years. Source: Shobhakar Budhathoki.*

border—the lowlands known as the Terai—ethnic rallies have exploded into violence directed against the NP, government officials, businesses, and CPN-M groups. Many politicians have been exploiting and exacerbating disaffection among the country's ethnic minorities and poorest citizens, with the result that more than thirty armed groups are allied with one or another political party or ethnic organization.

Nearly every political party has formed its own youth wing, and these wings behave more like militias than political institutions. Strikes and road blockades (called *chakkajams*), many of which turn violent, are common. The capital itself has witnessed numerous *bandhs*—combinations of street protests and general strikes. Each *bandh* can bring the city to a standstill for days, with tens or hundreds of thousands of young activists camping at intersections and marching through the streets to enforce their party's demand that nothing (neither shops nor schools nor offices) open and nothing (neither buses nor cars nor motorcycles) move.

The political parties in the national government have been reluctant to take action against youth wings and other quasi-political groups, partly out of fear of upsetting the country's fragile political raft, partly because they benefit from it and partly because the parties themselves like to flex their political muscle and interfere in policing and the judicial process. Where once the monarchy put pressure on judges and prosecutors to achieve its political gains and used the NP to protect its political interests, now numerous supposedly democratic parties vie to do so. Political interference extends from the highest political levels to the lowest. It also extends from the bustling capital of Kathmandu to the cities of the industrialized lowlands and the remote villages hidden in the hills and perched on the mountains of Nepal. Who gets a traffic ticket, who wins a court case, who secures a state contract: everything is determined by an unholy trinity of political pressure, physical intimidation, and bribes.

As a culture of lawlessness has grown, so has a culture of impunity. Nepal's conflict was a very dirty affair, and human rights abuses were all too common. But, as of January 2010, "there has not been a single prosecution in civilian courts for any abuses," reports the International Crisis Group. "The cultures of impunity that enabled the crimes in the first place have remained intact, further increasing public distrust and incentives to resort to violence."<sup>5</sup>

A lack of political will to impose the rule of law has been matched by a lack of the capacity to do so. The legal framework is outdated and unclear; criminal and civil law are under the same umbrella, for instance, which creates confusion, and the Police Act and penal laws need updating to adequately address crimes such as kidnapping. In some parts of Nepal, courthouses and legal offices are hard to find, and throughout the country there is a dearth of well-trained, independent prosecutors. Witnesses often refuse to testify in court cases because they fear retribution. Defense lawyers frequently encounter abuse and physical intimidation, even at courthouses.

The NP is particularly hard hit by a lack of resources and operational independence.

Unlike the Nepal Army, which has always been a center of political power and has thus enjoyed strong funding, and the Armed Police Force (APF), a well-equipped paramilitary force created in 2001 to combat the insurgency, the Nepal Police (NP) has few champions in government and suffers from shortfalls in everything from funding to training to equipment. In many remote corners of the country, NP officers are either absent entirely or few and far between and often unable to speak the language of the local population. Elsewhere, NP posts have to try to combat crime despite severe shortages of logistical equipment such as radios, vehicles, and fuel; despite poor living conditions and low pay; and despite encountering contempt, mistrust, or outright hostility from people who regard the NP as inept, corrupt, or repressive.

This image is not entirely undeserved, not least because standards of recruitment and training have been low, promotion within the organization has traditionally been determined not by merit but by favoritism and nepotism, and political interference is rife. At the same time, however, the NP has been a convenient scapegoat—especially for the government that underfunds it and for the political parties that interfere in its work. It is no surprise that morale within the NP has been very low.

Nor is it surprising that citizens often turn to criminal gangs, rather than the NP, for protection. When victims do try to seek official help, observed one defense lawyer, sometimes they find themselves “victimized by the police, who procrastinate, demand taxi fare to travel to the crime scene, and invite bribes—by the time the police act, the perpetrator is gone.” Standards of crime scene investigation vary wildly, from excellent to abysmal. When a police officer is transferred from one district to another, the cases that he or she has been handling often fizzle out. Some innocent people detained by the police complain that they are beaten while in custody. And there are so few public defenders that the police typically interrogate suspects and witnesses with no attorney present. “The phrase ‘rule of law,’” said another defense lawyer, “makes a mockery of lawlessness in our country—it’s gone that far.”<sup>6</sup>

### **A Fusion of Partnerships**

It was against this backdrop that the concept of JSD emerged. JSD has evolved organically, as a response to perceived needs and to the discovery of resources (chiefly, human resources) available to address that need. JSD was not an attempt to implement a particular theory or type of facilitated dialogue. To be sure, its creators were informed by their knowledge of and experience with a wide variety of Track-II activities, from trainings to dialogues, public education to interactive conflict resolution. They were also informed by their experiences with working with security forces, or in some cases, being witness to abuses by the security forces. But the creators felt their way forward,

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*No one person or organization has all the answers to promoting dialogue and the rule of law.*

rather than following a script or map. Where they encountered resistance or indifference, they typically pulled back and reassessed their options; where they found receptive stakeholders and inventive ideas, they moved ahead.

Although tied to no theory or preconceived strategy, JSD's founders were wedded to a broad philosophy that guided JSD's formation and that continues to shape its activities. The most basic tenet of that philosophy is that no one person or organization has all the answers to promoting dialogue and the rule of law in societies emerging from conflict. Outsiders may have technical expertise but not local knowledge; insiders may understand the dynamics of local conflicts but not how to escape them. The immediate solution, therefore, is to bring all parties together and pool their talents and resources in a common endeavor to nurture communication, education, and cooperation. The long-term solution is to empower local actors with the technical knowledge, hands-on experience, and confidence that will enable them to gradually assume full control of the dialogue process.

Partnerships offer the most effective model for this joint endeavor because, unlike donor-recipient or client-vendor relationships, they have no vertical hierarchies and encourage the two-way transmission of ideas. As it has turned out, JSD has developed a cascading set of partnerships: an international partner in the shape of the Rule of Law Program at USIP's Washington, D.C., office; a national partner composed of USIP's representatives in Kathmandu and a high-level focal group made up of high-ranking NP officers and leading Nepali human rights advocates; and numerous local partnerships with a wide range of Nepalese stakeholders, including local-level NGOs. This elaborate system of partnerships was not in anyone's mind, however, when a team from USIP's Rule of Law Program first visited Nepal.

In spring 2006, Colette Rausch, then deputy director of the Rule of Law program, and Vivienne O'Connor, then project officer for rule of law at the Irish Center for Human Rights, traveled to Nepal to consult with local actors and conduct a case study for a project entitled "Model Codes for Post-Conflict Criminal Justice." While they were en route to Kathmandu, Nepal's second people's movement erupted, prompting Colette and Vivienne to change the focus of their visit. They arrived in Nepal on the day its king was deposed. Not only had most U.S. officials left Nepal due to the violence, but many other foreign organizations had done the same, leaving the team from USIP with a unique opportunity to help wherever needed.

Colette, having lived and worked in post-conflict countries such as Afghanistan, Bosnia, and Kosovo, envisioned a number of rule of law challenges that Nepal would face. Colette and Vivienne began meeting with representatives of a very wide range of parties, groups, and viewpoints to discover how best USIP could be of assistance. They consulted with civil society on transitional justice options and organized workshops on the subject. They put together CDs of resources on constitution making and distributed books on transitional justice to Nepal's civil society and government representatives.

They knew from their past experience with other transitional states that Nepal was about to be descended upon by lots of well-meaning but not necessarily helpful foreign donors and organizations, each with its own agenda. They thought it was crucial to ask Nepalis, “What do *you* think? Speak up, empower yourself, so you’re on an equal footing with the donors and others who are coming.” They also foretold of the not-so-savory players likely to capitalize on the power vacuum and insecurity created by the king’s sudden departure. These players would include criminal gangs, violent splinter groups, and political spoilers.

Thanks to colleagues who had contacts within the NP, Colette and Vivienne began meeting with several high-level NP officials, who provided unvarnished facts about the country’s rule of law situation. When Colette returned to the United States, she arranged with her former office at the U.S. Department of Justice for three senior NP officers (Surendra Shah, Bigyan Sharma, and Upendra Aryal) to come to Washington, D.C., in October 2006 to learn about serious crimes challenges, strategic planning, and rule of law in transition from conflict to democratic governance.

USIP had already been working on rule of law initiatives in transitional states in general, and, while in DC, the NP officers expressed interest in a variety of USIP projects, including the model codes for post-conflict criminal justice and the recently published volume *Combating Serious Crimes in Postconflict Societies*, which offered guidance on tackling organized and other destabilizing crimes in societies emerging from conflict.<sup>7</sup> Colette provided copies to the NP, whose leadership was looking for assistance that might help it manage its own transition from a security service widely seen as corrupt, incompetent, and a tool of a repressive government into a professional, independent police force accountable to the public as a whole. (*Combating Serious Crimes* was subsequently translated into Nepali and thousands of copies were distributed to government officials, NP officers, lawyers, prosecutors, and members of civil society throughout the country. As of late 2010, the Nepali edition was about to be reprinted for a third time. The NP and the Attorney General’s Office have also requested that USIP’s *Model Codes for Post-Conflict Criminal Justice* be translated into Nepali and widely distributed.)<sup>8</sup>

Among the many foreign agencies and NGOs that were establishing a presence in Nepal as the country edged toward an end of its internal conflict, USIP had certain advantages in the eyes of the NP. It had the ability to offer practical help and pertinent expertise rather than mere encouragement. It did not condemn the entire NP as corrupt and undemocratic in its policing, as some other organizations had done. It had high-level contacts within the U.S. government, which the NP suspected might be of assistance to the NP in enlisting support within its own government for transforming the NP into a publicly accountable force. USIP was not linked with any political group or agenda within Nepal. And USIP was voicing, and seemed to be demonstrating, a commitment to helping the NP deal with the challenges to security and justice posed by a society emerging from conflict.

The appetite among NP's leaders for reform and their apparent readiness to accept help from USIP encouraged Colette to seek to develop the relationship. She saw the opportunity for USIP to move beyond providing useful resources to the NP and to start working *jointly* with the NP. Exactly how that joint endeavor might manifest itself was not yet clear, but Colette, like the NP, was receptive to the notion of forming a long-term partnership, an arrangement in which both partners would contribute ideas and resources in pursuit of the shared goal of combating destabilizing crime and promoting security within the country.

At the same time, Colette also continued developing a relationship with Nepal's civil society. Her long-term aim, as with building relationships with the NP, was to find people who would work on an equal footing with USIP—people who would not just attend a USIP workshop or implement a USIP program but also help to conceive and design it. Several of the qualities that had cemented USIP's standing with the NP—the ability to offer practical help, pertinent expertise, high-level contacts, political independence, and commitment—were also high on Colette's list of criteria for a civil society partner. She also wanted to find a partner who was committed to promoting peace and justice rather than to advancing their own personal agendas.

With these criteria in mind, USIP enlisted the help of Shobhakar Budhathoki, a nationally known human rights defender and conflict resolution practitioner based in Nepal, and his wife, Karon Cochran-Budhathoki, a conflict resolution specialist. The first thing Colette asked them to do was to coordinate a workshop on security-sector reform in Kathmandu in late August 2006, while the negotiations that would yield the CPA approached their conclusion. The workshop gave the pair an opportunity to demonstrate not only their grasp of security and rule of law issues but also their organizational abilities and their contacts and credibility with members of Nepal's civil society.

After working with her NP partners and her civil society partners separately, Colette broached the idea of the two meeting to explore common ground and—perhaps—create the foundations for a larger dialogue. The three senior NP officers who were then visiting Washington, D.C., responded enthusiastically to the idea. The officers were well aware that the NP needed help in rebuilding relations with civil society, which had never been good historically but which had taken a severe battering during the civil war, when the NP were deployed on the frontlines of the fight against the Maoist insurgents. Many members of the NP were highly reluctant to countenance civilian “interference” in police business and especially in the sensitive matter of reform of the NP, but these three high-ranking officers saw the advantages of getting civilian input. “When the idea of working with Shobhakar and Karon in JSD arose,” recalls one of those officers, Surendra Shah, then a senior superintendent and now a

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*“If we, the police, don't face up to our weaknesses, we'll never move ahead.”*

deputy inspector general in the NP, “we realized we can do it and we have to do it. It’s very important for civil society to work with us, and whether they will do so depends on how they perceive us. If we, the police, don’t face up to our weaknesses, we’ll never move ahead.”<sup>9</sup>

The Budhathokis were initially more circumspect, their years of monitoring human rights abuses before and during the people’s war having left them wary of Nepal’s security services. They did, however, agree to meet with the three officers and establish lines of communication. The first meeting was held soon after the officers returned to Nepal from Washington. It was a rather formal encounter, but less frosty than might have been expected and all agreed to meet again. Over the next few months, a sense of trust gradually developed and personal relationships grew, nurtured by cooperation on specific issues (such as investigating allegations of human rights abuses) and by the realization that everyone shared a common goal: to see the NP become a professional, accountable institution and Nepal become a state governed by the rule of law.

In early 2007, the Budhathokis became the formal “national partner” to USIP’s “international partner.” Karon became USIP’s official representative in Nepal and her husband acquired the title of USIP’s national advisor. In a country with formidable logistical challenges—such as regular power outages for up to sixteen hours a day, monsoon floods that can cut off part of the country, and political unrest that can make travel even within the capital city difficult or dangerous—they set about establishing an office in Kathmandu that could design, orchestrate, and implement projects both large and small. As they were to discover, such challenges were not usually insurmountable, but they certainly could disrupt plans and schedules.

The NP leaders assumed a more informal role, but they were to be a key component of the national partnership, advocating for JSD’s goals within government circles, putting JSD’s principles into practice in the daily work of the NP, and helping to devise JSD strategy and monitor its implementation through their participation in a national focal group.

Two prominent human rights activists—Professor Kapil Shrestha and Sushil Pyakurel—accepted invitations to become part of the focal group. As Sushil, a leading figure within Nepal’s human rights community for more than twenty years, notes, the timing was excellent. This was not the first time Nepalis had contemplated reforming the country’s justice and security institutions. In the immediate aftermath of the first people’s movements, some human rights activists had discussed security-sector reform, and since then the government had periodically formed commissions to study the subject. But nothing concrete had ever resulted—in part because the push for reform had come not from the police or the people but from above, and in part because there had been no overarching peace process to inspire hope that significant change was really possible and sustainable. “Then Shobhakar brought in this idea and asked me to become involved,” recalls Sushil. “The beauty of the idea is that all stakeholders are involved from the start.”<sup>10</sup>

The partnership between senior NP officers and human rights defenders embodies a central tenet of JSD: namely, justice and security are indivisible. *Justice* is understood to mean not only an independent judiciary and due process of law but also popular conceptions of fairness, equality of treatment, and accountability. *Security* is interpreted broadly to mean a society that not only maintains civil order and enforces laws but also respects human rights and reflects social diversity; indeed, these components of security are seen as mutually supportive and security itself as indivisible. In the words of Surendra, “The problem is security. And that’s not my problem or civil society’s problem—it’s everyone’s problem.”

### **An Experiment in the Capital**

Together, the international and national partners began to design a program of facilitated dialogue and to solicit interest from potential participants. Karon and Shobhakar introduced the concept of the JSD to a variety of national-level stakeholders



*Richard Monk, Karon, Colette, Vivienne, and Shobhakar in Kathmandu during the first JSD dialogue, February 2007. Source: Colette Rausch.*

informally, including high-ranking figures within the security forces, senior officials within national and regional government, political leaders, and eminent figures within civil society and the NGO community. The aim was not merely to assemble a network of contacts but to create and cultivate a series of interconnected personal relationships. Nepal's culture puts a high premium on personal ties, and it is difficult to get anything done without first building a reservoir of hospitality, understanding, and trust over coffee or dinner.

The first public JSD event was a four-day discussion in Kathmandu held in February 2007, a month that witnessed Maoist rallies in the capital and rising violence across the Terai as Madhesi groups pressed for greater political representation. Evidence of the fragility and uneven progress of the peace process was everywhere. For instance, February saw many police posts that had been closed down during the conflict reopen in the west of the country, but in the east more than fifty posts that had only recently been reestablished had to be closed again because of the growing level of violence.

The dialogue in Kathmandu was facilitated by Colette, Vivienne, and Richard Monk (a former senior police advisor to the Organization for Security and Cooperation in Europe), who offered ideas on rule of law principles and shared their experiences with Nepali participants, who in turn discussed how the concepts of justice and security fit within the country's context. On the first day, civil society representatives from legal groups, development organizations, media, human rights groups, and lower caste and marginalized ethnic groups met to discuss their concerns about Nepal's security situation and to propose steps that would enhance the provision of justice. On the second day, mid- and high-ranking NP officers (ranging from deputy superintendents to deputy inspector generals) convened to talk about the same issues. On the third day, civil society and the NP came together to develop a joint list of high-priority issues. And on the fourth day, this list was presented to political party representatives, who then offered their own comments and suggestions. This basic progression—the facilitators introduce general principles, each side meets on its own to discuss its concerns, both sides meet together to share perspectives and develop joint proposals, those proposals are presented to political representatives—would form the model for subsequent JSD dialogues.

A report published by JSD in May 2007 made clear that Nepal's civil society and the NP were not only willing to discuss their differences but also able to agree upon a sheaf of practicable, prioritized steps to overcome those differences and strength the rule of law and security in the country.

# Taking JSD to the Districts

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## Preparing the Ground

The success of the Kathmandu experiments persuaded the JSD partners to expand the dialogues both geographically, to reach beyond the capital and into the Terai, and in terms of seniority, to enable lower-ranking officials and officers to participate. NP members of the national focal group were particularly enthusiastic about widening the scope of the dialogues. The JSD team decided that this effort should have three main goals in addition to expanding JSD's reach: to begin building confidence and communication between the NP and civil society within a district; to assess the security situation on the ground from the perspective of the law enforcement agency and active members of civil society; and to take concerns and recommendations from participants to decision makers.

Whereas Colette, Vivienne, and Richard Monk had facilitated the dialogue in Kathmandu in February, with Karon and Shobhakar's support, for the district sessions the Budhathokis not only organized the dialogues but also ran them. The national partner had developed the capacity to do so, and a constant in-country presence was critical to building the relationships with Nepali stakeholders on which the dialogues would depend.

The Budhathokis established contact with a large number of civil society, police, and other actors throughout the Terai. Stakeholder input was crucial. As Karon explains, "When we approached local communities, we didn't just tell them about the program. Our first step was actually to go in and talk to them about what they wanted and what they felt they needed—and then work with them to hone an approach that fit their needs while advancing the broad goals of the project."

Although invaluable, this step came at a cost. USIP representatives were overly ambitious concerning the amount of time it would take to consult with stakeholders. Working with local stakeholders on understanding the basic concept of the rule of law and access to justice demands significant time. Seeking to ensure that one solicits input from a wide range of interested stakeholders is yet more time-consuming. For JSD to be sustainable, breadth and depth of stakeholder involvement are crucial, but the price is a slower process.

The dialogues were to be held in the districts facing the most severe security problems. The JSD team deliberately sought out those places where the need for dialogue was the greatest: areas with refugee camps and cantonment sites, high levels of poverty and crime, and active ethnic- or regional-based movements. In such districts, violence or the threat of violence was never far away.

For instance, when Karon, Shobhakar, and Colette set out for Lahan in southeast Nepal for a dialogue in July 2007, their travel plans were initially disrupted by a bomb near an airport at which they been scheduled to land, forcing them to drive a very long way through the stifling summer heat. “When we drove into the town,” remembers Colette, “a very small town, it was obvious that we did not belong there and got many intense stares. Deadly clashes a few weeks before had left burned-out government buildings and a torched bus. That night, the hotel clerk locked up and barricaded the gate and we spoke. His fear was tangible as he talked about getting his degree in hotel management and how hopeful he had been when he got this job, but now he did not know how long he would last because of threats to people, like him, who had moved to the Terai from the hill areas. He spoke of kidnappings and murders and how he did not know his fate each night that he locked up.”

The following day the local police received word of a security threat and asked the JSD team to stay in their hotel rooms while NP officers stood guard outside. The team’s NP contact said that gatherings involving police personnel had always been prime targets in the past for Maoist hits, and it was still hard for him to shake off the sense of



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*Shobhakar, national focal group member Kapil Shrestha, and USIP partner Bhola Mahat at the offices of the CPN-M in Jumla District in December 2008 discussing the JSD program with local stakeholders. Source: USIP Kathmandu Project Office Archives.*

constant danger. Once the dialogue had finished, the JSD team had to leave town quickly, before an impending strike made travel unsafe or impossible. “Our human rights participants offered to try to escort us out, as did the police. It was decided that the police would have the best chance. So at dawn we loaded up in a little pick-up truck with us in the cab and armed guys in the back. Our timing was almost great but not perfect. We reached a roadblock that was just being set up, with one concrete barrier on the left of the road and another barrier on the right a little farther down the road. Before I could gather my thoughts on what we should do, the policeman floored the truck and we zig-zagged through the roadblock too fast for those manning it to react.”

In preparing for the district dialogues, the international and national partners (including the national focal group) had decided to develop the concept of partnership yet further by extending it to the local level. The national partner sought out local partners such as community-based NGOs active in rule of law–related fields to help organize dialogues and identify potential participants in those dialogues. A key step in this process was to partner with the Informal Sector Service Center (INSEC), a Nepali human rights NGO founded by Sushil Pyakurel. Headquartered in Kathmandu, INSEC has five regional offices and more than forty local networks. INSEC thus gave JSD instant access to an organizational network that spanned almost the entire country. In some cases, INSEC’s local representatives helped to organize and even conduct the provincial dialogues; in other cases, they helped JSD identify other local NGOs that could do so.

Finding suitable local partners was not always a straightforward task. Nepal has a legacy of nepotism and favoritism that colors many institutions and organizations, including NGOs. Committed to promoting fairness and professionalism in the provision of security and justice, JSD could not afford to be seen as partnering with NGOs with a reputation for nepotism or corruption. USIP’s zero-tolerance in this respect initially provoked dissatisfaction among some partners. The geographical spread of local partners also made oversight of their activities more difficult. Although not initially planned for, USIP had to develop a regional oversight mechanism that placed additional demands on INSEC. USIP also had to put into place strict financial reporting and oversight mechanisms. Unprofessionalism and corruption led to the dissolution of one partner relationship in one district.

The net effect of insisting on impartiality, however, was positive. It helped USIP acquire a reputation as impartial and trustworthy, and it meant that both USIP and local communities could have faith in the fairness and professionalism of the local partners. In all, Shobhakar and Karon developed partnerships with twenty organizations, including INSEC and other NGOs. Those local partners entrusted with facilitating dialogues received two or more days of training in how to communicate the goals of JSD, how to articulate rule of law principles in locally relevant terms, and how to encourage candid discussion and focus debate on key subject areas.

## **Conducting the Local Dialogues**

Between May and August 2007, the national partner and various local partners conducted a series of six dialogues, each lasting at least two days, in different districts of the Terai.<sup>12</sup> No fewer than 125 police personnel, 144 civil society members, and 56 government and political party representatives participated. Some of these individuals attended because their superiors in Kathmandu had pressured them to do so—demonstrating the importance of JSD first building support at the national level. Most participants, however, came because they were eager to take advantage of this rare opportunity to discuss security and rule of law issues with groups with whom they usually had little communication.

The participants were not only numerous but, in keeping with the goal of expanding JSD's reach, diverse. Individuals varied in terms of rank (NP participation spanned almost the entire spectrum of ranks, from junior constables to deputy inspector generals), profession (lawyers were joined by journalists, teachers, business people, and writers), area of interest (participating NGOs championed, for instance, human rights, women's rights, development, and indigenous peoples), and political affiliation (ten political parties were represented). Efforts were also made to ensure significant participation by women and ethnic groups. (This same concern for diversity is reflected in the composition of the small team of staff at the national partner's offices in Kathmandu.)

The format of these provincial dialogues was similar to that of the dialogue held in February in the capital. The first day consisted of two sessions, with first the police and then civil society meeting among themselves to discuss the challenges confronting them and possible solutions. "We used separate sessions on the first day," comments Karon, "because we wanted to make sure that from the start they felt free to share their ideas, that they wouldn't have someone challenging their ideas right off the bat."

Both sessions began with the national partner offering definitions of key concepts according to international standards and principles, laying out principles for developing justice and security strategies, and outlining the shifting and multifaceted roles of civil society and the NP during transition. Participants were then encouraged to discuss any issues that seemed pertinent: from very local issues with concrete solutions to more abstract issues of national significance. For the NP, typical concerns ranged from problems within the NP such as poor pay and inadequate equipment to the effects of political disunity at the national level and political interference at the local level. Civil society participants identified issues such as the NP's unwillingness or inability to investigate rape cases, political interference in arresting or punishing culprits, victims' lack of access to the courts, and the tendency of the state and the NP to ignore or at least undervalue civil society. "From the very first meeting," explains Karon, "we wanted to make sure that the police and that civil society knew that their ideas and their concerns would be equally respected by us."

The second day of each dialogue began with the NP and civil society presenting their thoughts and ideas to each other and then discussing them and jointly devising possible solutions. Initially, this encounter between NP and civil society participants could be frosty, accusatory, or highly guarded, but in most cases finger-pointing and defensiveness soon evaporated and the two sides found themselves surprised by the extent of their agreement and the strength of their mutual desire to build close relationships and work together to tackle common concerns. “All of a sudden,” remembers Karon, “they saw each other more as equals than enemies. And they actually recognized some of the same concerns. Before, the NP did not think that civil society did not care at all about them—all civil society did was complain, all it did was try to make them look bad. And all that civil society thought about the NP was that the NP cracked down on the community’s rights, that the NP didn’t care about people. Yet, when they presented their own concerns to each other, so many of those concerns were the same. So, for instance, civil society would say, ‘NP morale is low and they don’t have enough money.’ And the NP would say, ‘They know that? They care that we don’t have enough money?’”

Their joint recommendations were typically numerous and varied. Some recommendations focused on day-to-day policing, such as calls for NP officers to be better trained, equipped, housed, and paid, and for social crimes such as polygamy and prostitution to be addressed through community policing programs. Many other suggestions, however, roamed across subjects such as the responsibilities of civil society, gaps in the legal framework, judicial corruption, obstacles to the peace process, the need for education, respect for women’s rights, the status of minorities, and politics. Indeed, in one shape or another, politics figured prominently. The NP and civil society discovered they both wanted to see a prompt end to political interference in policing and prosecuting cases, tighter control by political parties of their youth wings, fewer and better disciplined *bandhs*, the political will to tackle the culture of impunity, and politicians and government officials to stop viewing the NP as a tool of the state and to start seeing it as a service to the public.

Perhaps because politics was in the cross-hairs of many complaints, local political party leaders tended to react somewhat uncomfortably or defensively to the presentation of the joint NP–civil society litanies. Some political party representatives denied that political groups pressured the NP or claimed that the problem existed in other districts but not in theirs. Others admitted that they did interfere in policing, but claimed that they were only following the example set by other parties. Yet others said that it was either impractical or wrong to try

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*“All of a sudden they saw each other more as equals than enemies.”*

and “segregate” the parties from the NP and civil society. For the most part, however, the party representatives did publicly affirm the need to end corruption, impunity, and political interference. And they did endorse in general terms the recommendations they heard—although they rarely declared that they would themselves plan and push for implementation of a specific proposal.

While many party representatives were guarded in their contributions to the dialogues, most other participants spoke candidly, if not at the outset of the dialogues then soon thereafter. Several factors help explain this openness. One is the degree of commitment to the dialogues shown by high-ranking local government officials responsible for local security and by senior NP officers. The latter not only attended but also displayed a willingness to be open and self-critical, which encouraged lower-ranking officers to follow suit. Another factor sparking a lively debate was the facilitators’ ability to create an open, nonjudgmental atmosphere, to explain the win-win nature of reform of the justice and security sectors, and to guide discussion from expressions of grievance to formulations of possible solutions.

### **Acquiring a New Understanding**

Written and oral feedback from participants revealed that for many of them this was the first time they had sat down in a discussion involving both the NP and civil society to talk openly and constructively about the local security situation. Participants were pleased to be part of a national dialogue and were particularly excited by the thought that their opinions and ideas would be relayed to the central policymaking level, which, many people felt, is where reform of the security and justice system should begin.

Both police and civil society participants said they valued the review of roles of the NP and civil society in transitioning states, which gave participants a better understanding of the roles they should play in a transitioning society and the importance of their working together. Many NP officials said that the dialogues allowed them to see themselves, for the first time, as human rights defenders and public servants—roles that they were proud to have. Among civil society participants, even veterans of the human rights movement found their perceptions of the NP changed. Sushil notes that his generation had come to see the police purely as a tool of repression. Human rights activists had always “talked about human rights but not about who will protect human rights. But now, when you talk about human rights, about impunity, one needs to contemplate working with the police. If cases are not handled properly, you will not get justice. [JSD] has broadened our vision.”

In districts where civil society is factionalized because of politics, atomized because of the legacy of a civil war that made civic activism dangerous, or highly competitive because of the scramble for the recent influx of foreign aid, the dialogues provided an opportunity to begin building consensus among members of civil society. The need for

such consensus, however, was also underlined by the dialogues, which tended to be noticeably more constructive in districts and regions where civil society organizations and individuals are accustomed to working together and correspondingly less constructive where there is more donor activity and less coordination.

The tenor and content of each conversation were also affected by the level of violence and insecurity within each district. In those areas facing daily and widespread violence from armed groups, security challenges were more easily identified and no one questioned the need for the NP and civil society to work together. In districts where levels of violence or crime had declined since the launch of the peace process, civil society participants still viewed the NP as negatively as they had one or two years earlier. However, even in these cases, an initial skepticism about the value of talking to the NP faded as the dialogues progressed.<sup>13</sup>



*The openness of the JSD dialogues continues to be a hallmark of the program. Pictured is a dialogue held in July 2010 in Nepalgunj involving members of the NP, civil society, and political parties. Source: Shobhakar Budhathoki.*

## Deepening and Broadening JSD

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### What Next?

The district dialogues, like the earlier sessions in Kathmandu, clearly demonstrated the appetite among both civil society and the police for the opportunity to exchange honest opinions and devise joint solutions to shared problems. But this success presented a question for the JSD partners: what next?

One obvious answer was to maintain and develop the momentum already achieved in the districts where the dialogues had been held. To this end, the national partner and some local partners sought to institute regular interaction between the NP and the community. A great deal can be accomplished with very modest funds—a monthly local meeting, for instance, can be arranged and refreshments supplied for just \$20. Moreover, regular interaction allows participants to act on some of the concerns identified at the dialogue, underlining its practical value. Two examples from the district of Kailali illustrate the ways in which the dialogue has prompted subsequent action to mitigate local conflict and strengthen the rule of law. In one case, an NP senior officer, with support from civil society that had grown from the dialogue, asked local CPM-N leaders for help in recovering NP vehicles that had been taken by Maoist cadres. The next day all the vehicles were returned. In another instance, the NP found itself unable to resolve a violent land dispute in which members of an indigenous group were burning huts belonging to local laborers. The police asked for the help of the individual who had been selected during the JSD sessions as the civil society contact person. That person promptly arrived on the scene and, working with the NP, was able to prevent any further homes being torched.

Efforts to build upon the original dialogues were also needed to try to counter the discouragement experienced in districts where JSD participants, initially hopeful that the dialogue would presage a change in local behavior, had discovered that vigilantism, political interference in policing, and other attempts to undermine the principles of the rule of law continued much as before. In such areas, constant interaction with stakeholders would be vital to maintain enthusiasm.

Such interaction demands an enormous amount of time and energy from the national and local partners. The investment, however, would have the additional value of reinforcing the impression among participants that the JSD program is a long-term initiative, and thus different to many other activities launched in Nepal by NGOs with donor funds.

The national and international partners were also interested to see if the results of the dialogues suggested the need to develop entirely new programming. The first step in

this direction was to review and distill the findings of the dialogues in a report released with some fanfare at Kathmandu's Hotel Himalaya in September 2007. A large room at the hotel was packed with well-known figures from Nepal's civil society and the NP, and included several prominent international figures, such as Lord Alderdice, who talked about his experience in the Northern Ireland peace process. The centerpiece of the discussion was the report, *Nepal in Transition: Strengthening Security and the Rule of Law*, which was organized around six categories of recommendations: law and order, politics and security, legal reform and the judiciary, civil society, and the NP. The report sought to document the discussions at the dialogues and feed the ideas generated there into the national policymaking process.<sup>14</sup>

The response to the report was encouraging, with the Home Ministry (the government department responsible for the security services) and the human rights and legal rights communities expressing interest in JSD's early results. The leadership of the NP felt that its decision to support the dialogues from the start had been vindicated. Of course, only a small percentage of the entire NP had participated in these initial dialogues, and there was still some resistance within the organization to the idea of asking "outsiders" for help in reforming the NP. But the NP's leadership was impressed with the initial results of the dialogues and accepted that in the NP, as in any established institution, cultural change needs to be nurtured very patiently.

In December, the national and international partners invited members of the focal group (three NP officers and one human rights defender) to Washington, D.C., to discuss additional programming on security and the rule of law. Throughout the discussion, the partners were careful not to impose their own ideas and instead sought to tease out and then help develop suggestions from the focal group members.

The December strategy session and follow-up discussions produced a four-part program, each part with a clear, pragmatic goal:

- The development of an NP–civil society forum to enable frequent police–community interaction.
- Community engagement on issues identified in the survey to develop trust and communication between the NP and the public
- A baseline survey of attitudes toward security and access to justice among the public at large and among members of the legal and security systems, the results of which would provide a unique resource with which to assess policing approaches and develop more effective strategies
- Interactive programs between the police and prosecutors' offices to improve mutual understanding and professional cooperation

Within a year, the international partner obtained funding for this four-faceted, two-year project from the U.S. State Department's International Narcotics and Law Enforcement Bureau (INL). Speaking at a USIP event in June 2008, Evan A.

Feigenbaum, the State Department's deputy assistant secretary for South and Central Asian affairs, explained one of the reasons for the State Department's interest in JSD in Nepal: "Is Nepal a priority for the State Department? I'm not going to kid you—it's not as important as Afghanistan or Iraq. Absolutely not. But we do have a long-standing relationship with Nepal; we go way back. We do care. And we have reason to care—Nepal is perched between India and China, and Pakistan is not far away, so what happens in Nepal in terms of enhancing or undermining regional stability can have a much wider impact. And Nepal is a country that's been through conflict and seems to be coming out the other side with a good chance of building a peaceful and democratic future. So Nepal could become a model for other countries emerging from conflict."<sup>15</sup> Thanks to INL's financial support, work began on the four-part program in November 2008.

### **Making Concrete Gains**

The first element in the four-part program quickly yielded concrete—literally—results. Adopting the name the Security and Rule of Law Dialogue Center (SRLDC), in spring 2009 the police–civil society forum acquired an office, meeting space, and resource center in the eastern Terai city of Britnagar. The national partner and other members of the focal group met with local government officials, NP officers in charge of the region and district, members of civil society, political parties, and ethnic and other marginalized groups to discuss the center and its objectives, and to cultivate support for dialogue.

By the end of 2009, four roundtable dialogues had been held at the SLRDC. The first focused on the security situation in the surrounding district of Morang. Participants—who included the highest-ranking NP officials and local government officers in the district—identified and prioritized security and rule of law challenges, and then discussed how the forum could best be used to address these issues. Another dialogue examined the challenges faced by the Madhesi community—a culturally distinct group who have long considered themselves discriminated against by the Nepal state. Subsequent to the dialogue, the SRLDC was also asked to mediate between a group of Madhesi youth and a local NGO (which was receiving funds from USAID) about the NGO's hiring practices. SRLDC persuaded the two sides to discuss their concerns and positions, and together they hammered out an agreement.

Two other dialogues examined why youth seem to increasingly participate in lawless and violent activities and what young people themselves could do to reverse that trend. Representatives from the youth and student wings of political parties, members of civil society organizations working on youth issues, local government officials, and

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*"Nepal could become a model for other countries emerging from conflict."*

senior NP officers pinpointed as problems the general sense of hopelessness among youth, mobilization of youth groups as vigilantes by political parties, and increased drug and cross-border crimes. Participants—numbering almost one hundred—at the second dialogue agreed on a nine-point Birat Youth Declaration and promised to work together with the NP and civil society to strengthen security and the rule of law. A steering committee, a secretariat, and an advisory committee were subsequently formed to mobilize youths and students for constructive activities. The impact has been dramatic. According to the NP, in the district of Morang “violent demonstrations carried out by youths decreased more than 80% because of their involvement in the USIP program that established lines of communication and cooperation between the police and youth, and allowed the police to engage the youth in constructive activities.”<sup>16</sup>

In 2010 and 2011, the scope of the dialogues expanded further to encompass areas such as interfaith interaction. For example, SRLDC has organized interfaith discussions of how best to investigate and prevent future episodes of religious violence, and facilitated programs at which members of religious communities meet with representatives of the local authority to air concerns regarding security and the role of the NP. The SRLDC is also actively expanding its work on issues related to women’s rights. It has, for example, hosted conversations between gender-equality activists and the NP and local government about women’s access to the NP and the NP’s response to gender-based violence.



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*A meeting in December 2010 between youth and students’ wings of political parties, Nepal Police, and civil society organized by USIP’s Security and Rule of Law Dialogue Center in Biratnagar, Morang District. Source: Anil Varghese.*

## Surveying the Unknown

Another part of the four-part program drawn up in December 2007 was even more ambitious than the creation of the SRLDC, namely, a “baseline” survey of public and professional attitudes toward access to security and justice in Nepal. The fundamental goal of this survey was to establish a baseline of current opinion that would inform and inspire government and NP efforts to reform the provision of security and justice, and that could be used in the future to gauge changes in public opinion. Unless reliable data on public perceptions of the security and justice systems could be obtained, any steps to improve policing would have to be taken in the dark, and as a consequence the NP was likely to stumble despite its best intentions. According to Surendra, “the results of the survey will improve policing. The survey will be a diagnosis of the problem. It will give us a clearer idea of how we are going to solve police–civil society issues.”

A survey, it was recognized, would have other benefits, too. It would be, as Karon commented, “a way to develop partnerships with local organizations and build their capacity.” The data obtained would not only help guide the NP in developing community policing in a way that responded to community concerns and hopes, but also help “sell” the idea of doing so to skeptics within the security services and the government. The results of the survey could also be fed into the deliberations of commissions and committees considering other ways of reforming the justice and security sectors. And if the survey targeted not only the general public but also justice-sector institutions and actors (courts, prosecutors, bar associations, and so forth), the NP, political parties, and local government, then the findings would be of interest to a wide range of audiences.<sup>17</sup> JSD thus decided to embark on a major initiative to build both support for and the capacity with which to conduct this path-breaking survey.

Progress was initially frustrated by changes in government leadership and the slow-moving process of political consensus building. As noted above, both Nepali culture and JSD’s emphasis on courting stakeholder buy-in mean that JSD staff must spend a good deal of time nurturing personal relationships. Frequent changes in the government and in government personnel make this requirement yet more demanding. Relationships must be built anew. Furthermore, each new government features not only new personalities but also new priorities, which can make ministers more or less interested in discussing security and which can directly affect the performance of law enforcement agencies. In the interregnums between governments, JSD can continue to work with career bureaucrats, but it is uncertain whether, when new political appointees arrive on the scene to take up their posts, efforts can continue or will have to begin again. In the case of the national survey, plans had to be delayed until a new minister of Home Affairs was appointed, but when he did enter government he promptly pledged his backing for the survey and authorized the canvassing of the opinions of NP officers and local government officials.

While waiting for the vacant ministerial slot to be filled, the JSD program canvassed and won the support and cooperation of the leading political parties, including the CPN-M. Meanwhile, the international and national partners and the focal group—with input from social scientists—designed the survey and drafted and translated the questionnaire. Respondents would be asked a large number of chiefly close-ended questions, with the survey administered orally for the benefit of illiterate respondents and so as to enable follow-up questions to be asked. The partners' and focal group's initial plans called for a highly diverse group of 90 villages and towns throughout the country to be surveyed; however, the response from communities was so enthusiastic that that number rose from 90 to 120. Strenuous efforts were made to ensure that the districts surveyed and the respondents in those districts reflected the diversity of Nepal in terms of ethnicity, caste, religion, geographical area, gender, age, and socioeconomic status. JSD representatives visited every community to meet with local stakeholders and build support for the forthcoming survey, and to identify and select local partners.

In some countries, the idea of surveying people's attitudes toward the current security situation, conceptions of rule of law, and hopes for reforms of policing would seem neither remarkable nor impracticable. But in Nepal no large-scale survey had ever been conducted before, and two of the reasons it had not are that trained opinion pollsters are few in number and many people live in remote and inaccessible corners of the country. Consequently, before the survey could be conducted, the national partner had to create a cadre of surveyors. To this end, the national partner asked its local partners to draw up a list of candidates for the job of surveyor. The focal group then selected surveyors from that list, choosing candidates who were neutral and trustworthy and who reflected the ethnic, linguistic, and religious composition of each district. Gender was also a factor in selection: of the 100 surveyors, 45 were females, with a minimum of 2 women working in each district. The local partners, with the support and guidance of the national partner and with presentations by NP officers and civil society representatives, trained the surveyors in the survey's goals, methodology, logistics and equipment, personal security, and interview techniques.

Between August and October 2009, the surveyors conducted nearly thirteen thousand surveys. In some cases, they had to walk for four or five days through torrential rain and over difficult terrain to reach their assigned district. Everywhere they went, they found the NP supportive and political leaders cooperative, thanks to the extensive consultation with stakeholders that Shobhakar and Karon had conducted prior to the survey, as well as during the survey, and thanks also to the support of national political and NP leaders for the effort. "During the whole survey," Shobhakar recounts, "we didn't have to face a single obstacle from the armed groups, the political parties, and the NP. The NP even provided housing for some of the surveyors." The respondents themselves were very pleased to be asked—in many cases, for the first time ever—about security and the NP. In some areas, people waited uncomplainingly for hours to be interviewed. Local communities often provided surveyors with meals and shelter, identified potential respondents, and guided surveyors to locations.

In addition to the questionnaire administered by the surveyors, the survey included more than a hundred interviews were conducted with high-ranking officials, leaders of civil society, prominent members of the judiciary and legal profession, and political party leaders. Fifteen focus group discussions were also held with members of groups that were judged not to have been adequately represented in the questionnaire respondent group.

Returning the surveys to the Kathmandu project office was no simple task, often requiring local partners to work together to move the documents from a remote district to one accessible by couriers. A team of twelve data specialists were hired to organize and enter data into a software program designed to accept a breadth of closed and open-ended questions. The breadth of stakeholder consultation on the subjects to be covered in the survey had resulted in a very extensive—perhaps overly extensive—questionnaire. Each questionnaire had no fewer than 154 questions, and respondents from six targeted professional groups (the NP, the legal profession, the national government, civil society, the business community, and political parties) were asked an additional 30 questions. All told, 12,600 respondents answered the main survey, and of those 4,600 also answered the additional questionnaire. The process of data entry was more time-consuming than had been anticipated, and additional funds



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*A surveyor in Doti District in September 2009 interviews a local woman.  
Source: Shobhakar Budhathoki.*

had to be found to recruit additional personnel. A data specialist and his team of statistical analysts then spent months cleaning, cross-tabulation, and analyzing the data, which was distilled into a report aimed at a varied audience, including policymakers. The drafting and reviewing of the report spurred discussion and generated new ideas among the members of the national focal group.

The report portrays a public worried by multiple challenges to the rule of law, skeptical of the NP's capacity or willingness to investigate crime, suspicious of corruption in the police and the judiciary, prepared to seek redress for perceived injustices outside of the legal system, and highly critical of the role of political parties in all sorts of crime. But the public has not abandoned hope that the system can be made to work, and it sees a central role in that system for the NP.

More than four out of five respondents agree that the presence of the NP contributes significantly to their sense of security, and most believe that the NP should be the lead law enforcement agency, but more than half believe that access to protection and other services provided by the NP is unequal. Poor people, Dalits, and women are believed to suffer most from unequal access. Skeptical of the NP's ability or readiness to help them, one-third of respondents who had been a victim of or a witness to a crime had not reported the crime to the NP, and of those two-fifths sought an alternative means of addressing the issue, such as approaching an NGO or political party to try to resolve the issue or paying a gang or political party wing to take retribution against the perpetrator. Political parties and affiliated groups such as student and youth wings are seen by respondents as chiefly responsible for the five leading threats to security—bandhs and chakkajams, corruption, theft and robberies, vigilantism, and political interference—and as second only to criminals in bearing responsibility for other illegal activities, such as theft and robberies, murder, trafficking of women and children, and smuggling of weapons. Substantial majorities of respondents want the NP to be an independent state institution free of political pressure and to act only on the basis of laws and evidence. Among respondents who are members of the NP, two-thirds had witnessed nepotism, favoritism or corruption in the transfers and promotions process, a similar proportion had witnessed political interference in the work of the NP, and significant minorities called for various reforms in the chain of command within the NP and in the mechanism by which the government issues orders to the NP. Recommendations for improving the ability of the NP to provide security at the community level ranged from improving the NP's facilities and training to boosting interaction with local communities. Respondents suggested that those communities' constructive engagement in security and the rule of law would be enhanced by educating the public in civic responsibilities via schools, the NP, and local government offices.<sup>18</sup>

The report has been translated into Nepali and is being distributed throughout the country. The findings are being used as a basis for initiating local discussions between

the communities surveyed and the NP working in those areas. At the national level, roundtable discussions will be held to ensure that the report is widely distributed and discussed. The findings are helping a variety of professional communities—such as human rights organizations, lawyers, government officials, political party leaders, and the NP—to formulate their strategies for improving security, the rule of law, and access to justice. The NP is using the results of the survey as a basis for institutional reform, plans for which will be submitted to the government.

### **A Commitment to Consultation**

JSD emphasizes continuous interaction between the international, national, and local parties and continual consultation between the partners and a wide variety of stakeholders and interested parties. This is a labor-intensive and time-consuming task, one that increases every time a new stakeholder becomes involved in the JSD process, but it is essential if that process is to become sustainable. Without frequent contact with stakeholders, their interest in JSD might quickly wane, not least because without stakeholder input the JSD program would not tackle the issues that are of most concern to stakeholders.

At the international level, staff at USIP have consulted regularly with the U.S. State Department and INL. Such consultations help avoid or smooth over any misunderstandings or differing expectations. In the case of INL, for example, the interagency agreement between USIP and INL required a different format in order to comply with USIP's congressional mandate and ensure USIP's independence, while at the same time meeting INL's own fiscal and programmatic obligations. Fortunately, staff at INL—Vivita Rozenbergs in particular—were prepared to take the time to discuss JSD with Colette, and both Colette and Rozenbergs came to understand each other's needs and sought to do their best to meet those needs without compromising their own goals.

USIP staff members have also reached out to a wider community of government officials, elected representatives, diplomats, scholars, NGOs, and media through a series of workshops and public events about Nepal. USIP has funded the Washington Nepal Forum, a Nepalese diaspora organization that has issued many statements directed to the Nepalese government about implementing the peace process.

The JSD national partner has also consulted regularly with a variety of international players, including the U.S. embassy, the U.S. Department of Justice's International Criminal Investigative Training Assistance Program, and representatives of other U.S. government agencies in Kathmandu, as well as many international NGOs and

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*[Consultation] is a labor-intensive and time-consuming task . . . but it is essential if [JSD] is to become sustainable.*

intergovernmental organizations active in Nepal. The level of interaction with international actors has been continually adjusted in line with ongoing assessments of those actors' agendas, approaches, personnel, and resources. JSD has sought to recognize and seize opportunities for closer constructive cooperation, but it has also tried to identify potential risks of closer interaction and deliberately distanced itself from some actors at times.

In the early stages of JSD, for instance, when it was trying to reach out to all parties, the Maoists were suspicious of its "real" intentions because it had been initiated by the *United States Institute of Peace*. The U.S. embassy, for its part, was cautious of JSD because it sought to encourage the Maoists, whom the U.S. government had long termed "terrorists," to participate in JSD activities. While understanding that USIP could engage with the Maoists under certain guidelines, the U.S. embassy needed to ensure that USIP did so independently of the embassy, which had its own restrictions to observe. At that time, it was critical for all involved that JSD not only to be an independent actor but also to be seen as an independent actor. Two years later, in 2008, when the U.S. government decided to work with the Maoists to promote a stable, democratic Nepal, JSD had already demonstrated to all sides that it had no hidden agenda.<sup>19</sup> Since then, JSD has enjoyed consistent support from the U.S. ambassador.

At the national level, both the international and the national JSD partners have sought to maintain regular contact and good relations with the government of Nepal, briefing the ministries responsible for security and justice on forthcoming JSD activities, and meeting with the leadership of the NP and other security forces to discuss common concerns. Contact with the national government extends beyond consultation to involve cooperation and coordination in some areas, but the JSD partners also recognize the importance of remaining, and of being seen to remain, independent of government. The politicization of security issues within Nepal makes it vital for JSD to keep in contact with the three major political parties and the seven smaller parties, any of which might react negatively to JSD activities at either the national or the local level unless kept informed of those activities in advance. Thanks to this careful and time-consuming attention to relationship building, the leaders of all the parties are usually ready to meet with JSD representatives at short notice.

At the local level, the national and local partners invest a considerable amount of time in talking to the NP, political parties, local government, the judiciary, NGOs, civil society, and the community as a whole. The selection of local partners is itself a time-consuming task for the national partner, which must identify candidates that have the appropriate experience (in areas related to security and justice) contacts (with a wide range of stakeholders in the local community), and reputation (for fairness, honesty, and efficiency). Once selected, however, the new local partners can play active roles in JSD activities and lighten the burden of consultation on the national partner. "Burden," however is perhaps the wrong term, for conversation with local actors is not the price JSD must pay for operating but its very *raison d'être*.

It is not sufficient to consult with other actors to solicit their opinions and keep them apprised of JSD activities and plans; international, national, and local partners must also share information (such as statistical data, news, expert knowledge, and insider knowledge) on an ongoing basis so as to build the knowledge base of the JSD process overall, to ensure that partners are on the same footing, and to foster trust between those actors. At all times, however, partners must respect confidentiality and be particularly careful not to disclose information to third parties that might embarrass or endanger any participants in the dialogue process. Some information, for example, may be shared between the international and national partners but not with local partners.

JSD's commitment to consultation demands not only considerable time but also cultural sensitivity to the rhythm of time in Nepal. "Many foreign NGOs and the donors that fund them want to see continuous progress, but they don't understand how things really get done here," says Shobhakar. "Our national focal group might meet every week, but then not for a month. A month-long religious festival means that even if you organized an event, no one would come. A visit to the NP headquarters might be no more than a cup of tea, but it might be a long discussion with the leadership. And the prep work we do might be considered a waste of time in Europe or the United States, but here it is not only a pleasure but also part of the job. We are always inviting people to our house for dinner with their wives and children, not to talk about the program, but to build relationships. Cultural awareness is vital." When Colette visits Nepal, she is invariably invited to the homes of her Nepali colleagues and hosts. Similarly, when members of the national focal group visit Washington, D.C., they always have dinner at Colette's home. Emails always begin by asking about each other's family. "So much of this is about relationships," says Colette. "It may look great on paper but so much is about building relationships and trust—the human aspect."

# Lessons Learned: Distilling and Customizing the JSD Approach

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## Lessons Learned

Five years of work in Nepal has taught the JSD partners some important lessons, both positive and negative, about the kinds of conditions, expectations, and approaches that can facilitate or frustrate JSD's effectiveness.

### *Don't Launch JSD until the Time Is Right*

The case of Nepal suggests that JSD must await its own kind of "ripe moment." This ripe moment is reached when two separate but related conditions are present:

- The security forces (or some part of those forces) recognize that they cannot do their job without greater community support and are willing to recognize their own shortcomings and invite discussion on how to improve them
- The community's reluctance to cooperate with the security forces (a reluctance inspired by mistrust and fear of the security forces themselves and/or fear of being punished by criminals or insurgents for "collaboration") is overtaken by the community's readiness to cooperate (a readiness inspired by growing desperation with rising crime and violence or by growing optimism that a more secure and just society is attainable).

The security forces and the community will not always embark upon the path of dialogue and cooperation, however, unless an external actor encourages them to see that such a path exists, persuades them that the other side is willing to take it, and helps them take the initial steps along that path.

### *Be Patient and Flexible*

The international partner must be committed to the program yet give the national partner the space and the time to make real progress and to adapt to evolving circumstances. "You need to accept that things usually progress in an organic fashion," advises Colette. "You have to be willing to accept that, as the military says, "no battle plan survives first contact with the enemy!" A lot of time, people get donor fatigue and want to throw up their hands because not much seems to be happening. But then you discover how it takes only one person or a few people to start something. You don't

need everyone on board at the start. One person with a vision can plant a seed that will grow into something astounding. But the seed needs time to grow.”

Many donors are impatient and demand a stream of reports from the NGOs they fund chronicling constant achievement, even when nothing has been achieved. “Unlike some other organizations,” says Karon, “USIP does not value reporting for the sake of the report itself but for what it says about the genuine impact [of the program] on the ground in the lives of the people, which you can’t always measure very well. It’s not about how many people showed up at the meeting but about what they discussed and whether they’ve been talking to each other since then. It’s not about how many books have been distributed but about who has read them and how they have used the information in them. USIP’s focus on what the project is really trying to do has allowed us not to have to make something out of nothing. It’s allowed us to say what’s really going on. Reporting is important, but the content of reports should reflect the content of the program, not vice versa.”

### *Credibility Is Crucial*

Another element vital to JSD effectiveness would seem to be the local reputation of the national partner. The warm reception extended to JSD in Nepal owed a lot to the fact that Shobhakar and Karon brought with them a fund of good will, because both had



*Kathmandu Nepal Police Club, October 2010. Dialogue between representatives of the Nepal Police, civil society, the Ministry of Home Affairs, the judiciary, and the National Human Rights Commission. Source: Ek Raj Dhakal/USIP Kathmandu Project Office Archives.*

been involved in the democracy movement and, as Shobhakar remarks, “are seen as motivated not by the specific project but by the cause.” “I don’t know USIP, but I know Shobhakar,” says Sushil. “People didn’t know what USIP is, but people knew who Shobhakar is. He is Nepali, he lives here, he has fought for human rights, he has worked with many different people—that is how his credibility is linked with USIP’s credibility, and how his credibility has enhanced USIP’s.”

When the international and national partner sought out local partners, their criteria prioritized organizations that reflect Nepal’s remarkable diversity, are strongly rooted in their communities, and are regarded as trustworthy and credible by local people. Many of the organizations that satisfied these criteria, however, did not have the administrative and management skills needed to oversee JSD activities in their areas. The international and national partners were thus obliged to help build the organizations’ capacity. This task had been foreseen but the amount of time and effort it would require had not been planned for. Even so, the investment paid off, because by equipping locally credible organizations with the skills to sustain JSD locally, the international and national partners helped to leave a legacy.

### *Don’t Underestimate the Time That JSD Takes*

All the partners in Nepal underestimated the time required to get things done. Delays were not occasional problems but a constant challenge. And the sources of delay were ubiquitous:

- **Organizational:** A partnership structure demands considerable time to be spent on sharing ideas and information and coordinating efforts. Equally, a commitment to consultation with all stakeholders calls for massive investments of time and effort.
- **Logistical:** When the national partner faces power outages of up to sixteen hours per day, which has been common in Kathmandu in recent years, schedules will suffer. The provision of a generator can partly mitigate such problems, but the funds must be found to purchase, maintain, and run a generator.
- **Meteorological:** Bad weather can make it difficult or impossible to travel. In spring and the monsoon season, floods cut off parts of Nepal; during the frigid winter months, internal flights are limited.
- **Geographical.** Getting outside Kathmandu to remote areas of Nepal was key to gaining an understanding of the breadth of opinion and the differing security challenges in a country as diverse as Nepal. But some sites could be reached only on foot, and walking in and out of such villages could take days. The JSD team planned for some extra time for this, but the time actually required was always longer than had been anticipated.

- Political: *Bandhs* and chakkajams have become common ways for political actors and other organized groups to express dissatisfaction with the government. They severely disrupt the movement of people within cities and sometimes between cities, which inevitably affects travel by JSD representatives and participants. The frequent changeovers in governments and senior officials do not pose the same physical barriers to movement, but they do retard the progress of the JSD program because of the need for JSD partners to form new relationships with the new incumbents.
- Cultural: Personal relationships make it much easier to accomplish most things in Nepal, including securing political or bureaucratic support. But those relationships must be carefully nurtured, which demands considerable time. Schedules must also factor in Nepal's numerous religious holidays, during which the pace of business and political life slows appreciably.
- Educational. The amount of time required to educate stakeholders about the basic concept of the rule of law and access to justice took longer than anticipated.

### *Do Not Overestimate the Capacity or Support of Stakeholders*

The JSD partners overestimated the level of knowledge and appetite for reform among Nepal's prosecutors, which made it impossible for JSD to carry out police-prosecutor interactions as planned in the four-part agenda drawn up in December 2007. The goals of USIP's work with public prosecutors had to be scaled back and refocused.

JSD has also been negatively affected by the limited support for JSD's goals among some political actors. While many political leaders have publicly endorsed JSD, some of those leaders have limited understanding of the rule of law and the role of law enforcement agencies. Others, accustomed to Nepal's security forces being an instrument of the government, seek to retain or to acquire the power to control and dictate to law enforcement agencies, and thus have resisted efforts to promote the independence and professionalization of law enforcement agencies, particularly the NP. Even political actors who do understand, intellectually, the need for an independent police force are often constrained, psychologically, by the zero-sum mindset that pervades much of political life. This resistance at the policymaking level makes it all the more important for JSD to create sustainable processes at the mid- and local levels.

### *Personalities Matter*

The interplay of personalities has been crucial to the progress made in Nepal. The willingness to embrace a new initiative, the humility to admit to past failings, the readiness to move beyond old enmities, the modesty to let others take the credit for success: these qualities are not always abundantly evident among senior members of

the security forces or prominent figures in the human rights community in any country. It remains to be seen, however, whether JSD in Nepal was just plain lucky in the personalities of many of its key players, or whether post-conflict circumstances and the program encourage and reward the display of such qualities.

### Distilling the Essence of JSD

Wiser for learning these lessons, and encouraged by interest in JSD from a variety of governmental, intergovernmental, and nongovernmental actors, USIP has sought to distill the essence of the JSD program. Table 1 (see above, page 8) identifies JSD's underlying approach and key practices. Table 2 (below) presents a framework for action that could be applied in other countries emerging from conflict.

**Table 2: JSD in Action**

*While JSD programs will follow different evolutionary paths, most are likely to feature many of the activities undertaken by JSD in Nepal. The sequence of those activities in the case of Nepal is laid out below, but it should be noted that many activities were iterative or are ongoing. An apt metaphor for JSD in Nepal is not that of a ladder, with one step leading neatly to another, but that of a river, which rises as a small, energetic stream in the mountains, quickly gains size and momentum as it joins with other local streams in the hills, and then broadens, deepens, and braids as it reaches the lowlands.*

1. *Recognize need for JSD via international actor conducting an assessment of local needs or a request from local actors for assistance*
2. *Identify credible national partner with national-level access*
3. *Make contact with national-level stakeholders in government, security agencies and forces, civil society, political parties, etc.*
4. *Demonstrate bona fides, such as evidence of relevant expertise, track records in comparable situations, development of useful materials*
5. *Launch initial, broad-ranging discussion of security situation, rule of law principles, etc. between national-level stakeholders*
6. *Conduct series of facilitated dialogues in capital city or other city with close ties to policymaking community*
7. *Develop local contacts and partnerships who can help organize community-level dialogues and identify participants*
8. *Ensure local partners have capacity to undertake dialogues, and provide training and/or resources where necessary*
9. *Conduct a series of facilitated dialogues between local actors (police, civil society, etc.) in various locations throughout the country; each dialogue lasts at least two days and follows the same format:*
  - a. *Day 1: In one half of the day, police participants discuss among themselves the challenges confronting them and possible solutions; in the other half, civil*

*society participants do the same; both sessions begin with the international or national partner exploring definitions of key concepts, challenges, and roles and past international experiences*

*b. Day 2, Session 1: Police and civil society present their thoughts to each other and then discuss them and jointly devise possible solutions;*

*c. Day 2, Session 2: Police and civil society representatives present their joint concerns and solutions to representatives of local political parties, who then discuss among themselves what they have heard*

*10. Sustain and build on local momentum by instituting regular and local meetings; securing action to address concerns identified at the dialogue, responding to local concerns and issues as they arise, etc.*

*11. Assess results of local-level dialogues and options for additional programming*

*12. Create high-level national focal group (including leaders of security forces, prominent civil society leaders, etc.) to help shape JSD strategy, make key tactical decisions, keep high-level government officials informed of progress, etc.*

*13. Develop strategy for future programming based on assessment of recent dialogues and with input from focal group*

*14. Create physical infrastructure such as permanent venue for police-civil society interaction and national program office with workspace and meeting space*

*15. Encourage closer cooperation among justice- and security-sector actors (e.g., police and prosecutors' offices)*

*16. Develop parallel and complementary activities, such as a national survey of concerns about and hopes for the justice and security system*

*17. Expand the security and justice dialogues to many more districts and to cover additional topics of concern*

*18. Provide tools and skills-training to develop the administrative and organizational capacity of local partners and thereby enable them to develop and conduct effective programming by themselves*

*19. Support efforts by the police to institutionalize public engagement*

*20. Generate discussion on local implementation of national policy-level strategies for improving police-community relations*

*21. Evaluate the impact of JSD programming, comparing program evolution with public perceptions and crime rates*

*22. Gradually reduce international support as JSD becomes fully locally sustainable*

## **Applying the Framework Elsewhere**

With this framework in hand and these lessons in mind, USIP is adapting JSD for other countries emerging from conflict. Adaptation is not merely advisable but essential. JSD demands customization because it rests upon the assumption that every problem requires its own solution. No single actor has all the answers: hence the need for

partnerships. No magic formula already exists and lies waiting to be discovered: the formula for solving a local problem can emerge only from the process of local actors working together and deciding for themselves how to move ahead. No theory can deliver what people need to improve their lives: pragmatic concerns must be addressed with practicable solutions.

The JSD framework is thus designed to be flexible—but not infinitely elastic. The defining characteristics of JSD can be accommodated within a variety of programmatic shapes, but each program must display features such as maximum local control, diverse participation, and a vision of justice and security as two sides of the same coin. Similarly, the sequence of steps taken by a JSD program can and will vary, but the overall direction of a program must be toward the building of partnerships, the forging of closer links between local stakeholders, and the development of local capacity.

A pilot program that customizes the JSD framework has already been launched in Sudan. The project builds on an earlier training workshop on electoral violence prevention held at the Khartoum police academy, where USIP and its local partner, the Institute for Development of Civil Society (IDCS), brought in representatives from civil society to be trained alongside police. The workshop revealed significant tensions between the police/security forces and members of civil society, but it also suggested that these tensions could be eased by enhancing communication through structured interaction. Seeing this potential, USIP and IDCS jointly developed and implemented a three-step plan for a JSD program: first, select a group of police/security officers and members of civil society organizations, especially youth and student groups, to participate in a dialogue; second, train the participants in dialogue skills and give them the chance to use those skills by sharing concerns and building relationships with one another; and third, encourage participants to meet with each other when the formal dialogues cease and to share their knowledge of the dialogue process with their colleagues so that other districts can launch their own dialogues.

The introductory training was held over three days in Khartoum in June 2010, and involved twenty-eight participants, both male and female (eleven from civil society, seventeen from the police). A professional trainer-facilitator from Beirut, Lebanon, conducted the sessions, which included icebreakers, trust-building exercises in mixed pairs, small working groups on key facilitation skills, role plays, and experience of facilitated dialogue for the group. Participants of each group had a chance not only to express their misgivings about the other group but also to discover that both groups share some of the same concerns. By the end of the workshop, participants felt that they had begun to break down stereotypes of one another and saw the possibility of breaking through the wall of mistrust and noncommunication that has kept them apart. When a second meeting was held four months later, participants were willing to talk with members of the other group even in tea breaks and unstructured time. The police leadership, impressed by the positive impact already achieved, is very interested

in expanding participation in the Khartoum dialogues. A more extensive program is about to be launched in Southern Sudan.

A keystone of the Sudan JSD program has been the highly collaborative partnership between the international and local partners at both the institutional and the personal level. Linda Bishai, a senior program officer at USIP who oversees USIP's educational work in Sudan, and Dr. Girshab, the head of IDCS, share a commitment to building peace by working through civil society and higher education. They and their colleagues not only routinely share ideas and information but also divide tasks in the most effective fashion. It was USIP that first entertained the idea of JSD in Sudan (inspired by JSD in Nepal and other programs), that has secured funding for the program, and that has done most of the training. It was IDCS that first invited the police to participate in workshops with civil society, that has selected the contents of the dialogues, and that has built a cooperative relationship with the police academy.

Another application of JSD outside of Nepal is to take place in Iraq. To help launch the JSD program there, USIP will draw on the skills of its Network of Iraqi Facilitators (NIF), a group that the Institute has trained, mentored and coached over the years in



*Waleed Fareed from USIP's Iraq Project Office in discussion with members of the Muslim community in Morang District, Nepal, in June 2010. Source: Shobhakar Budhathoki.*

projects involving facilitation and conflict resolution. In June 2010, Keith Bowen, a senior program officer in USIP's Academy for International Conflict Management and Peacebuilding, brought two Iraqis involved in the facilitator program to Nepal to see the JSD program in action. In Kathmandu and Biratnagar, they observed dialogues and spoke with some of the national and local partners. They were struck by the fact that, as Waleed Mahdi of USIP's Baghdad office wrote, "Nepal has been through almost the same transformational political process and the performance of the police is pretty much alike in Iraq. A comparison between Iraqi and Nepalese police shows that both of them lack professionalism, are corrupt, are more loyal to their political parties than their country, and both ill treat people."<sup>20</sup>

The delegation returned to Iraq with plans to launch its own JSD initiative. The effort will begin with a pilot program in Kirkuk, a city north of Baghdad, where tensions often run high among Kurdish, Turkoman, Arab, and other ethnic groups. One of USIP's Iraqi facilitators, a lawyer who also leads a human rights NGO and has close links to community and civil society leaders, has run a series of training programs supported by the Institute to build relationships among police officers from the region's ethnic groups. Through the process, he has built a strong relationship with the chief of police in Kirkuk. A local partner with contacts in both civil society and the police—a vital JSD ingredient—is thus already in place in Kirkuk. So, too, are the presence of an international partner (in the form of USIP), high-ranking support for JSD from within the police (the Kirkuk chief of police is looking to build better relations with the community), and the potential (in the form of the Network of Iraqi Facilitators) to conduct dialogues in many different parts of the country. Once the pilot is under way, the plan is for USIP's representatives in Kathmandu to travel to Erbil in Iraqi Kurdistan to help train twenty-five Iraqi facilitators in the approach, processes, and skills that have proved vital in nurturing JSD. Among other interactive modules, the training will feature Nepal as an international case study and Kirkuk as a local case study in order to help members of the NIF launch JSD more widely throughout Iraq.

The visit by the Iraqi delegation to Nepal not only inspired the Iraqis but also had a big impact on their Nepali hosts. As Colette points out, the visit in some ways marked the completion of a JSD cycle. The Nepalis, "so desperate to learn from outsiders a few years earlier, had found their own voice and built their own program, and now were teaching the lessons they had learned from that program to outsiders. The Nepalis were very proud to be in this position, to have the chance to share their experiences and help others."

A third venue for JSD is Afghanistan. As of October 2010, initial planning was under way for a series of dialogues that will bring together leaders from Afghanistan's National Security Forces, civil society, and the community. The dialogues will be designed to identify sources of fear, misunderstanding, and mistrust, and to develop ways to address these challenges cooperatively and proactively. Embracing a partnership model and aiming for long-term sustainability at the outset, the dialogues

will be organized by Keith Bowen and supported initially by USIP but conducted by members of USIP's Network of Afghan Facilitators, an Afghan counterpart to the Iraqi network.

As with the JSD program in Nepal, the dialogues in Iraq and Afghanistan will begin by convening each group separately, providing it with key concepts and principles for developing security strategies, and then encouraging participants to discuss the challenges confronting them and possible solutions. In subsequent sessions, security-sector and civil society leaders will be brought together to share their perspectives and devise joint recommendations, and those recommendations will then be presented to government officials and/or political party leaders.

The JSD approach is also being adapted to address rather different issues. A modified version of JSD was used, for example, in Guatemala in March 2010 in a facilitated dialogue between human rights NGOs and the Guatemalan military.<sup>21</sup> The focus of the dialogue was less about building future cooperation on justice and security and more about trying to break an impasse on acknowledgment of past human rights abuses. Even so, the dialogue in Guatemala drew upon the JSD framework in a variety of ways—from the design of the format of the four-day event to the emphasis on the steps to nurture a working relationship between the military and human rights groups that can, in turn, promote public security, accountability, and transparency.

## Toward a Sustainable Future

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How effective JSD will prove in these other venues remains to be seen. In Nepal, however, JSD seems to have had a positive impact. Certainly, it has received positive responses from many Nepali stakeholders and international actors. It has been welcomed by local communities and NGOs, endorsed by the central government and local administrations, championed by the NP's national leadership and leading members of civil society, and applauded by defense lawyers and prosecutors. International recognition has also come in various forms from various quarters. The United Nations Development Programme, for instance, has funded a visit by a group of Afghans to Nepal to study the JSD program and discover how Afghanistan might work to overcome its own problems with policing and police-community relations.

JSD's strong performance has persuaded INL to extend funding for the program for a further eighteen months. During that period, JSD will focus its programming in three areas. First, it will introduce the concept of the SRLDC to between eight and ten additional districts, helping local partners and local stakeholders establish and assume ownership of the process of regular dialogue. The best practices of the SRLDC in Morang will inform these efforts, but the use of a formal meeting space as in Morang will be phased out.

Second, JSD will develop the capacity of the NP and of partner organizations through a series of workshops. Some workshops—involving a minimum of three hundred participants—will focus on community-police relations and community-oriented policing, and will feed ideas into the ongoing efforts of the NP to institutionalize the practice of engaging the public. Other workshops will enhance the ability of local civil society partners to develop, organize, and administer rule of law programs. Local partner organizations that have demonstrated great initiative and commitment will be provided support for continued programming. In addition, seven thousand handbooks on community-oriented policing will be distributed throughout the country and discussions on the subject initiated by USIP, the NP, and local partners.

Third, JSD will evaluate the impact of dialogue and community engagement in a variety of ways. For instance, subsequent to the publication of the report of the results of the baseline survey, local partners and local surveyors will return to five districts to discover how perceptions of the security and the rule of law have changed and to track incidents of crime and violence over the course of the project.

The overarching ambition of this three-part program is to strengthen security and the rule of law at the district and community levels by strengthening links between all

stakeholders, by enhancing community policing skills and awareness, and by enabling JSD's local partners to assume full ownership of the process of dialogue and cooperation. In short, the aim is to make JSD sustainable so that it can continue to help Nepal transition from civil war to democratic peace.

There is no doubting the continuing need for the program. Since the signing of the CPA in 2006, the peace process has made some progress, but it tends to stumble forward—and sometimes to totter backward. Its progress is intermittent, uncertain, and marked by successive crises and incessant bickering among the major parties no matter whether they are outside the coalition government or within it. Two key steps to the country's future—integrating Maoist combatants into the state's security forces and drafting a new constitution—have been obstructed with no less energy than they have been debated. Disunity in Kathmandu is matched by disorder in the provinces, where armed political and ethnic groups engage in a mixture of disruptive and often violent protest and crime, both organized and disorganized.



*A JSD focus group meeting in Banke District in 2010. Source: Shobhakar Budhathoki.*

In such an environment, JSD can be a valuable means of generating the cooperation and consensus that can act as a counterweight to conflict and disunity. JSD is a way of demonstrating to all Nepalis, at both national and local levels, that they have similar hopes and fears and that they can best realize their hopes and cast aside those fears by working together.

But if JSD is to make a real difference, it needs to endure. And if it is to endure, it must be locally sustainable. Thus, the implementation of the three-part JSD program over next two years will be crucial. Whether JSD will have rooted itself deeply into Nepali soil by the end of those two years is impossible to say for sure. But the signs are promising. “It will take a long time to achieve sustainability,” observes Sushil, “but something has started to happen. Already, the process of interaction has started. All the stakeholders are already involved. How the government responds to publication of the survey results will be very important. Expectations have been raised and must be fulfilled. The government must own the findings of the report and implement them. It will take time. But all the ingredients are there.”

# Notes

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1. A more detailed description of the JSD framework than provided in tables 1 and 2 is available upon request from the Rule of Law program at the United States Institute of Peace.
2. Heidi and Guy Burgess, *Understanding Track II Diplomacy, Peacemaker's Toolkit* (Washington, D.C.: United States Institute of Peace, 2010). The authors are also grateful to Maria Jessop and Anthony Wanis-St. John for their observations on facilitated dialogue in general and on JSD in particular.
3. "A decade-long Maoist insurgency claimed more than 13,000 lives, with the police, the army, and the Maoists all responsible for numerous human rights abuses during the conflict." Human Rights Watch, "Nepal: Urgent Need to Restore Rule of Law," May 28, 2008, <http://www.hrw.org/es/news/2008/05/22/nepal-urgent-need-restore-rule-law>.
4. See International Crisis Group, *Nepal: Peace and Justice*, Asia Report no. 184, 14 January 2010, chapter 3, "Cultures of Impunity," for details of human rights abuses by the PLA and the security forces.
5. International Crisis Group, *Nepal: Peace and Justice*, executive summary.
6. These views were expressed during a meeting between JSD representatives and women attorneys in the Hotel Himalaya in Kathmandu, Friday, April 30, 2010. A record of the discussion is in the authors' files.
7. Colette Rausch, ed., *Combating Serious Crimes in Postconflict Societies: A Handbook for Policymakers and Practitioners* (Washington, DC: United States Institute of Peace Press, 2006).
8. As of 2010, two volumes of model codes have been published: *Model Codes for Post-Conflict Criminal Justice*, ed. Colette Rausch and Vivienne O'Connor, vol. 1, *Model Criminal Code*, and vol. 2, *Model Code of Criminal Procedure* (Washington, DC: United States Institute of Peace Press, 2007–8). A third volume containing a Model Detention Act is forthcoming.
9. Interview by author with Surendra Shah, Kathmandu, April 30, 2010. All other quotations from Surendra Shah are taken from this interview.
10. Interview by author with Sushil Pyakurel, Kathmandu, April 29, 2010. All quotations from Sushil are taken from this interview.
11. See "OCHA Nepal Situation Overview," no. 10, February 17, 2007, [http://www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/CB1775A9C65937C1C125728A003D062F/\\$file/2007-2-22-OCHA-Situation-Overview-feb.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/CB1775A9C65937C1C125728A003D062F/$file/2007-2-22-OCHA-Situation-Overview-feb.pdf).
12. This description of the format and conduct of these dialogues draws on a series of internal reports prepared by Shobhakar Budhathoki and Karon Cochran-Budhathoki.
13. Much of these two paragraphs is taken from an internal report by USIP's representatives in Kathmandu, dated September 5, 2007, on the dialogues in Dhangadhi, Bhadrapur, Bharatapur, and Butwal.
14. Colette Rausch, Shobhakar Budhathoki, and Karon Cochran-Budhathoki, *Nepal in Transition: Strengthening Security and the Rule of Law* (Kathmandu: Rule of Law Program in Nepal, USIP, September 2007).
15. Remarks based on notes taken by Colette Rausch, who moderated the USIP event, "Nepal: En Route to Peace and Democracy?" United States Institute of Peace, Washington, DC, June 18, 2008; a brief outline at the aims of the discussion is at <http://www.usip.org/events/nepal-en-route-peace-and->

democracy. Evan Feigenbaum is now adjunct senior fellow for East, Central, and South Asia at the Council on Foreign Relations.

16. Letter from the Metropolitan Police commissioner's Office in Kathmandu to USIP, dated 21 February 2011.
  17. See Morgan Miller, "Dispatch from Nepal: In the Field," May 2009, <http://www.usip.org/in-the-field/dispatch-nepal>.
  18. For a detailed description of the survey results, see the report by Karon-Cochran Budhathoki, *Calling for Security and Justice in Nepal: Citizens' Perspectives on the Rule of Law and the Role of the Nepal Police* (Kathmandu: United States Institute of Peace, Strengthening Security and Rule of Law Project in Nepal, 2011).
  19. For this shift in U.S. approach, see for instance, "Changing U.S. Terror Policy in Nepal," *CNN World*, May 29, 2008, [http://articles.cnn.com/2008-05-29/world/us.maoists\\_1\\_maoist-rebels-nepal-king-ryanendra?\\_s=PM:WORLD](http://articles.cnn.com/2008-05-29/world/us.maoists_1_maoist-rebels-nepal-king-ryanendra?_s=PM:WORLD).
  20. Waleed Mahdi, "Nepal Visit: Date 1–10 June, Kathmandu and Biratnagar" (internal document, USIP Baghdad, June 2010).
  21. The dialogue in Guatemala was sponsored by the U.S. Department of Defense's Institute of International Legal Studies
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## About the Author

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This report was written by **Nigel Quinney**, president of The Editorial Group, who traveled to Nepal to meet with USIP representatives there and with senior officials of the Nepal Police and leading figures from civil society. An editor, researcher, and writer, he has worked in the field of conflict resolution for twenty years. His long association with the United States Institute of Peace includes working closely with the Rule of Law program on a number of projects to promote security and justice in post-conflict societies. Dr. Quinney is coauthor (with Richard H. Solomon) of *American Negotiating Behavior* and author of a variety of book chapters, articles, and reports. He is also a consultant to European and American think tanks, educational institutions, publishers, and corporations.

## USIP Experts

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USIP's experts on Nepal, promoting the rule of law, and peacebuilding in countries emerging from conflict include:

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# About USIP

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The United States Institute of Peace is an independent, nonpartisan institution, created and funded by Congress to prevent and resolve violent international conflicts. USIP's mission is to increase the United States' capacity to manage international conflict—to think, act, teach and train—and to devise practical approaches to peacebuilding.

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# Justice and Security Dialogue in Nepal



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*Members of the Nepal national focal group at USIP's offices in Washington, D.C. Back row, left to right: Surendra Bahadur Shah, deputy inspector general of Nepal Police; Colette Rausch, director of USIP's Rule of Law Center; Ramesh Chand Thakuri, inspector general of Nepal Police; David Smock, vice president of USIP's Center for Mediation and Conflict Resolution; Professor Kapil Shrestha, former member of Nepal's National Human Rights Commission; Sushil Bar Singh Thapa, deputy inspector general of Nepal Police, Front row, left to right: Shobhakar Budhathoki, USIP Nepal Representative; Bigyan Raj Sharma, deputy inspector general of Nepal Police. Source: Colette Rausch.*