



Protect and serve or train and equip? US security assistance and protection of civilians

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Summary

Since the attacks of September 11, 2001, and the subsequent declaration of the “Global War on Terror” (GWOT), US international security assistance has increased substantially, with billions of dollars going to support security forces in Afghanistan, Iraq, and other “frontline” states. The United States has also adopted a new approach to security assistance, called security sector reform (SSR). In principle, SSR moves security assistance well beyond the traditional “train and equip” approach and takes the physical security of the state’s population and protection of human rights from the sidelines to mid-field.

In practice, US-supported SSR efforts often continue to focus primarily on training and equipping military and police forces, especially in connection with counter-insurgency and counter-terrorism operations. In Iraq and Afghanistan, reliance on the US military and private contractors to plan and implement US SSR efforts has strongly reinforced the focus on operational capacity over accountability to civilian authority and respect for human rights. Private contractors engaged in SSR have been involved in well-publicized abusive practices, including the killing of unarmed civilians.

Responsibility for SSR does not lay with one US office or agency, but instead many agencies—and many offices within each agency—have some involvement with US SSR programs. The Department of State (“State”) has historically had primary responsibility over US foreign policy and foreign assistance, including security assistance.

According to an interagency paper prepared in the waning days of the Bush administration, State should remain the lead agency in SSR, with the Department of Defense (DoD) facilitating the development of professional and accountable armed forces that are under civilian authority. So far, the Obama administration has not endorsed this paper or articulated a policy on SSR.

In practice, additional SSR responsibilities have shifted to the Pentagon, especially in Iraq and Afghanistan, where the DoD has increasingly taken on roles usually associated with State and the US Agency for International Development (USAID). President Bush issued a directive giving the DoD responsibility in the two countries for police, judicial, and corrections assistance programs.

Legislation passed in 1974 has prohibited USAID from working on police-related activities. This ban stemmed from the involvement of agency-trained police forces in human rights abuse during the Vietnam War. Today, given USAID’s key role in providing humanitarian assistance and promoting good governance, the agency should play a central role in linking SSR with protection of civilians and rule of law, as it has in Latin America.

However, State and USAID have been drained of much of their power and capacity over the last several years. The percentage of foreign aid controlled by USAID shrunk between 2001 and 2006 from 65 percent to 40 percent, while the Pentagon’s role increased dramatically.

SSR guiding principles and standards of good practice

A review of the thinking of UN and other intergovernmental institutions, bilateral donor agencies, policy organizations, and nongovernmental groups suggests consensus around the following key guiding principles for SSR. Protection of civilians is fundamental to these standards, which hold that SSR should:

- Incorporate principles of good governance and civilian control of the security sector, including accountability, transparency, and oversight.
- Be based on human rights principles.
- Be locally owned. It goes without saying that the local government, including all key stakeholders, must be committed and engaged for SSR projects to be effective. Civil society participation should be encouraged.
- Link security and justice, and promote the rule of law.
- Do no harm.
- Begin with a comprehensive assessment of the range of security needs of the particular people and state.
- Be guided by a country-specific approach. The needs, goals, priorities, and situation on the ground vary substantially by country.
- Integrate a gender perspective. This is critical to creating an inclusive and socially responsive approach to security, as well as to addressing gender-based violence against civilians.
- Be designed based on the realistic assessment of institutional capacity, resources/affordability, and sustainability, both on the part of the donor country/organization and the host country. The key question is: what is financially, operationally, and logistically viable?
- Be conducted as part of a multi-national, multi-sectoral strategic approach. Since it is most often the case that multiple countries and organizations are responsible for different projects, it is crucial for the component parts to be part of a larger, coherent, long-term plan.

Recent US policy and doctrine on SSR falls squarely within this global consensus on good practice. For example, the US Army's 2008 field manual on "Stability Operations" lists the following as "guiding principles":

- Support host nation ownership;
- Incorporate principles of good governance and respect for human rights;
- Balance operational support with institutional reform;
- Link security and justice;
- Foster transparency; and
- Do no harm.

The manual also calls for a "whole of government" approach under State Department leadership.

US SSR on the ground: Gaps between principle and practice

Even though US policy and doctrine have very much incorporated global good practice guidance, actual US practices have not institutionalized those standards. Instead, much US security assistance continues to employ the traditional “train and equip” approach, without the holistic integration of security and justice or the strong links to accountability, human rights, and rule of law that should underlie SSR.

The DoD’s expanded SSR mandates in Iraq and Afghanistan, covering law enforcement and criminal justice, may have reflected the serious limitations on civilian agencies’ international law enforcement activities. There is no US national police agency, and it is difficult to recruit local police officers from around the United States to participate in SSR. Also, neither State nor the Department of Justice (DoJ) has a critical mass of corrections, prosecution, and police experts who can easily deploy overseas. State and DoJ SSR operations rely heavily on private contractors, as do USAID-supported rule of law programs. The United States is the only donor that extensively engages private contractors in SSR.

Putting the DoD in charge of police reform in Iraq and Afghanistan has meant an emphasis not on community policing and civilian protection, but on engaging police in military-led counter-insurgency operations. In Iraq, US military police officers trained civilian police, despite State Department pleas for a “military-to-military and cop-to-cop” approach. While Iraqi army units trained by the US military have become increasingly professional, the unreformed Iraqi police remain corrupt, divided along sectarian lines, and involved with paramilitary death squads.

Between fiscal years 2002 and 2009, the United States provided more than \$21 billion in aid to the Afghan National Army and Police. In contrast, US support for rule of law, democracy, and governance in Afghanistan during the same period came to \$2.5 billion. To date, it is clear that US security assistance to Afghanistan has not fulfilled the SSR objective of improving citizens’ safety in a transparent and accountable manner. The Afghan National Police force has a 25 percent literacy rate and extremely high levels of corruption and involvement in drug trafficking. It inspires fear, not trust, among Afghans.

A substantial resource disparity remains between State and the DoD. State’s fiscal 2009 budget for *global* security assistance totaled around \$14 billion, whereas the DoD has more than \$7 billion for SSR activities in Afghanistan alone. There is also a serious gap between the civilian and military branches of the US government in their capacity to deploy personnel overseas for SSR activities. So far, Congress has not fully funded the Civilian Stabilization Initiative, which would give the State Department access to 4,000 experts for overseas deployments.

Conclusion and recommendations

It is heartening that recent US policy documents on SSR have placed a strong emphasis on respect for human rights, security force accountability, transparency, the links between security and justice, and civil society participation in the reform process. But the gap between policy and practice remains significant. The lack of capacity and resources on the part of civilian agencies of the US government severely limits their ability to participate meaningfully in SSR, and means that the US military has moved into areas where it does not have a comparative advantage.

Oxfam recognizes that US national security will remain an important consideration in US security assistance, but insists that aid should not go to security forces that have a consistent history of seriously violating internationally recognized human rights. Nevertheless, accountable security forces committed to upholding human rights are themselves key to the protection of civilians, and certain types of security assistance are especially important where there is political will to protect civilians, but lack of capacity.

Oxfam recommends the following changes in US law and policy. Oxfam believes that these changes will close the gap between policy and practice and will result in a consistent SSR methodology that fully integrates protection of civilians, implements the needed whole-of-government approach, and puts civilian agencies in the lead.

1. Congress should revise the Foreign Assistance Act to clearly state that the protection of civilians is a core goal of US security assistance programs.
2. The Department of State should serve as the lead agency on SSR, in practice as well as principle. Congress should provide State with sufficient funds so that it can establish the proposed Civilian Response Corps and Reserve, with appropriate training of personnel from across the government in SSR principles, including protection of civilians.
3. Congress should authorize new flexible funding streams that reestablish civilian agency control over security assistance and stabilization. These funds should set the stage for Congress to allow Sections 1206 and 1207 assistance to expire.
4. Congress should repeal legal restrictions on USAID's participation in police training, with the understanding that such training needs to emphasize good governance, the rule of law, community-oriented policing, respect for human rights, and the accountability of police to citizens, through parliamentary and ministerial authorities. The Office of Democracy and Governance should be the lead unit within USAID for engagement in SSR, with additional staff resources and budget provided for this purpose.
5. The direct DoD role in SSR should focus on reform of the armed forces and defense ministries, with an advisory role to other agencies on law enforcement and justice issues.
6. The Obama administration should formally reconstitute the interagency working group on SSR; authorize it to set policy for all US government agencies; name as its chair a senior member of the National Security Council staff; and endorse the January 2009 interagency SSR paper. The working group should ensure that the policy it sets is known, accepted, and implemented by all agencies involved in SSR programs.

7. These increases in US government civilian capacity and resources to carry out SSR activities should result in a greatly reduced role for private contractors. When contracting out is necessary, contracts should be transparent, subject to regular audits and oversight, and require contractors to abide by the provisions of the International Peace Operations Association code of conduct, which calls for operations to adhere to international humanitarian and human rights law and minimize loss of life and property.¹
8. US-supported SSR programs should foster maximum host country ownership and civil society participation in program design, implementation, and monitoring and evaluation.
9. Congress should provide strong oversight over security assistance, including arranging regular audits by independent agency inspectors general and the Government Accountability Office, in order to ensure that agencies effectively implement the SSR standards of good practice, particularly with regard to protection of civilians.

Introduction

SSR thus takes the physical security of the state's population and protection of human rights from the sidelines to mid-field. ... At least that is the theory.

Since the attacks of September 11, 2001, and the subsequent declaration of the "Global War on Terror" (GWOT), US international security assistance has increased substantially, with billions of dollars going to support security forces in Afghanistan, Iraq, and other "frontline" states. Traditionally, such assistance has provided training and equipment to strategic allies and developing- and transition-country military and police forces. The US Department of State has administered the main channels for such aid, International Military Education and Training (IMET), Foreign Military Financing (FMF) to facilitate arms sales, and International Narcotics and Law Enforcement. In addition, friendly developing-country governments have received Economic Support Funds (ESF, formerly known as "Security Supporting Assistance"), which may finance development activities or simply serve as unrestricted budget support. These programs, dating from the Cold War era, have emphasized maintaining and enhancing operational capacity of the recipient forces, and have not focused on such questions as how security forces fit into an overall framework of *rule of law*, accountability to civilian authority, and *protection of the civilian population* as well as the nation state (see Appendix 1 for the definition of italicized terms).

With the end of the Cold War, US security thinking underwent a gradual change, recognizing that the key threat had shifted from a nuclear-armed superpower to state fragility in developing countries and its consequences (civil wars, mass atrocities, displaced people, and radical movements). This has prompted a new approach to security assistance, called *security sector reform* (SSR). According to Sean McFate, author of an SSR "primer," this conceptualization recognizes that the threats in fragile states come less from hostile neighbors than from development failures, such as:

social injustice, absence of rule of law, [unequal] distribution of wealth, political exclusion of groups, economic hardship, ethnic violence, inadequate public security, and failure of democracy. Such failures of development give rise to public grievances that may be exploited by militias, terrorist groups, and other internal combatants who seek to justify their use of violence for political gain. In a world threatened by globalized terrorism, this has made intrastate conflict in some fragile states a national security interest for the US government.²

In principle, SSR moves security assistance well beyond the old "train and equip" approach to "transformation of the state's security actors, institutions and oversight mechanisms as needed to meet threats to that state and its population."³ SSR thus takes the physical security of the state's population and protection of human rights from the sidelines to mid-field (see Figure 1).

At least that is the theory.

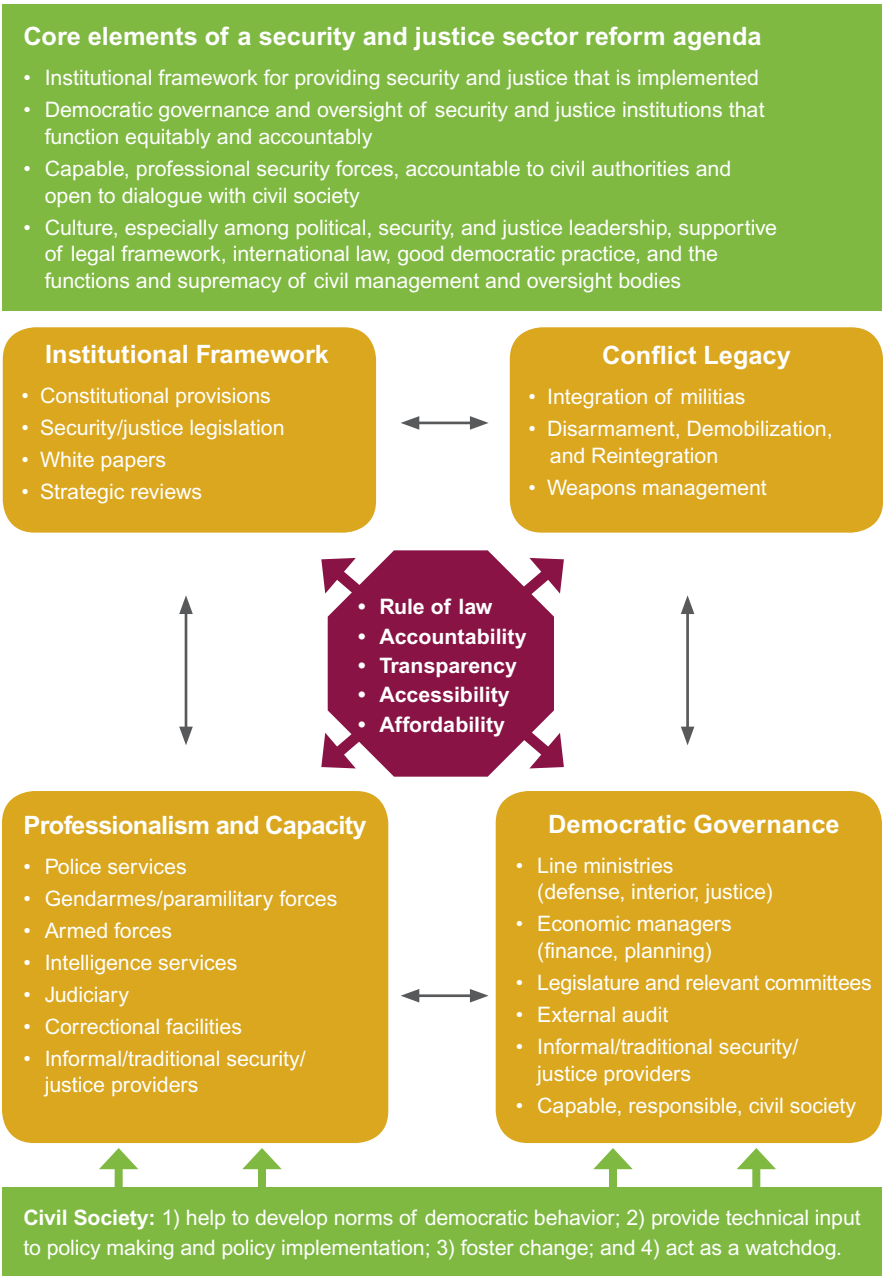


Figure 1

Source: Nicole Ball et al., "Security and Justice Sector Reform Programming in Africa," Department for International Development Evaluation Working Paper no. 23 (2007), 6.

In practice, US-supported SSR efforts often continue to focus primarily on training and equipping military and police forces. For example, in the Democratic Republic of the Congo (DRC), the United States committed to providing \$35.5 million in fiscal year 2009 to enhance the capacity of the armed forces to maintain peace and stability in the eastern part of the country.⁴ Oxfam’s research on the ground indicates that Congolese soldiers, as well as rebel militia troops, often engage in extortion, rape, and abuse of the civilian population. One woman told Oxfam that government soldiers twice raped her pregnant daughter. Another woman farmer said, “The local authorities who are supposed to protect us join forces with the

military to extort from us for their own gain.”⁵ US training does emphasize military professionalization and responding to sexual and gender-based violence, but Obama administration officials have stressed that stronger oversight and management of the Congolese armed forces are urgently needed.⁶

In addition, US-supported SSR programs in recent years have tended to emphasize the role of recipient-country armed forces, police, and justice systems in counter-insurgency and counter-terrorism operations. Especially in Iraq and Afghanistan, reliance on the US military and private contractors to plan and implement US SSR efforts has strongly reinforced the focus on operational capacity over accountability to civilian authority and respect for human rights. The US military’s primary mission remains to counter enemy forces, engage them when necessary, and prevail. Developing *community policing* systems is not part of this core mission. A military approach to law enforcement can actually undermine the rule of law; according to Professor Thomas Dempsey of the US Army Peacekeeping and Stability Operations Institute, such an approach to police reform:

encourages police to apply military tactics, techniques and procedures that are inappropriate if not explicitly prohibited under broadly accepted norms and standards of civil law enforcement. It weakens the linkage between law enforcement operations and the host nation justice system by replacing courts and prosecutors with the military chain of command. In countries where the justice and law enforcement sector faces serious deficits in legitimacy and functionality, this exacerbates that situation and violates several of the SSR guiding principles....⁷

However, the US military’s “default mode” in SSR is to provide tactical training.⁸ In the absence of strong US government civilian agency involvement, such a “boots on the ground” approach will predominate.

With regard to the use of private contractors in SSR, a recent study argues, “The US government cannot always count on contractors to work as reliably as government employees and the military.” The study also notes that contractors in Iraq have engaged in well-publicized abusive practices, including the killing of unarmed civilians.⁹

In this paper, we will look at the implementation of US-supported SSR programs, and particularly at how they have integrated protection of civilians. The paper will identify current gaps between global standards of good practice—with which US doctrine and principles increasingly conform—on the one hand, and actual US practice in the field on the other. Oxfam believes that protection of civilians must be a cornerstone of US foreign policy, so effective links between SSR and protection must be present in practice as well as in principle. The paper will conclude by offering legislative and policy recommendations that can help ensure that US-supported SSR serves as an instrument of protection.

Who's who in US SSR programs

Responsibility for SSR does not lay with one US office or agency, but instead many agencies—and many offices within each agency—have some involvement with US SSR programs (see Appendix 2 for more detail). This has the benefit of bringing many perspectives (e.g., diplomatic, development, judicial, military) to bear, but also creates a challenge for these agencies to avoid stovepiping and work together in a coordinated, efficient manner when planning and implementing SSR programs, i.e., a “whole-of-government” approach.

State has historically had primary responsibility over US foreign policy and foreign assistance, including security assistance. In the years since the Vietnam War, however, the size and resources of the Department—and, consequently, its capacity and reach—have shrunk substantially. This is particularly the case in conflict settings, where complex operations, including stabilization and reconstruction activities, are required. In turn, the role of the DoD in security assistance, SSR, development, and other activities typically regarded as civilian has grown since September 11.¹⁰ This shift can be seen in the planning, funding, and implementation of SSR programs, including civilian components.¹¹

According to a joint State-DoD-USAID statement on SSR, State “leads US interagency policy initiatives and oversees policy and programmatic support to SSR through its bureaus, offices, and overseas missions,” “leads integrated USG reconstruction and stabilization efforts,” and oversees “other USG foreign policy and programming that may have an impact on the security sector.”¹² State also has considerable expertise in the area of protection of civilians, given its key responsibilities for human rights monitoring and promotion, humanitarian and refugee affairs, and international law.

In reaction to the United States’ experience with stability and reconstruction (S&R) in Iraq, where the DoD assumed responsibility for much of the operations because of a lack of capacity on the part of State, the Bush administration established the Office of the Coordinator for Reconstruction and Stabilization (S/CRS) in 2004 in order to create that capacity at State. The S/CRS mission is “to lead, coordinate, and institutionalize US Government civilian capacity to prevent or prepare for post-conflict situations, and to help stabilize and reconstruct societies in transition from conflict or civil strife, so they can reach a sustainable path toward peace, democracy, and a market economy.”¹³ Among its primary objectives are to a) coordinate the deployment of US resources and implementation of programs in cooperation with international and local partners to accelerate transitions from conflict to peace, and b) establish and manage an interagency capability to deploy personnel and resources in an immediate surge response and the capacity to sustain assistance until traditional support mechanisms can operate effectively.¹⁴ To date, the ability of S/CRS to play a leading role in SSR has been hindered by insufficient staffing and resources and the effective ceding of SSR leadership to the DoD.¹⁵

Responsibility for SSR does not lay with one US office or agency, but instead many agencies—and many offices within each agency—have some involvement with US SSR programs.

Early in 2008, representatives from State, the DoD, and USAID formed an informal interagency working group on SSR. The group grew in breadth and depth and in Fall 2008 received formal sanction from the Bush administration.¹⁶ In the waning days of the Bush administration, the working group prepared the joint paper on SSR referenced above. This was approved by the principal senior officials in the Bush administration, and the working group was accorded a more formal status. At the time of writing, the Obama administration has not endorsed this interagency paper and has yet to articulate a policy on SSR.

According to the interagency paper, the primary role of the Department of Defense is “supporting the reform, restructuring, or re-establishment of the armed forces and the defense sector across the operational spectrum.”¹⁷ Thus, the key military role in SSR is facilitating the development of professional and accountable armed forces that are under civilian authority. This is a mission to which the US defense establishment is well suited.

In practice, additional SSR responsibilities have shifted to the Pentagon in conjunction with the GWOT and US military involvement in Iraq and Afghanistan. In effect, in those two countries the DoD has increasingly taken on roles usually associated with State and USAID. For example, State’s Bureau of International Narcotics and Law Enforcement Affairs (INL) typically has had responsibility for US police, judicial, and corrections assistance programs in post-conflict interventions, with support from the Department of Justice (DoJ). However, President Bush issued a presidential directive re-assigning such responsibility in Iraq and Afghanistan to the DoD.¹⁸

As US involvement in Iraq progressed, there was a debate within the DoD as to whether the agency should assume responsibility for S&R, given the State Department’s apparent lack of capacity. In November 2005, the Pentagon issued the DoD Directive 3000.05, “Military Support to Security, Stability, Transition, and Reconstruction Operations,” which defines post-conflict stability operations as a “core US military mission” that “shall be given priority comparable to combat operations.”¹⁹ The directive commits the DoD to supporting US S&R efforts, including rebuilding security forces, correctional facilities, and judicial systems, and to developing the required capabilities. In placing noncombat functions on equal footing with the core military mission, this directive represented a quantum leap in military thinking.²⁰

In 2006, Congress provided the DoD with new authority to train and equip foreign military forces, something previously done only through State Department programs.²¹ Section 1206 of the National Defense Authorization Act granted the DoD authority to use up to \$200 million of its own funds for this purpose, provided that the Secretary of State agrees to the specific expenditures and programs supported.²² This figure was increased to \$300 million for fiscal years 2007 and 2008.²³ President Obama’s budget for fiscal 2010 requests \$400 million.²⁴ In 2007, the Bush administration had also requested that the Pentagon receive authority to train and equip foreign police forces, but Congress rejected that request.²⁵



USAID generally leads US activities in support of development. With respect to SSR, the agency supports “governance, conflict mitigation and response, reintegration and reconciliation, and rule of law programs aimed at building civilian capacity to manage, oversee, and provide security and justice.”²⁶ ESF is often the funding source for such programs.

UN Advisors observe the training of new police recruits by the Haitian National Police.
UN Photo / Eskinder Debebe

Legislation passed in 1974 has prohibited USAID from working on police-related activities. This ban stemmed from the involvement of agency-trained police forces in human rights abuse during the Vietnam War and in programs in Latin America.²⁷ Over the last 35 years, this prohibition has limited the development of security expertise within the agency and thus thwarted any possible efforts by USAID to take a larger role in SSR work.²⁸

However, given USAID’s key role in providing humanitarian assistance and promoting good governance, the agency should play a central role in linking SSR with protection of civilians. In contrast to the DoD-led approach in Iraq and Afghanistan, US support to SSR in Latin America has included considerable emphasis on rule of law, justice sector reform, and reintegration of demobilized soldiers into civilian activity, with substantial USAID leadership. The US military has complemented this with military training that stresses accountability to civilian authority.²⁹

Nevertheless, like State, USAID has been drained of much of its power and capacity over the last several years. The percentage of foreign aid controlled by USAID shrunk between 2001 and 2006 from 65 percent to 40 percent, while the Pentagon’s role increased dramatically.³⁰

SSR guiding principles and standards of good practice

Protection of civilians is fundamental to [current] standards, which hold that SSR should incorporate principles of good governance and civilian control of the security sector, including accountability, transparency, and oversight.

How do US SSR policy and its implementation square with current standards of good practice? A review of the thinking of key intergovernmental institutions, bilateral donor agencies, policy organizations, and nongovernmental organizations (NGOs) suggest consensus around the following key guiding principles for SSR. These apply to all aspects of SSR, including the defense sector, policing and the penal system, and judicial institutions. Protection of civilians is fundamental to these standards, which hold that SSR should:

- Incorporate principles of good governance and civilian control of the security sector, including accountability, transparency, and oversight.
- Be based on human rights principles.
- Be locally owned. It goes without saying that the local government, including all key stakeholders, must be committed and engaged for SSR projects to be effective. Civil society participation should be encouraged.
- Link security and justice, and promote the rule of law.
- Do no harm.
- Begin with a comprehensive assessment of the range of security needs of the particular people and state.
- Be guided by a country-specific approach. The needs, goals, priorities, and situation on the ground vary substantially by country.
- Integrate a gender perspective. This is critical to creating an inclusive and socially responsive approach to security, as well as to addressing gender-based violence against civilians.
- Be designed based on the realistic assessment of institutional capacity, resources/affordability, and sustainability, both on the part of the donor country/organization and the host country. The key question is: what is financially, operationally, and logistically viable?
- Be conducted as part of a multi-national, multi-sector strategic approach. Since it is most often the case that multiple countries and organizations are responsible for different projects, it is crucial for the component parts to be part of a larger, coherent, long-term plan.

Key Actors in Developing Guiding Principles

The Organisation for Economic Co-operation and Development's Development Assistance Committee (OECD DAC) is probably the single leading institution in developing global SSR policy.³¹ In addition to this "donors' club," there are several key intergovernmental organizations and policy organizations that work in the field of SSR and have been developing standards of good practice: the United Nations, the Organization for Security and Cooperation in Europe (OSCE), the North Atlantic Treaty Organization (NATO), the World Bank, the International Monetary Fund, the Economic Community of West African States (ECOWAS), and the African Union. Policy organizations, think tanks, and non-profit organizations include the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Global Facilitation Network for Security Sector Reform (GFN-SSR) at Cranfield University in the United Kingdom. In the United States, the US Institute of Peace, the International Crisis Group, the Center for Global Development, and the Henry L. Stimson Center have been active in contributing to the dialogue and research base about SSR.

OECD DAC entered the SSR field early, issuing a policy statement entitled "Security System Reform and Governance: Policy and Good Practice" in 2004.³² McFate calls its *Handbook on Security System Reform* the SSR "super-manual"; the United States and other DAC members have committed themselves to these principles.³³ The DAC also offers training courses in SSR. Finally, since 2007, the DAC has conducted in-country consultations/evaluations of SSR programs, where it consults with the primary stakeholders and trains locally-posted officials of donor countries and organizations and national authorities on SSR best practices.

The DAC guidelines are very explicit on the relationship between SSR and protection of civilians, stating that the primary objective of SSR is to:

create a secure environment that is conducive to development, poverty reduction and democracy. This secure environment rests upon two essential pillars: i) the ability of the state, through its development policy and programmes, to generate conditions that mitigate the vulnerabilities to which its people are exposed; and ii) the ability of the state to use the range of policy instruments at its disposal to prevent or address security threats that affect society's well-being.³⁴

Of all intergovernmental organizations, the United Nations' almost universal membership makes it the best positioned to affect SSR policy. The Security Council entered the debate on SSR as early as July 2005, when its presidency recognized "that SSR is an essential element of any stabilization process in post-conflict environments" and called for more coherent approaches by the UN and the international community.³⁵ The UN secretariat created an interagency working group on security sector reform in late 2006, which was turned into a UN Task Force on SSR in early 2007, charged with developing a common UN approach to SSR. The Department of Peacekeeping Operations (DPKO) co-chairs the Task Force and provides a small professional staff. In 2008, the Secretary General issued a report entitled "Securing Peace and Development: The Role of the United Nations in Supporting Security Sector Reform," which contains the UN's first clear definition of the security sector and objectives of SSR.³⁶ The world body has also developed standards on use of force by police, and is a key actor on the theory and practice of civilian protection. Most current peacekeeping missions have a protection mandate, and the Secretary General reports regularly on protection issues.³⁷ The 2008 report on SSR concluded:

[S]ecurity is a precondition for sustainable peace, development and human rights. The withdrawal of international peace operations and the success of what is often a substantial international investment are contingent upon the extent to which national institutions in post-conflict countries can establish sustainable peace and development on the basis of human rights. The consequences of failures in building these institutional capacities have been demonstrated in repeated peace operations in Haiti, Liberia and Timor-Leste. This is one of the reasons United Nations peacekeeping operations have increasingly emphasized the need to establish effective and accountable security sectors....

[T]he transformation of the security sector is inherently linked to national goals and relationships between different institutions and groups within a country. Security sector reform is, therefore, a highly political process that must be placed in its specific national and regional context. Effective support by outside actors also requires knowledge and sensitivity. Equally, successful reform of the security sector needs political commitment, basic consensus and coordination among national actors. Broad national consultation lies at the heart of national ownership. Ultimately, however, security sector reform can succeed only if it is a nationally led and inclusive process in which national and local authorities, parliaments and civil society, including traditional leaders, women's groups and others, are actively engaged.³⁸

According to McFate, the United Kingdom is a "market leader" in SSR, pioneering a strategic approach and encouraging other donors and developing countries to pursue good practices.³⁹ The UK government has created pooled funding on which the Ministry of Defence, the Foreign and Commonwealth Office, and the Department for International Development (DfID) all can draw, allowing each agency to play its respective role without imbalances of resources, capacity, and power.⁴⁰ In addition, the United Kingdom played a leading role in the comprehensive SSR effort in Sierra Leone, which is widely regarded as the "gold standard" for good practice. Among other things, this linked creation of a community-oriented policing system not just to improved internal security, but also to an overhaul of the entire justice sector.⁴¹

In 2007, DfID issued an evaluation of the Security and Justice Sector Reform (SJSR) activities it conducted in Africa between 2001 and 2005. This report warns that the GWOT has created a heightened emphasis on counter-terrorism in the security policies and programs of OECD countries, which has placed increased pressure on the security and justice sector reform agenda. This has led to an emphasis on operational effectiveness, particularly of intelligence services and internal security bodies, elevated above the development of democratic accountability and oversight mechanisms.⁴²

Emerging US doctrine on SSR

Recent US policy and doctrine on SSR falls squarely within this global consensus on good practice, including the importance of linking SSR to protection of civilians. The interagency SSR paper lists the following as “guiding principles”:

- Support host nation ownership;
- Incorporate principles of good governance and respect for human rights;
- Balance operational support with institutional reform;
- Link security and justice;
- Foster transparency; and
- Do no harm.⁴³

On good governance and respect for human rights, the paper emphasizes the need to build public trust in security forces, especially where there is a legacy of abuse. It calls for efforts to achieve accountability and oversight that actively engage civil society. The paper identifies security sector governance as an important and integral part of SSR. It also underlines the need to link police reform to the justice sector, both to ensure that police respect the law, and to ensure that arrest leads to criminal justice.⁴⁴

Recent US military doctrine on SSR likewise conforms with the global policy consensus, and also acknowledges the leading role of the State Department. Significantly, it clearly recognizes the need for a coordinated approach across the US government. For example, the US Army released an updated version of its field manual on “Stability Operations” in October 2008. This offers guidance for implementation of the DoD Directive 3000.05 and goes further, consistently emphasizing a comprehensive approach to SSR:

Effective SSR requires unity of effort and shared vision among the agencies, organizations, institutions, and forces contributing to the reform process—a comprehensive approach. SSR is a cooperative activity, conducted with the other agencies of the [US government], intergovernmental organizations, nongovernmental organizations, multinational partners, and the host nation.⁴⁵

Recent US policy and doctrine on SSR falls squarely within this global consensus on good practice, including the importance of linking SSR to protection of civilians.

The manual further indicates that protection of civilians is a central task of SSR, listing the same six guiding principles as the interagency paper.⁴⁶ It summarizes the respective roles of the US agencies as follows:

The departments and agencies of the United States Government (USG), including the Department of Defense..., pursue an integrated SSR based on a whole of government approach. With the support of the host nation, military forces collaborate with interagency representatives and other civilian organizations to design and implement SSR strategies, plans, programs, and activities. The Department of State...leads and provides oversight for these efforts through its bureaus, offices, and overseas missions. The DoD provides coercive and constructive capability to support the establishment, to restructure or reform the armed forces and defense sector, and to assist and support activities of other USG agencies involved in SSR. Army forces participate in and support SSR activities as directed by the joint force commander.⁴⁷

Within the parameters of State Department leadership, the manual suggests a broad role for the military in SSR, beyond the defense sector, that includes judicial reform and disarmament, demobilization, and reintegration (DDR). Although it applies only to the Army and not the entire defense establishment, the manual represents the beginnings of SSR doctrine for the US military and stands as the most advanced articulation of SSR in the US government to date.⁴⁸

US SSR on the ground: Gaps between principle and practice

Even though US policy and doctrine have very much incorporated global good practice guidance, actual US practices have not institutionalized those standards. Instead, much US engagement in SSR continues to emphasize the traditional “train and equip” approach, without the holistic integration of security and justice or the strong links to accountability, human rights, and rule of law that should underlie SSR. In addition, much US police and military aid since September 11 has been awarded to key GWOT partner governments that have poor human rights records, such as those of Afghanistan, Djibouti, Indonesia, Pakistan, Tajikistan, Uzbekistan, and Yemen.⁴⁹

At their origin, the DoD’s expanded SSR mandates in Iraq and Afghanistan, covering law enforcement and criminal justice, may have reflected the serious limitations on civilian agencies’ international law enforcement activities. There is no US national police agency along the lines of the Italian *Carabinieri*, who have overseas deployment as one of their core missions, and it is difficult to recruit local police officers from around the United States to participate in SSR. Also, neither State nor DoJ has a critical mass of corrections, prosecution, and police experts who can easily deploy overseas, and State’s INL Bureau tends to view counter-narcotics activities as its main business, not law enforcement or protection of civilians. State and DoJ SSR operations rely heavily on private contractors, and the staff recruited in this manner often are not active-duty police or criminal justice professionals. USAID-supported rule of law programs likewise rely heavily on contractors. The United States is the only donor that extensively engages private contractors in SSR.⁵⁰

Putting the DoD in charge of police reform in Iraq and Afghanistan has meant an emphasis not on community policing and civilian protection, but on engaging police in military-led counter-insurgency operations. In Iraq, US military police officers trained civilian police, despite State Department pleas for a “military-to-military and cop-to-cop” approach. While Iraqi army units trained by the US military have become increasingly professional, the unreformed Iraqi police remain corrupt, divided along sectarian lines, and involved with paramilitary death squads.⁵¹ Similarly, US military attempts to reform the Iraqi Interior Ministry as the police civilian oversight body were hampered by the lack of appropriate US government counterparts, i.e., deployable State or DoJ personnel.⁵² In 2008, according to McFate, the ministry remained “corrupt and dysfunctional.”⁵³ In the absence of an effective supervisory institution, says Robert Perito, an SSR expert at the US Institute of Peace, “the US could not determine what happened to training program graduates or their uniforms and weapons.”⁵⁴

Between fiscal years 2002 and 2009, the United States provided more than \$21 billion in aid to the Afghan National Army and Police. In contrast, US support for

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rule of law, democracy, and governance in Afghanistan during the same period came to \$2.5 billion. In fiscal year 2007, the United States provided \$7.4 billion worth of support to the Afghan security forces via the DoD. This compares to the \$5.2 billion that USAID and State distributed worldwide that same year for health and child survival.⁵⁵

To date, it is clear that US security assistance to Afghanistan has not fulfilled the SSR objective of supporting forces that “provide safety, security, and justice” in a manner that is “transparent, accountable to civilian authority, and responsive to the needs of the public.” Thus far more than \$7 billion in US assistance to the Afghan National Police, combined with German and European Commission support for police training, have resulted in a force with a 25 percent literacy rate and very high levels of corruption and drug addiction. Recruitment of female officers has proved extremely difficult. Afghan citizens lack trust in the National Police.⁵⁶ McFate points out that the force “has reportedly grown in number to nearly 80,000 personnel, [but] the Afghan Interior Ministry remains corrupt, dysfunctional, and incapable of managing a national police organization.”⁵⁷

The International Crisis Group has found that the Afghan government is currently prosecuting 11 percent of the police leadership for drug trafficking. Almost 30 percent of the force is absent without leave, and another 17 percent are casualties of the counter-insurgency effort. None of the US-trained police units is currently “fully capable.” Integration of the force into a system of rule of law has not yet happened. Officers receive very brief training before they receive arms, and often come under the control of local tribal leaders and militia. This is the key reason why citizens do not trust the police, but instead fear them. Most importantly, there is serious tension between community policing and law enforcement functions on the one hand and the US desire to engage the force in counter-insurgency activities on the other.⁵⁸

The billions of dollars worth of US security assistance have failed to make Afghan citizens secure. US and allied forces have killed hundreds of Afghan civilians annually since 2002. This has not won Afghan hearts and minds over to the fight against the Taliban.⁵⁹ An Oxfam International survey found that respondents viewed the Taliban, warlords, and criminals as the leading security threat, followed by US and allied forces, drug traffickers, and the Afghan police.⁶⁰ Upon taking command of US troops in Afghanistan in June 2009, General Stanley McChrystal vowed to make protection his top priority, saying, “The Afghan people are at the center of our mission. In reality, they are the mission. We must protect them from violence, whatever its nature.”⁶¹

Evolving Civilian and Military Roles in SSR

Globally, the State Department appears to be making efforts to re-assume some of its SSR responsibilities. S/CRS drafted National Security Presidential Directive (NSPD) 44 in 2005, which names State as lead agency for S&R operations overseas.⁶² In 2006, S/CRS assumed responsibility for a new group of projects with funding from the DoD. Section 1207 of the National Defense Authorization Act of 2006 and 2007 authorized the DoD to provide up to \$200 million over two years to State for projects that support security, counter-terrorism, stabilization, and reconstruction. Section 1207 was renewed in 2008 for an additional \$100 million. President Obama has requested \$200 million for fiscal 2010.⁶³ Such reliance on the DoD for funding undercuts the State Department’s endorsed role as the lead agency on SSR, however.

State is also taking steps to rebuild its capacity for civilian response, including both permanent and surge capacity. At the end of 2008, Congress passed the Reconstruction and Stabilization Civilian Management Act (the Lugar-Biden bill) as part of the National Defense Authorization Act; it calls for doubling the size of the Foreign Service. At the time of writing, both Houses of Congress are working on the Foreign Affairs Authorization Bill of 2009 that would authorize modest increases in the size of State and USAID.

But a substantial resource disparity remains between State and the DoD. State's fiscal 2009 budget for *global* security assistance totaled around \$14 billion, whereas the DoD had more than \$7 billion for SSR activities in Afghanistan alone.⁶⁴

There is also a serious gap between the civilian and military branches of the US government in their capacity to deploy personnel overseas for SSR activities. The DoD has considerable surge capability and unparalleled logistical support. In contrast, Bush (and now Obama) administration efforts to create a Civilian Response Corps and back-up Reserve secured only modest appropriations from Congress. Eventually, if fully funded, the proposed Civilian Stabilization Initiative would give S/CRS the capacity to deploy civilian experts from across the government for up to 180 days, as well as to draw on experts from outside the federal government. All told, the Initiative calls for a pool of over 4,000 people.⁶⁵

At present, USAID has deployable personnel for disaster response, and also has the ability to disburse human and financial resources quickly and flexibly for post-conflict reconstruction through its Office of Transition Initiatives (OTI). OTI funds can support community-development projects that may play a crucial role in SSR, but the annual OTI core budget is only in the range of \$40-60 million, with additional funds transferred each year for specific projects.⁶⁶

Below, we briefly review how well some US-supported SSR programs beyond Afghanistan and Iraq have integrated protection of civilians.

LIBERIA

Despite some serious shortcomings, US support for SSR in Liberia is often cited as a model program. US State Department-led training programs for both the reconstituted Armed Forces of Liberia and civil servants of the Ministry of Defense have incorporated serious attention to human rights and rule of law. In addition, work with the Ministry has focused on institutionalizing accountability and oversight of military forces. The program has also put considerable emphasis on Liberian ownership, to ensure sustainability once the US role ends. Liberian laws, including the 2003 peace accord and the constitution, provide the framework under which the program has operated, and US officials have closely consulted with the Liberian government on program implementation. Recruitment of both military personnel and defense civil servants has emphasized representation of all regions and ethnic groups, in order to break the legacy of exclusion and distrust. With support from Liberia's political leaders, the SSR program has thoroughly vetted all candidates for military and civilian posts, with a "zero-tolerance" policy for potential recruits with records of past human rights abuse.⁶⁷

There is a serious gap between the civilian and military branches of the US government in their capacity to deploy personnel overseas for SSR activities.

However, the program has also experienced a number of problems, and certain practices have raised concerns among the US military. First of all, the program has not received steady funding since its inception in 2003. This has meant slow progress in establishing the reformed armed forces and ministry, and has hampered the effectiveness of training. Second, the program has relied heavily on private contractors, such as DynCorp International and Pacific Architects and Engineers, to provide facilities for the newly reconstituted Liberian military as well as to vet and train them. These firms have operated under vague and non-transparent agreements. Erratic State Department funding has reinforced the need to engage contractors, given the lack of regular appropriations to support the involvement of US government staff. Insufficient funds curtailed the important human rights and civil-military relations training offered to new soldiers. While the US military trainers involved in the program were highly regarded, the private contractors are motivated by profit, not establishing professional forces that respect human rights and civilian authority. Also, it is not clear whether private contractors offer the best vehicle for SSR in a country and region long plagued by warlordism and mercenaries.

A key issue is that reform of the police and justice sectors have lagged behind armed forces restructuring in Liberia.⁶⁸ Chals Wontewe, Liberia Country Director for Oxfam Great Britain, comments:

Training and equipping the police should be at the center of any security sector reform. What will eventually give the excuse for militias/warlords to intervene in a country is continued poor management of dissatisfaction. This is a role partly for the police, partly for the judiciary, and partly for government. In Liberia, it seems very little is being done to train the judiciary to play its role in preventing/reducing the risk of this threat. To make a judiciary more capable for acting to prevent this threat will require new skills and a new culture. Also, it seems very little is being done to train and equip the police in Liberia. The police lack confidence in their ability to manage riots and the citizens have little confidence in and respect for the police.... One can compare the state of the police in Sierra Leone, where the risk of internal conflict getting out of control is low, with the state of the police in Liberia, where the risk is real and high.⁶⁹

HAITI

US intervention in Haiti has a long history, including a 19-year military occupation in the first half of the 20th century and the 1994 restoration of the elected government that a military coup had toppled three years earlier.⁷⁰ Since 2004, the United States has supported the UN Stabilization Mission in Haiti (MINUSTAH), providing \$250 million in funding in fiscal 2008 and 2009, with an additional \$160 million proposed in President Obama's fiscal 2010 budget.⁷¹

MINUSTAH has had important success in dismantling the criminal syndicates that had long ruled the country's impoverished urban slums through force and violence. According to Jacques Sonny Simea, a fisherman living in Port-au-Prince's notorious Cité Soleil slum, "Now things are better, and we thank God. There's no more shooting."⁷² Prosper Borgelin, a community leader, says that the improved security has allowed local organizing to take place: "We see the results in that roads are being built, rubbish collected, and sewage removed."⁷³ However, kidnapping and drug trafficking remain serious security problems.⁷⁴

SSR has proceeded very slowly in Haiti. In 1994, the restored civilian government disbanded the armed forces, which had repeatedly intervened in politics throughout the country's history. This total demobilization was not, however, accompanied by effective disarmament, and the widespread availability of guns has posed an ongoing threat to law and order.⁷⁵

The UN mission has sought to help create a professional police force that upholds the rule of law and human rights, but this initiative has not moved ahead rapidly. A particular concern is inadequate efforts to vet current officers and candidates to weed out those involved in human rights abuses and corruption. Also, MINUSTAH has focused on training "street cops," with much less attention to assisting the Haitian National Police in border and seacoast control, despite the problems of cross-border organized crime, drug trafficking, and gun running between Haiti and the Dominican Republic and South American drug smugglers' use of Haiti as a transshipment point. The police have not received adequate training in handling civil unrest such as that which Haiti experienced in early 2008 or in addressing the endemic problem of kidnapping. Justice sector reform has barely gotten underway: the government has not implemented new legislation to facilitate speedy prosecution and incarceration of those accused of crimes, and prison facilities are neither secure nor adequate.⁷⁶

Extreme poverty and lack of infrastructure mean that slums in Port-au-Prince, Gonaïves, and other Haitian cities remain powder kegs likely to explode when criminal elements and other spoilers touch a match to the fuse of a crisis, such as rising food prices in 2008. Although MINUSTAH and bilateral donors have supported "social pacification projects" that create jobs and improve slum infrastructure, Haiti's complete lack of social protection programs is a major barrier to sustainable poverty reduction and peace.⁷⁷ The narrow approach to SSR "does not really take into account structural causes of violence and insecurity and does not tackle poverty seriously," says Yolette Etienne, Haiti Program Coordinator for Oxfam Great Britain.⁷⁸

SOUTHERN SUDAN

In 2005, the Comprehensive Peace Agreement brought an end to more than two decades of civil war in southern Sudan. The agreement called for the demobilization of much of the Sudanese People's Liberation Army (SPLA), the former rebel force, with the remainder of the troops becoming professional armed forces charged with securing the southern region. The United States has provided direct bilateral funding (around \$60 million per year) to support restructuring of the SPLA. In addition, the United States has provided around \$250 million annually to support the UN Mission in Sudan (UNMIS), including its efforts to create a police force in the south.⁷⁹ Thus far, SSR in southern Sudan has yielded mixed results.

Efforts to reform the SPLA have included senior officer training that emphasizes international human rights and humanitarian law, good governance, and the role of armed forces in peacetime. But even SPLA commanders recognize that turning a rebel army into a conventional force that is accountable to civilian authority is a complex task. "Transforming people is not a simple job," acknowledges SPLA General Peter Parnyang.⁸⁰ UN officials point to a lack of discipline among some SPLA troops, poor command and control systems, and fear of the army among civilians, although these officials do see the SPLA leadership as committed to professionalizing their forces.⁸¹



One of the first 12 demobilized soldiers of the Sudan People's Liberation Army (SPLA) shows his discharge certificate at the launch of the Disarmament, Demobilization, and Reintegration (DDR) programme in southern Sudan by the United Nations Mission in Sudan (UNMIS).
UN Photo / Tim McKulka

The southern authorities also agreed to create a Southern Sudan Police Service (SSPS) to ensure civilian public safety, with US support. So far, the SSPS has only a limited presence, equipment, and facilities. Members receive irregular and inadequate pay, there is no central training institution, and a legal framework has yet to be established over the criminal justice system. The Service has absorbed many demobilized SPLA troops into its ranks, but they lack training or a background in civilian security and community policing. Only 10 percent of current officers are literate, many are near retirement age, and few are women, despite the strong presence of women in the SPLA during the fighting. UNMIS and the UN Development Programme have recently sought to improve donor coordination in supporting the development of the SSPS as part of a more coherent approach to SSR.⁸²

A recent opinion survey carried out in the region by the University of Juba and Canada's North-South Institute found that there is a strong perception that the SPLA, SSPS, and other armed groups remain a key source of insecurity and human rights abuse in the south. Weapons are widely available, and criminal groups are often better armed than SSPS officers. Citizens prefer to rely on traditional chiefs as the source of security. They complain of arbitrary arrests and police corruption (undoubtedly driven by irregular and low pay). The SSPS has not implemented a government mandate that all police stations have a public grievance unit, so police behave with impunity. A majority of respondents rated police performance "in terms of respect for human rights, equitable service and in terms of respect for rule of law" either "fair" or "poor."⁸³

Conclusion and recommendations

It is heartening that recent US policy documents on SSR have placed a strong emphasis on respect for human rights, security force accountability, transparency, the links between security and justice, and civil society participation in the reform process. But the gap between policy and practice remains significant. The lack of capacity and resources on the part of civilian agencies of the US government severely limits their ability to participate meaningfully in SSR, and means that the US military has moved into areas where it does not have a comparative advantage. Moreover, the Obama administration has yet to articulate a policy on SSR.

Oxfam recognizes that US national security will remain an important consideration in US security assistance and support for SSR, but insists that aid should not go to security forces that have a consistent history of seriously violating internationally recognized human rights. Nevertheless, accountable security forces committed to upholding human rights are themselves key to the protection of civilians, and certain types of security assistance are especially important where there is political will to protect civilians, but lack of capacity.

Oxfam recommends the following changes in US law and policy. Oxfam believes that these changes will close the gap between policy and practice and will result in a consistent SSR methodology that fully integrates protection of civilians, implements the needed whole-of-government approach, and puts civilian agencies in the lead.

1. Congress should revise the Foreign Assistance Act to clearly state that the protection of civilians is a core goal of US security assistance programs.
2. The Department of State should serve as the lead agency on SSR, in practice as well as principle. Congress should provide State with sufficient funds so that it can establish the proposed Civilian Response Corps and Reserve, with appropriate training of personnel from across the government in SSR principles, including protection of civilians.
3. Congress should authorize new flexible funding streams that reestablish civilian agency control over security assistance and stabilization. These funds should set the stage for Congress to allow Sections 1206 and 1207 assistance to expire.
4. Congress should repeal legal restrictions on USAID's participation in police training, with the understanding that such training needs to emphasize good governance, the rule of law, community-oriented policing, respect for human rights, and the accountability of police to citizens, through parliamentary and ministerial authorities. The Office of Democracy and Governance should be the lead unit within USAID for engagement in SSR, with additional staff resources and budget provided for this purpose.

The lack of capacity and resources on the part of civilian agencies of the US government ... means that the US military has moved into areas where it lacks a comparative advantage.

5. The direct DoD role in SSR should focus on reform of the armed forces and defense ministries, with an advisory role to other agencies on law enforcement and justice issues.
6. The Obama administration should formally reconstitute the interagency working group on SSR; authorize it to set policy for all US government agencies; name as its chair a senior member of the National Security Council staff; and endorse the January 2009 interagency SSR paper. The working group should ensure that the policy is known, accepted, and implemented by all agencies involved in SSR programs.
7. These increases in US government civilian capacity and resources to carry out SSR activities should result in a greatly reduced role for private contractors. When contracting out is necessary, contracts should be transparent, subject to regular audits and oversight, and require contractors to abide by the provisions of the International Peace Operations Association code of conduct, which calls for operations to adhere to international humanitarian and human rights law and minimize loss of life and property.⁸⁴
8. US-supported SSR programs should foster maximum host country ownership and civil society participation in program design, implementation, and monitoring and evaluation.
9. Congress should provide strong oversight over security assistance, including arranging regular audits by independent agency inspectors general and the Government Accountability Office, in order to ensure that agencies effectively implement the SSR standards of good practice, particularly with regard to protection of civilians.

APPENDIX 1: DEFINITIONS OF KEY TERMS

PROTECTION OF CIVILIANS

According to the definition widely used in the international humanitarian community,⁸⁵ “protection of civilians” encompasses “all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, i.e., human rights law, international humanitarian law, and refugee law.”⁸⁶ In view of the lack of specificity of this definition, Oxfam has adopted a more operational definition, focused “on efforts that improve the safety of civilians exposed to widespread threats of violence, coercion, or deliberate deprivation.”⁸⁷ These efforts include actions to reduce the threat itself, people’s vulnerability to the threat, or the frequency of their exposure. Violence includes deliberate killing, wounding, torture, cruel and inhuman and degrading treatment, sexual violence including rape, and the threat of any of these. Coercion includes forced prostitution, sexual slavery, sexual exploitation, forced or compulsory labor, forced displacement or return, forced recruitment into armed forces, and being forced to commit acts of violence against others. Deliberate deprivation includes deliberate destruction of civilian homes, wells, crops, and clinics; preventing delivery of humanitarian assistance; impeding access to land and jobs; and demanding illegal payments.

SECURITY SECTOR REFORM

The 2009 interagency paper offered a US government understanding of security sector reform as:

the set of policies, plans, programs, and activities that a government undertakes to improve the way it provides safety, security, and justice. The overall objective is to provide these services in a way that promotes an effective and legitimate public service that is transparent, accountable to civilian authority, and responsive to the needs of the public. From a donor perspective, SSR is an umbrella term that might include integrated activities in support of: defense and armed forces reform; civilian management and oversight; justice; police; corrections; intelligence reform; national security planning and strategy support; border management; disarmament, demobilization, and reintegration (DDR); and/or reduction of armed violence.⁸⁸

THE RULE OF LAW

As conceived in the paper, SSR covers significant elements of the justice sector, which includes the courts, prosecutors, public defenders, legal aid societies, prisons, and parole systems, and may also focus on the integration of traditional providers of justice into this formal system. The police are clearly an important part of both the security and justice sectors. In essence, SSR is a component part of the rule of law.

Indeed, SSR programs focused on developing a professional, community-based policing system necessarily must link this to the justice sector. Unless arrests result in prosecution, incarceration, and rehabilitation, police reform will be ineffective at best and create an increased sense of lack of accountability and rule of law at worst. Recognizing this, DfID refers to its comprehensive approach as “Security and Justice Sector Reform” (see Figure 1).⁸⁹

According to a report by the UN Secretary General, rule of law is:

a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to the laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.⁹⁰

Reflecting on the post-conflict UN Mission in Bosnia, Paddy Ashdown, the former UN High Representative there commented, “In hindsight, we should have put the establishment of the rule of law first, for everything else depends on it: a functioning economy, a free and fair political system, the development of civil society, public confidence in police and the courts.”⁹¹

COMMUNITY-BASED POLICING

SSR programs frequently focus on community-based policing.⁹² According to Hesta Groenwald and Gordon Peake, “A police service supported by the community and capable of arresting insecurity can have a far-reaching impact on enabling lasting economic, social, and political development.” This approach “proposes police and communities working together in partnership in order to address community concerns. When successfully executed, it can both develop security and secure development.”⁹³

APPENDIX 2: US GOVERNMENT AGENCY ROLES IN SSR

DEPARTMENT OF STATE

The Assistant Secretary for the relevant regional bureau (e.g., Bureau of African Affairs) leads the development of country policy, including “facilitating integrated approaches to SSR within [State] and other USG departments and agencies.”⁹⁴ As noted above, S/CRS and State’s Bureau of International Narcotics and Law Enforcement Affairs (INL) play key roles in SSR activities. The Bureau of International Security and Nonproliferation administers the Export Control and Related Border Security Assistance (EXBS) program.

INL (nicknamed “Drugs and Thugs”⁹⁵) conducts police, judicial, and correctional assistance programs in post-conflict settings and in emerging democracies, often in collaboration with DoJ agencies. INL currently outsources virtually all of the work to commercial contractors. Although it is responsible for billions of dollars in police assistance programs, the Bureau has few police officers on its staff.⁹⁶

Other State Department units playing a role include:

- The Bureau of Political-Military Affairs (PM), through the Office of Plans, Policy, and Analysis (PM/PPA)
- The Bureau of International Organization Affairs (IO)
- The Bureau of Democracy, Human Rights, and Labor (DRL)
- The Bureau of Diplomatic Security (DS)
- The Bureau of Population, Refugees, and Migration (PRM)
- The Office of the Coordinator for Counterterrorism (S/CT)

In addition to State’s traditional leadership role on security assistance, since 2004, it has administered the US commitment to the Global Peace Operations Initiative (GPOI), a multilateral program agreed upon by the G-8 meeting that year. The African component of this initiative, the Africa Contingency Operations Training and Assistance (ACOTA) program, has trained over 100,000 African peacekeepers. As a result, eight African countries are among the 20 leading troop contributing countries for UN peacekeeping operations.⁹⁷ ACOTA training emphasizes accountability, rule of law, human rights, and the role of the military in a democratic society.⁹⁸

In 2006, the Bush administration created a new position, the State Department Director of Foreign Assistance (DFA), with the rank of Deputy Secretary. The DFA served concurrently as USAID Administrator, with approval authority over all SSR-related funding decisions at State and USAID. This office was created as part of a new emphasis on state building, including helping countries create their own institutions to provide security.⁹⁹ As of October 2009, the Obama administration had not yet filled this position or other policy-making posts in USAID, and it is not clear how the DFA position will fit into current Congressional aid reform efforts.

DEPARTMENT OF DEFENSE

The DoD’s expanded SSR role in Iraq and Afghanistan has led to a shift in the Pentagon’s perspectives on conflict and conflict prevention. The 2006 Quadrennial Defense Review called on the US military to strengthen the sovereign capabilities of friendly governments to police their territories and borders against transnational terrorists, criminals, and insurgents who might wish to harm the United States and its allies.¹⁰⁰ SSR is now one of the eight primary security cooperation focus areas in the DoD’s Guidance on the Employment of the Force (GEF). Related to this is the emergence of the concept of Phase Zero, which precedes the traditional four phases of a military campaign: deter/engage; seize initiative; decisive operations; and transition. Phase Zero encompasses all conflict-prevention activities, including building capacity in countries to uphold the rule of law and prevent and limit conflicts.¹⁰¹

The Pentagon has ten unified multi-service Combatant Commands (COCOMs), including six regional commands. The Central Command (CENTCOM) is responsible for US operations in Iraq and Afghanistan.¹⁰² As the DoD has become increasingly involved in the traditionally civilian functions involved with SSR, the regional COCOMs have developed interagency civilian cohorts, usually called Joint Interagency Coordinating Groups.¹⁰³ For example, the Southern Command (SOUTHCOM), based in Miami, Florida, is responsible for providing contingency planning, operations, and security cooperation for Central and South America and the Caribbean. Its Joint Interagency Task Force-South includes involvement from State, the Drug Enforcement Administration, the FBI, and the Coast Guard, and leads interagency counter-drug operations. SOUTHCOM has linked regional security and development in its programs and has engaged in limited SSR in Colombia.¹⁰⁴

The Africa Command (AFRICOM) was created in 2007 in response to the increasing strategic importance of Africa and emerging recognition that peace and stability on the African continent is a US national security interest. Its mission is to, "in concert with other US government agencies and international partners, [conduct] sustained security engagement through military-to-military programs, military-sponsored activities, and other military operations as directed to promote a stable and secure African environment in support of US foreign policy."¹⁰⁵ One of AFRICOM'S primary aims is to provide SSR support. The Deputy to the AFRICOM Commander for Civil-Military Activities (DCMA) is responsible for the SSR portfolio.¹⁰⁶ AFRICOM'S structure is intended to be unique, including significant management and staff representation by State, USAID, and other US government agencies. AFRICOM is held out as a prime example of the DoD's expansion into development and humanitarian arenas, although the command itself is quick to explain that its goal is to support US foreign policy, as set by the State Department and country teams.¹⁰⁷ State's Trans-Sahara Counterterrorism Partnership is a major vehicle for a broad interagency approach to stabilization. Within this framework, AFRICOM provides counter-terrorism training to African military forces, while USAID programs focus on governance.¹⁰⁸

The mandate of the Army's Peacekeeping and Stability Operations Institute (PKSOI) has expanded such that it now serves as the center of excellence for mastering stability, security, transition, reconstruction, and peace operations at the strategic and operational levels, and thereby to improve military, interagency, international, and multinational capabilities and execution. Also, the US Army Training and Doctrine Command's Combined Arms Center has established the Joint Center for International Security Force Assistance, which now serves as the DoD's center of excellence and the US armed forces' focal point for SSR projects involving organizing, training, equipping, and rebuilding partner nation security forces.¹⁰⁹

In addition to the DoD's Section 1206 "train and equip" budget, US military unit commanders at the battalion level (250-1,000 troops) and higher in Iraq and Afghanistan have access to funds from the Commander's Emergency Response Program (CERP). Initiated in 2003 as a means for distributing discovered stashes of US currency that had been hidden away by officials of the former Iraqi regime, this flexible instrument enables US commanders to effectively respond to urgent humanitarian relief and reconstruction requirements by carrying out programs such as building or rebuilding roads, schools, and clinics that will immediately assist the population.¹¹⁰ CERP offers a means for the military to further civilian protection and local development that can contribute to a sustainable peace; the CERP Handbook directly states that the funds "provide tactical commanders a means to conduct multiple stability tasks that have traditionally been performed by US, foreign, or indigenous professional civilian personnel or agencies."¹¹¹ However, the criteria governing the use of CERP funds are vague, and commanders do not always have extensive knowledge of local development needs or expertise in development project management.¹¹² The fiscal 2010 Obama administration budget calls for a boost in CERP from \$1.4 to \$1.5 billion.¹¹³

USAID

Within USAID, the SSR focal point is the Assistant Administrator for the Bureau of Democracy, Conflict, and Humanitarian Assistance. The Bureau's Offices of Democracy and Governance, Conflict Management and Mitigation, Transition Initiatives, and Military Affairs all have important roles in the development and implementation of SSR and rule of law programs, as do the relevant regional bureaus.¹¹⁴ The agency has a cadre of Democracy and Governance Officers assigned to its overseas missions, many of whom work on activities related to rule of law, governance, and reintegration of demobilized soldiers. At present, however, the agency has only one full-time SSR specialist.¹¹⁵

DEPARTMENT OF JUSTICE

Within DoJ, the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the US Marshals Service, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Federal Bureau of Prisons, and the Criminal Division (e.g., the International Criminal Investigative Training Assistance Program, or ICITAP, and the Office of Prosecutorial Development Assistance and Training) all have roles and responsibilities with regard to SSR and justice sector reform programs. ICITAP was created in the 1980s and is the US government's principal program for encouraging police reform and improvement of technical skills.¹¹⁶ It works in close partnership with the State Department, USAID, and the DoD to “develop professional and transparent law enforcement institutions that protect human rights, combat corruption, and reduce the threat of transnational crime and terrorism.” Its programs are funded primarily by the State Department.¹¹⁷ In practice, ICITAP and the State Department's INL have long waged turf battles over international criminal justice activities, although a Clinton administration directive designated State as the lead agency.¹¹⁸

OTHER AGENCIES

The US Departments of Agriculture, Commerce, Health and Human Services, Homeland Security, and the Treasury all have staff with important expertise that could help bolster SSR efforts. However, as discussed in the text above, there are presently limitations on deploying these staff overseas.

NOTES

- 1 <http://www.ipoaworld.org/eng/codeofconduct/87-codecodeofconduct-v12enghtml.html> (accessed July 13, 2009).
- 2 Sean McFate, "Securing the Future: A Primer on Security Sector Reform," US Institute of Peace Special Report no. 208 (2008): 4.
- 3 Ibid., 5.
- 4 US Department of State, Fiscal 2010 Budget Request, <http://www.state.gov/documents/organization/122513.pdf> (accessed July 13, 2009), 43.
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COVER: US Marine provides security while Afghan National Police officers search vehicles and people at a vehicle checkpoint in the Nawa district of Helmand province, Afghanistan, August 2009. *US Marine Corps / Cpl. Artur Shvartsberg*

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