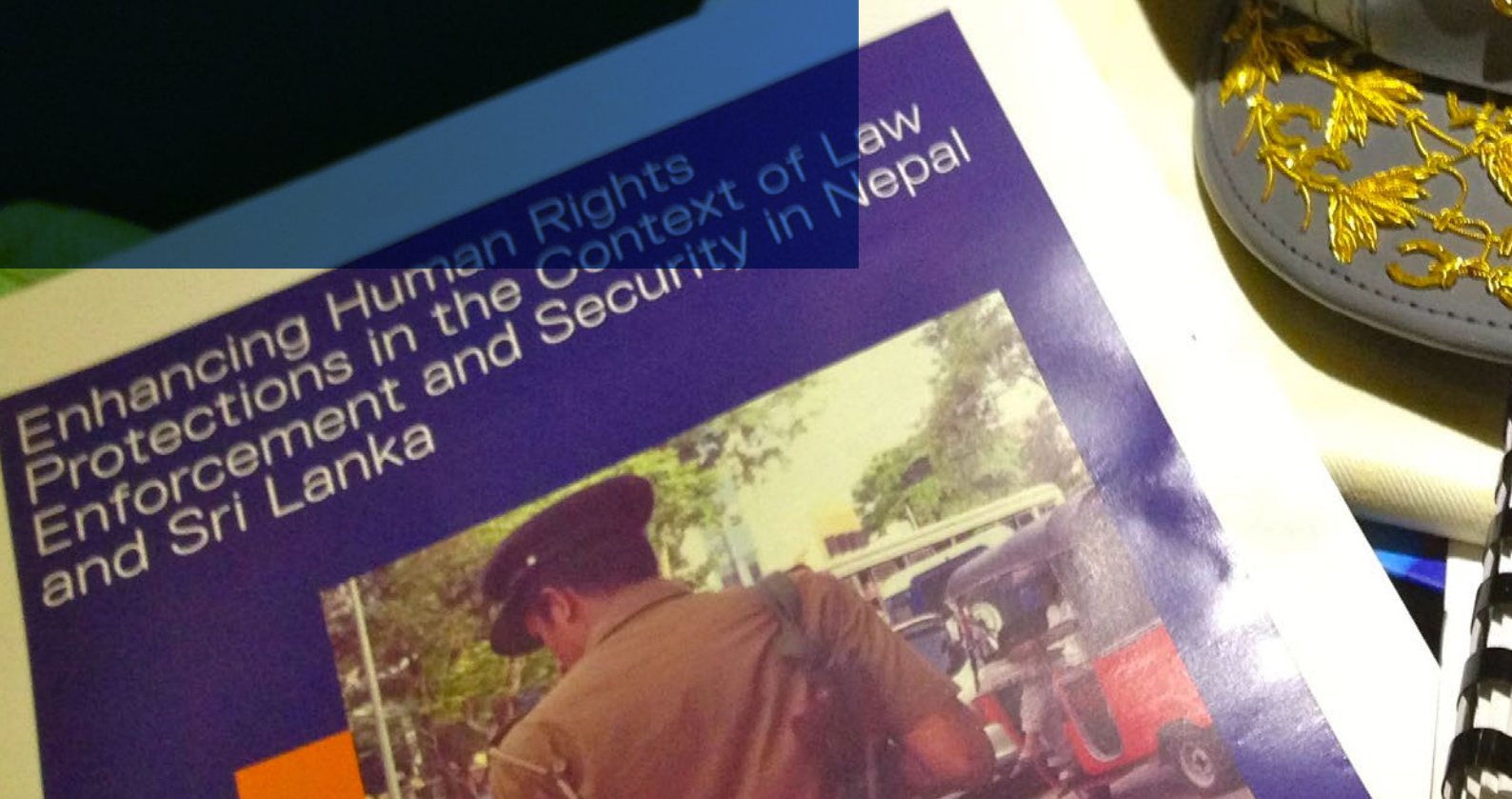




INTRODUCTION TO THE ISSUES PAPERS



IN PARTNERSHIP WITH



THE UNIVERSITY OF SYDNEY



ENHANCING HUMAN RIGHTS PROTECTIONS IN THE SECURITY SECTOR IN THE ASIA PACIFIC

INTRODUCTION TO THE ISSUES PAPERS

This document provides an introduction to a series of *Issues Papers* prepared for the *Enhancing Human Rights Protections in the Security Sector in the Asia Pacific* project. The *Issues Papers* are intended to provide individuals and organisations that are interested in human rights and security sectors with information about the work we conducted under the project. Their principal purpose is to share these experiences and findings so that others will be better placed to assess, transform, refine and sharpen their own prevention strategies.

Combined, the *Issues Papers* set out the project's research findings as well as describing the approach to strengthening human rights in the security sector it developed. More specifically, they:

- Set out the project's major research findings on the root causes of the improper use of force;
- Discuss how research on organisational, cultural and normative change can assist in addressing human rights violations in security organisations;
- Explain our theory of change and the intervention that we developed as a result of this theory;
- Describe the work that we did with security and law enforcement organisations and personnel in Nepal and Sri Lanka;
- Reflect upon the project in terms of the challenges and possibilities for future prevention work;
- Provide other stakeholders in the field, including representatives of Military and Police organisations, human rights organisations, scholars and funding bodies, with research, resources and ideas for future project development.

The *Issues Papers* will be released simultaneously with the staging of an international conference: *Enhancing Human Rights Protections in the Security Sector in the Asia Pacific*. The project will stimulate discussion at, and reflection after, the conference, and encourage others to share their experiences in developing prevention strategies and working on human rights issues in security sectors.

We hope that the experimental nature of this project will demonstrate the importance of testing our assumptions about the way we do things in the human rights field and will encourage others both to experiment and to share what they know and learn more broadly across the sector. We also hope that the responses that readers have to these *Issues Papers* will provide useful feedback in the preparation of our final report and eventual publications.

ABOUT THIS INTRODUCTION AND THE ISSUES PAPER SERIES

This *Introduction* provides an overview of the *Enhancing Human Rights Protections in the Security Sector in the Asia Pacific* project and outlines some of the general issues concerning the project's objectives, scope, focus, approach, language and organisation. In doing so, it lays the foundation for more specific topics to be discussed in the subsequent *Issues Papers*. It also provides an outline of the contents and themes of all of the *Issues Papers* to guide readers in navigating the material in the series.

This *Issues Paper* series forms part of a collection of resources that may also be of interest:

- *Enhancing Human Rights Protection in the Security Sector in the Asia Pacific; Project Overview*
A short paper providing an overview of all aspects of the project summarising our principal research findings, our conceptual framework and the development of our intervention.
- *Human Rights Training in the Security Sector: A Critical Overview and Analysis of the Field*
A comprehensive and critical analysis of the training resources on human rights and torture prevention for police and military that have been developed and delivered internationally. On the basis of extensive research on existing trainings, this report sets out a number of principles to guide the development and delivery of more effective training resources.
- *Developing a Systemic Human Rights Intervention in the Security Sector: A Toolkit for Practitioners*
A manual for NGOs, funding bodies and security sector organisations interested in developing their own prevention project drawing on the lessons learned from this project. It takes readers through the process of research, developing a theory of change, intervention, relationship building, workshops and resources development, and evaluation.

ABOUT THE ENHANCING HUMAN RIGHTS PROTECTIONS IN THE SECURITY SECTOR IN THE ASIA PACIFIC PROJECT

OBJECTIVES AND OVERVIEW

The *Enhancing Human Rights Protections in the Security Sector in the Asia Pacific* project forms the basis of these *Issues Papers* and other reports. It is a three-year, multi-partner project, whose principal objective has been to identify and test strategies that can effectively build the capacity of security sector personnel to address and resist human rights violations in their own organisations. The project's particular thematic focus has been the improper use of force, and its geographic focus has been Nepal and Sri Lanka. The project commenced in January 2012 and is due to conclude at the end of 2014.

The *Enhancing Human Rights Protections in the Security Sector in the Asia Pacific* project has been coordinated by three organisations with a history of working on human rights in the region – the University of Sydney Human Rights Program, the Centre for the Study of Human Rights at the University of Colombo and the Kathmandu School of Law. Project members work in close cooperation with the Nepal Police, the Armed Police Force in Nepal and the police and armed forces in Sri Lanka.

This project has involved four key phases:

- (i) Research into the root causes of the improper use of force and into effective methods for organisational, normative and cultural change;
- (ii) Designing an intervention based on the research findings;
- (iii) Piloting that intervention in cooperation with specific security sector organisations in Sri Lanka and Nepal;
- (iv) Evaluating our actions.

In order to conduct this research, the three partners established research teams in Sri Lanka and Nepal, as well as a team of international researchers from different disciplinary and professional backgrounds. As discussed in *Issues Papers* 3 and 4 on Sri Lanka and Nepal, with the cooperation of the security organisations with which we have been working and a range of civil society organisations, we were also able to conduct empirical research in both countries.

THE RESEARCH QUESTIONS

In simple terms, we can think of this project as being organised around two questions:

- What are the roots causes of the improper use of force in security organisations?
- How can we draw on this understanding of root causes to prevent the improper use of force in security organisations?

Commencing with the first question, our research led us to conclude the causes of the improper use of force operate at a number of levels. Combined, these levels can be thought of as a 'system' that produces or creates risks of the improper use of force. Within this overall system are individual level factors: the structures and processes of security sector organisations; the characteristics and operation of the criminal justice system; cultural and community norms and attitudes; political factors and ideological factors. The factors operating at different levels interact and in many ways reinforce each other. Our research identified some common patterns or generic root causes and risk factors but also found that the particular constellation of root causes will differ according to the particular context.

The implication of these research findings for our second question has been, in the broadest terms, that to be effective, interventions cannot simply be aimed at reforming individuals. Given that our project was organised around the objective of building the capacity of security personnel to resist and prevent the improper use of force, this was an important finding. To effectively address the root causes of the improper use of force, the object of reform has to be the overall system or at least specific and strategically chosen parts of that system. What this means is that activities designed to build the capacity of individuals will be most effective if that capacity involves increasing their ability to bring about systematic change.

In this project, we did not seek to bring about change at all levels of the system noted above. Our focus has been on the ways in which security organisations can be reformed so that they develop stronger resistance against the improper use of force and reduce risks of its occurring. Working through the capacity building lens, our approach has been to work with security personnel to support them to work out how to transform the system

so that it does not normalise, incentivise, facilitate, permit or legitimise the improper use of force. How this project operationalised this general approach of building the capacity of security sector personnel to address and prevent the improper use of force by addressing risk factors in their own workplace is discussed in detail in *Issues Paper 6: From Structural Analysis to Structural Intervention*.

WHY FOCUS ON THE IMPROPER USE OF FORCE? SCOPE AND SIGNIFICANCE

We chose to focus specifically on the improper use of force because, as we discuss below, this practice remains endemic in security organisations throughout the world. Despite extensive efforts, it has been resistant to many prevention strategies developed by both local and international human rights actors and organisations. At the same time, the benefits of conducting this type of action-research project on human rights in the security sector reach beyond working out how we might better address this specific violation.¹ Understanding the root causes of the improper use of force and mechanisms for effective prevention provides us with a window into a range of broader issues concerning the dynamics of human rights violations and strategies for prevention. Moreover, the project design allows us to test a model in which actors from different disciplines, organisational spheres and sectors collaborate to produce a richer understanding of a particular human rights problem and together develop more comprehensive strategies to address it. This project has combined a number of components: empirical and multi-disciplinary research; project design drawing on this research; piloting and testing the proposed approach that emerges from this research in collaboration with security forces; and evaluation. One of the purposes of this report is to provide readers with an understanding of each of these components and how they combined to form the overall project approach.

WHY NEPAL AND SRI LANKA?

Our decision to work in Nepal and Sri Lanka was based on several considerations:

- First, we have established relationships of cooperation and trust with law enforcement and security organisations in these two countries. Projects that deal with contentious issues such as human rights in the security sector, and that involve partnerships between civil society and security or law enforcement agencies, will largely stand or fall on the strength of those relationships and on the capacity and willingness of the partners to work through their differences productively. As discussed in the *Issues Papers* series, the process of strengthening, and at times testing, the limits of these relationships and the question of how human rights organisations and security sectors can work together with a 'creative tension' are themselves important subjects of reflection.
- Second, both of these countries are now emerging from serious and long standing civil conflicts and have publicly committed to re-establishing democracy and the rule of law. Research indicates that transitional and post conflict periods during which states are in the process of democratisation provide opportunities for achieving outcomes with respect to human rights protection that might not otherwise be available.² As such, it is now an excellent time to be seeking creative avenues for change in Nepal and Sri Lanka.
- Third, for a considerable time, Non-Government Organisations (NGOs) and international organisations have been reporting on the incidence of the improper use of force in Nepal and Sri Lanka. This in turn has raised the concern of, and responses from, the international community.

THE IMPORTANCE OF LANGUAGE: 'TORTURE' OR 'THE IMPROPER USE OF FORCE'?

Throughout these *Issues Papers* and in all of our publications, we use the term 'the improper use of force' to describe the actions with which this project is principally concerned. The project consciously chose to adopt this language, rather than other ways of describing violence or ill treatment committed by state officials against persons in their custody or under their control. In much of the human rights literature and in international law, for example, the term 'torture', or the more extended term 'torture and other forms of cruel, inhuman and degrading treatment and punishment' is more frequently used.

We made this choice for four principal reasons. First, in our work with police and military personnel, we found that there was a general agreement that torture, cruel, inhuman or degrading treatment or punishment

¹ Action research combines research with a real life problem solving activity. The research thus both feeds into the way in which strategies are developed and is fed by the experience of testing an approach. In general and in this case, action research involves collaboration between communities of practice and reflexivity on the part of all those involved.

² Emilie Hafner-Burton and James Ron, "Seeing double: Human rights impact through qualitative and quantitative eyes," *World Politics* 61, no. 2 (2009): 360-401.

(especially when referred to simply as torture) was wrong and should not be permitted. Where the disagreement lay was with the question of what types of acts constituted torture, cruel, inhuman or degrading treatment or punishment. As such, by using the term, 'the improper use of force', we signalled that the question of what types or uses of force were 'improper' needed to be considered by security personnel themselves. This does not mean that the definition of what constitutes the improper use of force is purely subjective. It rather indicates that in this project, we saw it as important to recognise that any organisational change strategy that is going to be effective needs to include a robust and honest engagement with security personnel themselves about the class of impermissible acts and why they are impermissible. Clearly, there are some acts, waterboarding or the use of electric shocks, for example, where there will be virtual universal agreement that they constitute torture. In our research, however, we found that it was not at this 'sharp' end of the spectrum that the most widespread or systematic violations occur.

This leads to the second reason for choosing the term 'improper use of force'. As we conducted our research and developed a clearer understanding of the type of approach that this project would take, it became evident to us that the class of acts that we would be most able to effect were not those at what we have called the sharp end of the spectrum but those that constitute the more day to day acts of violence and ill treatment. Undoubtedly, torture in its extreme forms occurs in many countries throughout the world. Our research indicates, however, that besides the more acute form of torture, which often attracts the greatest attention and approbation, there exists a far more routinised, normalised and widespread practice of violence and ill treatment. This behaviour forms a larger part of the spectrum, persists not only under particular political conditions and is carried out beyond particular units. Indeed, it may constitute part of the regularised practice of certain security organisations. If one refers to *torture*, the actors involved in these more routinised acts of violence tend to assume that you are not talking about what they do at all. After all, they do not commit what they understand to be *torture*. Referring to the class of acts that form the object of concern as *the improper use of force* thus makes it clear that we were not simply, or not primarily, focused on the most extreme acts (about which there would be near universal agreement that we are talking about torture).

Third, as will become apparent in this report, the approach taken here is one that depends significantly on the development of trusting and cooperative relationships with personnel across security forces. Particularly in countries and security forces that have faced a great deal of scrutiny and criticism for their human rights records, the word 'torture' can act as an automatic conversation stopper. That is, as soon as someone associated with human rights uses the term torture in relation to their organisation, security personnel may perceive themselves as under attack and accordingly feel the need to erect walls to defend themselves and their organisation. If the success of an intervention depends on developing cooperative relationships, starting with an act of speech that closes doors, and continuing to use language that puts one party on the defensive, is unhelpful. That said, this attention to the sensitivities of security personnel must not result in watering down an approach. Rather, adopting the terminology of the 'improper use of force' is a way of recognising the actual impact of certain words on differently placed actors and on acknowledging that in certain contexts, fidelity to the language of human rights or human rights law is less important than cultivating mutual respect and thereby opening relationships in which transformation is possible.

Fourth (and finally), some commentators have argued that in the contemporary context, using the term 'torture' implicitly reinforces an assumed distinction between acceptable and unacceptable suffering.³ Thus, calling some acts 'torture' implies that other forms of imposed suffering are more acceptable or do not merit the same type of acute attention. By using the term the improper use of force, we make explicit the need to think through the question of what is acceptable behaviour and what is not. At the same time, it is critical to be alert to the ways in which different terms can heighten or soften public responses to different types of acts. There is now a well-developed body of research indicating how states adopt euphemisms to shift public opinion and more specifically to solicit public approval of acts that would otherwise be condemned.⁴ This type of move was perhaps nowhere more clearly illustrated than in the George W. Bush administration's adoption of the term 'enhanced interrogation techniques'. There is no question here that the improper use of force is anything less than an act of the greatest gravity.

In summary, and taking these various factors into account, throughout the *Issues Papers* – as in our project – we will use the language of 'improper use of force' and only refer to 'torture' where others have used this term.

³ Talal Asad, "On Torture, or Cruel, Inhuman, and Degrading Treatment," in *Social Suffering*, eds. Veena Das et al. (Berkeley: University of California Press, 1997).

⁴ Paul Gronke, Peter Miller, and Darius Rejali, "Torture and Public Opinion: The Partisan Dimension," in *Examining Torture: Empirical Studies of State Repression*, eds. Tracy Lightcap et al. (Houndmills, UK: Palgrave Macmillan, 2014), 11-41.

ORGANISATION OF THE ISSUES PAPERS

A summary of each *Issues Paper* in the series is provided below.

Issues Paper 1: International legal frameworks and traditional approaches to preventing the improper use of force

This first *Issues Paper* is intended to provide some background to the specific project. Chapter One looks at the international legal framework that has been established to deal with the class of acts that we are concerned with here. It sets out basic definitions of torture and the improper use of force, sanctions against them and the scope of the problem both internationally and in the Asia Pacific in particular using the framing of international law. In Chapter Two, this *Issues Paper* examines the main approaches that have been adopted in the last forty years to address the improper use of force. In particular it examines which theory of change underpins these approaches and what we know about how well they work.

Issues Paper 2: Root Causes of the Improper Use of Force

This second *Issues Paper* discusses the findings of our research on the root causes of the improper use of force. Methodologically, we conducted this research in two ways. First, a team of experts examined the root causes of the improper use of force or institutional violence from a range of disciplinary perspectives, including political science, public health, psychology, criminology, sociology and anthropology. Second, our teams of country-based researchers conducted primary empirical research in both Sri Lanka and Nepal, speaking with a range of government and civil society actors as well as with members of the security forces about how they understood the problem of the improper use of force, the position and experience of security personnel and their perception and understanding of human rights in relation to security work.

Chapter One presents the research on institutional violence. It points to the large body of research indicating that systematic violence is best understood in terms of situational factors, rather than as the outcome of individual pathologies. Here we look in particular at the relevance of obedience and conformity, the types of conditions that produce torture and the processes of moral disengagement that allow for the improper use of force to be normalised. Chapter Two establishes our multi-dimensional understanding of the root causes of the improper use of force and discusses the different spheres (individual, organisational, community, legal, political, cultural and ideological) implicated in the production of the improper use of force. This chapter then presents the ecological or systems approach that the research on situational violence suggests and that we adopted as the theoretical framework for the project. Chapter Three returns to our research on root causes, specifically examining the organisational and cultural factors in police and military organisations that create risks for the improper use of force. It distinguishes three different dimensions of organisational factors – processes, structures and cultures – and presents the research on how factors operating on each of these dimensions can create opportunities and incentives to use improper force or can legitimise, authorise and normalise this. In this chapter we also begin to break down that oft used but opaque term ‘culture’ (policing culture, military culture) so that we can get a handle on how, where and why the improper use of force is perpetuated and where interventions seeking to prevent it should be directed.

Issues Papers 3 and 4: Sri Lanka and Nepal Case Studies

In *Issues Paper 3* and *Issues Paper 4*, we move from the general to the country specific, presenting what our researchers and others have found about the specific situational factors in Sri Lanka and Nepal. Drawing on our own interview data and on secondary literature, we seek to present a picture of the conditions under which the improper use of force may become systematic in the particular contexts of South Asia. In *Issues Paper 4* on Nepal, we also draw on research conducted in other contexts, principally in India, to enrich our findings.

Issues Paper 5: Affecting Organisational Cultural Change

In the fifth *Issues Paper* we move from the problem analysis to the solution design. We begin, in Chapter One, with a discussion of our research on strategies to effect organisational and cultural change. Drawing on literature directly concerned with changing security organisations, and broader literatures on transforming organisational norms and practices as well as deep-rooted behaviours and attitudes, we suggest a number of principles and approaches that might be usefully taken up to transform the cultures of security organisations. In Chapter Two, we turn to the cognate area of public health to examine the research on prevention strategies developed in this field. We look at the results of meta-evaluations of projects indicating the key components of successful prevention, discuss the importance of understanding the particular characteristics of the target group and its

readiness to change, and examine a number of approaches to effecting normative and attitudinal change. Chapter Three then comes back to Nepal and Sri Lanka to discuss the critically important process of enrolling and building relations with the organisations in which change is being sought. Here we discuss how we went about developing those relationships and some of the challenges that we faced in doing so, as well as the design we settled upon for working with *Human Rights Protection Facilitators* (HRPFs) on the inside of the organisations.

Issues Paper 6: From Structural Analysis to Structural Intervention

This sixth and final *Issues Paper* turns from the research to the design and implementation of our intervention. Chapter One commences with an explanation of how we moved from the research results to developing the theory of change that became the foundation for our intervention. It then sets out the basic intervention design. Chapter Two then discusses the transition from the design of our prevention approach to its actual implementation, particularly the process of working with the HRPFs to identify organisational risk factors and to design projects that address those factors, our workshop designs and the ongoing capacity building the project team and the HRPFs did together. Chapter Three provides a preliminary showcase of some of the projects that the HRPFs designed and implemented. At the point of finalising this report, these projects were still in development. As such, a fuller discussion will be presented in the final report. For now, this *Issues Paper* provides examples of some of the projects and how the HRPFs approached researching, developing and implementing them. Finally, Chapter Four provides some interim reflections on how this project has and has not been able to operationalise a systemic approach, the difficulties of doing this and how it might provide a foundation for future developments. We also set out our plans for evaluating the overall project.

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