

IFP SECURITY CLUSTER

BARA

SECURITY AND JUSTICE FROM A DISTRICT PERSPECTIVE

Bhasker Kafle

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BARA

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ACRONYMS

APF	Armed Police Force
CA	Constituent Assembly
CDO	Chief District Officer
CPA	Comprehensive Peace Accord
CPN-UML	Communist Party of Nepal-Unified Marxist Leninist
DCAF	Centre for the Democratic Control of the Armed Forces
FNJ	Federation of Nepalese Journalists
IfP	Initiative for Peacebuilding
LDO	Local Development Officer
NCC	Nepal Chamber of Commerce
NGOs	Non-governmental organisations
PLA	People's Liberation Army
SALW	Small Arms and Light Weapons
SSR	Security sector reform
UCPN-M	United Communist Party of Nepal-Maoist
USIP	US Institute of Peace
VDC	Village Development Committee
WDO	Women's Development Officer

BACKGROUND

The accessible and accountable provision of security and justice is one of the main requirements for a peaceful society and sustained social and economic development. Security provision and access to justice are regarded as essential public services, are fundamental building blocks in promoting good governance, and are critical for the creation of a secure environment at both the local and national levels.

In the wake of the Comprehensive Peace Accord (CPA) and the Constituent Assembly (CA) elections in 2008, there have been ongoing discussions in Kathmandu on security and justice issues (sometimes termed security sector reform (SSR)). These discussions have covered issues such as police effectiveness, civilian oversight of the army and the legal framework of the security sector as a whole. More contentious questions have concerned the “right” size of the Nepal Army, the integration of the People's Liberation Army (PLA) into the Nepal Army, and how to engage with the increasing number of militant youth groups. Even as the tenure of the CA has been extended by one year from 28th May 2010 giving more time for framing the constitution, the political scene is one of deadlock between the coalition government and the Unified Communist Party of Nepal-Maoist (UCPN-M) – the Maoist party – over a solution to the “integration” issue in particular.

The political parties through the CA have committed to addressing many of these issues. However, for improvements in security and justice to be sustained in the long term, any changes in this sector need to be considered and discussed both at national and local levels right across Nepal. On the one hand, institutions and processes in Kathmandu will benefit from more information about security challenges and needs at the local level. On the other hand, people in districts will gain from having better access to information about Kathmandu policy and programming discussions. Equipped with a better understanding of the kind of pressures and limitations placed on security and justice personnel at the local and national levels, people will be more likely to support processes of change and can help drive through that transformation.

This briefing is one of a series of “snapshots” forming part of a longer-term initiative by International Alert to help address the current gaps in knowledge and understanding between those actors at the district level and those in Kathmandu.¹ Nepali versions of the briefings are also available. For more information, see the contact details at the end of this report.

This briefing paper forms part of the EU-funded Initiative for Peacebuilding (IfP). For more information, see <http://www.initiativeforpeacebuilding.eu/>.

¹ The briefing papers are coordinated with and fed into related work undertaken by other organisations, such as the Centre for the Democratic Control of the Armed Forces (DCAF) and its Nepali partner, the National Peace Campaign, as well as the United States Institute of Peace (USIP), Saferworld and others.

INTRODUCTION

This short briefing is based on discussions and interviews in Kalaiya, the headquarters of Bara District, and in Dumarawana and Nijgadh Village Development Committees (VDCs) in October 2009 and follow-up visits for updating and verification in February 2010 and June 2010.²

2 The briefing is based on over 20 interviews and community consultations held in Kalaiya municipality and Dumarawana and Nijgadh VDCs. Interviewees included the Chief District Officer (CDO), the Local Development Officer (LDO), the Women's Development Officer (WDO), the police, the Chambers of Commerce, the Bar Association, the VDC Secretary, the Federation of National Journalists (FNJ), youth groups and non-governmental organisations (NGOs) working in the district. This briefing is also informed by research conducted from the project 'Public security and justice in Nepal: Building a constructive role for youth' in partnership with Youth Action Nepal and Equal Access Nepal.

DISTRICT CONTEXT

Bara District is one of five districts in the Narayani Zone of the Central Development region. Its district headquarters is Kalaiya municipality, a small town located in the southern part of the district. The district is situated due south of Kathmandu and shares a border with the Indian state of Bihar on its southern side. On its east, north and west are Rautahat, Makawanpur and Parsa Districts, respectively. The Mahendra Highway cuts across the district dividing it into northern and southern parts. Bara covers an area of 1,190 km and, according to the 2001 census, has a population of 559,135, making it the 12th-largest district by population size but the 61st by area. The caste-ethnicity make-up of the district is diverse, with Muslim (13.4%), Tharu (11.3%), Yadav (10.4%) and Hill Brahmin (5.3%) ethnicities comprising the major ethnic groups of the district.³ Bara has 98 VDCs and 1 municipality with 6 electoral constituencies, encompassing both Terai⁴ and hilly terrain. The literacy rate for males in the district is 55.2%, while for females it is 29.1% as of 2001.⁵ There are 16 CA members from the district, including 10 from the proportional representation system.



Source: http://commons.wikimedia.org/wiki/File:Bara_district_location.png

Bara adjoins the busy industrial district of Parsa and, as a result, forms part of an industrial corridor between Kathmandu and India. It has relatively good road transport links to the capital, compared to other districts, and a well-serviced airport with a tarmac runway at Simara. An international airport is planned at Nijgadh in Bara with a fast-track road connecting to Kathmandu in an hour. Major industries in the district are ghee production, pharmaceuticals, food and textiles/spinning. The agriculture production in the district is reported to be shifting from a subsistence farming base to the farming of high-value crops such as cannabis and, more recently, poppy cultivation.

According to a national weekly paper, police estimate that poppies are being grown on up to 2,500 bighas (4,175 acres) of farms in Bara and Parsa – enough to produce 30,000 kg of opium, which can be refined into 3.5 tons of heroin. According to the same source, Nepal is now exporting nearly Rs 3 billion worth of opium.⁶ Attracted by the promise of large profits (Indian buyers buy the crop before it is harvested), many farmers in Bara are now switching from cannabis farming to the production of opium. The widespread perception in the district is that the open production of narcotics would not be possible without police and political protection.

While Bara was not significantly affected by the Maoist conflict, it is now categorised by the government as one of eight “security-sensitive” districts. A report prepared by the Home Ministry during 2009 noted that only 12 out of 109 armed groups active in the country were political, while 70 of them were purely criminal in orientation.⁷ The report categorised armed groups as political, religious, political-criminal, religious-criminal and purely criminal. Twelve groups, including the Akhil Terai Mukti Morcha (Jaya Krishna Goit faction), Kirant Janbadi Workers Party and Tharuhat Swayatta Rajya Parishad, were categorised as political. Four groups, including the Cobra (Nagraj) and Nepal Defence Army, were placed in the religious-criminal category, while 11 others were categorised as political-criminal groups. Most of these criminal groups were active in Bara District at the time of researching and writing this report.

³ Government of Nepal (2001). National Census. Available at www.cbs.gov.np

⁴ The Terai region in Nepal is understood as the plains stretching from east to west along the southern belt of Nepal.

⁵ District Development Plan 2066/2077 BS, Bara.

⁶ For more details, see the *Nepali Times* issue of April 2010. Available at <http://www.nepalitimes.com.np/issue/2010/04/2/Nation/16953>

⁷ For more information, see <http://www.satp.org/satporgtp/countries/nepal/index.html>

SECURITY SITUATION

There was an increasing sense of insecurity in the district among the respondents at the time of research in Bara. This was attributed to a number of factors, but the majority of respondents pointed to the armed groups' activities in the district and the political instability as the two major factors contributing to a heightened feeling of insecurity. Because of political pressure, along with the armed groups operating across the porous border, the police interviewed were reported to be struggling to maintain law and order in the district with their limited physical capacity. Killings, abduction and forced donation were seen to be widespread in the district.

TYPES OF CRIME

The main types of crime reported in the district relate to the activity of criminal gangs, including kidnapping, murder, gang-fighting, rape, theft and extortion. In the north of the district along the Mahendra Highway, there were cases of dacoits looting night buses. In the south, there were increased activities of armed groups, including threatening phone calls demanding payments from business people and civil servants in particular. It was reported that the use of Small Arms and Light Weapons (SALW) had long been a problem in the district before the CPA was signed, which is exacerbated by the porous border and cheap availability of SALW in India. Cases of fighting, suicide and drug smuggling were also reported to be increasing throughout the district by civil society and security providers alike.

THE SECURITY CHALLENGES

The majority of the respondents pointed to controlling the armed groups' activities in the district as a key challenge. The LDO⁸ stated that VDC Secretaries are too scared to go to some of the VDCs, and that this has prevented their work from being carried out at the local level. When the LDO travels to the VDCs in the south of the district bordering with India, he does so with a large police escort. According to the members of the FNJ, the Special Security Plan introduced by the Communist Party of Nepal-Unified Marxist Leninist (CPN-UML) in 2009 had not been able to address the problem of armed groups satisfactorily. However, the CDO reported that the plan has had a positive impact on the control of public disturbances such as *bandhs* (strikes) and road blocks. The *Pahade*⁹ community in general and civil servants from that community are reported to be receiving threatening calls from armed groups. Journalists reported that there were around 15–16 underground groups active in the district.

There are issues regarding land compensation and potential conflict around the proposed international airport at Nijgadh VDC and fast-track road link connecting Kathmandu from Nijgadh. Local people at Dumarawana VDC – which has 1,316 households and is the proposed site of the international airport – reported tensions between the community and local government regarding possible future compensation claims to the land, which is registered as government land, and not as the property of those farming it.

⁸ Research team interview, October 2009.

⁹ *Pahade* refers to people of hill origin.

IMPACT ON THE ECONOMY

The Nepal Chamber of Commerce (NCC) reported that industries in the district were closing down and traders were leaving, and that this had been happening over the last four years. The major reason for the closure of businesses was cited as disputes between employers and trade unions leading to strikes, closures and a resulting severe impact on profits. Local communities believed that industries had begun hiring Indian labourers in order to avoid problems with trade unions.

A difficult business environment was compounded by extortion from criminal gangs operating from India. Extortion was rampant at the time of the research. Some business people reported receiving three to four threatening calls a day demanding money. Some reported to have paid off those making the threats, while others had attempted to identify the person making calls so that they could negotiate the ransom amount. Calls were reported to be made either by powerful criminal groups (in which case the person receiving the call would have to pay up) or from unemployed youth trying their luck. It was reported that the caller might demand one million rupees, and negotiate down to five to ten thousand. Then two to three months later they would call again asking for more money. Some members of NCC pointed out that they have been employing those previously involved in armed groups as long as they have the right skills. However, they were of the opinion that the government should support them to run microfinance enterprises etc.

YOUTH AND SECURITY

Youth unemployment in Bara was reported to be rising and employment options for young people were few and far between. Youth organisations and young people interviewed for this research felt that the only options open for youth from Bara District were to go either overseas or to Kathmandu for employment, to join local criminal groups or to form their own extortion racket. Respondent youth groups indicated that the first option was less likely for most of the young people because of lack of education and money. It was felt that the open border makes it easier for young people to get involved in the cross-border drug trade and weapon smuggling through underground groups. Even children aged 14 were reported to have access to weapons.

Young people also felt that political groups take advantage of unemployed youth by mobilising the dissatisfied and dividing them into political “camps” which often results in violence between the opposing political groups. It was also reported that some young people who were part of the armed groups have left the groups and were now police informers.

WOMEN AND SECURITY

Domestic violence was reported as a key security problem by both men, women, the public and service providers alike. It was observed that some of the women groups active in the district attempt to address domestic violence by calling on the husband to apologise in front of the women, an approach which women in the group felt had been effective in limiting domestic-violence cases in their communities. The research team noticed different dynamics in the northern and southern belt of the district. In the northern belt, more girls were reported to go to colleges with few cases of child marriage and dowry. The Women's Development Officer (WDO) reported that it was hard to work in the southern belt of the district because of ‘influence from Bihar’. She said that women stay at home, don't go to work, marry early and have many children. In this part of the district, girls are often not sent to school to save money for dowries.

Female civil servants and teachers were also reported to be receiving threatening calls. Even the WDO, of *Pahadi* origin, reported receiving daily threats over the phone and feared for her personal security. Women's savings and credit groups are active in the district and heads of these groups were also reported to have been threatened because they were known to have access to money. When asked whether there were women in these criminal groups, one journalist who had undertaken research into the issue reported that approximately 25 percent of the members of criminal groups are women. Those joining were, in his opinion, victimised, marginalised and often rape victims.

SECURITY PROVIDERS

Total Nepal Police: 630

Female police: 20

Police to civilian average ratio: 1:2000

Source: District Police Office, Bara

The major responsibility for the day-to-day provision of security in Bara lies with the Nepal Police. In June 2010 630 police personnel were deployed through the district police office, approximately 20 of whom were women. Altogether, there are 39 police units in the district including the district police office and six Area Police Offices. In addition, there is an Armed Police Force (APF) battalion in the district, which accounts for 700 armed police personnel. There is a women and children's cell staffed by three women police, the highest rank of which is Head Constable. An Area Police Post visited by the research team during October 2009 had 45 personnel which covered 3 VDCs with an approximate population of 75,000 across the area. There are no VDC-level posts in these VDCs. As is the case throughout the country, the police in Bara are woefully ill-equipped to respond to the level of need in the district. This lack of capacity relates not only to numbers of personnel, but also to vehicles, buildings, adequate training and, importantly, numbers of women police officers.

PUBLIC PERCEPTIONS OF POLICE

Most of the respondents interviewed placed very little faith in the capacity or ability of the police in Bara to provide security to the general public. Members of civil society said that security forces are now at least more visible in the district, and felt that the security situation is improving, but acknowledged that the growth of groups attempting to extort money was preventing the general public from feeling safe.

Journalists in Bara apply self-censorship and stay away from controversial stories because of pressure from underground groups and political parties. A case was cited of a journalist killed by a political party two years ago. Despite pressure from local journalists, the case was not adequately investigated by the police and CDO. Journalists felt that, unless impunity is controlled, they cannot report freely.¹⁰

In general, respondents felt that the police capacity and will to investigate cases properly is weak, and that the police were sometimes complicit in protecting criminals. Police were widely reported to be complicit in taking protection money from those engaged in the production and transportation of narcotics. Police were also reported to have been seen in restaurants eating with known members of criminal gangs. Journalists reporting on such cases have received death threats.

Some civil society representatives report that undercover police make money from cannabis growers by spying and then extorting. As a result, respondents did not have significant expectations from the police. There was also a perceived danger as reported by the civil society representatives that political parties will use the new security plan to increase or maintain their influence and interference.

POLICE CAPACITIES AND PERCEPTIONS OF THEIR ROLE

From discussions with a variety of police personnel, it was apparent that tight budgets and poor infrastructure were major problems. The police in Bara struggle to maintain and run their vehicles, but report that they are called upon to escort around 30 VIPs per month (mainly CA members and ministers) along the highway. Many posts were reported to be based on rented property, in bad condition and some without toilets.

The police felt the need for better flow of information and division of responsibilities between the Nepal Police and the APF in the district. With the new security plan, the APF had been mobilised at the VDC level.

In general, the police perceive the security situation to be improving but feel that they need more manpower and better infrastructure, including vehicles. Police in Bara have also been conducting awareness-raising programmes

¹⁰ Research team interview, October 2009.

regarding the special security plan, which involved convening meetings with political party representatives, community members, etc. The police also had to conduct regular coordination meetings with the Indian Police, particularly around issues regarding border encroachment and the search for criminal suspects wanted on either side of the border.

JUSTICE PROVISION

THE FORMAL JUSTICE SYSTEM

Bara District court is located in Kalaiya, the district headquarters. There are four judges for the district who reside in the district headquarters. The Appellate court is in Hetauda, Makawanpur, which covers five districts including Bara. According to the district Bar Association members, most cases that are brought in the formal justice system include killings, drug abuse and land-related disputes. The Land Reform Office also deals with the cases regarding the latter issue. Most of Bara's 98 VDCs are within 20 km of Kalaiya, and because of road accessibility travel to the district headquarters is fairly straightforward.

It was reported that the lawyers were also getting telephone threats, warning them not to take a particular case. One of the judges was reported to have been threatened by one of the parties to a case to ensure a particular outcome to the case. Representatives of the Bar Association were of the opinion that, due to the security situation, there are fewer cases being brought to the court. As a result, lawyers are starting to leave the district or look for alternative means of employment. Previously there were 54 members in the Bar Association and now there are 45. Nine members were reported to have left for Kathmandu and one of the members was shot by an armed group two years ago. The district Bar Association is demanding extra security provision for justice service providers in the district.

There is a legal aid programme in the district run by the Bar Association, as well as a paralegal training programme for women in 15 VDCs also run by the Bar Association.

THE INFORMAL JUSTICE SYSTEM

Smaller civil and criminal cases are generally solved within communities, by the police or the VDC Secretary.¹¹ Respondents felt that many people do not go to the formal justice providers because of perceived ineffectiveness and inefficiency of the justice and security system among the general population in the district. Paralegal committees are present and active in some of the VDCs. Cases of accusations of witchcraft were reported to be one of the key issues addressed by the paralegal committees.

The absence of VDC Secretaries in many of the VDCs was perceived to have had a negative impact upon people's access to justice, as the VDC Secretary was a first point-of-contact for many seeking advice on disputes and legal issues such as disputes regarding land boundaries.

Three VDC Secretaries have been killed in Bara District in the last two years. The government declared them martyrs, but one VDC Secretary claims that there were no investigations. Thirty-six VDC Secretary posts were reported to be standing empty as of November 2009, and hence most of the remaining VDC Secretaries cover more than one VDC.

¹¹ VDCs exist as administrative units but are currently functioning without elected members. The administrative functions of VDCs, including budget use, are handled by government employees called VDC Secretaries who report to the LDO. There hasn't been a local election for the VDCs since 1992.

IMPLICATIONS FOR POLICYMAKERS, LOCAL GOVERNMENT AND CIVIL SOCIETY

As discussions take place in Kathmandu regarding issues such as police reform, judicial reform and wider SSR-related issues, it is essential that local voices are heard and taken into account in these discussions. It is also important to explore what activities and issues can be addressed in the interim and longer term in different district and regional contexts. Based on this local research, specific activities in Bara District might include:

- Supporting police strength and capacity to work together with the private sector in support of improved security in industrial corridors and commercial areas;
- Supporting police outreach to and trust-building with the wider public through community radio programming and awareness campaigns on topics such as the special security plan;
- Recruiting and filling vacant positions of VDC Secretaries in the district to provide better government services including the mediation of disputes at the local level;
- Exploring further the causes and dynamics of poppy and cannabis cultivation and its impact on the local economy, especially the agricultural sector; and
- Supporting employment-generating programmes and activities to constructively engage with young people and prevent them from joining armed groups.

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