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DANG

SECURITY AND JUSTICE FROM A DISTRICT PERSPECTIVE

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DANG

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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 Armed Forces
DNYF	Democratic National Youth Federation
FNJ	Federation of Nepalese Journalists
FPTP	First-Past-The-Post
IfP	Initiative for Peacebuilding
JSSR	Justice and security sector reform
LDO	Local Development Office
LPC	Local Peace Committee
NC	Nepali Congress
NGOs	Non-governmental organisations
NRs	Nepali Rupees
PLA	People's Liberation Army
SGBV	Sexual and gender-based violence
SSP	Senior Superintendent of Police
SSR	Security sector reform
UCPN-M	United Communist Party of Nepal-Maoist
USIP	US Institute of Peace
VDCs	Village Development Committees
WDO	Women's Development Office
YCL	Young Communist League
YF	Youth Force

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. As the deadline for completion of the constitution approaches, 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 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 briefing is based on discussions and interviews in Dang District during November 2009. The contents were subsequently verified with interviewees and updated during a follow-up trip in January 2010. Interviews and community consultations were held in Dang District headquarters Ghorahi, Rapti Zone headquarters Tulsipur, and Chaulahi and Gadhawa Village Development Committees (VDCs).²

² Interviewees included the Chief District Officer (CDO), Senior Superintendent of Police; presidents and members of district and zonal Bar Associations, Tulsipur and Dang Chamber of Commerce and non-governmental organisations (NGOs) working in the district; representatives of Local Development Office (LDO), Women's Development Office (WDO), Federation of Nepalese Journalists (FNJ), local FM stations, the Local Peace Committee (LPC) and political youth organisations including the Young Communist League (YCL), the Youth Force (YF), the Democratic National Youth Federation (DNYF) and Nepal Student Union. Consultations were also held with local youths in Chaulahi and Gadhawa VDCs.

DISTRICT CONTEXT

Dang is one of five districts in the Rapti Zone in the mid-west region in Nepal. The district covers an area of 2,955 square kilometres and has a population of 462,380 according to the census of Nepal (2001). The other four districts in the zone are Salyan, Rolpa, Pyuthan and Rukum. The first three border Dang District to its north and have road connections to Dang. The district is comprised mainly of the two inner-terai valleys of Dang and Deukhuri. There are two municipalities within the Dang valley: Tulsipur and Ghorahi.³ Tulsipur is the zonal headquarters while Ghorahi is the district headquarters. There are 39 VDCs in Dang District, 11 of which lie in Deukhuri Valley and the rest lie in the Dang valley. The east-west Mahendra Highway runs through the Deukhuri Valley, connecting Dang with the terai districts of Banke to the west and Kapilbastu in the east. To the south, the district adjoins Balarampur and Shravasti districts of the Indian state of Uttar Pradesh. The caste-ethnicity make-up of the district is diverse, including Tharus, Brahmins, Chhetris, Yadavs, Kumals and Dalits. Tharus are the majority indigenous population, and are spread throughout the district.



http://commons.wikimedia.org/wiki/File:Dang_district_location.png

According to the 14-state federal structure proposed by the State Restructuring Committee of the CA in 2009, Dang District lies in the proposed Lumbini-Awadh-Tharuwan state. However, at the time of research, Tharu activists were calling for a separate Tharu state.

Dang is the commercial hub of Rapti Zone. Its flat and fertile land means that agriculture is the mainstay of the economy. Beekeeping, dairy farming, coal mining and cement factories are also major economic sectors for the district. In 2009 a new mobile company targeting the mid-west region, Hello Mobile, established its service from Dang. The district is also an educational centre for people in the region, home to the only Sanskrit university in Nepal.

Dang was badly affected during the Maoist conflict. When the third round of negotiations broke down with the then government in November 2001, the Maoists unilaterally broke their ceasefire by carrying out an attack on the district headquarters in Ghorahi. This was the first Maoist attack on the then Royal Nepal Army, which led to the Army later being mobilised to fight in 2002.⁴ Over the next five years of conflict, government infrastructure in Dang, including police posts, suffered heavy damage. According to local respondents, much of the land captured by the Maoist party and its supporters during the conflict is yet to be returned. This includes the land belonging to a police school in Sonpur VDC which is currently inhabited by landless squatters, reportedly with the support of the Maoist party.

Prior to the CA elections in April 2008, Dang was seen as a stronghold of the Communist Party of Nepal-United Marxist Leninist (CPN-UML) and Nepali Congress (NC). However, the elections saw the Unified Communist Party of Nepal-Maoist (UCPN-M) win in all five constituencies in the First-Past-The-Post (FPTP) election system

³ Before the April Movement of 2006 against monarchy, Ghorahi municipality was called Tribhuvannagar municipality named after king Tribhuvan, grandfather of the last king Gyanendra of Nepal.

⁴ For more information, see "Mission Ghorahi", *Nepali Times*, Issue no. 73 (21st–27th December 2001), reporting on the attack where the army commanding officer of the district including 14 other army men were killed and the CDO and police chief of the district were abducted by the Maoists.

in the district.⁵ According to local respondents, it is the Maoist party that continues to have the strongest outreach outside of the district headquarters and dominates political space in the district. The multiparty Local Peace Committee (LPC) is functional in Dang, and its office is staffed with a secretary and assistant.⁶

5 Two of the five elected representatives are women.

6 LPCs are the local representative body of the Ministry of Peace and Reconstruction. Their mandate includes assisting in the local-level implementation of the CPA and to monitor the implementation of the Ministry's relief and reconstruction programmes. See <http://www.peace.gov.np/admin/doc/LPC-ToR-Eng-%202065-10-20.pdf> for the Terms of Reference of the LPCs.

SECURITY SITUATION

At the time of research in Dang District, respondents felt that insecurity in the district was on the increase. This was attributed to a number of factors, but the majority of respondents pointed to the Maoist withdrawal from government into opposition, and the founding of the Tharuhat Liberation Army in late 2008 and subsequent increase in activity in Dang as the two major events contributing to a heightened feeling of insecurity.⁷ There was a general feeling that the Nepal Police were struggling to cope with the demand placed upon them, due to a lack of physical capacity, but also due to heavy interference by local political party cadres in the work of both the police and the judiciary.

THE “YOUTH” FACTOR

A further contributing factor was perceived to be high unemployment in the district, with young people in particular vulnerable to exploitation as “pawns” of political parties. Supporting this perception, the Young Communist League (YCL) in Dang claims over 30,000 members, and the Youth Force (YF) 10,000.⁸ Clashes between these groups as well as local gangs, armed with *lathis* and *khukuris*,⁹ are reported by the police to be one of the key threats to everyday safety and security in the district.

It was also reported that young people are increasingly being used by local business people to influence local government tendering processes in Dang. This generally involves the contractor or business person hiring a “gang” to threaten other contractors bidding for the tender, and even physically obstruct a competing business from submitting a bid. The result is often violent gang-fights between groups representing different contractors.

TYPES OF CRIME

The main types of crime reported by local police and administration officials in the district include gang-fighting, rape, theft and extortion. Incidences of rape are a major issue in the VDCs bordering India, where there is sparsely populated jungle, and the only connection to the rest of the district is a considerable walk on foot. Indian border police have been implicated in many of the rape cases reported by local women crossing the border to buy provisions. Smuggling of goods across the border is also acknowledged as a problem that goes largely unchecked. However, unlike the central and eastern terai, there was not perceived to be a problem with the smuggling of small arms, and gun crime is not widely reported in the district.

IMPACT ON THE ECONOMY

Despite general public dissatisfaction with the security situation in Dang, the local business community is optimistic. It was felt that investment in the district was growing, with construction, consumer goods and coal-mining sectors reporting the biggest growth in demand for their products/services. The local Chamber of Commerce points to the establishment of three new cement factories in the area as evidence of this optimism and growth.

⁷ The Tharuhat Liberation Army was formed by the Tharuhat Autonomous State Council in November 2008 to fight for the ‘liberation of Tharu people and establishment of a Tharuhat province in federal Nepal’.

⁸ The YCL is the youth wing of the UCPN-M, and the Youth Force is the youth wing of the CPN-UML.

⁹ *Lathi*: long wooden or bamboo stick; *khukuri*: long curved knife traditionally carried by Gurkha soldiers.

Nevertheless, the local private sector still retains a degree of reticence when it comes to making investment decisions. The general perception is that without a stable government in power, i.e. a government that is inclusive of the UCPN-M, economic growth in the district will continue to fall short of its full potential. Extortion of business people is reported to be on the increase and *bandhas* in the Terai region continue to affect life in the Dang valley, with the economy being dependent upon the east-west highway as its only road link to the rest of the country for access to raw materials and markets.

WOMEN AND SECURITY

Violence against women, including domestic violence, was reported as a key security problem by men, women, the public and service providers alike. Those in NGOs working on the issue believe domestic violence to be a major issue that lacks sufficient attention from the concerned authorities. Activists report a widespread lack of awareness about the existence of the recent Domestic Violence Act,¹⁰ even among security and justice service providers themselves. They attribute a reluctance on the part of women to report domestic violence cases to the social stigma attached to leaving one's marital home, together with difficulties accessing appropriate legal advice and formal mechanisms for redress.

To address these problems, women's rights and gender activists in the district are calling for more safe-houses for victims of gender-based violence providing the appropriate legal services and support. In addition, they have joined forces with the Women's Development Office (WDO) to call for a help desk located within the District Administration Office assigned specifically to deal with issues related to the security needs of women. This is in recognition (by civil society activists as well as the WDO itself) of the fact that the WDO in practice lacks the requisite power and authority to provide security to women and guide them through often bureaucratic procedures for protection and legal redress.

SECURITY PROVISION

Total Nepal Police: 714
Female police: 35
Police to civilian average ratio: 1:740

Source: Zonal Police Office, Tulsipur, Dang

The major responsibility for the day-to-day provision of security in Dang lies with the Nepal Police. In addition to the District Police Office, as a zonal headquarters Dang also hosts a Zonal Police Office. In November 2009 714 police personnel were deployed through the District Police Office in the district, approximately 35 of whom were women. A further 2,707 police personnel are deployed

through the zonal office for Rapti (to cover five districts). Altogether there are 35 police posts in the district and approximately 20 to 25 personnel are stationed in each post. In addition, there is an Armed Police Force (APF) battalion in the district at Bhaluwang, which accounts for 700 armed police personnel. As is the case throughout the country, the police in Dang are woefully ill-equipped to respond to the level of need existing 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.

An Area Police Post visited by the research team reported inadequate facilities for staff, largely due to the fact that buildings destroyed during conflict are yet to be replaced. There was only one woman police officer in the police post, which covered six VDC areas. According to the inspector heading the police post, the role of the single female officer was to look after 'women's problems' (in particular domestic violence, rape cases and any other crime related particularly to women).

PUBLIC PERCEPTIONS OF POLICE

Most of the respondents interviewed placed very little faith in the capacity or ability of the police in Dang to provide security to the general public. The main reasons for this were cited as the limited presence of police

¹⁰ Passed in April 2009 following strong lobbying from women's rights activists, the Domestic Violence Act makes domestic violence a crime punishable by up to six months' imprisonment or a fine of up to Nepali Rupees (NRs) 25,000.

outside of police posts and internal corruption and political interference weakening the capacity of the police force as an independent and effective service provider. Where incidents do occur, such as fights between rival gangs or political youth wings, the general observation is that the police are likely to be attacked if they try to intervene. Without adequate safety gear, the general outcome of events is that the police are reduced to spectators and crowd-control when any large-scale outbreak of violence occurs.

Civil society respondents felt that more proactive policing, which would involve police coming out of police posts to build trust with local people and understand local needs, would go some way towards addressing negative perceptions of the police force. In addition, it was felt that the numbers of police should be increased, and women's organisations pointed to the need for a vast increase in numbers of women police.

POLICE CAPACITIES AND PERCEPTIONS OF THEIR ROLE

From discussions with a variety of police personnel ranging from Senior Superintendent of Police (SSP) to inspector level, it was apparent that the police are aware that negative public perceptions exist, and that this has a strong impact on levels of morale within the service. Weaknesses in terms of inadequate equipment and facilities, as well as insufficient personnel, particularly women personnel, are well recognised by police at all the levels interviewed for the research. According to officials at the Zonal Police Office, most of the buildings damaged during conflict have been re-established, with only 9-10 remaining to be rebuilt.

Police also recognise the need for stronger community outreach programmes and capacities, but point to a lack of resources as the major obstacle in playing a more proactive policing role in this regard. Senior police personnel at the Zonal Police Office cited the use of community radio as one potentially resource-light way for the Nepal Police to reach the wider public for information dissemination and trust-building purposes.

JUSTICE PROVISION

THE FORMAL JUSTICE SYSTEM

Dang District court is located in Gorahi, the district headquarters. All cases must be filed at this court, which is presided over by one full-time judge and one additional judge when the workload is heavier. As it is also a zonal headquarters, Dang has an Appellate court, presided over by five full-time judges. There are currently 600 cases pending in the District court, and 300 cases pending in the Appellate court. According to district Bar Association members, most cases refer to theft, looting, rape, divorce and land-related disputes. As per the new five-year plan of the judiciary, cases older than one year are being fast-tracked, a system which is believed to be having some success in clearing the backlog.

Smaller cases are generally solved within communities, by the police, the VDC or by indigenous mechanisms in the case of Tharu communities. Justice providers are of the general opinion that many cases do not make it to the court due to three reasons:

- There is a social stigma attached to taking a case to court (i.e. you are therefore unable to solve problems yourself through leveraging your social capital and networks);
- There is a lack of awareness of how the system works and how to access the courts, lawyers and legal aid; and
- The relatively high costs of the process, exacerbated by the length of time it takes to get a case through the court.

When asked whether they thought new legal provisions such as the Domestic Violence Act would have an impact upon court caseloads, representatives of the judiciary were sceptical. In general it was felt that new laws will not have an impact until law and order is maintained. In the case of the Domestic Violence Act in particular, representatives of the Bar Association felt that, until the obstacles to bringing such a case to court were overcome (i.e. the social stigma, legal “illiteracy” and the cost), the Act was unlikely to have much impact in the short to medium term.

THE INFORMAL JUSTICE SYSTEM

The district Bar Association estimates that 75 percent of criminal cases are resolved (i.e. mediated) at the police level. Among Bar Association members there was little knowledge of any informal mechanisms used to resolve cases, with the exception of the indigenous mechanisms used by the Tharu community. However, many civil society representatives felt that community mediation mechanisms run by NGOs were successful in resolving local-level disputes before they escalate. In particular, organisations working with community-level women felt that the services they were providing such as legal support and advice for victims of gender-based violence were filling a critical gap in state capacity to provide such services.

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 might include:

- Supporting police outreach to and trust-building with the wider public through community radio programming, allowing police to reach out and communicate with a wider audience despite capacity gaps in the short term;
- Supporting and strengthening shelters and services for victims of sexual and gender-based violence (SGBV), as well as working with service providers and local government to improve state responses to SGBV, including domestic violence;
- Exploring further the role of informal justice mechanisms in Dang and possibilities for strengthening and linking these mechanisms more closely to formal state mechanisms in the longer term (for example by building the capacity of informal structures to act as referral mechanisms into the formal structures);
- Matching small-scale physical “morale-boosting” support to the Nepal Police (such as police post structures or protective gear) with support to community outreach and “proactive policing” programmes; and
- Exploring ways in which to strengthen police presence and capacity in border regions, including possibilities for working with local communities to identify and address border-related crimes (such as smuggling, SGBV and theft) and impunity.

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