



Snapshot series 1

Security and justice from a district  
perspective

1.1. Kailali

September 2008

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International Alert is an independent peacebuilding organisation that has worked for over 20 years to lay the foundations for lasting peace and security in communities affected by violent conflict. Our multifaceted approach focuses both in and across various regions; aiming to shape policies and practices that affect peacebuilding; and helping build skills and capacity through training. Our regional work is based in the African Great Lakes, West Africa, the South Caucasus, Nepal, Sri Lanka and the Philippines. Our thematic projects work at local, regional and international levels, focusing on cross-cutting issues critical to building sustainable peace. These include business and economy, gender, governance, aid, security and justice. We are one of the world's leading peacebuilding NGOs, with an estimated income of £11 million in 2009 and more than 120 staff based in London and our 11 field offices.

Alert has been working in Nepal since 2002. Alert aims to support national and international actors to build the long-term conditions for sustainable peace in Nepal through:

1. Building understanding and awareness around key conditions for peace;
2. Strengthening the capacity and outreach of key peace actors and alliances to engage in peacebuilding; and
3. Enhancing the responsiveness of national and international policy and programming to conditions for peace.

Our three main areas of work are entitled: Equitable Economic Recovery for Peace; Accessible and Accountable Security and Justice; and Strengthening Peacebuilding Practice.

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The Initiative for Peacebuilding (IfP) is a consortium led by International Alert and funded by the European Commission. IfP draws together the complementary geographic and thematic expertise of 10 civil society organisations (and their networks) with offices across the EU and in conflict-affected countries. Its aim is to develop and harness international knowledge and expertise in the field of conflict prevention and peacebuilding to ensure that all stakeholders, including EU institutions, can access strong independent analysis in order to facilitate better informed and more evidence-based policy decisions.

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*International Alert Briefing Paper*

## Snapshot series 1

**Security and justice from a district perspective**

## 1.1. Kailali

**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 level.

In the wake of the Comprehensive Peace Accord (CPA) and the Arms Monitoring Agreement, and in the run up to the Constituent Assembly (CA) elections on 10th April 2008, there have been ongoing discussions in Kathmandu on security and justice issues (sometimes termed security sector reform, or 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 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.

The newly elected CA have committed to convening an Army Integration Special Committee (AISC) and 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 level, people will be more likely to support processes of change and can help drive through that transformation.

The ‘Snapshot’ briefings are 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.<sup>1</sup> 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/>.

<sup>1</sup> The initiative is informed by, and keeps up-to-date with related work by other organisations, such as the Centre for the Democratic Control of the Armed Forces 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 held in Dhangadhi, Kailali district in February 2008. The contents were subsequently verified with interviewees and updated after follow-up trips in June and August 2008, which included interviews in Urma Village Development Committee (VDC) and Tikapur municipality.<sup>2</sup>

## District Context

Kailali district is situated on the eastern and southern edges of the Far Western Development Region. It is the second largest district in this region, comprising of 42 VDCs. It was highly affected by the Maoist insurgency. Insecurity during the conflict was highest in the VDCs at the “junction” of Dadeldura, Doti and Kailali districts, due to the transport corridor, which runs from the Terai to the nearby hills.<sup>3</sup> Central to its economy is Nepal’s most important strategic road, the east-west Mahendra Highway, which on the western edge of Kailali crosses with the main north-south road in the far west. It is a largely rural district with a majority Tharu population (43.7 percent<sup>4</sup>), many of whom were forced to live as bonded labourers (*Kamaiya*) until this system was outlawed in 2000. Large tracts of land are still owned by a few landlords (mostly non-resident landlords originally from hill areas) and substantial inequalities continue to prevail in Kailali, as the Tharu remain landless and poverty-stricken.

Dhangadhi, the district capital, is close to the Indian border. Trade in the area is thus largely with Indian markets, as it takes half the time (about 6-7 hours) to reach Delhi than it does to reach Kathmandu. As is the case in many districts in Nepal, the economy in Kailali is largely agricultural, based in particular on grain products. Due to the uncertainty caused by the conflict, there has been little to no investment by businesses in the district and unemployment in the region is high. Unskilled labourers travel across the border in both directions seeking work. However, there is some disagreement between trade unions and employers, amongst others, as to whether skilled technical labour is available locally. The exchange of unskilled labour enables some businesses on both sides of the border to avoid national minimum wage laws and other labour protection legislation – contrary to the agendas of the trade unions, regardless of their political affiliation. These trade unions are enjoying significant growth in their membership, covering a wide variety of sectors, from rickshaw drivers to mechanics to farmers.<sup>5</sup>

In terms of public administration and politics, Kailali seems similar to much of the country outside the Kathmandu Valley. VDC Secretaries (appointed centrally) have largely returned to their responsibilities and in many cases are also covering the work of VDC chairs (locally elected), as there is yet to be a local-level election process. The work of VDC secretaries

<sup>2</sup> This briefing is based on over 30 interviews and meetings held in Dhangadhi, Kailali district in February and June 2008. Interviewees included the LDO, CDO, the Superintendent and Deputy Superintendent of Police, the Chair of the Union of VDC Secretaries, members of the Non-Governmental Organisation (NGO) Federation, representatives of the CPN-M, Nepali Congress and CPN-UML, Armed Police, Army, Bar Association, Chambers of Commerce, Transport Association, and a newly elected CA member and her constituents. For more information on the economic dynamics in Kailali, see: International Alert (forthcoming). *Snapshot series 2. Economic priorities for peace from a district perspective: 2.1. Kailali*. Available at <http://www.international-alert.org/nepal/index.php>.

<sup>3</sup> VDC secretaries started to return to their VDC during the course of 2007 and all can now carry out their functions there.

<sup>4</sup> Figure from the 2001 census – latest figures available.

<sup>5</sup> The CPN-UML affiliated union, for example, stated that it has seen a 40 percent rise in membership over the course of the past year. The union is campaigning for a rise in the minimum wage from NRs 90 to 125 per day.

is often hampered because, as outsiders, they sometimes struggle to obtain local trust – particularly when they do not speak the local language (Tharu in Kailali, for instance). The District Council holds meetings and in the capital the districts' citizens have, at least until the recent CA elections, been officially “represented” in the country's parliament by Nepali Congress (NC) members since the last elections. District Council heads have also been mainly identified with the NC. The elections of 10th April 2008 saw the CPN-M sweep to victory. A campaign based on ‘making people sovereign, uplifting the downtrodden and putting an end to feudalism and expansionism’<sup>6</sup> produced victories in all six constituencies in Kailali.<sup>7</sup>

## The Security Situation

Since the signing of the CPA and post-CA elections, the level of actual insecurity in Kailali has improved. The Local District Officer (LDO) says there have been far fewer problems since the seven parties united, but the security situation outside the district headquarters is less predictable, and people are still fearful and do not feel safe. There is little faith that the relative security of late is a permanent state of affairs. The reason many gave for the current situation is that it is less to do with the role of the government and police, and more because agitating groups are not taking any action.

In addition, Kailali, as with other districts in the Mid and Far West regions, differs from the increasingly unstable eastern Terai districts in the ethnicity of its population, the availability of weapons and its proximity to Uttar Pradesh – as opposed to the more troubled state of Bihar in the east. There had been some rumours that Tharu activists wished to mobilise around identity politics too, but it was deemed unlikely given the lack of access to resources and availability of weapons. Yet in late 2008, the Tharuhat Liberation Army were formed to fight for the ‘liberation of Tharu people and establishment of Tharuhat province in federal Nepal’.<sup>8</sup> It remains to be seen what impact this new “army” will have on the security context in the district.

*Bandhas* in the district frequently paralyse transport routes along the Mahendra Highway, 100km of which runs through the district. Unlike the highly political and widespread agitation in the eastern Terai, these are generally called following highly localised protests after traffic accidents. However, they can potentially develop into a more political weapon, though it is not clear just how much of an impact this has on the country as a whole, given the goods that come through from the west. The Chief District Officer (CDO) reported that in the months following the CA election, *bandhas* have been much less frequent, as people are waiting to see what the future holds. However, there is certainly a fear that such a fragile security will not last for long, especially as the buffer between Kailali and the unrest and violence in the eastern Terai is ever narrowing.<sup>9</sup>

## Types of Crime

The main crimes in Kailali are the result of the rights of bonded labourers not having been met, *bandhas*, theft and suicide. Extortion is not a large problem openly, but apparently this is mainly because people are reluctant to come forward. The incidence of rape and domestic

<sup>6</sup> See: ‘CA poll gains momentum in Kailali’, *The Rising Nepal*, 25th February 2008, reporting on campaigning by the CPN-M district leader, Utsav.

<sup>7</sup> Two of the six elected representatives are women.

<sup>8</sup> ‘Tharuhat Liberation Army is formed’, *NepalNews.com*, 4th November 2008, at <http://www.nepalnews.com/archive/2008/nov/nov04/news06.php>.

<sup>9</sup> At the time, Banke and Bardiya districts were seen as the buffer zone between Kailali and the unrest in the districts to the east.

violence remains high,<sup>10</sup> but the difference now is that it is actually more frequently reported. However, little action is taken and the security forces have also been implicated in some of the incidents. Threats from the government and police are relatively low, but threats from the YCL remain high, particularly in relation to “taxes” that have to be paid – for example, those importing and exporting goods have to pay 50 Nepali rupees (NRs) per truck in “protection money” to ensure safe passage. There is occasional cross-border crime, but unlike in the eastern Terai where cross-border crime is significant and is exacerbated by instability in the Indian state of Bihar, it is said not to be regular. Some VDCs close to the border, however, have apparently set up watchtowers to keep an eye out for robbers coming across the border from Uttar Pradesh.

### Nepal Police Structure

Dhangadhi is the zonal headquarters of the Seti zone, which comprises of five districts.<sup>11</sup> As a result, there are a high number of security forces in the district. At the district level, the CDO is responsible for coordinating security activities and implementing central-level policy. The Armed Police Force (APF) district headquarters is in Dhangadhi and there is another APF base 12km to the east. In addition, there is a Border Security Police base which has recently been established to provide security along the border with the Indian state of Uttar Pradesh and is manned by the APF, but it has a separate mandate from the other APF bases in the district. One of the seven main cantonment sites set up as part of the Agreement on the Monitoring of the Management of Arms and Armies (AMMAA) is also situated in Kailali.<sup>12</sup>

In Kailali, the police have 24 police posts<sup>13</sup> to cover all 42 VDCs and the municipal wards of Dhangadhi. There are a total of 479 police staff based in the district, with 150 officers at the central office, and between 11 and 25 officers at each of the individual VDC posts. The number of staff deployed to a VDC post depends on the grade of the post – “A” (managed by an inspector), “B” (managed by a sub-inspector) or “C” (managed by a junior officer). The level of posts was decided prior to the conflict and, while a post can be upgraded, it can be a lengthy process. To make a request for an upgrade, the Superintendent of Police (SP) must make a request to headquarters; the request then gets passed on to the Home Ministry and then the Cabinet. The time frame for decision-making varies, because it can become a political issue depending on who has an interest in the upgrade. If the upgrade is approved, then an increased number of officers are deployed. The criteria for an upgrade include increased population and VDC position (e.g. near a highway, so need increased seniority to manage *bandhas* – general shutdowns).

### Border Security

The Armed Police Border Security Unit is responsible for border security and providing back-up security for government offices. They also coordinate meetings with their counterparts in the Indian border police. During the aftermath of the floods, they were involved in rescuing flood victims in the district.<sup>14</sup> In the five months since their unit was established in Kailali, they have seized around NRs 400,000 of smuggled goods, including cement, sugar and cosmetics. This Unit provides an interesting example of collaboration between the APF, police and

10 Since the elections, it is believed that Human rights violations have fallen overall, but levels of domestic violence have increased. International Alert Interview in Dhangadhi, Nepal, June 2008.

11 Kailali, Achham, Doti, Bajura and Majhang.

12 The Agreement on the Monitoring of the Management of Arms and Armies (AMMAA) was signed by the parties on 8th December 2006, with the UN signing the Agreement as a witness.

13 One extra post was added prior to the election - previously there were 23 posts - and is now permanent.

14 On 15th June 2008, the APF rescued 60 people from 35 households. International Alert Interview, June 2008.

army because, due to a shortage of APF numbers, it includes members of each force. The unit currently consists of 237 people, of whom 50 percent were involved in training at the time of writing. New members are also now being recruited. At the commander level, postings are for two years, whereas at the constable level, staff may stay for four to five years in one area. Plans to establish a sub-office near the customs post and border police outposts at 10km intervals along the border, have led to a request to Kathmandu for a further increase in numbers.

### Community Policing

There is no formal public relations/liason unit post, but there is informal interaction with the community. The district police have a separate community police unit with five officers (including one woman). This is only the case in Dhangadhi at the moment, but they are looking to extend it beyond the district headquarters. There is also a women's cell based in Assanpur. However, it is suggested that the majority of police staff, particularly at the VDC level, have no knowledge of human rights or gender issues, and no experience of how to investigate such an issue.<sup>15</sup>

### Communications

Remote VDC posts are only contactable by foot and there are apparently 'regular' patrols to keep in touch. Closer VDC posts are contacted weekly, but more remote VDC posts may only be contacted on a monthly basis. Only about fifty percent of posts are in radio contact. In around twelve VDCs, the police do not even have a building, so they are "renting" from the community. There are five vehicles in the district headquarters.

### Public Perceptions of Police

The police are officially the first point of contact for ensuring the security of the people. However, their ability to do this is hampered by their relationships with the public and their lack of resources. This has a knock-on effect on morale and motivation. Police posts have been physically re-established, but they are not providing adequate services, partly because of their capacity, but also because people do not trust them. This mistrust was further fuelled when at least three people were killed and six injured when police fired on a crowd gathered outside the District Administration Office (DAO) on 28th May 2008 to protest against an attack on a journalist.<sup>16</sup> There is currently an investigation underway to establish who fired the shots.

### Police Capacities and Perceptions of Their Role

Discussions with the Deputy Superintendent of Police (DSP) revealed some awareness of the limitations of the police and showed how the level of personal insecurity they feel can affect the incentive for police officers to provide a service, rather doing the minimum needed to get the job done. Political party pressures on police can influence the decisions and actions that can or cannot be taken, and in some cases people are released following negotiations with parties. Resistance to this informal system can mean being reassigned to a less desirable or more remote district.

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<sup>15</sup> International Alert interview in Dhangadhi, Nepal, June 2008.

<sup>16</sup> 'Three killed in police firing in Dhangadhi; Curfew clamped', *NepalNews.com*, 28th May 2008, at <http://www.nepalnews.com/archive/2008/may/may28/news11.php>.

## Access to Justice

### The Formal Justice System

People from Kailali must go to Dhangadhi to access the formal justice system, as there is no VDC-level court. However, the Local Self-Governance Act has devolved some powers to VDCs, which can play a mediation role, for instance. As a rule, there is no legal aid system in Nepal,<sup>17</sup> but in rare instances some support may be given to the very poor based on recommendations from their VDC. Seventy to 80 percent of the caseload in Dhangadhi is from the VDCs, with the remaining 20 percent being cases from Dhangadhi itself.<sup>18</sup> Kailali has one judge for the whole district. The Bar Association is currently made up of 60 lawyers, only two or three of whom are women.

There has been a slight increase in the number of cases seen by the district court since the signing of the CPA, because the environment is more conducive, enabling people to access the court system and feel safer in bringing forward cases. Many of the cases are about land ownership, but there has also been an increase in criminal cases. In addition, there has been an increase in divorce cases over the last few years, citing domestic violence as the reason. A Women's Cell within the Bar Association deals with such cases. The time it takes to settle can vary from three months to two years, depending on the case. The efficiency of this system needs to be addressed, as it often takes far too long to settle. Furthermore, there needs to be greater sensitivity in the way that cases are tried. For example, a gender-based violence case may be tried entirely by men, which makes it hard for a female victim to speak freely.

### Traditional Justice Mechanisms

A study in Kailali (and four other districts) by International Alert and Friends for Peace in 2006<sup>19</sup> outlined that, prior to the conflict, Tharu communities in Kailali used indigenous dispute resolution mechanisms to mete out justice. A democratically elected village chief, or *Bhalmansa*, was responsible for community cohesion, dispute resolution, general social work and the *Kyhala*. The *Kyhala*, amongst other meanings, was a forum for meeting, discussing and solving practical problems of individuals and the community. The *Bhalmansa* was elected during an annual *Bakheri* assembly, which was open to all those residing in the village or settlement, and they were only removed when their activities were found to be unsatisfactory. The *Bhalmansa* and the *Bakheri* were responsible for setting fines and punishments for those who had broken the rules, and the *Bhalmansa* would mediate disputes and mete out justice.

### Maoist Justice Mechanisms

With the increase in Maoist presence in Kailali, the *Bhalmansa* and *Kyhala* systems were largely replaced by Maoist mechanisms, including their parallel justice systems. These parallel justice processes are now officially supposed to have been disbanded. However, it is widely acknowledged that they are still operating and that in some cases people prefer this avenue, because they do not believe they will be properly served by formal, official processes. The Maoists take a pro-active approach to social crimes (such as caste discrimination and rape) and justice tends to be physical punishment meted out in a public forum. Maoist courts now seem to be used by two main groups of people: those who do not have access to the police or courts because they do not have papers, but are nonetheless real victims; and those who

17 Although over the last five years there has been an EU project working to support a Legal Aid Council, the responsibility for which will ultimately be passed to the government.

18 Figures are estimates and are based on information provided informally by the Kailali Bar Association in February 2008.

19 International Alert and Friends for Peace (2007). *Voices from the Villages – People's agendas for peace*. Kathmandu, Nepal. Available at <http://www.international-alert.org/publications/pub.php?p=363>.



are opportunistic and would be thrown out of formal courts, but hope that they can get the Maoists to accept their claims. Use of Maoist courts is not as common as before and in some cases of social crimes, victims go to local civil society groups, who can mediate or direct them to parties who can help, such as human rights organisations.

## Implications for Policy-Makers, Local Government and Civil Society

Although there are likely to be fairly seismic shifts in the country and district political systems and security sector over the coming months and years, it remains essential that local voices are heard in the high-level discussions about the reform process and the possibility of integrating the PLA into the national army. It is also important to explore what activities and issues can be addressed in the interim in specific district and wider regional contexts. Based on this local research, specific activities in Kailali might best include:

- Facilitating increased interaction between the police and the public, so that both sides are more aware of each others' demands and limitations;<sup>20</sup>
- Strengthening communication channels between local police and communities, and between local police and national decision-makers;
- Negotiating where police posts are situated and on whose land. When no government land was available, posts have been established on private land and this has had a negative effect on public opinion;
- "Right-sizing" the number of police personnel for posts, as current sites and human resourcing were set over two decades ago;
- Increasing understanding of local dispute resolution mechanisms that are still used and how they could be supported and/or support the work of local peace councils and other mechanisms;
- Exploring the extent to which activities/events across the border in Uttar Pradesh affect the district context, and how and why this differs from the relationship between different districts in the eastern Terai and Bihar;
- Keeping people up-to-date with relevant national-level debates and discussions; and
- Exploring how local development planning and the allocation of District Development Committee (DDC) and VDC funds may impact on (in)security.

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<sup>20</sup> United States Institute of Peace have started to engage in work designed to address this issue, but currently this has been limited to district headquarters. See, for example: K. Cochran-Budhathoki and C. Rausch, 'Nepal in Transition: Developing Security and Rule of Law Strategies', *United States Institute of Peace Briefing*, May 2007. Available at [http://www.usip.org/pubs/usipeace\\_briefings/2007/0514\\_nepal\\_transition.html](http://www.usip.org/pubs/usipeace_briefings/2007/0514_nepal_transition.html).





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