

International Alert.



Snapshot series 1

Security and justice from a district  
perspective

Mahottari, Nepal

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Front cover image: Sadhana Ghimire Bhetuwal

International Alert Briefing Paper

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**Security and justice from a district perspective**

Mahottari, Nepal

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Rebecca Crozier is Country Manager for International Alert's Nepal Programme, based in Kathmandu. International Alert in Nepal seeks to ensure that national and international discussions related to justice and security sector reform (JSSR) are informed by local-level needs and realities. Rebecca has been working with civil society and government stakeholders in Nepal since 2007, building capacities to inform and influence JSSR debates. Rebecca holds a degree in Political Science and International Studies from Birmingham University.

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# Contents

Background	4
Introduction	5
District Context	6
Security Situation	7
Extortion and Abduction	7
Armed Groups and Political Parties	7
Open Border	7
Development, Poverty and Security	7
Ethnicity and Security	8
Women and Security	8
Security Trends	9
Security Providers	9
Public Perceptions of Police	9
Police Perceptions of their Role	10
Justice Provision	11
The Formal Justice System	11
Informal Justice Mechanisms	11
Implications for Policy-Makers, Local Government and Civil Society	12

## 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 as 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 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. With the deadline for completion of the constitution extended, the political scene remains one of deadlock between the coalition government and the Unified Communist Party of Nepal-Maoist (UCPN-M) 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 in consultation with the Nepali public. 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.

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.

<sup>1</sup> 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 focus group discussions and interviews in Mahottari district during May 2010. Interviews and community consultations were held in the district headquarters of Jaleswor, and in Bardibas and Gauribas Village Development Committees (VDC).<sup>2</sup>

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<sup>2</sup> Interviewees included the Chief District Officer (CDO), Superintendent of Police, Deputy Superintendent of Police, presidents and members of the District Bar Association, private lawyers, NGOs working in the district, the Women Development Office (WDO), Federation of Nepalese Journalists (FNJ) and Local Peace Committee (LPC).

## District Context

Mahottari is one of the six districts in Janakpur zone in the central region of Nepal. Other districts are Dolakha, Ramechhap, Sindhuli, Sarlahi and Dhanusha. The district shares its borders in the east with Danusha, west with Sarlahi, north with Sindhuli and south with India. The district covers 1,002 square kilometres and has a population of 553,481, 287,905 of whom are male and 265,576 female.<sup>3</sup> Mahottari district has one municipality, Jaleswor, and 77 VDCs.

In terms of religion, the majority of people in Mahottari are Hindu (84%), 13.5% are Muslim and the rest Buddhist, Kirat, Jain, Christian, Sikh and Bahai.<sup>4</sup> The East-West Highway passes across the north of the district, dividing it into northern and southern parts. The majority of those living in the northern half are of Pahadi (hill) origin, while the majority of those in the southern half are of Madheshi (plain) and Muslim origin. According to the 2001 census, the major ethnicities in the district are Yadav (15.3%), Muslim (13.5%), Terai Brahmin (6.6%) and Dhanuk (6.3%).



<sup>3</sup> For more information on the district, see: Government of Nepal, National Planning Commission Secretariat, Central Bureau of Statistics (2001). National Report 2001. Available from [www.cbs.gov.np/national\\_report\\_2001.php](http://www.cbs.gov.np/national_report_2001.php)

<sup>4</sup> For further details, see: Government of Nepal, National Planning Commission Secretariat, Central Bureau of Statistics (2001). *Population Census 2001*. Ch.1. Area and Population - 1.5 Population Distribution by Religion for Regions and Districts, 2001. Available from [www.cbs.gov.np/Year%20Book%202007/images/Final%20Chapters/chapter1/1.5.pdf](http://www.cbs.gov.np/Year%20Book%202007/images/Final%20Chapters/chapter1/1.5.pdf)



## Security Situation

Public perceptions of security in the district are mixed. Those living in rural VDCs in the north of the district reported a satisfactory security situation with few problems that required the services of security providers such as the Nepal Police. However, those living in the south of the district, including civil society representatives, journalists and government servants based in the district headquarters, reported feeling extremely insecure – the Chief District Officer (CDO), for example, does not travel outside of the district headquarters after dark and journalists reported receiving threats if they report on “controversial” cases, particularly those involving political parties/leaders.

### Extortion and Abduction

Police respondents cited abduction as one of the most serious crimes in the district, requiring large amounts of their time and capacity. According to senior police respondents, the District Police Office had received seven kidnapping cases in the last five months alone. Kidnappings occurred mostly in the commercial areas of the district, with business people and their families comprising the main target. Respondents from the business community reported widespread extortion demands, with the threat of abduction and murder if money was not paid.

### Armed Groups and Political Parties

This feeling of insecurity was attributed to the activities of armed gangs. Many of these gangs are thought to be protected by political parties, providing “support” to parties at election time or when politically affiliated groups or businesses are competing for construction tenders. Small arms and light weapons were reported to be easily available in towns across the border in India and their use was perceived to be increasing – a fact that was blamed on the relatively weak punishment for those arrested in possession of weapons (a fine of NRs 3,000). At the time of this research, the Janatantrik Terai Mukti Morcha (Goit) and the Terai Military Morcha were reported to be the most active of these armed groups.

### Open Border

As with many districts in the central and eastern Terai, the open border that Mahottari shares with India is considered by most respondents to be the biggest cause of insecurity in the district. The reasons for this include the trafficking of drugs, small arms and people across the border, and the impunity enjoyed by armed groups and criminal gangs operating in the border region.

### Development, Poverty and Security

Civil society and some government representatives alike were extremely vocal about the perceived misuse of the district development budget. Journalists, business people, NGO representatives and even senior government officials say that local political parties and the Local Development Officer (LDO) collude to divide the development budget up between politicians and bureaucrats – one respondent estimated that 60% goes to political parties and the remainder is ‘misused’ by District Development Committee (DDC) staff. Senior government officials and civil society representatives

alike reported that the LDO only spends 4-5 days a month in the district. Although it is widely recognised that such misuse is occurring, and that this knowledge leads to widespread public frustration and disillusionment, the CDO and police are powerless in the face of political pressure.

For community-level respondents, poverty and exclusion were considered major causes of insecurity in the district. It was reported that political leaders often “buy” votes at the time of election, and health and education services across the district are poor. Much of the district, particularly in the south, is comprised of highly patriarchal societies in which women are largely confined to the home and do not for example participate in elections. However, respondents did point to an increase in the numbers of families sending girl-children to school in recent years.

## Ethnicity and Security

Issues of ethnic tension between Madhesi and Pahadi, or Hindu and Muslim, communities were not considered a major problem by most respondents. However, it was recognised that political and community leaders on all sides cultivate a sense of mistrust of the “other”. This mistrust sometimes means that small disputes quickly escalate into larger problems, causing significant unrest, which the police and district administration then struggle to bring under control.

## Women and Security

Gender-based violence (GBV) against women is considered a major security concern in Mahottari, with the police receiving 2-3 cases of GBV per week in the district headquarters. Domestic violence is considered commonplace, often fuelled by alcohol consumption. The suicide rate is also very high among women in the district, with the District Police Office reporting approximately one case per week. Women’s and human rights activists report that these cases are often linked to domestic violence, rape or disputes over dowries. In many communities in the south of the district, women are expected to contribute a substantial dowry. According to human rights organisations, if a woman fails to provide this dowry or if there is a dispute between the two families over the size of the dowry agreed, the woman is often at risk of threats of violence or actual violence from her husband and his family. A major concern of human rights organisations is that, due to the lack of investigative capacity of the Nepal Police, families can make domestic-violence related killings look like suicide.

Whilst much of the risk of GBV faced by women was reported to come from within the home, women living in communities along the border also reported a fear of being targeted by Indian security personnel. Representatives of human rights organisations report a handful of cases over the past year where women have been sexually assaulted by Indian border police. None of these cases were reported to have resulted in a conviction.

Both police and those working with communities report that impunity for perpetrators of GBV is perpetuated because many women are not aware of the mechanisms for reporting a crime, or even that some forms of GBV (particularly domestic violence) are even a crime. The highly patriarchal nature of many Muslim and Madhesi communities also means that women are reliant on the decision of a male family or community member as to whether a case is reported to the state authorities.

Another reason for the limited reporting of cases of GBV is the fear of stigma that the victims hold. Organisations working with victims of GBV report that media coverage of such cases is often damaging, with journalists publishing the names of GBV victims. Finally, the lack of safe-houses and shelters for victims of GBV in the district means that many are unable to report domestic violence, in particular because they are dependent upon their family for food and shelter (see below).

## Security Trends

Despite a relatively poor security situation in the district, overall the security situation is felt to be improving compared to last year. Most respondents attribute this to the government's Special Security Plan, which has provided the police and district administration office with additional powers to forcefully prevent bandhas (shutdowns) and remove highway blockades. The resulting decline in shutdowns and road blockades is considered by many as an indicator of the improving security situation. However, many are also concerned about the sustainability of these improvements, citing a 'culture of compromise' on the part of the government as an indicator of weakness. Senior government officials perceived the security situation to be worsening, pointing to a lack of security for civil servants (such as VDC secretaries) and declining rule of law as indicators.

## Security Providers

The major responsibility for the day-to-day provision of security in Mahottari lies with the Nepal Police. At the time of this research, 507 personnel were deployed in the district. Of these, eight were female police working in constable and head constable rank. There is a Women's Police Cell (WPC) present in the District Police Office, with four female personnel, headed by a female Head Constable. The WPC deals primarily with crimes against women, including GBV. It is poorly capacitated and consists only of a small room of approximately five feet by ten feet, with one desk and two chairs. Due to a lack of training, infrastructure and personnel capacity, the staff of the WPC spend the majority of their time attempting to mediate GBV cases, then sending the victim back to their village.

The Women's Development Office (WDO) is one other state actor which is providing front-line support to women and children in accessing security and justice.<sup>5</sup> With 18 staff and district-wide coverage, the staff of the WDO are often a first point of contact for women seeking judicial recourse for issues such as divorce, polygamy and GBV. However, the capacity and mandate of the WDO is stretched in responding to these cases. Senior staff report that political support to perpetrators is a major hindrance to bringing such cases to court.

## Public Perceptions of Police

Perceptions of the ability of the police to provide security to the general public in Mahottari are mixed. Rural communities in the north of the district rarely use the police but are confident that the police would be able to respond effectively if the need arose. Communities in the south of the district, and those in urban areas, were sceptical about the effectiveness of the Nepal Police in providing security. Negative perceptions stem from the belief that 'unless politically pressurised, the police don't register cases'.<sup>6</sup> Furthermore, a lack of physical capacity, such as vehicles, personnel and equipment, prevents a fast and effective response. Female respondents from both local communities and civil society organisations felt that police response to cases brought by women, for example domestic violence cases, was particularly poor. Overall, there are concerns from civil society representatives that public perceptions of police powerlessness are resulting in increased fear amongst people for personal safety and security.

<sup>5</sup> The Women's Development Office (WDO) is the local representative body of the Ministry of Women, Children and Social Welfare. The WDO implements programmes to raise the awareness and income-generating capacity of women, as well as providing advice and support to women in need. The District Administration Office is the local representative body of the Ministry of Home Affairs. It is responsible for overseeing the provision of security and justice in the district, amongst other things.

<sup>6</sup> International Alert and Shanti Malika interview, Jaleshwar, May 2010.

## Police Perceptions of their Role

Senior police officials in the District Police Office recognise political interference as the number one blockage to them doing their jobs effectively. According to the police, the problem occurs when members of the public approach the police office with a “middle-man”, usually a representative of a political party. However, there is also a feeling that the extent to which political interference gets in the way of police work depends upon the senior police officers handling the case.<sup>7</sup>

Given the extent of GBV as a serious security problem in the district, and the increasing numbers of cases being reported to police offices, police in Mahottari recognised the need for more female police officers to deal with cases of violence against women in particular. In addition to greater representation of women in the police force, it was also recognised by senior police officers that more women in commanding ranks (i.e. of Assistant Sub-Inspector rank and above) need to be posted out to districts in order to head-up WPCs. It was felt that having junior officers head the WPC had contributed to its ineffectiveness and to public perceptions that the police do not take GBV and crimes against women seriously. According to senior police officials, civil society organisations have a role to play in this regard, by advocating for the Ministry of Home Affairs and Inspector General of Police (IGP) to provide the motivation necessary (such as improved living conditions and security for female officers) to post women to districts.

Finally, senior staff at the District Administration Office recognised the dependence of police upon political merit for advancement as a major contributing factor to the extent of political interference in police work. A mechanism for ensuring the recruitment and promotion of police on the basis of merit, similar to the Public Service Commission for civil servants, was recommended to address this problem.

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7 International Alert and Shanti Malika interview, District Police Office, Jaleshwar, May 2010.

# Justice Provision

## The Formal Justice System

The district court of Mahottari is located in Jaleswor, the district headquarters. The District Bar Association estimates that there are between 1,200 and 1,500 cases pending in court, among which 150 to 200 cases are adjudicated per bench per year. The majority of these cases are civil cases, primarily those related to land partition, land ownership and divorce. Criminal cases come through the public prosecutor and include drug use and trafficking, murder and GBV. Cases regarding accusations of witchcraft are on the increase, following a high-profile case of Marani Devi Shah in 2005, which raised public awareness of the fact that this form of GBV is a crime.<sup>8</sup>

Despite the fact that domestic violence and other forms of GBV are reported as prevalent in the district, very few reach the district court. Reasons given for this by various research respondents included the fact that even where incidents are reported to the police (most are not), they are mediated in police stations and the victim is often encouraged not to prosecute. Others do not prosecute because they cannot afford the court fees, the time nor the travel to reach the court. This is often the case for women, who are generally less independent. Finally, fear of stigmatisation prevents many from seeking redress through the police and courts.

When cases do reach the court, outside actors often attempt to influence the course of justice. Lawyers reported receiving threats, including from armed groups and criminal gangs (some believed to be working for political parties), if they take cases that concern members of those groups, gangs or political parties. Such cases can concern anything from armed violence to accusations of witchcraft. As with the threats and extortion demands received by business people in the district, threats come from either Indian or Mero Mobile phone numbers. When a threat to a lawyer is received, the district attorney reports the case to the police. However, the general perception from the lawyers is that the police are ineffective, as they lack the equipment and authority needed to trace ownership of the phone number and location of the caller.

## Informal Justice Mechanisms

For the reasons outlined above (e.g. access, cost, effectiveness, etc), many local people in Mahottari solve disputes and problems at the community level. Mechanisms used include traditional councils of village elders (*panchayat*), family councils or community-based organisations. Female victims of GBV in particular were found to first approach community-based organisations and NGOs for advice and support, and felt that the response they received from the police was better if they were accompanied to the police station by an organisation. The WDO also receives cases of GBV, in particular domestic violence. According to the WDO, in the first instance the cases are mediated at the local level involving village leaders, and then referred to the police if the mediation is unsuccessful.

<sup>8</sup> At a gathering of almost 10,000 people in Simardahi VDC in mid-August 2009, Marani Devi Shah was accused by an Indian shaman and the VDC Secretary of practicing witchcraft. A brawl ensued after Marani Devi Shah's family intervened, leaving both Marani and the VDC Secretary severely injured. Due to the size of the event, the incident was highly-publicised in both local and national media. See: R. Upreti. 'Witch hunt leads to village brawl in Mahottari', *Sancharika Samuha*, 7 October 2010. Available from [www.sancharika.org/news/news\\_witchurt.php](http://www.sancharika.org/news/news_witchurt.php)

## Implications for Policy-Makers, 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 Mahottari district might include:

- Bringing political parties together in continued dialogue with civil society, the police and bureaucracy, aimed at forging a public commitment from political parties to uphold the rule of law, including not interfering in the work of the police and judiciary and ensuring the responsible use of district development budgets;
- Building the capacity of civil society to oversee the effective and accountable provisions of security and justice, and to advocate for changes to justice and security policy and implementation at district, regional and national levels;
- Raising public awareness of legal provisions relating to GBV, including the Domestic Violence Act, and the role of the security providers in ensuring the implementation of these provisions. This could be done through community radio, in local languages to ensure maximum coverage;
- Establishing and supporting safe-houses and shelters for victims of GBV.



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