



Snapshot series 1

**Security and justice from a district
perspective**

1.2. Morang

September 2008

About International Alert

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**1.2. Morang****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.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 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 paper is based on discussions and interviews in Biratnagar Municipality and Indrapur Village Development Committee (VDC) in June 2008.²

District Context

Morang district is located in the far-eastern Terai region of Nepal. Due to its geographic location and relatively high development indicators, the Maoist insurgency came late to the district and the conflict here was relatively low-impact. However, with an ethnically diverse population comprising of both Pahadi and Madhesi communities, Morang now finds itself in the midst of ongoing unrest in the eastern Terai. The two communities are largely divided by the east-west Mahendra Highway, which stretches the length of the Terai; the Madhesi live predominantly to the south, the Pahadi to the north. The district shares an open border with the restive Indian state of Bihar, where Maoist rebels and armed criminal gangs exert considerable influence. This has made Morang vulnerable to cross-border illegal activities, such as trafficking, smuggling, cross-border crime, robbery and kidnap.

The district capital, Biratnagar is the biggest urban centre in eastern Nepal and a major transit point to India. It is also a regional centre for politics, trade, commerce, industry and education, and has produced several high-level political leaders. Biratnagar was one of Nepal's first "industrial" cities, beginning with the large-scale production of jute, before moving on to stainless steel, construction materials and garment production. The city was once the industrial hub of the country, having prospered due to the demand generated by World War II. However, recently industry in Morang has seen a dramatic slowdown, caused by the decade-long conflict in Nepal and subsequent unrest in the Terai, cheaper imports from India and a lack of government support to domestic industry.

In terms of public administration, the situation in Morang is similar to many districts in the region. VDC secretaries returned to their posts following the CPA, however many have since returned to the district headquarters following threats from armed groups, particularly those posted to VDCs south of the Mahendra Highway. All but one of the district's 22 police posts have been re-established. The CA elections took place relatively peacefully in Morang, with the CPN-M and Madhesi Janaadhikar Forum (MJF) winning eight of the nine constituencies between them.³ The CPN-M/MJF landslide victories in an erstwhile stronghold of the Nepali Congress were demonstrative of the turning tide of public opinion, with the MJF in particular tapping into the aspirations of Morang's substantial Madhesi population for fairer political representation in the "New Nepal".

² For more information on the economic dynamics in Morang, see: International Alert (forthcoming). *Snapshot series 2. Economic priorities for peace from a district perspective: 2.2. Morang*. Available at <http://www.international-alert.org/nepal/index.php>.

³ Constituency 1 was won by the Nepali Congress, 2, 3, 8 and 9 were won by the CPN-M, whilst the MJF won the majority vote in constituencies 4, 5, 6 and 7.

The Security Situation

Following successful elections, many respondents reported that the district experienced a ‘honeymoon period’ of around two weeks, within which the activities of the armed groups that were ubiquitous before the elections, all but ceased. Since then, these groups have re-emerged, although weakened; the fine line between politically-motivated armed groups and criminal gangs is becoming ever more blurred.⁴

While most feel that the security situation has improved post-elections, with frequent bandhas (general shutdowns) continuing to paralyse life for up to 15 days a month and violence continuing to flare up with little warning, there remains a fear that the current fragile balance will not be sustained. As a result, many feel that the region will see a relapse into full-blown conflict, particularly with the question of a future federal structure looming.

Types of Crime

Major crimes reported in the district are gang-fights, theft, trafficking and rape. A large proportion of crime reported is believed to occur as a result of insecurity stemming from the open border between Morang and the neighbouring Indian state of Bihar. Police representatives attributed this to the strength of the police in Bihar meaning that Indian criminals are increasingly exploiting the current security vacuum on the Nepal side of the border to commit crimes.

Gender-Based Violence

With the limited presence of the Women’s Police Cell at the village level, it appears that most cases of gender-based violence (GBV) are reported first to local non-governmental organisations (NGOs) and then referred to local police posts or the Women’s Cell in the district headquarters. The Women’s Police Cell itself reports increasing numbers of women approaching the Cell to report cases. According to the head of the Cell, there is no distinction in the ‘types’ of women (i.e. in terms of ethnicity, socio-economic background, religion, etc.) that report cases of GBV to the police.

Nepal Police Structure

The primary responsibility for the provision of security in Morang lies with the Nepal Police, who have 954 personnel in the district. Policing is conducted from the district police office, as well as 11 area police offices, 22 police posts and four Border Police posts. A total of 511 personnel are based in area police offices and police posts. The 22 police posts cover a total of 65 VDCs, with an average of 10 personnel at each post. Both the Women’s Cell and community policing cells are active. However, due to resource constraints they are largely confined to the district centre and their duties appear to have been merged somewhat.⁵

Role of Nepal Police

Of the 954 police personnel in this district, 63 (6.6 percent) are women, the highest rank of which is Police Inspector. The Nepal Police office works together with the Armed Police Force (APF) to ensure border security and the security of government buildings. During the April elections, 1,800 temporary police were recruited and placed in seven temporary police posts. Temporary police are “demobbed” immediately after elections, however the temporary police

⁴ In a report published earlier this year, Alert highlighted the difficulty that many people in the eastern Terai experience in differentiating between armed political factions motivated by ideology and criminal gangs motivated by economic gain. See: International Alert (2008). *Youth Perspectives on Community Security in the Eastern Terai*. London, UK: International Alert.

⁵ For example, the Head of the Women’s Police Cell is also the Head of Community Policing.

posts are set to remain and will be staffed from within existing personnel numbers. The APF also played a large role in providing election security.

Relations With the Indian Police

The district police office has good relations with its counterpart in Bihar, and representatives from both Nepali and Indian police forces meet regularly on matters of border security. Major security incidents are dealt with by the District Security Committee, which meets on a regular basis.⁶

Public Perceptions of Police

The majority of respondents were positive about the role of, and need for, the police in Morang, particularly around election time. It was recognised that an increased police presence during elections had ensured the safety of voters and contributed to the subsequent decrease in the activities of armed “Madhesi” groups in the region. However, it was also recognised that there are many obstacles to the police playing an effective long-term role in the district. A lack of resources (e.g. equipment, personnel and infrastructure) and strained police-community relations were cited as key issues to be addressed in this regard.

Perceptions Among Marginalised Communities

Those belonging to marginalised communities in particular felt strongly that police-community relations were characterised by mistrust. For example, the failure of police to arrest those responsible for the Biratnagar Mosque bombing in March this year, which killed two people, has led to deep suspicion and mistrust of the police amongst leaders of the Muslim community.⁷

Perceptions Among Businesses

Business actors were also skeptical about the role of the police, in particular their ability to curb the excesses of trade union activity and protect businesses from the increasing numbers of armed groups and criminal gangs extorting money.

Police Capacities and Perceptions of Their Role

It was apparent from discussions with the Superintendent of Police (SP) and Deputy Superintendent of Police (DSP) that the police themselves recognise their own limitations in terms of capacity. Police offices are poorly equipped, while limited manpower means that training is essential in maximising police effectiveness. Village police posts are particularly badly equipped, with personnel using mobile phones instead of radio to contact their Headquarters; many police buildings are in a state of disrepair. Despite the lack of capacity, police representatives felt that community-police relations were good, gauged by an increased community demand for police posts.

Police Response to Industrial Security Needs

In an attempt to address the particular needs of business and industry in the district, the district police office has recently installed a ‘Control Room Vehicle’ (CRV) system. The system enables police vehicles to be contacted via radio by a control room in Biratnagar, ensuring a rapid response to incidents along the industrial corridor.

⁶ The head of the District Security Committee is the CDO; their committee is made up of representatives from the Police, APF and political parties.

⁷ A little known Hindu-extremist group, the Nepal Defence Army, took responsibility for the attack. See: ‘Two Die in Mosque Bombing’, *BBC News*, 30th March 2008, at http://news.bbc.co.uk/2/hi/south_asia/7321186.stm.

Access to Justice

The Formal Justice System

The district courts are the major provider of justice in Morang, and all cases must be brought to the district headquarters to be heard. There is a provision under the Local Self-Governance Act for VDCs to hear cases and mediate. However, where cases cannot be solved informally under this process, or through any other community or indigenous justice-seeking mechanism, they must be brought to the district court. The Morang district court is therefore massively stretched in terms of the number of cases being reported, and the average case takes around one year to be heard and a decision made. The most common cases brought to the court concern rape, theft, divorce, death/injury as a result of gang fights and human trafficking.

Maoist Justice Systems

Parallel Maoist systems of justice were in place in parts of the district during the latter years of the CPN-M insurgency. These have only been dismantled to a certain extent, and many respondents maintained that Maoist justice systems continue to rule on issues such as land disputes and domestic violence. Respondents believed that the number of cases brought before the Maoists has increased since their “victory” in the CA elections.

Accessing Justice

The Nepal Bar Association is active in the district and provides limited legal aid to those who cannot afford representation. However, due to a lack of resources the Bar Association is limited to the district headquarters and relies on NGO referral for cases from outlying VDCs. The Bar Association has a Human Rights Committee that works in coordination with the police and the Chief District Officer (CDO) in addressing cases of human rights abuse. There is also a Human Rights Network in the district comprising of 44 NGOs, which collectively acts to address cases of human rights violations and pressures for action from the appropriate authorities. Human rights NGOs remain an important point-of-contact for those seeking redress for cases of GBV and for internally displaced persons (IDPs) seeking the return of their land. One prominent NGO says that it had also been approached by businesses seeking redress for extortion by armed groups in the area.

Security Threats to the Legal Profession

The Bar Association reported an increased feeling of insecurity amongst legal practitioners, fuelled by recent threats against lawyers from a number of armed factions in the region. It is working to address this threat by developing links and relationships with agitating groups and by ensuring that lawyers in Morang continue to have a strong, collective voice.

Judicial Responses to Gender-Based Violence

There is some tension between justice providers and NGOs regarding the provision of justice in cases of GBV. Lawyers and community members alike perceived some women’s rights NGOs to be operating without a comprehensive understanding of the context in which they were working. These NGOs often encourage women to pursue formal processes for justice in cases of rape and domestic violence, for example. It was perceived that NGOs primarily seek the “glory” of winning a court case and their approach is less than holistic. More than one respondent cited examples of NGOs pursuing justice on behalf of the victim, but providing little or no support once the case had been won. It was felt that some NGOs fail to recognise the impact a relatively high-profile and drawn-out court case has on the victim and her family, and how this is perceived within the community.

Implications for Policy-Makers, Local Government and Civil Society

Given the current transitional context in Nepal, and the particularly fragile context in the eastern Terai, it is essential that national-level policy-making with regards to security and justice reflects and is informed by local-level needs and realities. It is also important to explore what issues need to be addressed in specific districts and the wider regional contexts, and what activities can help to address these issues in the interim. Based on this local research, specific activities in Morang could include:

- Strengthening communication channels between local police and communities (in particular marginalised communities), and between local police and national decision-makers;
- Supporting and strengthening the outreach of the Women's Police Cell to the VDCs;
- Exploring the extent to which activities and events across the border in Bihar impact on the security context in neighbouring Nepali districts;
- Increasing understanding of the particular justice needs pertaining to women, and how local justice mechanisms and NGOs can best respond to these needs;
- Exploring local non-state justice mechanisms and how these can be linked to, or inform, state mechanisms; and
- Supporting and strengthening the outreach of state justice mechanisms to the VDCs.

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