

Impunity Continues Unabated*

A Study Report on

Legal status of journalists/media persons murdered and disappeared during two decades from 1996 to 2016

Background

Journalism is regarded as an integral part of democracy. It helps make democracy functional. It is undoubtedly a medium to inform the people. The country having free and independent press can ensure free flow of information to its citizens and help in prevailing democratic values. Therefore, an atmosphere conducive to the press freedom is essential. Press cannot become professional in the unsafe environment. Although media persons seem the most affected with jeopardized press, democracy is the ultimate system at the receiving end.

When analyzed the facts on press freedom violations, the recent decades in Nepal remained unsafe for press. The unsafe press has obviously been unable to play watchdog role. In the recent years, hundreds of the press freedom violations have been recorded. Journalists/media persons were killed, while many injured. Such incidents, however, have not been studied and legal actions taken. It is what the impunity is. Impunity is the state where the culprits and perpetrators walk scot free. The impunity prevailing even in the post-conflict period proves that public trust on State bodies have eroded. It is essential to investigate the incidents of murder and enforced disappearance occurred during the conflict period. The investigation of the conflict-era cases would help deter the repetition such crimes and ensure justice the victims. However, to everyone's dismay, the State does not seem sensitive and serious on it. Political willpower is the most essential facto to bring the crimes against journalists into justice. But the political willpower is eluding. Another hindrance on justice delivery is- the families of the victims have no access to the process of justice seeking. It has resulted in avoidance of legal remedy of such incidents. It is because of such bitter reality the press is bound to deliver under fear, and the perpetrator are walking freely. Deputy Director General for Information and Communications at UNESCO, Frank La Rue, observes, "When there is no action against the attack and threat on and murder of journalists, it becomes the invitation of other violence. When the justice is not delivered to the victim journalists/media person, it encourages for other incidents."

Although press freedom is constitutionally guaranteed rights in Nepal, there are challenges galore before the press. Nepal is listed as the country with sorry state of press freedom. Impunity is going unabated, for the crimes perpetrated against journalists in the past are not fully investigated. The judiciary needs to be encouraged to call on the government to furnish responses relating to the cases of murdered and disappeared journalists. Bringing to book those

persons involved in the crimes against journalists not only reduce impunity but also help protect one's freedom of expression and improve human rights situation.

Even the general public bear the responsibility to help State ensure justice to the families of journalists/media persons killed and disappeared and bring the perpetrators to book by conducting research and study. Freedom Forum conducted a study on the legal status of media persons who were murdered and disappeared from 1996 to 2016. The study revealed that 23 journalists were murdered while three were disappeared during this period. The study report dwells on their conditions.

Objectives

The objectives of the study are,

1. To exert pressure on government to ensure safe atmosphere for journalists,
2. To help create atmosphere for reducing impunity,
- 3) To help in promoting professional journalism,
- 4) To ensure justice to the families of victim media persons

Study Period

Period of this study is 20 years from 1996, the year from which the country began witnessing armed conflict. The study is therefore an account of the crimes against media persons of this period (1996 -2016)

Bases and methodology of study

As per the prior literature on the subject matter, reports, records and archives maintained by Freedom Forum and other institutes (like Federation of Nepali Journalists, and UNESCO) have been studied. Other materials related to the study are also the bases of the report. In addition to this, the investigation reports have been consulted, and onsite visits held. Some families of the victims have also been interviewed. Information is collected from the courts and attorney's office in the district and concerned journalists. Similarly, the Truth and Reconciliation Commission, the Commission on Inquiry of Enforced Disappeared Persons and the National Human Rights Commission were other places from where the necessary information/data were garnered.

Limitation

The study has some limitations.

- a) The study has not included all names that came into surface from different sides as media persons. However, FF does not claim that names omitted by the study are not

journalists/media persons. But FF points out the need of further investigation and evidences about them.

- b) The onsite visit to all places having the crimes against journalists mentioned in the report was not possible.
- c) Although the Truth and Reconciliation Commission, the Commission on Inquiry of Enforced Disappeared Persons and the National Human Rights Commission have provided some information informally, their information on the related matter has not come formally/officially.
- d) Some of the offices denied responding on the cases on crimes against journalist reasoning privacy, while some showed inability to furnish response citing that the incidents were very old and the management of files was not systematic. Similarly, some other agencies evaded responsibility, saying that the cases would be investigated by the Truth and Reconciliation Commission, and the Commission on Inquiry of Enforced Disappeared Persons.

Note:

- a) Some organizations have listed more number of people as the murdered and disappeared media persons. The Federation of Nepali Journalists (FNJ) has recorded the names of 36 journalists as murdered while 4 as the disappeared ones. But, some the incidents (crimes) needs sufficient investigation.
- b) The FNJ has jointly filed applications at the Truth and Reconciliation Commission (Registration No 2644) and Commission for the Inquiry of Enforced Disappeared Persons (Registration No 1910, 1912 and 1913) seeking investigation on the murdered and disappeared media persons.

Conclusion

Among 23 journalists/media persons listed as murdered from 1996 (2052BS) till date (2016) by this study, Dekendra Thapa, Gopal Giri, Krishna Sen, Ishwor Budhathoki, Kumar Ghimire, D Koudinnya, Raj Kumar KC, Kamal AC, Maheshwor Pahari, Khagendra Srestha, Ambika Timsina, Nabaraj Sharma Basant, Gyanendra Khadka, and Dhan Bahadur Rokaya totaling 14 were killed before the Comprehensive Peace Accord (November 21, 2006) or during the armed insurgency of Maoist party. Similarly, Uma Singh, Birendra Saha, Jamim Shah, Arun Singhaniya, JP Joshi, Rohan Chaudhary, Devi Prasad Dhital and Pushkar Bahadur Shrestha totaling 9 were murdered after the CPA- the post-insurgency period. It clearly suggests that journalists are killed even in the post-conflict period and hence perpetuates the impunity.

The legal status of the journalists/media persons killed during the study period is analysed this way-

1) **Lawsuit filed:** It was found that out of the total 23 murdered and three disappeared journalists/media persons, lawsuit was filed on seven murders and one disappearance. The local (district) courts have even given verdict on seven cases, while two are still under considering in the court. Similarly, the government withdrew a case. The government also withdrew a case relating to disappearance while one is still under consideration in the court. All these cases are separately analysed in this report.

2) Court delivering verdict

Journalists/Media Persons murdered

a) A. I) Dekendra Raj Thapa

A journalist with the Radio Nepal from Dailekh, was killed on August 11, 2004. Two months before the murder, he was abducted by then Maoist party cadres. Thapa had joined the locals to talk with the Maoist so as to resume the water supply that was cut off at district headquarters, Dullu. He was abducted, tortured and buried alive. Four years after the killing, his body was exhumed and the final rites observed.

On August 28, 2008, Dekendra's spouse, Laxmi Thapa, had filed first information report (FIR) at the District Police Office, Dailekh. As the police did not initiate investigation, she filed a writ petition at the Appellate Court, Surkhet, against the District Police Office, Dailekh and Office of District Attorney, Dailekh on December 13, 2011, thereby prodding the district police to initiate the investigation. On January 4, 2012, Lachhi Ram was arrested. Based on this statement, four others were held by the police. After the investigation, a case was filed at a local court through the office of district attorney on December 29, 2012. A bench of judge Ram Krishna Bhatta issued order on February 1, 2013 to remand the arrested ones into custody. After the hearing, on December 7, 2014, Judge Dilli Ratna Shrestha, issued a verdict sending the perpetrators to jail.

As per the court verdict, five perpetrators- Lachhi Ram Gharti Magar (1 year and six months) from Dwari, Hari Lal Pun (2 years) from Dwari, Birak Ghartimagar (2 years) from Baluwatar, Bir Bahadur KC (1 year) from Baluwatar, Jay Bahadur Sahi (2 years) from Raniban completed their jail term. However, others found guilty by the court on the murder- Bam Bahadur Khadka 'Mukti' from Katti, Bam Bahadur Khadka Arun from Chhiudipusakot, Arun Khadka from Chhiudipusakot and Bhaktiram Lamichhane from Dwari but currently living at Kohalpur municipality 3 of Banke district have been absconding to evade the punishment.

On February 18, 2015, Lachhiram Gharti, Nirak Gharti and Bir Bahadur KC filed a case at the Appellate Court, Surkhet, while after a week, Jaya Bahadur Sahi and Hari Lal Pun followed suit. But the Appellate Court upheld the decision of the district court. It is learnt that this case is currently under consideration at the Supreme Court.

What Next?

- All four absconding after the investigation must be brought to book. The State must be active to bring them to book.
- The case which is under consideration at Supreme Court should be settled soon to cater justice to the victims' family.

A. II) Uma Singh

A reporter with the Janakpur Today daily and the Radio Today FM of Janakpur, Uma Singh, is originally from neighbouring Siraha district. On January 11, 2009, a group of armed persons entered her rented room at Pradi (Thapa) Chowk of Janakpur, attacked with sharp weapons and killed her.

Following the murder, her mother Sushila Singh filed a complaint at District Police Office, Dhanusha, on January 25, 2009. She filed the complaint against Lalita Singh (Uma Singh's sister in-law) from Pipara Tole of Maheshpur Ward No 4, of Siraha district; Shrawan Kumar Yadav from Rampur Birta Ward No 2 of Siraha; Nem Lal Paswan, from Lakkada Ward No 7 of Dhanusha; Umesh Yadav (also known as Swamiji Yadav) from Balsaghara Ward No 1 of Dhanusha; Chandreshwor Saha from Maheshpur Ward No 1 of Siraha; Dhaneshwor Saha Teli from Thalaha Gottari Ward No 9; Bimalesh Jha from Khutta Piparadi Ward No 1 of Mahottari; Bhumeshwor Yadav from Rajpur Ward No 2 of Siraha; Bindu Yadav from Sitapur Ward No 6; and Baijyanath Singh, Dhananjay Singh and Ajay Singh from Pathariya of Sitamadhi district of India.

Last year, the District Court, Dhanusha, awarded life imprisonment to Umesh Yadav who was arrested four years back on Singh's murder. A bench of Judge Krishna Bahadur Thapa delivered the verdict. After the arrest, the Office of the District Attorney, Dhanusha, had filed a case at the District Court demanding life imprisonment to Umesh Yadav, aka Swamiji. Judge Thapa had delivered verdict, arguing the Swamiji as the mastermind of the murder. Uma's sister –in-law Lalita Singh and Nem Lal Paswan were immediately handed down life imprisonment after the investigation. Both of them are serving the jail term. After Shrawan Yadav, Bimalesh Jha and Abhishekh Singh were released on general date, the office of District Attorney appealed at the Appellate Court, Janakpur, against them. However, Baijanath Singh, Dhananjay Singh and Ajay Singh involved in murder and from Patahariya of Sitamadhi district of neighbouring country, India, are still absconding.

Meanwhile, Uma Singh's mother Sushila was provided Rs 1 million as relief amount.

What Next?

- The absconding convicts must be brought to book.
- As the absconding convicts are Indians, Nepal Government must take help from Indian government to arrest them.
- The case under consideration at Appellate Court should be settled soon.

A. III) Birendra Saha

Birendra Saha, reporter with Avenues TV, Dristi weekly and Nepal FM, was abducted by the cadres of the Maoist party on October 5, 2007 from Pipar of Bara district. He was found dead at Dumarwana VDC Ward No 7 of the same district after a month- on November 8, 2007.

As per the concerned family and relatives and the police involved in the investigation, he was killed by the cadres of the Communist Party of Nepal-Maoist. After the arrest, Ram Ekwel Sahani and Myanejar Giri were handed down life imprisonment by the District Court Bara. They are now serving the jail term. But other involved in the murder- Hareram Patel, Lal Bahadur Chaudhary and Kundan Phaujdar are still absconding. The court had issued order for their arrest. Although, the district court's verdict was challenged by filing case at the Appellate Court, Hetaunda, but in vain. The Appellate Court upheld the verdict delivered by the district court. Now the case is under consideration at the Supreme Court.

What Next?

- The absconded convicts must be brought to book.
- The case under consideration at Supreme Court should be heard soon.

A. IV) Yadav Poudel

Yadav Poudel, a reporter with Avenues TV and the Rajdhani daily from Jhapa district was also an editor at a local Mechi Times. He was killed on April 3, 2012. He died on the spot when he was pushed from third storey of a local hotel to fall to death.

After the police investigation, the District Court, Jhapa, slapped convict Yuvraj Puri with life imprisonment while Manju Dhakal (Karki) was awarded three years' imprisonment, Somnath Dhakal one year's imprisonment and Madan Rai six month's jail term.

Against the District Court's verdict, a case was filed at the Appellate Court Ilam, which, however, upheld the District Court decision in case of Yuvraj and Madan. But, the Appellate Court emerged stringent against Manju and Somnath, by delivering the verdict that both had to face life imprisonment with confiscation of all properties. Currently, Madan and Somnath are absconding but Manju and Yuvraj are serving the jail term. All four have knocked the door of Supreme Court, now the case is under consideration.

What Next?

- The absconding convicts must be brought to book. For this, State should be active.
- The case at Supreme Court should be finalized soon.

B) Cases under consideration in local court

A. B. i) Jamim Shah

Chairperson of Channel Nepal Television and Space Time Network, Jamim Shah, was killed on a broad daylight by an unknown gang on February 9, 2010. The masked gang followed his car and shot him dead in the capital city, Kathmandu. Shah breathed his last during treatment.

As per the police investigation, Deputy Superintendent of Police, Jagdish Chand, and Indian gangster Bablu Shrivastavam were involved in the murder. But, neither the police nor the Office of District Attorney, Kathmandu, have filed murder case, though both had informed the District Court Kathmandu about the incident. Even a probe committee was formed by the government on Shah's murder, but the committee has not made public its report so far.

What Next?

- The absconded ones must be brought to book,
- The investigation must be intensified,
- The report must be made public.

A. B. ii) Arun Singhaniya

Chairperson of Janakpur Today Media Group, Arun Singhaniya, was shot dead at a local Shiva Chowk of Janakpur while he was returning from a religious programme organized at a local traders' home on March 1, 2010. It was the day of the celebration of Holi festival.

After nearly five years of the murder, Arun's son Rahul on April 29, 2014 filed a complaint at the District Police Office, Dhanusha. In the complaint, he accused Chandra Dip Yadav, from Bharatpur Ward No 8 of Dhanusha, Bijay Kushiya and Dipendra Kushiya from Ward No 1 of same place, Ram Binod Yadav from Kakanpatti Ward No 1, Pavan Lama from Bharatpur Ward No 8, Manak Lama from Uma Prempur Ward No 2, Yogendra Sahani from Yagyabhumi Ward No 5, Anshi Rai from Bharatpur Ward No 9 and four others with names unidentified of involving in his father's murder.

Following the police investigation, a murder case was filed at District Court, Dhanusha, through the Office of the District Attorney, Dhanusha. The Court delivered the verdict that three accused including suspended lawmaker and former Minister of State Sanjay Kumar Saha be remanded to custody, while three others were released on general date. Judge Dr Rajendra Kumar Acharya issued the order to that effect. The suspended lawmaker Saha has been serving another jail term in connection with his involvement on the bomb explosion perpetrated at Ramanand Chowk of Janakpur, in which five persons, including a theatre artist, was also killed.

The court also issued order to keep in prison chairperson of Janatantrik Janashakti Party, Chandra Dip, also known as Dharti Singh, who was accused of shooting Arun Singhaniya and providing weapons, and Eklal Sahani, who also involved in the same crime.

The court however issued order to release on bail Mukesh Chaudhary, who was also accused of involving in the murder of media entrepreneur Singhaniya. Chaudhary had been serving the jail term as the main convict of the bomb explosion at Ramanand Chowk of Janakpur on April 30 2012.

Police had intensified the investigation after Chandra Dip Yadav, who was absconding after Singhaniya's murder and joined armed groups, was arrested from Wakil Mahalla of Janakpur on March 30, 2016. He is at Jaleswor prison. Based on his statement, the police filed a murder case against suspended lawmaker Sanjay Saha, who was already in prison, on April 6, 2016, accusing him of a mastermind behind Singhaniya's murder. Sanjay Saha was also the Vice-Chairperson of Sadbhavana Party.

Meanwhile, one of the accused behind Singhaniya's murder, Ram Binod Yadav, appeared before the District Court, Dhanusha. However, he denied that he knew other accomplices except suspended lawmaker Saha. Police have concluded that Ram Binod arranged money and shooter in this crime.

Legal practitioner advocate Hem Karki says after Ram Binod appeared before the court, the police have formally ended the recording statement of the accused on Singhaniya's murder.

Similarly, Arun Singhaniya's son Rahul said after Ram Binod gave his statement to the court, his family was further dismayed, as hope of further investigation was dampened- Ram Binod did not reveal about other accomplices.

On the other hand, remand to Sanjay Saha was extended for further investigation. After the completion of hearing whether further investigation was needed on involvement of Sanjay Saha, on November 30, 2016, district judge Dipak Kumar Dahal, issued order next day that Saha's remand be extended for further investigation the.

What Next?

- The absconding ones must be brought to book,
- Further thorough investigation is essential,
- The case under consideration at court must be settled soon to cater justice to the victims.

A. c) Government withdrew the cases under consideration at court

A. C. i) Gopal Giri

Central member of FNJ, also FNJ Chair for twice in Parsa district and the Mayor of Birgunj Sub-Metropolitan City, Gopal Giri, was a journalist associated with the Nepali Patra newspaper published from the capital city, Kathmandu. He was also the editor of local Sarthak weekly. He was shot dead on January 15, 2004 in Birgunj city.

Then Maoist party had demanded Rs 500,000 as donation. And, the investigation revealed that he was killed for not providing donation to the Maoist party. At the District Court, Parsa, a murder case was filed against Ram Prasad Tiwari from Chorni VDC-9, Pashupati Acharya from Thori VDC-8 of Parsa, Durga Bahadur Saha from Bahrakot VDC-1 of Syangja district, Dhruva Raj Tharu from Makar VDC-4 of Nawalparasi district as the defendants. The case was filed by Tribhuvan Giri originally from Chandranigahar VDC-5 of Rautahat district, who was living temporarily at Ward No 12 of Birgunj Sub-Metropolis.

Although a person was kept in prison for three years in suspicion of his involvement in the murder, the government formed under the leadership of Girija Prasad Koirala, under the pressure of the Maoist party, after the people's movement of 2006 withdrew the case, reasoning that the would-be-formed truth and reconciliation commission would investigate into this case. It paved way for the police to release those kept in detention in suspicion of their involvement in the murder.

On July 17, 2015, slain journalist Giri's spouse Sashi and son Girish filed a complaint with the registration number 1484 at the Truth and Reconciliation Commission.

What Next?

The Truth and Reconciliation Commission must conduct fair probe and bring to book the culprit and cater justice to the victim's family.

B) Commission/Committee Responsible for fair probe: The government from time to time has formed commissions and committees to investigate the murder of the journalists/media persons. However, such commissions/committees have made public the report. When analysed, the intention behind the formation of such probe commissions/committees is just to alleviate the uproar created after the crime, that is to say, it is not the intention to deliver justice to the victims' family.

B. 1) Jagat Prasad Joshi

Jagat Prasad Joshi was also called Joshi, JP Joshi and Pandit. He was associated with the Janadesh weekly and Janadisha daily. It is guessed that he was killed for he used to write news about the internal conflict of the Maoist party. Disappeared since October 8, 2008, Joshi was found dead in a forest near Attariya on November 28, 2008.

It is yet to be known who the murders were. The police have not concluded the investigation yet. The government had formed a probe committee under the coordination of advocate Umesh Gautam about the murder. The committee, though said that JP Joshi was killed, has not revealed anything more. The probe committee submitted its report to the government in 2009/10 AD. The report is not formally made public till date. However, the government provided the relief amount of Rs 1 million to the family of journalist Joshi after a year.

What next?

- Police must proceed with the investigation,
- Case should be filed at court,

- The report of the probe committee must be made public

B. 2) Krishna Sen Ichchhuk

Ichchhuk, hailing from Bhalubhang of Dang district, was the editor at Janadesh weekly and Janadisha daily published from the capital city, Kathmandu. He was equally active in literature. It has been claimed that he was tortured to death in police detention. Police had arrested him from Old Baneshwor of Kathmandu, on May 20, 2002 after the country witnessed state of emergency. Earlier, he was released from Jaleswor jail in 2000 AD. It is not sure when he was killed.

Although it is widely blamed that Krishna Sen was tortured to death, the State side has never shown interest in its investigation. Owing to the pressure from stakeholders, a probe committee was formed under the coordination of joint secretary at Home Ministry, but its report has not been formally made public till date. No case has been filed on it. But, recently, Krishna Sen's spouse, Takma, has filed a complaint at the Truth and Reconciliation Commission.

What Next?

- The report of the probe committee formed by the Home Ministry must be made public,
- The Truth and Reconciliation Commission must probe into the complaint and ensure justice to the victim's family

C) No Investigation No Lawsuit

Among the total cases of murder (23) and disappearance (3) this study has incorporated, more than two third incidents have not be brought to police investigation nor and if brought to police attention, the investigation is not over. As per the legal procedure, all these incidents are the cases dealt on behalf of government. Unless the police investigation does not forward process through the office of the attorney, the hearing on the case is eluded and the chance the victims get justice is slim.

C) 1. Involvement of State (Police, Army)

1. a) Ishwor Budhathoki (Kanchan Priyadarshi)

Ishwor Budhathoki also known as Kanchan Priyadarshi was a resident of Pipaldanda in Sindhupalchowk district. He was associated with the National News Agency (RSS), and Sagarmatha daily as a reporter from his district. He also used to contribute to various other print media as Biplav monthly, Surya monthly, Sindhu Express, Sindhu Sandesh and Dristi weekly. However, he had left journalism a month before he was killed. It is claimed that Budhathoki was chased and shot dead by Nepal Army persons on April 29, 2002 at Jalbire of the district while he

was returning home from his wife's maternal home. But, no investigation has been initiated so far. Even the family has not filed complaints at police office, nor has reached the door of the Truth and Reconciliation Commission for justice.

What Next?

- The concerned stakeholders should file complaint at police office and prod for effective investigation.
- Effective investigation should be launched on the complaint lodged at the Truth and Reconciliation Commission to cater justice to the victim's family.

C. 1. b) Kumar Ghimire

Kumar Ghimire, a resident of Murgibesi, Bhubaneswori of Sindhuli district, was a reporter with the local Janasmar and Janprabhat weeklies. Documents said during the state of emergency in the country, a group of security persons shot him dead on November 2, 2002. However, the Ministry of Defense maintained the stand that he was killed during counterattack. The victim family have not been handed Kumar's body.

No complaint has been lodged at police office neither have the police begun investigation over the murder. There is no lawsuit on it.

What Next?

- The police must initiate investigation,
- The complaint filed at the Truth and Reconciliation Commission must be investigated to deliver justice to the victim's family.

D. 1. C. 3) Dev Kumar Acharya (D Kaudinya)

A resident of Khudunabari in Jhapa district, D Kaudinya, was associated with the Janadish daily and Arko Bikalpa weekly. He was also a teacher at a local campus. Army persons had taken him under control on July 23, 2002 and killed within 24 hours. The family source said when they received him dead, his body was soaked with blood. There has been no investigation on it- neither from police nor any process at court.

What Next?

The police must investigate the murder.

The complaint lodged at the Truth and Reconciliation Commission need needs effective investigation to ensure justice to the victim family.

C. 1. d) Raj Kumar KC

A resident of Deurali in Ramechhap district, Raj Kumar KC, was the reporter for the National News Agency (RSS) from his district. He was arrested by security force on October 24, 2002 from his home and shot dead in the pretext that he was being taken to district headquarters.

Although the District Police Office Ramechhap had registered complaint after vehement pressure, it did not show interest to forward investigation on the murder. Due to the lack of proper investigation, the legal process was not initiated. The government not implemented the recommendation of the National Human Rights Commission which had conducted investigation and demanded action on the guilty ones. Currently, the family of the slain journalist KC has filed complaint at the Truth and Reconciliation Commission through a local peace committee.

What Next?

- The police must launch effective investigation into the complaint,
- Lawsuit must be filed,
- Government must implement the recommendation of the National Human Rights Commission.
- The Truth and Reconciliation Commission must investigate on the complaints to ensure justice to the victim's family.

D. 1. e) Kamal AC

Originally from Tanahu district, Kamal AC was a reporter from the capital city to the Janadisha weekly. When the state of emergency was declared, he went to nearby Nuwakot district for journalism. It is said, the house he was staying in was picketed by the security force, and they shot him dead on October 1, 2002.

As there was no investigation of this incident, legal process has not been initiated.

What Next?

- With the filing of complaint, the police must investigate the incident,
- Effective investigation must be forwarded based on the complaint lodged at the Truth and Reconciliation Commission so that the victim's family could be ensured justice.

C 1. f) Maheshwor Pahari

Maheshwor Pahari, a resident of Pokhara city, was associated with the Rastriya Swabhimani weekly. He was taken under control by the police on January 2, 2004 and kept in detention. As there is a provision that a person can't be taken in detention for more than six months, the police adopted series of detention and release torturing journalist Pahari. Pahari became very sick during detention. He breathed his last during treatment at a hospital in Pokhara on October 4, 2005.

The family of Pahari have been arguing that he died due to the torture he was meted out during the detention. No investigation has been launched from any sector on his death, nor has the case been filed at court.

What Next?

- A complaint should be lodged and the police must proceed with investigation,
- Lawsuit should be filed,
- As Pahari died owing to torture, his family must be provided relief and compensation.
- Investigation should be conducted effectively based on the complaint lodged at the Truth and Reconciliation Commission

C. 1. g) Rohan Chaudhary

A young journalist working at local Jaleshwornath FM of Mahottari district, Rohan Chaudhary, was killed on a police firing during the Madhes agitation. He received bullet on chest while covering the protest live to the FM radio from a local Mahendra Chowk of the district on September 9, 2015. He died on the spot. An identity card mentioning his affiliation to the FM radio, recorder and mobile set was recovered from the incident site.

Rohan's uncle lodged a complaint at a local police office but the police have not initiated the investigation yet.

What Next?

- Police must proceed with the investigation as the complaint had already been lodged,
- The State should be exerted pressure to file lawsuit,
- The judicial commission formed under the chairmanship of former justice at Supreme Court Girish Chandra Lal to investigate the incidents of Madhes agitation must investigate this murder.

C. 2. Incidents with the involvement of then Communist Party of Nepal (Maoist)

C. 2. a) Khagendra Shrestha

Publisher and editor of a local Dharan Today, Khagendra Shrestha, was shot by the Maoist combatants. Attacked by the Maoist combatants on March 15, 2005, he breathed his last after two weeks while undergoing treatment at Silgudi of India.

After the incident, Khagendra's spouse Renu lodged a complaint at a local Area Police Office, Dharan, but the police have not initiated investigation yet.

What Next?

- Based on the complaint, the Area Police Office, Dharna, must forward the investigation process,
- The State should be exerted pressure to file lawsuit over the murder,

- The complaint lodged at the Truth and Reconciliation Commission must be investigated to ensure justice to the victim's family.

C. 2. b) Ambika Timalisina

A resident of Pathari in Morang district, Ambika Timalisina, was the reporter for various newspapers as- Mahima and Janadesh weeklies, Janadisha daily published from the capital city and the Bijaypur weekly published from Dharan. Then Communist Party of Nepal (Maoist) had abducted him accusing of acting as informant to the security persons on December 10, 2002. He was found killed next day.

There has not been any investigation to this, and no lawsuit filed yet.

What Next?

- A complaint should be lodged, and the police must initiate investigation,
- The State should be exerted pressure to file lawsuit against the murderers,
- The victim's family must be catered justice with effective investigation over the complaint filed at the Truth and Reconciliation Commission.

C. 2. C) Nabaraj Sharma Basant

Publisher of the Kadam weekly, and chief editor of Karnali Sandesh, Basant, was also a teacher at local Badimalika Secondary School of Kalikot district. He was from Rajkot of the district. He was abducted by then rebellion Communist Party of Nepal (Maoist). The record shows that he was killed by the Maoist party on May 2, 2002 accusing him of writing against the interest of Maoists' interest.

To this murder too, none of the agencies have initiated investigation and none has lodged complaint. The journalists from the district argue that the police did not initiate investigation reasoning it would foil peace process. But police have not shown interest to investigate this incident. As a result, no lawsuit has been filed.

What Next?

- Complaint should be filed seeking action against the accused ones, while the police need to intensify the investigation,
- Effective investigation should be launched on the complaint lodged at the Truth and Reconciliation Commission in order to ensure justice to the victim's family,
- The State should be exerted pressure to file case against the accused ones,

C 2. d) Gyanendra Khadka

Gyanendra Kadka was a reporter for the National News Agency (RSS) from Sindhupalchowk district. He was also a teacher at a local Janata Secondary School. Then rebellion Communist Party of Nepal (Maoist) abducted him from his school and killed him gruesomely by tying him on tree and slitting throat on August 6, 2003. According to the locals, he was killed because of his reporting.

The police have not investigated the murder. It has been easy for police to evade investigation as the concerned family has not lodged complaint.

What Next?

- A complaint should be lodged so as to prod police to begin investigation into the murder.
- State can be exerted pressure to initiate lawsuit,
- The victim family must be delivered justice with effective investigation into the complaint lodged at the Truth and Recommendation Commission.

B. 2. e) Dhan Bahadur Rokaya Magar

Dhan Bahadur Rokaya originally from Rolpa district was associated with Radio Nepal, and used to read news in Magar language from Surkhet district. On July 11, 2002, he had left for home on leave. While he was returning Surkhet from home, he was abducted by then rebellion Communist Party of Nepal (Maoist) on August 4, 2002. It is claimed that he was killed on January 30, 2003.

Investigation into the incident has not been initiated. Even the concerned government bodies did not show concern over this incident. The family too has not filed complaint.

What Next?

- With the filing of complaint, the police should proceed with the investigation,
- The State should be exerted pressure to file a case,
- The boy of the killed one must be discovered and handed over to the concerned family for last rights (cultural rights)
- Thorough investigation should be conducted on the complaint lodged at the Truth and Reconciliation Commission

C. 3. Other Murders

C. 3. i) Devi Prasad Dhital

Chairperson of Radio Tulsipur, Devi Prasad Dhital, was killed on July 22, 2010. With his involvement in other business in addition to media, Dhital was killed by an unknown gang.

Police have guessed that the unknown gang took Dhital's life in a coordinated manner. Although the family did not file complaint, the Area Police Office, Tulsipur, itself lodged an FIR and began investigation. But, the investigation was not intensified. The file on Dhital is now closed. According to the Area Police Office, Tulsipur, the District Police Office, Regional Police Office and the Central Bureau of Nepal Police at Nepalgunj returned the file on his murder without intensifying investigation.

What Next?

- The police must form a special taskforce and carry out thorough investigation,
- The culprits must be brought to book,
- The State can be exerted pressure to file lawsuit

C. 3. ii) Puskar Bahadur Shrestha

A resident of Birgunj city, Pushkar Bahadur Shrestha, was the publisher of the New Highway and New Season newspapers. He was killed on January 2, 2008. Police have guessed that the underground armed group of Janatantrik Tarai Mukti Morcha led by Jwala Singh.

A complaint has been filed at the police office. Although the police have been investigating into the case, it has not entered the court.

What Next?

- Police must proceed with effective investigation into the murder,
- The State should be exerted pressure to initiate lawsuit,

FF takes the following names which are claimed to be journalists, for further investigation whether they were killed for becoming the journalist-

1. Bhim Bahadur Gharti
2. Anand Kumar Thapa
3. Badri Khadka
4. Subash Mainali
5. Chin Bahadur Budha
6. Babur Kharel
7. Santosh Kumar Gupta
8. Chandan Nepali
9. Binod Sajan Chaudhary
10. Nagendra Pokhrel
11. Mohan Khanal
12. Padma Raj Devkota
13. Ram Prasad Bhattarai
14. Ganesh Chaudhary

Legal status of the disappeared journalists/media Persons

The Commission for Inquiry of Enforced Disappeared Persons (CIEDP) has initiated preliminary investigation on three journalists who were gone disappeared- Prakash Singh Thakuri, Milan Nepali and Madan Poudel. Although it is not informed that the concerned families filed complaint at the CIEDP, the Federation of Nepali Journalists, on July 17, 2016, registered a joint application seeking their whereabouts.

Following the registration of the complaint, discussion (investigation) was held whether these cases fell under the jurisdiction of the CIEDP and whether the complaint mentioned real incident. With the preliminary investigation, the complaint was on real incident and it fell under CIEDP's jurisdiction.

Among these three journalists this study report included as the disappeared ones, Prakash Singh Thakuri and Madan Poudel were disappeared after 2006 while Milan Nepali was disappeared during the armed insurgency launched by the Maoist party.

1) Prakash Singh Thakuri

Publisher and Editor of the Ajako Samachar daily published from Mahendranagar, the far-west city of Nepal, was last seen at Mahendranagar and disappeared since July 5, 2007. Thakuri's family has claimed that six cadres of the Young Communist League affiliated to then Communist Party of Nepal (Maoist) had abducted him from the rented house on July 5, 2007.

Based on the complaint lodged at Police Office, the police had arrested three cadres of the YCL during the preliminary investigation. In 2009, the case was filed at the district court. Then government had listed this as the case to be withdrawn. The investigating bodies then stopped proceeding reasoning that they could not investigate the cases of political nature as per the Comprehensive Peace Accord the government had with the Communist Party of Nepal (Maoist).

Three days after the abduction, a group calling itself National Republican Army Nepal took responsibility of murder through email accusing Thakuri of 'working in favour of monarchy'. Although a complaint (No 1912) was filed at the Commission on Inquiry of Enforced Disappeared Persons (CIEDP), the CIEDP rejected to accept registering reasoning that it was not occurred during the armed insurgency.

2) Milan Nepali

Managing editor and editor at Disabodh monthly, Milan Nepali, 31, was last seen in Kathmandu. He was taken under control by the police in plain clothes from near Central Post Office of Sundhara at about 2:00pm on May 21, 1999. Four police in plain clothes had arrested and took him in a police van.

When inquired about his status at the District Police Office, Hanumandhoka and Police Headquarters, Naxal, by his family, the police died that he was not arrested. However, when the

family reached Police Headquarters with clothes and medicine for him next day, a police officer returned his old clothes to his family.

His spouse has claimed that she saw him at Police Headquarters, Naxal, on June 10, 1999. On June 15, 1999, Nepali's relatives filed an application at then House of Representatives, appealing to make public the status of 15 other disappeared persons including Madan Nepali. They also knocked the door of Supreme Court filing a writ of habeas corpus, demanding his whereabouts. On this petition, a witness had showed evidence of Nepali's arrest. However, on July 12, 1999, the Supreme Court scrapped the writ petition, reasoning insufficient evidence of arrest. On August 17, 1999, another writ of habeas corpus was filed. Then the court issued order urging the State to make public the arrested persons. Since then, the Nepali Police, however, has been refuting that it arrested Milan Nepali.

Moreover, Milan Nepali was not included in list of 300 persons arrested in connection with the activities of the Maoist party which was made public by the Home ministry on February/ March 2001. Now, a complaint has been registered at CIEDP with the registration no 1910.

3) Madan Poudel

A resident of Phulbari of Taplejung, Madan Poudel, 25, was affiliated to the Madan Radio Tamor. He was last seen on September 16, 2012. He had gone disappeared after he participated at a program- Taplejung Dance Star. After eight days of the program, his mobile and purse were found on the bank of the Tamor River. Although the Eastern Regional Police Office and the Central Investigation Bureau formed a joint taskforce for his search, no progress was made on it. Similarly, Tapljang Police arrested two persons in this connection, but released later. Now, a complaint has been lodged at the CIEDP with registration no 1913.

What Next?

The CIEDP must carry out thorough investigation to find facts and recommend the concerned bodies for action so as to ensure justice to the related family

In case of Prakah Thakuri,

- The government must immediately make public his whereabouts, and proceed with investigation to ensure justice to the family,
- The District Police Office, Kanchanpur, should resume the investigation and pave way for filing lawsuit at the court.

Name of the a person which has been 'claimed as a disappeared journalist' but needing additional investigation and research by this study is

Chitra Narayan Shrestha

Research

Taranath Dahal

Dharmendra Jha

Others involved in the research are,

BP Sah	Kathmandu
Taramani Sapkota	Jhapa
Rajan Singh	Dhanusha
Hari Prasad Mandal	Mahottari
Prakash Adhikari	Surkhet
Govind KC	Dailekh
Subash Saha	Bara
Khemraj Rijal	Dang
Manmohan Swar	Kailalid
Ritesh Tripathi	Birgunj
Rishram Poudel	Sindhupalchowk
Narayan Ghimire	Kathmandu
Krishna Sapkota	Kathmandu
Aruna Adhikari	Kathmandu
Nanu Maiya Khadka	Kathmandu
Kumar Chaulagain	Kathmandu
Manju Dahal	Kathmandu

