

# Challenges to Nepali media unabated

## *Digital threats to rise alarmingly*

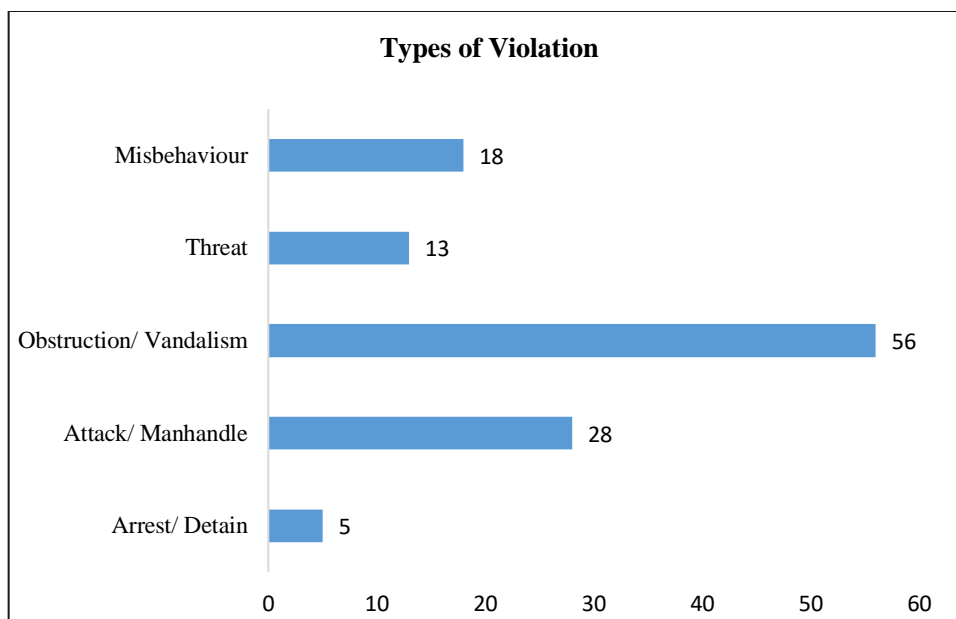
*Despite slight decline of press freedom violations in 2022, growing number of affected journalists is a worrying trend. Little progress in addressing impunity on crimes against journalists, continued hostility meted out largely by the political cadres and local leaders, absence of FoE and press freedom friendly law and policy, interference in media by the constitutional body, increased cyber surveillance against media persons, and flood of fake news were major trends recorded this year. However, with the successful conduct of election at three tiers of governments, 2022 remained as an election year, thereby contributing to foster democratic system.*

Freedom Forum recorded total 45 incidents of press freedom violations from January to December 2022. In these incidents, 109 male and 11 female journalists were directly affected. Though the data show slight decrease in the number of incidents, number of affected journalists has increased this year as compared to the previous year, 2021. In 2021, FF had recorded 56 incidents where 83 journalists were affected.

### **1. Violation Types**

This year, FF recorded five types of violations;

- a) arrest/ detention
- b) attack/ manhandle,
- c) obstruction/ vandalism,
- d) threat to life, and
- e) misbehavior



Among those, highest number of journalists (56) were obstructed from reporting followed by attacks upon 28 journalists. Similarly, 18 journalists were misbehaved, 13 received threats and death threats combined and five were arrested and/or detained for news reporting.

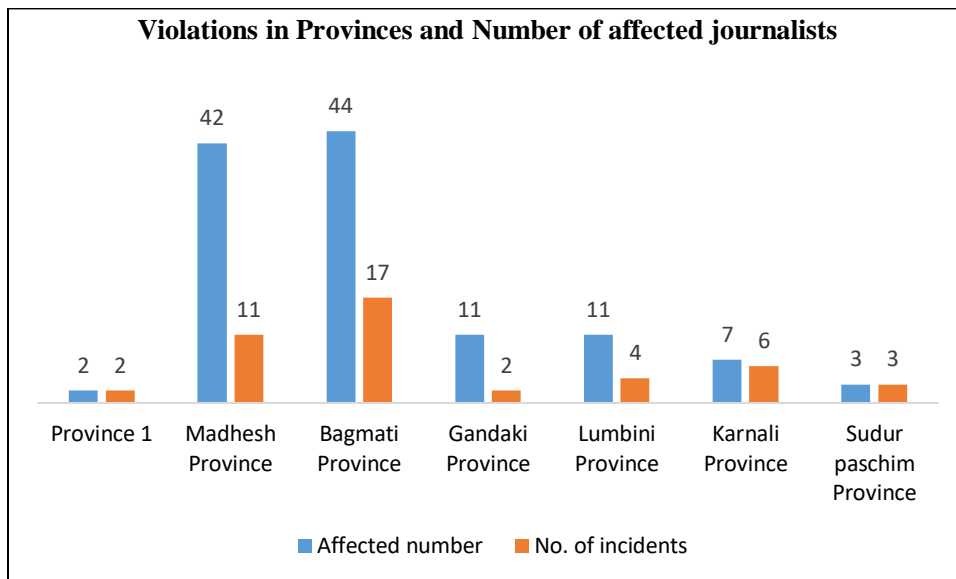
In the incidents recorded under obstruction/ vandalism, majority of journalists (53) including 6 female journalists were affected while reporting in the field and remaining three were affected due to vandalism inside the media house. A new trend where more journalists are intimidated while reporting in the field.

*Journalist and right to information (RTI) activist Kailash Majhi was held in police custody for four days for his critical reporting about local leadership in Saptari. Saptari lies in Madhesh Province of Nepal. Majhi shared that he had been reporting on the irregularities and malfeasance of local authorities for long. Recently, he had sought information on the activities of a construction consumer committee in the district using RTI.*

*Following this, the committee members abused him seeking information. On June 13, Nepal police arrested Majhi and charged him with indecent behavior. The case was registered at District Administration Office (DAO) under the Local Administration Act 2016 BS, Majhi informed. "I am a journalist and RTI activist but they treated me like a criminal while in detention. I even do not know what crime I committed. Is reporting on irregularities a crime?", argued Majhi. Later, Majhi was released on June 17 with Rs.1,500 bail amount.<sup>1</sup>*

<sup>1</sup> <http://nepalpressfreedom.org/main/issue-single/1343>

## 2. Violations in Province



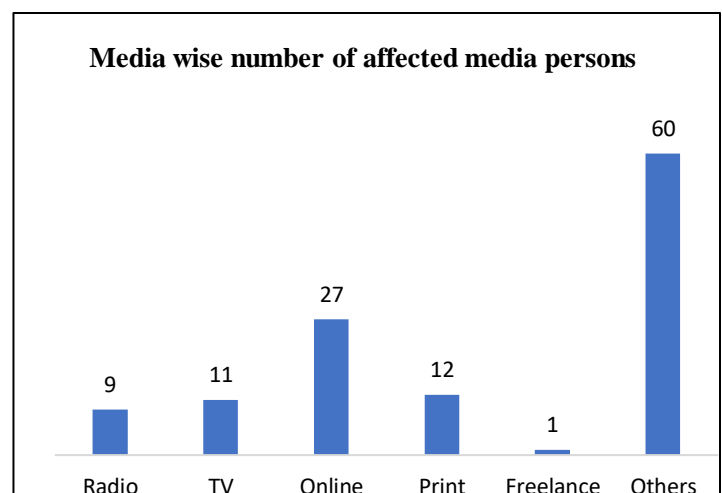
The highest number of press freedom violations was recorded in the Bagmati Province (17), where 44 media persons were directly affected followed by 11 incidents in the Madhesh Province affecting 42 media persons. The Gandaki and the Lumbini Provinces witnessed 2 and 4 violations respectively where 11 journalists each were affected. Again, in six incidents were recorded in the Karnali Province, seven journalists were affected. The Sudurpaschim Province recorded 3 incidents of violation and Province-1 witnessed 2. The number of journalists affected were three and two journalists respectively.

The Bagmati Province, having the federal capital Kathmandu and over 60 percent media concentration, saw the highest number of affected journalists.

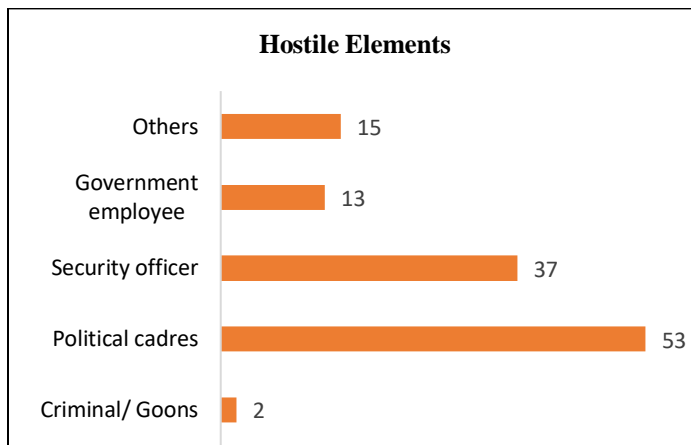
## 3. Affected journalists and media affiliation

Out of total 119 journalists, sixty were listed under 'Others' category. The incident that affects more than two journalists associated with different types of media is recorded under this category. Similarly, the journalists associated with multimedia including social site like Youtube are also listed under this category.

Similarly, out of remaining 59 journalists, 44% (27) journalists working in online media faced violations while doing their job followed by 12 from print media, 11 from television channels, nine from FM/ Radio and one a freelance journalist.



#### 4. Hostile Elements

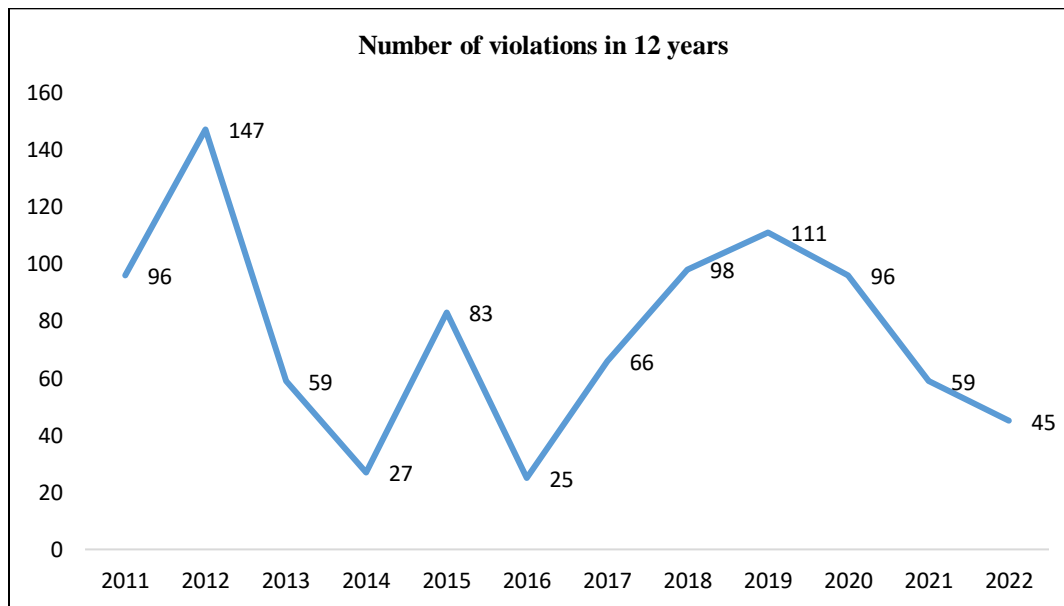


Most of the journalists (53) were intimidated by the political cadres. Second hostile element is security persons which affected 37 journalists followed by government employees affecting 13 journalists and goons' intimidation affected two journalists.

Elements such as local public, businessmen, contractors and unidentified people are categorized under 'Others' which intimidated 15 journalists.

#### 5. Violations over a decade

The figure below shows that number of press freedom violations decreased for the third time since 2019.



Though the chart shows decreasing number of incidents for some years, it is worrying that number of affected journalists have increased.

## **IMPUNITY UPDATE**

The impunity for the crimes committed against journalists during the armed conflict 25 years ago has not yet been addressed well. The victims and their families are still awaiting justice.

It is welcome that Janakpur High Court's verdict of life imprisonment to the murder convict of media entrepreneur Arun Singhaniya was one of the positive update on long pending case of impunity. The Court issued the verdict on September 21, 2022. The High Court sentenced life imprisonment to the suspended lawmaker and former Minister of State Sanjay Kumar Saha who was declared the mastermind of the murder. Singhaniya, the then chairman of Janakpur Today Media Group was shot dead on March 1, 2010 at a local Shiva Chowk of Janakpur.

Though slowly, pending cases of impunity for crimes against journalists seem to be addressed providing justice to the victim families.

The Ministry of Law, Justice and Parliamentary Affairs tabled Transitional Justice Act's Amendment Bill at the parliament for amendment of Investigation of Enforced Disappeared Persons; and Truth and Reconciliation Commission Act, 2014, on July 12, 2022. The proposed amendment however drew criticism from various sides reasoning that it could not ensure justice to the victims of the armed conflict. Along with the transitional justice issues, the impunity relating to crimes against journalists is also left unaddressed. The demand put forth before the government to take the cases of crimes against journalists to the regular court under criminal offense rather than transitional justice mechanism went unheard this year too.

## **LAW AND POLICY**

This past year, 2022, remained the election year with successful elections in three levels- local level government, provincial and federal assembly. With many bills pending at the parliament, media-related bills and policies (Media Council Bill, Public Service Broadcast Bill and IT Bill at federal level) were also in limbo while some retracted. This year faced the consequences of the twice dissolution of the House of Representatives.

However, the government amended 10 Rules of the National Broadcasting Regulation, 2052 with mandatory provision for the internet-based broadcasting (videos) to get license, which would charge half million rupees. Similarly, Rule 2 (C.6) of the Regulation is also against freedom of expression. According to Ministry of Communications and Information Technology the amendment was brought for regulation of online media and platforms.

Similarly, the Province Assemblies also brought the laws on media but lacked uniformity and FoE-friendly provisions. It is also serious trend.

## TREND ANALYSIS

- Press freedom violations' data recorded throughout the year 2022 showed gradual decrease in the number but the number of affected media persons in the incidents has increased. This shows although number of violation has decreased, more journalists are intimidated for doing their job. In some incidents, more than one journalists have faced violation while reporting.
- In two incidents, 50 journalists were obstructed from reporting at the federal parliament and province assembly in Kathmandu and Dhanusha respectively. Despite the constitutional provision of free press, journalists were obstructed to report on the parliamentary proceedings. It reflects the tendency against the value of open parliament.
- The use of digital spheres- social media- for public discourse is on rise in Nepal. Expansion of digital infrastructures, increased use of digital devices and growing penetration of internet have contributed positively to this end. It is indeed a significant development to propel the atmosphere for the exercise of free speech and press freedom. However, there are several incidents FF recorded which draw attention to protect and promote free speech and press freedom. This year too, majority journalists working in online media have faced violations as compared to traditional or legacy media.
- Another trend noticed this year was threats and abuse targeted to the journalists through social media posts. On the one hand, social media have worked as the fastest source of information for public and on the other hand, it has also become the platform for instant expression of abusing and threatening media and journalists for their profession.

*In a case, reporter Narajan Tamang received threatening messages on April 22 for reporting on the dispute among political parties for chairperson candidacy in the local level election at Chankheli Rural Municipality, Humla. The news also reported on the attack upon a political leader Lal Kesh Jaisi during the incident because of his biased involvement in selecting a candidate through lottery. Following the publication of news, followers and family members of Jaisi wrote abusive posts on social media, sent threatening and abusive messages to Tamang<sup>2</sup>.*

*A female journalist Babita Basnet was harassed online for her opinion article based on 'amendment of rape law in Nepal' published on an online news portal. A coordinated campaign was launched on twitter against her views on the article<sup>3</sup>.*

- Out of 17 incidents recorded in Bagmati Province, 12 took place in the federal capital Kathmandu city alone where 37 journalists were affected. This trend was also recorded in the previous reports which is because of the high concentration of media in the federal capital city.

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<sup>2</sup> <http://nepalpressfreedom.org/main/issue-single/1333>

<sup>3</sup> <http://nepalpressfreedom.org/main/issue-single/1328>

➤ As in the past, media persons faced major threats from the political party leaders and cadres. The cadres attacked, threatened and abused journalists physically and through social media posts in different incidents. With political cadres as the highest hostile elements to media, journalists appear to be in more threat while reporting on political issues.

Chasing of journalists and critics by the supporters of the party candidates in the wake of election for their reports and opinion was another abominable phenomenon. It had direct impact on the press freedom and freedom of expression online.

*Editor Narayan Adhikari and reporter Shalik Bhatta at [www.onlinepana.com](http://www.onlinepana.com) were attacked for reporting news in Sarlahi on September 22. They had been doing follow up reporting on illegal activities of the Bagmati Municipality<sup>4</sup>.*

➤ Citizens' right to free expression and peaceful protest was also challenged this year with four incidents of arrests. The following incidents show the waning tolerance to criticism.

*On July 25, the police arrested three youth Arjun Poudel, Som Sharma, and Biplab Khadka for shouting slogans against Prime Minister at a program held in Kathmandu. Khadka and Sharma were rearrested from Maitighar Mandal while staging demonstrations against the Citizenship Amendment Bill<sup>5</sup>.*

*In a separate incident, a singer was also issued threat by youth leaders of Communist Party of Nepal (Maoist Centre) for his new video song, 'Pir Diyo Timro Mayale Malai Pir Diyo' published on YouTube on March 11. Due to this, singer Prakash Saput edited his video and republished on the YouTube<sup>6</sup>.*

*Comedian Apoorva Kshitiz Singh was arrested for allegedly hurting the sentiment of the Newar community through his standup comedy. Singh was arrested on the basis of complaints from activists under four different sections:- Section 165 (Prohibition of undermining social rites and rituals), Section 166 (Prohibition of untouchability or discriminatory treatment on ground of caste) and Section 168 (Prohibition of degrading or inhuman treatment) of Chapter 10 (Offenses Relating to Discrimination and Other Degrading Treatment), and Section 65 (Prohibition of acts prejudicial to public tranquility) of Chapter 2 (Offenses against Public Tranquility) of the Criminal Code, 2017. Though Singh was released on bail FF noted the malicious prosecution based on overbroad interpretation of law resulted in punishing-through-the-process effect on the comedian.<sup>7</sup>*

➤ This year being the election year, Nepali media faced challenges from the constitutional body Election Commission too. There was also an egregious interference of EC with journalists' right to free reporting in the name of implementing code of conduct for election, while it is not rightful

<sup>4</sup> <http://nepalpressfreedom.org/main/issue-single/1358>

<sup>5</sup> <http://nepalpressfreedom.org/main/issue-single/1350>

<sup>6</sup> <http://nepalpressfreedom.org/main/issue-single/1329>

<sup>7</sup> <https://freedomforum.org.np/comedian-singh-rearrested/>

body to look after the journalists' code. For the fair election, EC's overture to control media and press freedom is worrying.

*The Election Commission Nepal issued a letter to a leading online news portal in Nepal, www.setopati.com, to remove a news story it published on November 5, 2022. The letter addressed to Editor-In-Chief Ameet Dhakal stated that the news published on November 4 was aimed at defaming an election candidate for House of Representatives and his family. So, the editor should remove the content within 24 hours and justify whether the Commission should take action against the news portal for violating election's code of conduct*<sup>8</sup>.

Similarly, EC tried to breach the citizen's right to free speech while monitoring digital media. Even a case was filed at Supreme Court against the voluntarily running 'No Not Again Campaign', but the court asked the Election Commission not to stop digital campaign<sup>9</sup>.

➤ Media have also been targeted by the media regulatory body, Press Council Nepal time and again. This year too, PCN misused its power to silence the media for its critical content.

*FF recorded an incident where PCN sought the clarification from the national daily, Nagarik, for publishing a cartoon on an Ex-Prime Minister on October 20, 2022. The daily had published the cartoon by Rabin Sayami on October 20.*<sup>10</sup>

➤ Even after seven years of promulgation of new constitution, Nepal has not been able to formulate FoE-friendly laws, thereby making legal foundation fragile for thriving media free press in the country.

➤ Misuse of Electronic Transaction Act continues this year too to harass journalist and citizens. There are separate laws in place regarding public security, defamation, hate speech and individual privacy but the authority frequently uses ETA which has vague provisions with hefty punishment.

## **MISINFORMATION/ DISINFORMATION**

The flood of fake news- mis/disinformation on the election not only deluded voters but also contributed to discredit media. As the digital platforms were engulfed with distorted and fake news, the legacy media saw tough time to retain their presence and strength in the information ecosystem, so that they could contribute to the healthy and functional democracy.

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<sup>8</sup> <https://freedomforum.org.np/election-commission-goes-beyond-jurisdiction/>

<sup>9</sup> <https://freedomforum.org.np/ff-concerned-over-ecs-order-to-remove-social-media-page/>

<sup>10</sup> <https://freedomforum.org.np/press-council-nepal-misuse/>



Majority journalists working in online media have been the targets of press freedom and free expression violations. Digital media and journalists have been victim of digital surveillance and cybercrime. The following incidents are worth noting how the cybercrimes are being meted out to the journalists who write investigative reporting and make criticism.

*Original photos and contents published on the news portal [www.ukeraa.com](http://www.ukeraa.com) were deleted and replaced with irrelevant contents on December 1. Editor-In-Chief of the portal, KP Dhungana shared, "Total five news stories- about a citizenship and passport issues of newly formed political party Rastriya Swatantra Party and its coordinator and a cooperative involving Vice President's son - were deleted as many times as I had uploaded. While the news URL is same to that of original ones, there are new contents and irrelevant photos, which is really shocking."<sup>11</sup>*

*On the run up to the election, senior journalist Kishor Nepal's mobile phone was blocked and social media accounts hacked. Although the mobile phone was opened after some days, the social media accounts are blocked for long.<sup>12</sup>*

## **RECOMMENDATION and CONCLUSION**

- The political cadres and local leaders must internalize the fact that press freedom is the pillar of democracy and they, as one of the actors, need to respect journalists' rights to free reporting.
- Political tolerance and CSO's activism are other requirement to ensure the journalism a safe profession and create safe free-speech environment in society.
- In order to minimize hostility by the security persons to journalists, the security agencies should cater training to their officers and employees on protecting journalists while taking under control the protests and mob.
- Digital literacy can be catered at multiple levels, including journalists in order to contribute to clean and safe digital atmosphere so that citizen's free speech and journalists' rights would be protected and promoted online.
- Continuous advocacy and activism is imperative to exert pressure on the State bodies to address the pending issues of impunity relating to crimes against journalists, and bring the FoE and press freedom friendly laws and policies.
- In the face of technological misuse resulting into floods of mis/disinformation, capacity building of journalists and public officials is imperative. The skills and knowledge to sift

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<sup>11</sup> <https://freedomforum.org.np/digital-surveillance-up-with-deletion-of-media-content/>

<sup>12</sup> <https://freedomforum.org.np/senior-journalist-nepals/>

right information from fake news should be catered to journalists.

- Also, with the growing number of internet based media, the threats to the journalists working in online media will undoubtedly grow in the days ahead. Therefore, the digital skills to equip journalists is essential so that they can stay away from threats and challenges.
- Political will and commitment are necessary elements for enabling media law and policy environment in the federal and provincial levels as per constitutional spirit and international standards.
- Media literacy among media persons, police persons, government authority and local people is also important to understand the rights of media and journalists which in turn, is expected to contribute to reduce the incidents of press freedom violations.
- Free elections and free media are equally essential elements for a functional democracy. But, the interference of the electoral body on media in a way it suppresses free press must stop. Only balanced approach can contribute to the democratic system and respect both rights of citizen- voting and free speech. For this, limitations and duty of electoral body and media should be clearly defined, and followed.

**-End-**