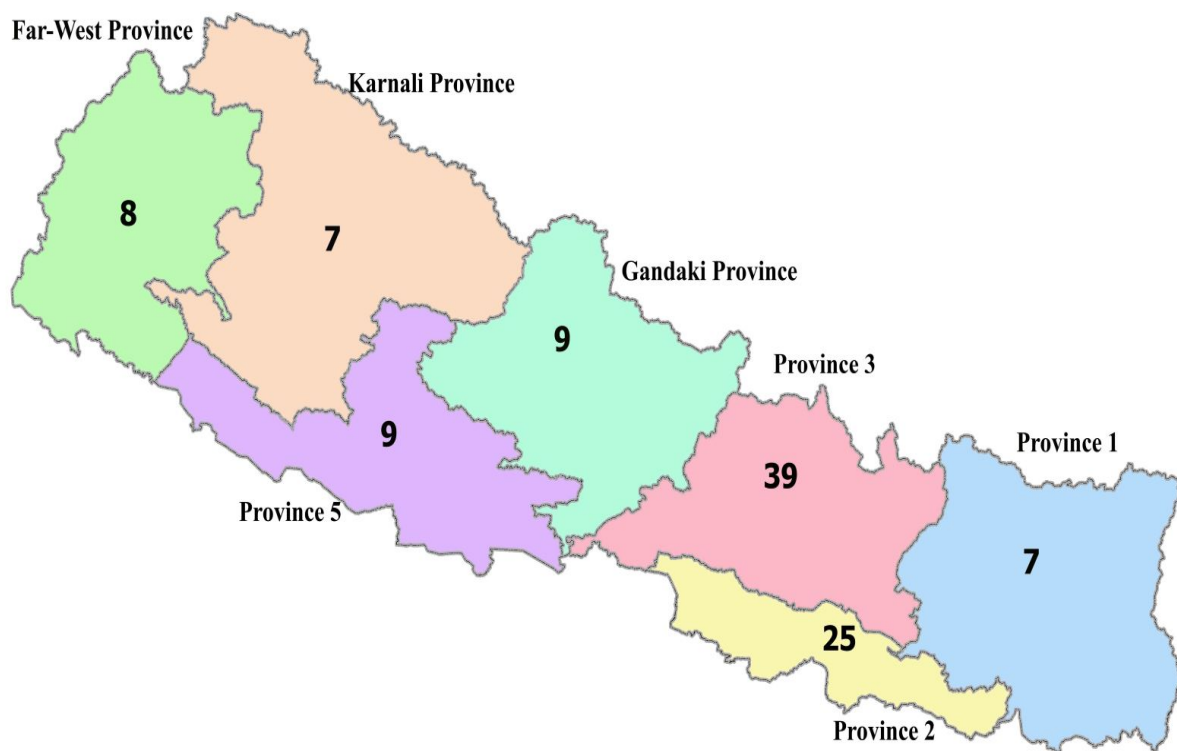


# Regressive Laws, Mounting Violations

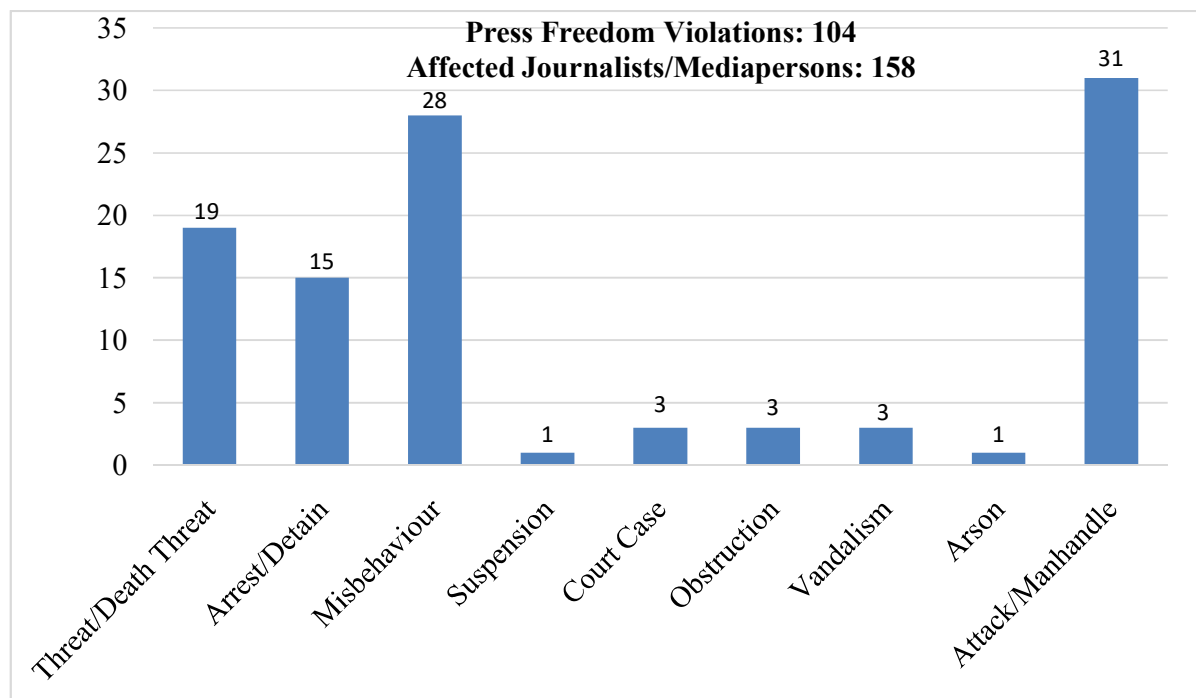
*Rising press freedom violations totaling 104 in the last one year- from May 2018 to April 2019- coupled with formulation of adverse laws and policies by the governments, sheer discredit and disrespect to free press and journalists by those holding respectable positions, deepening fear on reporters with mounting self-censorship, digital surveillance against media and reporters making critical reporting and views, misuse of media/journalists for controlled and guided flow of information, curtailing information sharing to media, increasing target to investigative reporters for exposing corruption, crimes and irregularities, and no noticeable efforts to address long pending impunity relating to crimes against journalists have painted miserable atmosphere for press freedom in Nepal.*

## FACTS AND FIGURES

- Number of press freedom violations witnessed continued rise- nearly double this year. These violations directly affected a total of 158 journalists across the country this year. FF had recorded only 66 such violations in May 2018.
- Out of total violations this year, 31 are attack and manhandle combined, followed by 28 misbehaviour; 19 threats, 15 arrests, 6 vandalism and obstruction combined, 1 suspension, 1 arson, and 3 court cases. As in the past, the low level security employees, political cadres, business persons remained hostile elements to the journalists and free reporting this year too.
- Categorizing the data as per province, Province 3, which is also the home to the federal capital Kathmandu witnessed the highest number of violations (39), followed by Province 2 (25). Similarly, Province 1 and Province 6 shared equal number of violations (7). Gandaki Province and Province 5 witnessed equal number of violations (9) and Far-west Province recorded 8 violations.



- Most of the violations took place while journalists were covering stories regarding public interest/concern issues, crime, irregularities, corruption and political demonstrations.
- With the growing expansion of internet, the number of internet-based news outlets/portals has increased sharply. The latest update on number of such news portals listed by Press Council Nepal is over 1,600.



## MAJOR INCIDENTS

1. Journalist to the online portal [www.tandavnews.com](http://www.tandavnews.com), Arjun Giri, was arrested for cybercrime by security officials from Pokhara on April 15. Giri was brought to Kathmandu as per order by Central Investigation Bureau. Giri had written a detailed story along with the proof claiming that a businessman deceived people in Pokhara. Following that, the business filed a case at CIB under cyber crime offense asserting the news had tarnished his image in the society.
2. Journalist Som Diyali was beaten by two unknown persons for writing news about the activities of a Mayor in Sarlahi district on February 12. He was invited to have tea by a person named 'Balganga Imran Khan' where two unknown persons suddenly attacked him from behind. Diyali sustained injuries in neck, face, head and eyes. Police had arrested the person who had invited him for the tea, but other two persons involved in attack are not brought to book despite mounting pressure.
3. State owned Nepal Television shut down a talk show and terminated contract with the talk show host journalist Raju Thapa

for asking critical question to the Minister. With this, journalist Thapa had to lose his job.

*Journalist Thapa had shared with Freedom Forum, "News chief of the TV informed me on June 12 that they are unable to continue my talk show further following the pressure from the Minister over my question relating sources of Minister's properties during the talk show on May 26,".*

4. Journalist Shailendra Mahato Kranti was tortured by security officials who had written news about Secondary Education Exam (SEE) question paper leak on March 29 in Janakpur. Kranti was kept forcefully in police detention for 5 hours and was asked not to publish such news which tarnishes the image of government.
5. Chief Editor and publisher of the Khojtalas weekly, Raju Basnet, was arrested and charged of cyber crime for sharing a news story about the involvement of political leader on land dispute in July 2018.
6. A young journalist with the Saipalpost.com, Ganesh BK, from Bajhang district was arrested over news disclosing security official's involvement in the drug smuggling in the district in January 2019.
7. Journalist Karna BK belonging to Radio Naya Karnali from Kalikot district was arrested from FM station and detained for seven days.
8. Nagarik daily journalist Lokendra Khanal was attacked for writing news about activities of local government at Bafiyakot 6 Manma West Rukum on 10 November 2018. Journalist Khanal sustained injury on head and had to receive 4 stitches. Although he filed FIR against the culprit, the offenders are not arrested by the police.

## **LAW and POLICY WATCH**

More than a dozen of bills relating to information and mass communications were drafted by the governments in the federal and provincial levels in view of the federal set up. But, some provisions on the proposed bills were inconsistent with the international and constitutional standards. In addition, some provisions blatantly curtail right to press freedom and freedom of expression which is guaranteed by the constitution of Nepal.

- a) Criminal and Civil Codes came into effect on August 17, 2018, which had some provisions that could curtail freedom of expression in the name of national security, privacy, defamation, blasphemy, obscenity and hate speech. The journalists were made mandatory to seek permission for taking photographs.
- b) The Individual Privacy Act, 2018 came into force in September 18, 2018, which initially aimed at curtailing journalists' rights to writing investigative stories in the name of personal privacy of public people and offices.
- c) The Advertisement Regulation Bill 2019 passed by the Upper House has confusing, ambiguous words and provisions which are hostile to freedom of expression, and likely to overlap laws and lack compensation to the victim of advertised products.
- d) Bill on Management and Regulation of Information Technology intends to curtail right to freedom of expression on internet based media in the name of revenue flight. Harsh punishment for posting improper contents on social media is equally worrying to the media freedom and citizen's right to free expression.

In addition to these, Mass Communication Bill, the Media Council Bill and Public Service Broadcasting Bill are in the drafting phase.

### **Province Level Policy**

- Province 1:
  - Act related to the Management of the Radio, FM and Television.
- Province 3:
  - Media Management Act 2075
  - Right to Information Bill (under consideration in State Assembly)
- Province 4:
  - Province 4 Communication Policy 2075 (2018 AD)

- Mass Communication Bill (Drafting Phase)
- Province 2
  - Provincial Media Bill (Drafting Phase)
  - Right to Information (Drafting Phase)
  - Provincial FM and TV Bill (Drafting phase)
- Province 5:
  - Province 5 Communication Policy 2075
  - Bill related to the Broadcasting Management of the State (under consideration in State Assembly)
  - Bill related to the Press and Publication (Draft in Making)
- Karnali Province:
  - State Broadcasting Bill (under consideration in State Assembly)
  - Printing Bill (Drafting Phase)
- Far West Province :
  - No laws and policies are formulated regarding media.

Some municipalities at local government have also passed radio related acts and communications policies.

## ANALYSES

- Against the broader expectation that journalists and media fraternity would get favourable atmosphere for free reporting and respect to their profession as the country got new system and political change, the rising number of violations perpetrated against media is quite disappointing trend. It is to note that this year's figure is the highest in six years; the number press freedom violation is rising in recent years. It obviously paints bleak scenario.
- It is positive that for the implementation of the federalism, the governments in the federal, provincial and local tiers have taken

initiatives to formulate the laws and policies relating to mass communications and information. But, equally worrying is that hostile attitude in the governments has gradually increased with the harsh provisions in the laws to regulate, control and curtail press freedom instead of creating favourable environment for free reporting to boost good governance and prop up democratic values.

- The culture of secretive drafting of laws ignoring consultation with wider stakeholders has brewed non-transparency in the making of policy/laws on media, communications and information. It signals further aggression to free media. Many provisions in the federal and province level laws and policies are faulty in the sense they intend to curtail freedom of expression and press. The trend to control media with 'rule by law' is huge threat to press freedom.
- Misuse of journalists/media in the interest of political leaders and government bodies is equally disappointing, which would not only contribute to the likelihood of misinformation or concealing of real and major information, but also deprive citizens' of their right to information and journalists' right of free reporting.
- Journalism is suffering worst with the contradictory stand of government and political parties- making verbal commitment to protecting free press and journalists' rights on the one hand but arresting and torturing journalists merely for writing news on the other is sheer mockery and violation of press freedom and freedom of expression.
- Although new bill on ICT is said to be replacing the much controversial Electronic Transaction Act, the ETA is still misused to arrest and harass journalists in the name of cyber crimes. It is obvious criminalization of freedom of expression and journalism.
- Lack of ethical media practice by the journalists is also blamed for eroding media professionalism.

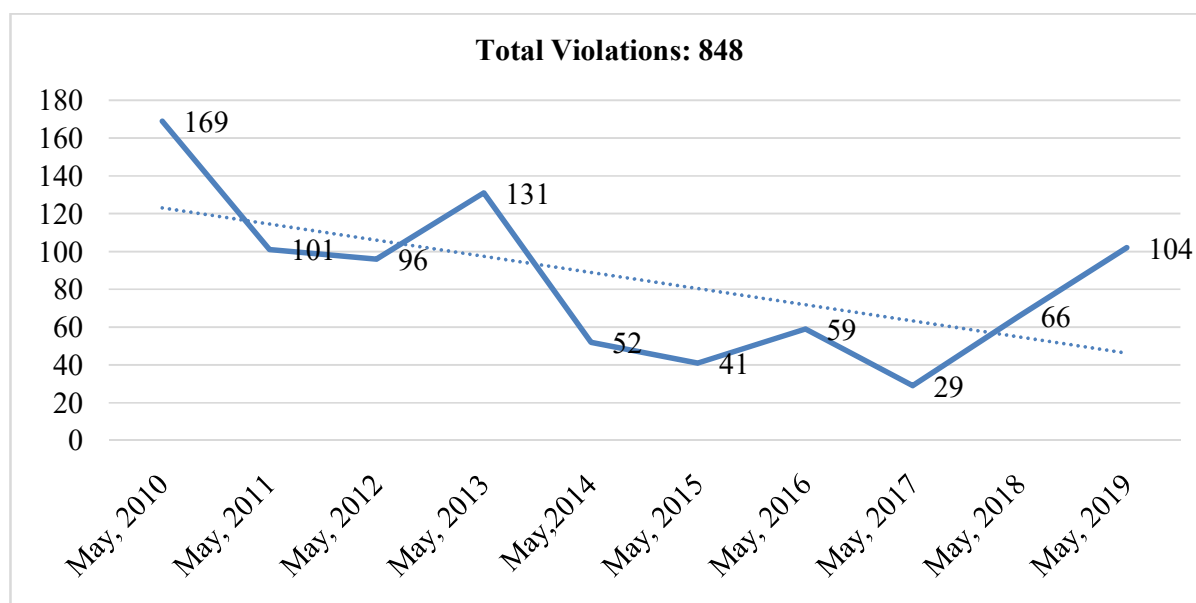
## PROJECTION AND NEED

- 'Rule by law' is likely to replace the 'rule of law'- which would be the biggest source of fear and threat to free and independent journalism, thereby resulting in mounting self-censorship in reporters and minimum investigative reporting. Efforts to curtail journalists' rights both in practice and policy are likely to spoil importance of free press in democracy.
- With tough laws and hostile behavior of the system involving political parties and government agencies, investigative reporters exposing corruption, crimes and irregularities would face more hardship.
- Selective approach to discredit media, journalists and opinion makers is likely to grow more with the digital surveillance.
- With more dismal days to follow, more activism of the FoE and press freedom defenders and journalists with collective efforts is imperative to continuously advocate for favourable atmosphere for free press and keep close watch on unfolding laws and policies on FoE and press.
- Journalists and FoE and rights defenders' further collaboration for their security and safety is essential.
- Media literacy training to security persons and people's representatives is urgent.
- Capacity building of journalists with trainings on professional and digital safety in view of the growing internet based media and new constitution is also imperative.
- Professional ethics in media/journalists is equally essential to keep intact the influence of media to bring positive changes.



- In order to put pressure on the governments and stakeholders concerned to materialize their verbal commitment to press freedom, collective campaign among the CSOs, media persons and rights defenders is significant. It would help make governments aware of constitutional provisions on press freedom and freedom of expression.

## PRESS FREEDOM VIOLATIONS IN A DECADE



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