

Free Expression

Issue 31 April-July 2015



A NEWSLETTER OF FREEDOM FORUM

Disaster takes toll

As the world was marking the World Press Freedom Day on May 3, 2015, Nepali media was grief-stricken, mourning over the deaths of thousands of Nepalis with slim hope of finding anyone alive even after the ninth day of the destructive earthquake. It is the day Freedom Forum marked with the production of report on press freedom across the country and other programs. But, this time, the report on 'media in disaster' was unavoidable.

The 7.8 magnitude earthquake of April 25 left people from 14 districts, including the capital city Kathmandu, in tremendous horror, claiming thousands of lives including of a journalist. The disruption of media was rife, thereby keeping public aloof from timely information.

Death/Injury of Journalists and Relatives

The destructive earthquake killed a sports journalist Suman Bhomjan affiliated to the Gorkhapatra daily, published from the capital



Dead body of reporter Bhomjan being recovered on May 2, eighth day of the devastating earthquake. Bhomjan on inset

city. His dead body was recovered from a local Mahaboudha area on May 2, eighth day of the quake.

Hundreds of the relatives of the journalists were killed in the disaster that struck especially the hilly and upper hilly areas of 14 districts, including the capital city Kathmandu.

As per the preliminary investigation the Freedom Forum conducted, as many as thousands of journalists from these districts were directly affected while a dozen got injuries. Similarly, thousands of houses belonging to media persons were collapsed during the terrible earthquake.

Continue on Page 5

RTI for crisis information



Stakeholders discussing RTI and management of crisis information

Nepal witnessed a huge loss of lives and destruction of properties in the recent earthquakes – the major one striking the

country on April 25. The government and other public agencies plus foreign countries and individuals concentrated their efforts for the

rescue, relief, rehabilitation, resettlement, and the reconstruction process. Before the nature's wrath, the States' capacity to respond disaster remained feeble. Despite tremendous efforts of the public bodies, there was noticeable gap between the State and the citizen. The survivors of the earthquakes felt the absence of the State agencies to get relief assistance. From the very basic need of food to a safe shelter, they had to wait for long. At this agonized moment and cry for justice, the flow/relay of information – of any as rescue efforts, relief distribution – was obviously inadequate. While some media were making objective reporting producing drudgery and causing misery and shock on the viewers and listeners, the citizens/victims on the other hand remained desperate to have the information on their immediate needs- food, shelter, money

Continue on Page 9

Message from Chairperson



Nepal's Constituent Assembly, the supreme body of the people's representatives, has finally brought the draft of the new constitution despite some differences. It is clear indication that the political parties have realized unprecedented public responsibility after the disaster. Though late, the progress in the constitution writing is a very positive signal that people will get the new constitution of their aspirations in near future.

After the endorsement of the preliminary draft of the Constitution of Nepal 2015, it reached to the public domain for feedback. The encouraging participation of people in the feedback program shows that they are desperate to have the supreme law of the country for their empowerment and prosperity. As Nepal is full of diversity in terms of language, culture, caste, religion and region, the feedback are obviously diverse. Time has come for the people's representatives again to heed the issues the people have raised on the draft constitution.

The issues emerged prominently during the collection of public feedback are- naming and delineating provinces before the promulgation of the constitution, protection of fundamental rights, and guarantee of press freedom, free and independent judiciary, election of local bodies, constitutional court, equality, equity and electoral reform with threshold among others. With the growing political awareness among the people, the alertness on Constituent Assembly members has increased.

People have exercised their freedom of expression with genuine comments and healthy criticisms on the draft constitution. Protection and promotion of the FoE is essential in democracy.

The issues as press freedom, right to information, independent judiciary, free, fair and meaningful electoral system are significant to make democracy sustainable and well functioning. People's advocacy on these issues is meaningful in the sense that Nepal is yet to gain political stability with the flourishing of democratic system despite many struggles in the political level.

The federalism, republic and the inclusiveness are salient features and outstanding achievements of the people's struggles. In order to nurture and institutionalize these achievements, people's feedback on the draft constitution is worth mulling. Only democratic system can best protect the achievements, so the democratic pillars need to be robust and unwavering.

Needless to say, inclusion, one of the key achievements, has hugely benefitted people especially from the backward and marginalized communities and areas. However, we gradually need to make the inclusion meaningful resulting it to the quality.

Freedom Forum as the organization working for the cause of democracy since its inception has time and again provided feedback to the parliamentarians on the pressing issues to be included in the new constitution. It has also continued contextual debate and discussions to advocate for the robust pillars of democratic system. Even the alertness is maintained on the burning issues to be included in the constitution.

Once the freedoms, press freedom, equality, right to information, independent judiciary, inclusive and meaningful electoral system are fully guaranteed by the constitution, the democracy can thrive and propel prosperity prospects. To particularize here, the draft constitution has provided the right to a dignified life under the fundamental rights which is a laudable one. The freedoms the draft constitution has provided to citizens are- freedom of opinion and expression, freedom to assemble peacefully and without arms, freedom to form political party, freedom to form unions and associations, freedom to move and reside in any part of Nepal; and freedom to engage in any occupation or be engaged in employment, industry and trade.

But, under the right to freedom, there are several provisos limiting the freedoms. Similar is the case under the right to equality. Too many provisos which are not clear and understandable can shrink and restrict the freedoms and equality at any time. So, the freedoms mentioned under the fundamental rights need to be tied up to the principles and practices of international human rights.

Conclusively, it is the historic opportunity for all of the Nepalis to respect and protect their rights. As the people's representatives, the CA members have more responsibility and duties. They can properly address the suggestions people furnished on the draft constitution. One should not infringe upon others' rights in the name of exercising his/her rights. All citizens should be made equal before the law. Verbose and unclear provisions need to be erased to make the constitution understandable to all Nepali citizens.

Taranath Dahal
Freedom Forum

PSB advancing to reality

The government had floated the idea of transforming its two media- Radio Nepal and Nepal Television- into the public service broadcasting (PSB) some years back. Despite floating the idea, there were no initiatives in this regard for long. The Ministry for Information and Communications however took concrete efforts recently by forming a task force to intensify debate and discussions and reach a legal and institutional framework on transforming these two state owned media into the PSB.

A taskforce coordinated by Chairman of Nepal Television Neer Shah has the members as Director and Executive Director of the NTV, and experts as Taranath Dahal, Kundan Aryal and Krishna KC. Mr Dahal is a long time advocate of PSB with extensive experience on formulation of model PSB bill, while Aryal is a university teacher of mass communication, and Mr KC a radio journalist.

Although the concept of PSB was raised long back in Nepal, the debate and discussions are intensified again with the formation of the task force. Several rounds of meeting on multifarious issues ranging from personnel management and financial cost to the legal frameworks have been held.

In this connection, a workshop was organized in the capital city on June 28. The speakers on the occasion stressed the need of separate media which is different from the commercial ones. A broader and accommodative media and the public-focused programs were needed to transform the NTV and Radio Nepal into the PSB.

Presenting a paper on PSB Mechanism and Responsibility at the workshop, taskforce member and expert Mr Taranath Dahal urged the government to be more serious on this initiative. According to him, the demand of PSB was made in Nepal for 15 years, but achievement to it was disappointing. However, the ongoing discussions are the steps ahead on it, he added.

"PSB was not only to ensure RTI, but also to inform citizens, but to develop pluralistic society and make democracy more functional," he underscored.

To remind here, the FF, as the organization working for the cause of democracy with the press freedom, freedom of expression and right to information since its inception, had outlined a model bill on PSB and handed to the Information Ministry in December 2012.

The PSB was advocated for broader and easy access of people's to the information in the country.

The state-run media are in need of independence and out of government's control to suit and promote the democratic media practice. In this very line and to empower people, transforming the Radio Nepal and Nepal Television in to the PSB model is taken as a positive step. The PSB actually enriches people's access to information. ■

Press freedom violations

Already attacked, and expelled from the job, reporter Yogi attacked in capital city again



When this newsletter was about to go to printing, Freedom Forum learnt that reporter with the Image News FM, Sandeep Yogi, who was attacked by security persons attending to a high ranking official, and expelled by the media house, was again attacked by unknown persons at Koteswor area of the capital city on August 2. He has been receiving threats of further attacks since then. He however escaped major injury.

It reflects a gross violation of press freedom, meanest hostility of media house to its reporter

and sheer lack of security.

According to Ram Prasad Dahal, who is a member of the Image Journalists Rights Protection Committee, reporter Yogi was now in a hideaway after the flurry of threats; he stopped receiving phone calls and switched off the mobile later.

Earlier, on July 28, management of the Image News FM, all of a sudden, expelled reporter Yogi over the news relating to the misbehavior he was meted out by the security persons escorting the vehicle of the high ranking official.

A day before, he had photographed the traffic congestion created by the vehicle (it was violating traffic rule) of the Chief of the Commission for Investigation of Abuse of Authority (CIAA), Lokman Singh Karki, near the CIAA gate, Tangal, Kathmandu.

For photographing, he was attacked by the security persons. He was detained for one hour, and the photos deleted.

Instead of protecting its reporter, the FM management expelled Yogi, saying his news created negative image of the media house.

Already hurt by the police persons, reporter

Yogi suddenly got the information over phone, "Yesterday news (incident) has tarnished the image of the media house. So, you stop coming to office. Your payment will be handed later."

Such unexpected termination from the job came from Program Manager Anupa Shrestha, according to him.

Sharing the plight, reporter Yogi said, his media did not even disseminate the news on security persons' attack on him.

"With this incident befallen me, I worry that the working journalists (reporters) now need to make list of the friends of their media owners and not make news on their activities disregarding they are wrongdoings."

He further lamented that a section of the senior journalists working in his media house, who always advocated for rights of the journalists, were indifferent to his case. "It was because they were controlled by the media owner," Yogi added.

Such string of attacks and threats on reporter Yogi and even the expulsion by the media house is a blatant suppression of press freedom, stark violation of journalists' rights, and the threat to life. It is an effort to silence media freedom. Such activities never suit any democratic country. All bodies concerned need to be serious to help prevent further untoward incident on him and respect journalists' right to free reporting. ■

Security persons attack

On the nationwide banda (general shutdown) imposed by the opposition alliance of 30 political parties on April 7, three journalists were attacked by the security persons while they were reporting on the demonstrations in Bhojpur, an eastern hilly district of Nepal.

District reporter for the Gorkhapatra daily, Arjun Basnet, said, "I, reporter to the Image Television, Rajan Rai, and another journalist in the district, Shahi Man Rai, were photographing and recording the demonstration, but the police suddenly baton-charged us though we were sporting our press cards and saying we were journalists." According to him, he got slight injury in leg while Rajan Rai had deep injury on his back.

Meanwhile, police arrested Debendra Raj Poudel, associated with the Dainik Nepalganj, published from Banke, a district in the western city of Nepal.

In the night of June 29, Police Inspector Dipendra Kumar Pal arrested journalist Poudel, while he was going to a press carrying newspaper plates. However, the police had to release the journalist as he informed the colleagues about his arrest. ■

Demonstrators burn newspapers

On July 20, the first day of the nationwide collection of people's feedback on the draft constitution, the demonstrators burnt major daily newspapers as Kantipur, Nagarik, Nayapatrika and Annapurna Post dailies, reasoning they did not cover the activities of the political parties from the southern plains (Tarai/Madhes) of the country. "The demonstrators burnt the newspapers in Parsa, accusing the newspapers of not giving priority to the activities of Madhesi political parties," said Kamal Kumar Upadhyay, editor of the Kripa daily from neighbouring Bara district.

The demonstrators, as Mr Upadhyay said, barged into local stationery, sloganising against the ruling political parties, seized the newspapers, and burnt some 20 copies of the dailies.

Criticism of any political party and ideology is common, but burning newspapers and obstructing free flow of information is against press freedom and thus an anti-democratic trend. It is sheer violation of press freedom.

FOE Watch

Party cadres attack singer Nepali

To a gross violation of freedom of expression, the cadres of the Communist Party of Nepal (Unified Marxist Leninist) attacked singer Ramaji Nepali from Baglung municipality, and broke his leg, reasoning he sang for the opposition party candidate in the recent by-election of the Constituent Assembly in Baglung district, on April 10.

Bard Nepali had sung in praise of the dead leader Hari Bahadur Khadka of the Nepali Congress, a democratic party, showing his favour to NC candidate and Khadka's wife Champa Devi.

To this, the CPN (UML) cadres thrashed Nepali and broke his leg. As a result, Nepali had to be admitted in a hospital in Pokhara, a city in the western region of Nepal. ■

Party cadres attack

Journalist

Laba Dev Dhungana, a journalist affiliated to a local Kanchanjungha Times daily of Panchthar, a district in the eastern hilly region of Nepal, was attacked over a news reporting, in the evening of April 12.

Chairperson of District Sports Development Committee, Yogendra Saoden Lenjo, Member Secretary Matrika Dahal and another local Chandra Tamang thrashed Dhungana, reasoning the news published in the Kanchanjungha Times. The attackers are all affiliated to the Unified Communist Party of Nepal (Maoist).

Injured severely in the attack, journalist Dhungana was rushed to Neuro Hospital of Biratnagar, a city in the southern plains.

Meanwhile, it was learnt that the district police arrested all three attackers the next morning. ■

Death threats

A. On April 11, Dev Raj KC, reporter to the Araniko Television, and Buddha Lopchan, reporter for the Commander Post daily, from Kavre, a district near the capital city, received death threats over the news they reported to their media.

Reporters KC and Lopchan were labeled death threats over phones for making news on 'condition of Nepali workers in Malaysia.' The death threats came from the Young Communist League, a youth wing of the Unified Communist Party of Nepal (Maoist).

The UCPN (Maoist) despite entering into the peaceful politics, its cadres are yet to shun the violent nature, which has repeatedly menaced journalists stifling their rights.

Over a news story aired by the Radio Shaligram of Parbat, a district in the western hill of Nepal, a local running a crusher industry issued death threat to the Station Manager of Radio, Om Ghayal.

B. On July 5, crusher owner Ram Krishna Malla issued death threat to Station Manager Ghayal over the news on the illegal running of the crusher.

Ghayal, who is a senior journalist in the district, said, "I was threatened of life by crusher owner Malla merely because my Radio aired the news about the illegal operation of the crusher industry. The crusher industry was set up by encroaching upon the roadway and religious site."

He added that after the threat, he complained in the local authority seeking person security.

The incident is an example that those doing business illegally are always against media in Nepal

C. Ashok Dulal, journalist with the Rajdhani daily, published from the capital city, was threatened of life for taking a photograph of a school damaged by the earthquake.

Minister's Press Advisor threatens reporter

Madhu Lamsal, claiming himself 'press advisor' to Minister of State for Labour and Employment, Tek Bahadur Gurung, threatened Prakat Kumar Sishir, reporter with the Nagarik daily, over the news on Ministry's plan on free visa to Nepali workers, in the capital city.

On June 20, even two unidentified youths calling State Minister Gurung 'their brother'

threatened reporter Sishir of taking action over the news he wrote about Labour Ministry's plan to provide free visa and ticket to Nepali workers in different countries.

"Why did you write about our brother Minister of State for Labour and Employment Tek Bahadur Gurung? If you continue writing about State Minister Gurung, you won't be left safe," they threatened me, said Sishir. ■

POLICYWATCH

Film Board criteria violates FoE

Nepal Film Development Board under the Ministry of Information and Communications has set new criteria for anyone producing and directing films.

As per the criteria, to be a film director, one needs to have a lead role or the assistant in the direction for at least five films or have worked for 10 years in any sector of the film production. Similarly, in case of producer, he/she needs to produce film in cooperation with the experienced producers.

Obviously, the criteria set by the Board have invited criticisms from different sectors, especially those working in the freedom of expression.

Freedom Forum condemns the standard the Board set for the producer and director of the film, as it grossly violates ones' right to freedom of expression. The criteria are against one's creation and art, which are indeed the form of expression. So, these are the efforts to silence the expression, which are against democratic values.

The Board therefore needs to correct the standard it has set keeping in mind the fundamental rights guaranteed by the constitution.

In this connection, film writer and director Manoj Pandit said, "Our film policy is wrong. We are working extensively to change the entire film sector, which is dominated by very few people. The perspective to Nepali film is very traditional and discouraging to new generation of film producers. The criteria is faulty and against freedom of expression." ■

Corruption reporter on target

On July 30, journalist with the Nagarik daily, Balkrishna Gyawali, was issued threat of attack over the news he reported on corruption. The incident took place in the capital city itself.

Calling himself an officer from anti-corruption body, Commission for Investigation of Abuse of Authority (CIAA), a person threatened Gyawali of action. The threat came over the news relating to a bribe-taking government official who assured another employee of weakening the case at the CIAA.

"Why do you need to relate everything with CIAA? What's the intention behind this? You know, everything is possible here. I hope you won't repeat such," journalist Gyawali said to Freedom Forum, quoting the threats.

To everyone astonishment, the anti-corruption body (CIAA) itself shows such hostile behavior to the journalists who divulge stories of corruption and help build good governance. The CIAA, instead of protecting whistleblower (journalist), it showed un-receptiveness. It is not the first case the CIAA has shown such hostility to media, this office and the high ranking official here have threatened and harassed journalists time and again. ■

From Page 1..

Disruption of Media Houses

Media houses as FM radios, daily/weekly newspapers and televisions could not run smoothly for lack of electricity, equipment damage, psychological fear, lack of printing paper, cable snapping and buildings' collapse.

One of the oldest media house, Kamana Publications, received huge damage after the nearby structure collapsed over it. The Samacharpatra national daily published by the Publications was not published for some days since the earthquake. Although published most of the newspapers were thin, massively cutting the pages. Circulation was also limited.

Though the telephone communication remained operational, out of some 400 cable operators,

most witnessed damages, resulting in inoperative condition. One of the largest cables, Subisu, remained inoperative for four days. It said the damage it amounted nearly Rs. 10 million.

Similarly, out of 253 total community radios, as many as 120 FM stations got major or minor damages which disrupted the news airing. Some station building collapsed while some had its equipments damaged. The Bhimeshwor FM is still inoperative.

However, at such disaster, the role of radio, especially state-owned Radio Nepal, remained very effective media to reach information to the public. Due to the power disruption, people could not recharge their communication gadgets cell phones and radio sets. At this, it was really

positive and laudable work of Radio Nepal, for most of other media remained either inoperative, or if any in operation, they failed to reach people conveniently. People did not turn on televisions, and the newspapers were out of their access.

One of the laudable aspects in the media at this tragedy is that no national and international media/media persons were obstructed to reaching to the disaster areas for making reports. Despite this, many disaster-ravaged far-flung areas were unreported. If the media had the access there, more information could be relayed.

Note: Freedom Forum is currently preparing a detailed loss in media affected by the disaster. ■

Capital city hostile to media freedom

Analyzing Nepali media situation from May 2014 to April 2015, there were comparatively few number of press freedom violations before January 22, the deadline set by the political parties to promulgate new constitution from the second Constituent Assembly. On the run-up to the deadline, the capital city itself had significant number of violations- 12 on January 20 alone. Later the number declined. In total the number of violation remains around 45 in the year from May 2014 to April 2015.

Others not to forget

in the year were- most of the violations occurred in the capital city. Reporter making corruption stories were made target- Ramesh Rawal, a reporter with the Karobar daily from Kalikot, a remote hilly district in the far-western region of Nepal, was displaced for writing news on corruption in the district. Rawal came to the capital city from the district said, "Government officials as Chief District Officer and Local Development Officer had the major role to displace him."

Nepali media from May 2014 to April 2015

Similarly, an anti-graft body filed a case against two journalists in Nepalganj, a city in the southern plain of the west of Nepal. The District Police Office of Banke initiated the case under public offence against Tilak Gaunle, reporter for the Sagarmatha Television, and Chhetranath Devkota (Akash), reporter for the Mountain Television, under the direction of CIAA (Commission for Investigation of Abuse of Authority), reasoning that they did not provide the video clips they had taken while the police persons were taking bribe on the night of February 6.

However, with the pressure from media and rights bodies, the case was dropped.

Other trends remained same as in the past: security persons, government employees, political cadres, businessmen were the major press freedom violators. The adherence of media code and ethics by the journalists was also questioned in many places. It was indeed a lack of professionalism. ■

Election Commission recommends threshold

The Election Commission (EC) has suggested a provision of at least three percent threshold in the first-past-the-post election system to secure proportional quota for the political parties after the new constitution.

Furnishing a 20-point suggestion on the draft constitution, the EC also recommended the Constituent Assembly to fix the date of the election to the local bodies within six months of the promulgation of the new constitution.

The CA is also suggested to mention in the constitution the dates of the election to the President, Vice-President, federal parliament and the provincial assembly, or the EC given authority to fix dates for these election with the consultation of the government.

Under the FPTP, the EC suggests one candidate should not be allowed to file candidacies from two constituencies. The women, indigenous, Dalit, Madhesi, and marginalized communities must be prioritized as the FPTP candidates.

Similarly, the EC has sought authority to fix the age eligible for casting votes and prepare the voters' lists in the country and abroad.

It has also demanded authority to announce the date of the local elections.

Other important suggestions include that appointment of the officials in the EC should be made based on inclusivity and the professional competence, while the eligible age for anyone to be appointed as Chief Election Commissioner and Election Commissioner should be fixed at 45 years and above.

In order for any political groups to be registered as the political party, it should submit its annual auditing report to the EC; and the election for the ward chairman should adopt the FPTP system. ■

Protocol for journalists' safety essential

In view of the growing threats- both professional and physical- on the working journalists, Freedom Forum organized a dialogue among media owners and professional associations on developing protocol for journalists' safety in Biratnagar, 30 July 2015.

At the dialogue gathering 49 persons including media owners, managers, editors, chiefs of the professional organizations of media, chairs of the women journalists and the indigenous journalists had active participation.

On the occasion, senior journalist and Chairperson of Freedom Forum, Taranath Dahal, presented a working paper on 'Role of Media Owners and Professional Organizations for Journalists' Safety'. With the presentation, he made the participants aware on indicators of the safety of journalists, stakeholders to make the journalists safe as state and political actors, civil society and academia, media and intermediaries, and UN and other intergovernmental bodies, and the challenges of professional and physical safety of journalists in Nepal.

According to him, the challenges of professional safety of Nepali journalists were- weak implementation of legal mechanism (Working Journalist Act), no social security, no in-house policies for protection, no professional trade unionism and union, no in-house policy on pluralism, no gender sensitivity, no training on ethical professionalism, low level of awareness on rights and duty, and lack of common charter or protocol. He suggested for effective implementation of the Working Journalists' Act with

- In-house human resource policies and guidelines
- Appointment
- Salaries/services/provident funds/retirement funds
- Insurance/compensation/treatments
- Training and skill development
- Welfare funds
- Union/Dialogues/Mediation



Media owners and professional organizations participating in a dialogue on journalist safety protocol in Biratnagar on July 30

Similarly, in the level of policies and practices, the following were suggested:

- News room safety protocols
- Safety and security manuals and strategies
- Different reporting guidelines and training
- Specific measures on gender and cultural sensitivities

Moreover, Vice-President of the Federation of Nepali Journalists (FNJ), Anita Bindu, presented a working paper on how the women journalists could be made safe at the workplace. According to her, there were only 16 percent of women among the total journalists in Nepal. She complained that women were not made sources of news, and the women journalists were assigned only on women issues.

Citing the survey conducted by IFJ, she said 13.51 percent of women are sexually harassed at the workplace. Worryingly, 56 percent women journalists face such harassment by the male colleagues.

She suggested on creating women-friendly atmosphere at workplace. "All male colleagues need to change their perspectives on women

journalists," she underscored. For certain period of time, women could be provided reservation in journalism to attract them in this field.

On the occasion, some media owners said it could be difficult for the media houses in mofussil to have same guideline/directive as to the national/bid media houses. The media owners face hard times when the journalists leave the job all of a sudden. This trend discourages media owners to be liberal all the times, they complained.

Another participant, Binita Timalina, representing a media organization, said as the entire women folks were facing social insecurity, women journalists were bearing the brunt.

Voice was also raised that the FNJ needs to be impartial, and put an end to its double standard. The double standard of FNJ was detrimental to the safety of working journalists.

Coordinator at UNESCO Project of Increasing Safety of Journalists, Laxman Datt Pant, highlighted the journalists' safety indicators developed by the UNESCO. ■

Lawmakers urged to protect FoE in new statute

Bearing in mind the right time to press the parliamentarians on their roles to protect people's rights and devise the provisions in the near final constitution, Freedom Forum organized a dialogue among the parliamentarians on July 31. It was organized in a bid to make them aware on the provisions of the draft constitution which are hostile to freedom of expression and journalists' rights.

Gathering 40 persons, including a dozen of parliamentarians from various political parties, legal practitioners, press freedom advocates and senior journalists, discussion was focused on how to ensure the press freedom and protect journalists' rights in the new constitution.

continue to page 10



Lawmakers and FoE practitioners discussing correction on draft constitution in Kathmandu on July 31

RTI Monitoring assures information

It is nearly eight years Nepal have Right to Information (RTI) Act. Since then, seeking and imparting information using RTI grew gradually thereby resulting in many stories of success. The stories revealed huge financial irregularities to administrative malfeasance. But, as the RTI regime is spreading and awareness growing, there are still some hostile conditions that many people are deprived of the information. Not only that the information seekers are threatened of life and of curtailing incentives and opportunities. In this connection, Freedom Forum conducted monitoring of the implementation status of RTI in three districts in the east of the country.

Campus teacher vs campus management

"My campus did injustice, disrespect and discrimination to me. But, I'm not fazed; I've been continuing my struggle for the justice all these three years." It was what Thakur Prasad Rasaili, permanent lecturer at Kanakai Multiple Campus, Surunga, Jhapa said to RTI monitoring team of Freedom Forum in Jhapa, the eastern-most district in the southern plain of Nepal in mid June.

Mr Rasaili had sought the following information with his campus:

- Campus management committee's decision on appointment of the existing assistant campus chief and certified copy of the appointment letter,
- Certified copy of the chief of the teaching practice committee, and,
- Certified copy of present chiefs of different departments in the campus

The monitoring team met with Mr Rasaili and the concerned campus, held discussion on why the campus had denied information for long. The information seeker was found agonized as his application seeking information was not accepted by

the campus and was threatened of getting expelled from job and currently teaching classes for him were limited to two. Earlier, he was taking four classes in the campus. So, he had to appeal in the National Information Commission too.

Despite such prodding from the NIC and continued struggle of information seeker, the Campus was denying information.

But after FF's monitoring team meet with the present Campus Chief Mr Tanka Karki, former Campus Chief Trilochan Mainali, Chairman of the Campus management committee and other members in the Campus on June 14, the campus became ready to provide information abiding by the RTI law. The entire team was made aware of the RTI laws.

Interestingly, when the debate flared, the FF monitoring team had to give orientation to them on RTI, and its success stories.

Learning various aspects of the RTI Act, its practices and the overriding principle, they finally admitted



that they were in need of learning RTI Act. They univocally said they would fully adhere to the RTI and provide whatever information Mr Rasaili has demanded with the Campus.

With this, Rasaili was assured of the information. ■

Local Vs school



The FF's RTI monitoring team reached the headquarters of Dhankuta, a hilly district in the east of the country, and dealt with a case that a school was denying information to a local for long and issuing threats of attack instead.

Jhamak Bahadur Shrestha from Akhinsalla of Dhankuta had sought information with the local Siddhi Devi Secondary School of Saptingtar, Akhinsall, Dhankuta.

During the monitoring the team visited four government offices (public agencies), making them aware and awake on the case of Mr Shrestha still not getting information from the School despite the plus years' struggle.

It garnered their views on this case, found some offices very positive on implementing the RTI Act, while some were still ignorant and unwilling to effectively implement and encourage others to effect it. Information seeker Mr Shrestha was called at the Regional Office of the Commission for Investigation of Abuse of Authority, Dhankuta, and his views documented again in the presence of the Information Officer, Under Secretary, Puskar Raj Nepal.

Information seeker Shrestha said he had not still got information from the School Principal though he had committed to provide. When Information Officer Mr Nepal was made aware on the chance of punishment to the school by the NIC if the information was delayed or not given, he made a telephone call to School Principal Ratna Rai and warned of imminent action from the NIC, and directed him to provide all information Shrestha sought.

Over the phone, Rai said he would provide the information as soon as possible. Shrestha had requested the School Principal for the information of the audit reports of the school since five years.

As per the struggle story and the documents Shrestha made and filed in various offices in the district over the years, he had sought financial status- income and expenditure; meetings records, decision, physical infrastructures.

Amidst these years of struggle, information seeker Shrestha was threatened many times that he would be attacked any time. ■

A local Vs Duhabi Bhalwai municipality

The third one was to monitor the threats on the information seeker Mr Kuldeep Chaudhari from Duhabi Bhalwai municipality of Sunsari district relating to his information seeking with executive officer of the Duhabi Bhalwai municipality, Tej Narayan Yadav.

Information seeker Chaudhari was not only verbally abused but also got his application letter torn and threatened of taking action by officer Yadav.

On 11 June 2015, Mr Chaudhari sought the following information with the Duhabi Bhalwai

Municipality:

- i) Copy of the decisions made by the consumers' committee on the construction of road from local Jantamayabat to the Canal via Krishna Temple
- ii) Copies of the payment bills, assessment bills on the project
- iii) Certified copy of the bill submitted by the committee
- iv) Certified copy of public auditing on it

"While I was requesting for registering the application seeking information at the



continue to page 10

FoE related provisions in the draft of 'Constitution of Nepal-2015'

PART 3: FUNDAMENTAL RIGHTS AND DUTIES:

Article 22: Right to Freedom

1. Except as provided for by law no person shall be deprived of his or her personal freedom
2. Every citizen shall have the following freedoms
 - I. Freedom of Opinion and Expression

Article 24: Mass media rights

1. There shall be no prior censorship of publication and broadcasting or imparting information or printing of any news item, editorial, article, feature, or other reading or audio visual material by any media including electronic publication, broadcasting and the press.

Provided that nothing shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the nationality, sovereignty or integrity of Nepal, or which may jeopardize the harmonious relations subsisting between federal units and among the peoples of various castes, tribes or communities; or any act of sedition, hurting person's social dignity by publishing fake content, contempt of court or incitement to an offense: or on any act which may be contrary to decent public behavior or morality, disrespect to labour and incitement to untouchability and gender discrimination

2. If there is any broadcasting, publishing or printing of materials using radio, television, online or other types of digital or electronic equipment or medium or printing press or mass media, no such equipment or medium shall be closed, seized, or any registration

cancelled because of such broadcasting, publication or printing of news, article, editorial, feature, information or any other content

Provided that nothing shall be deemed to prevent the making of laws to regulate radio, television, online or other types of digital or electronic equipment, printing press or other media notwithstanding anything contained in the clause 2

3. No means of communication including the press, electronic broadcasting, and telephone shall be obstructed except in accordance with law

Article 26: Right of Crime Survivor

1. The crime survivor shall have the right to know about the investigation and prosecution of the case that he or she has fallen victim to
2. The crime survivor shall have the right to social rehabilitation and compensation in accordance with law

Article 28: Right against Preventive Detention

1. No person shall be held under preventive detention unless there is sufficient ground to believe in the existence of an immediate threat to the sovereignty and integrity of, or the law and order situation in, Nepal
 2. The status of a person held under preventive detention in accordance with clause 1 shall be immediately informed to his/her family members or close relatives as per law
- Provided that the clause shall not be applicable to the citizen of enemy country

Article 32: Right to Information

Every citizen shall have the right to seek and receive

information on any matters of concern to his or her or to the public.

Provided that nothing in this Article shall be deemed to compel any person to provide information on any matter about which confidentiality is to be maintained according to law

Article 33: Right to Privacy

Except in accordance with law, privacy in relation to the person, and to their residence, property, documents, records, statistics and correspondence, and their reputations are inviolable

Article 40 (2): Right to Health

Every person shall have the right to know about his/her health treatment

Part 4: Directive Principles, Policies of the State and Responsibility

Article 55 (B)(5)

Necessary arrangement shall be put in place to make mass media fair, healthy, secured, dignified, responsible and professional

Article 55(F)(4)

Guarantee smooth and easy access of the general public to information by developing and expanding information technology aligning the national needs and optimally utilize information technology in the national development

Article 55(F)(6)

Manage all kinds of information and records concerning citizens in an integrated manner by developing integrated national identity management information system and streamline it to state-sponsored service and facilities and national development plan ■

Recommendation relating to RTI on draft constitution

Freedom Forum, on July 5, held a discussion on how the provisions on right to information (RTI) in the draft of a new constitution could be made more effective for deepening democratic values and building open, transparent and responsive state mechanism.

In the wake of the first draft of the 'Nepal's Constitution- 2015' brought out to the public by the Legislature-Parliament recently, FF, as a civil society organization with lead role to introduce RTI Act and subsequent practice in Nepal, discussed the articles relating to the RTI. The policy meeting agreed to put forward some recommendations on the draft provisions in line with the international best practice and the near decade national experiences.

DRAFT CONSTITUTION:

On Right to Information: Article 32

Every citizen shall have the right to seek and receive information on any matters of concern of his/her or of the public.

But, this provision shall not compel anyone to provide information on any matter than needs to be kept confidential according to law.

RECOMMENDATION:

Every people shall have the right to seek, receive and impart information on any matters of concern of his/her or of public

But, this provision shall not compel anyone to provide information on any matter that needs to be protected as per the Right to Information laws.

DRAFT CONSTITUTION:

On State Directive Principles: Article 54(1)

Keeping in center the sovereignty, independence and integrity, by protecting citizen's life, property, equality and freedom, a public welfare state system shall be established by maintaining a just system through the rule of law, fundamental rights and human rights norms and values, gender equality, proportional inclusiveness, and social justice; and, in order to guarantee the system to exercise the democratic rights, the federal democratic republic shall be established by internalizing the proportional system in the rule on the basis of local autonomy and decentralization, setting up the relations among the federal units based on the federalism run with mutual assistance, shall be the state's political objective.

RECOMMENDATION:

Keeping in center the sovereignty, independence and integrity, by protecting citizen's life, property, equality and freedom, an open, transparent, accountable and public welfare state system shall be established by maintaining a just system through the rule of law, fundamental rights and human rights norms and values, gender equality, proportional inclusiveness, and social justice; and, in order to guarantee the system to exercise the democratic rights, the federal democratic republic shall be established by internalizing the proportional system in the rule on the basis of local autonomy and decentralization, setting up the relations among the federal units based on the federalism run with mutual assistance, shall be the state's political objective. ■

From Page 1.....

the government or any organization provides. Moreover, they were/are not aware as what are the government policies and decisions, who bring relief materials, where is it distributed, how much is their entitlement, whether they can request more or not. Similarly, many victims are so innocent that the money they got as immediate relief needs to be returned so, they don't want it. In view of all these, an urgent need of management of crisis information is realized in Nepal which could help cater justice to the victims promptly and minimize gaps between state and citizens.

With this in the background, Freedom Forum organized a policy discussion on June 1, 2015 bringing together the people from different sectors – government officials (policy making), civil society organizations, RTI activists (watchdog), National Information Commission (policy shaping), academia, RTI experts, media persons and researchers. The program was "RTI in the Changed Context: Challenges and Opportunities". The aim of the program was to generate ideas on how the RTI could be contextualized at present circumstances, so that the government activities could be more effective, citizens' access to their entitlements easier, RTI campaign itself reach the people in the village and the officials in the public agencies help the widening gap between the people and the State.

On the occasion, Freedom Forum Chairman Taranath Dahal said radio could be a part of relief package to the victims in the remote area for information which they realized with the experience on the spot.

Information however should be purified while broadcasting. "Protection of sensitive data and information of public importance during critical time is equally significant. The government oversight bodies should be vigilant on concealing of sensitive data and information in the pretext of earthquake," he said, pointing out the need of vibrant communication between government and the people.

The NIC was suggested taking initiation to develop a mechanism to disseminate information after collecting the matter from government-declared 14 most earthquake-affected districts every day.

RTI expert Dr Ram Krishna Timalsina said information is needed on which basis people are getting relief as right-based, policy-based or charity based. RTI can be used on these areas. RTI at present should be linked to right to life, right to food and right to health. These components should be associated with relief. "Information must be provided in fast track way at present circumstances," he underscored.

Commissioner at the National Information Commission, Mr Kiran Pokhrel, said they were realizing the need of prompt communication and maximum disclosure of information during the disaster. Prior information is necessary for the

victim people. We are not only in the post disaster but also in pre-disaster (monsoon) period. So, the government must disseminate information proactively. NIC may order the government to this purpose. "Civic mechanism should also be put in place to assist the dissemination of information."

Chairperson of the Media Advocacy Group, Babita Basnet, said in the post-disaster, women are relatively backward on getting information. MAG is going to establish Information Centers in three worst suffering districts – Gorkha, Sindhupalchowk and Nuwakot –especially for woman but it is not limited to them.

Executive Director at the Centre for Investigative Journalism, Hasta Gurung said bureaucracy must be strong in the disaster but Nepal's bureaucracy was very weak to provide information to the needy people.

According to Ex-Chief Information Commissioner Binaya Kasajoo, said internet access should be a fundamental right. Technology should be equally ensured to regulate communication.

Researcher Gyanu Adhikari was of the view that the government should open up life-saving demographic data/information and work with open data approach in re-building and reconstruction phase. Exact data on any village is not quickly available in open format. He further

Advocate Sanjeev Ghimire said Nepal had already fault line mapping but where is information about this? Why is information hidden? Why the authority didn't prepare intensity map of the country to find out the condition of land ravaged by the disaster?

Program producer at the Sagarmatha FM, Sahajman Shrestha shared that when they visited the earthquake-affected districts as Nuwakot and Dhading, many people complained of not getting any relief materials. But the following day after the reporting on radio program, immediate relief package was taken by the government led by Army to these people. Government should activate postal service to ensure better information all over the country at such situation. His suggestion was- the government bodies needed to provide information at local level, and to each community. People are seeking information about the partly damaged houses. But there was none to provide information on time.

The officials from the government as from Office of the Prime Minister and Council of Ministers, the Information Ministry and the Department of Postal Service Department, however, refuted that there was full absence of government as blamed by private sector and individuals during the crisis. The government as they said was operating numerous call centres to hear people's grievances.

Director General at the Department, Drona Pokhrel, said it was not time to widen the space between government and civil society. It was necessary to make government run telecentres effective,

he admitted.

It was informed at the program that the Information Ministry was preparing an emergency information plan, and there was no interest for bureaucracy to hide information. Similarly, OPMCM was disclosing information proactively though government despite limited expertise, skill, equipment and experience to face this type of disaster.

It was stressed at the program that a pre-disaster information management system be established at Office of Prime Minister and Council of Ministers so that information on disaster could be flowed on time.

Conclusively, the program highlighted the need of the vibrant role of civil society organizations in enabling information collection and dissemination works. It remained fruitful to make aware the government officers, who are the policy makers and shapers, of the problems the disaster victims were facing. They were also prodded on how the information could be made a focal point any policies as in the disaster management. The weaknesses of the State agencies were revealed and suggestions furnished how the timely information could do justice to the disaster victims. ■

DISASTER AND CRISIS INFORMATION

suggested the government prepared the data of actual household, actual pregnant and victims. The government will face big problem on monsoon if it doesn't collect the true information of the devastated districts, he warned.

Associate Professor at Kathmandu University, Dr Sudhamshu Dahal, crisis communication didn't function during the disaster. Nepal belittled the crisis communication. Government seemed ineffective to rule out rumors. Crisis communication should be prioritized in the National Disaster Authority being mooted by the government

Why did/doesn't the government seek suggestions from the experts while devising crisis management policy and management, Dr Dahal wondered, warning, if the crisis information is missed in such policy, it will be another disaster to the country.

Senior journalist Dharmendra Jha said now the situation is 'no communication in the community'. Why the government does not provide internet service free to the people in this situation for certain period because everyone wants to be updated? Why the government didn't disseminate information about the date and location of relief distribution at local level? NIC must be active to prod every government agency to disseminate information on daily basis, he suggested.

From Page 6

Most of the speakers from the media fraternity underscored the need to delete the unnecessary provisos under the fundamental rights to freedom, especially the freedom of expression.

Making comments on the FNJ's suggestion relating to FoE in the new constitution, Freedom Forum's Chairperson Taranath Dahal, said the FoE was useful more to the political leaders than to journalists. As it is an element of democracy, it is enshrined under the fundamental rights of the constitution. "But, the 13/14 provisos on the Article (of draft constitution) on FoE reflects the party-less panchayat system of the country. So, it must be corrected."

According to him, State's control on FoE was against democracy. He also made aware the



parliamentarians that there was no provision that anyone violating the FoE would be punished.

Similarly, another point raised prominently was clear definition of privacy/secrecy.

He supported the FNJ stand that Right to Information should be clearly defined incorporating the words-right to seek, receive and impart information.

Another commentator, Vice-Chairman of Nepal Bar Association, Tikaram Bhattarai, said as the Republic is the optimum form of democracy, press freedom is inevitable. The limitations on FoE must be understandable but not ambiguous.

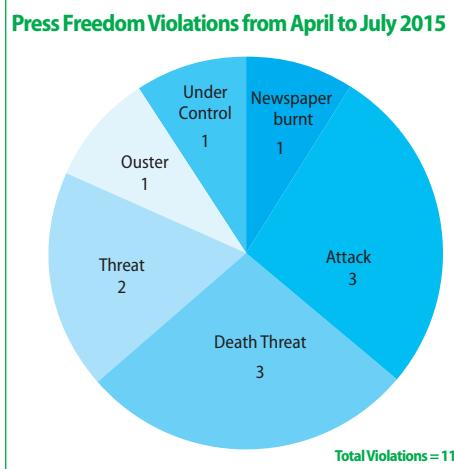
However, another commentator Dr Ram Krishna Tilaisena said not any of fundamental rights needs to be modified with any adjective as 'full' or 'inclusive'. So, mere mention of 'full' does not ensure full press freedom. According to him, vague words are unacceptable but 'constructive ambiguity' can be entertained over the times.

"As parliamentary system itself is the system of RTI and FoE, restriction are unacceptable," he underlined.

IMS consultant Binod Bhattarai suggested the parliamentarians to be aware of the incitement to violence (separation of speech and action) while making provision on FoE.

On the occasion, most of the CA members admitted that the draft constitution was verbose, lengthy and ambiguous.

Lawmaker including CPN-UML, Prakash Jwala; Ramhari Khatiwada of the Nepali Congress, member of the Constitutional Political Dialogue and Consensus Committee Gopal Dahit, Ram Narayan Bidari of the UCPN (Maoist), Yogendra Chaudhary of the Madhesi Janadikar Forum (Democratic), Garima Saha among others, said they would try their best to address the genuine demands on the guarantee of FoE and press freedom. ■



Government prodded for quake relief transparency

Following the devastating earthquake of April 25, a group of civil society organizations and individuals working in the area of right to information in May demanded the government guarantee citizens' access to information citing its importance during rescue, relief, rehabilitation, reconstruction and management.

The RTI activists and experts jointly submitted a 19-point memorandum to the government through National Information Commission (NIC) amid a program at NIC under the aegis of Freedom Forum and Citizens' Campaign for Right to Information (CCRI).

Handing over the joint memorandum to NIC Chief Commissioner Krishna Hari Baskota on behalf of the group, RTI activist Taranath Dahal said that it was the reminder for the government to take proactive measures to disclose and disseminate information on rescue, relief and reconstruction in the post-quake crisis.

Among various demands put forth by the RTI practitioners were arrangement of free and objective flow of information to the quake-affected people during the state of emergency, placing measures for maximum disclosure and dissemination of information related to government's efforts on rescue, relief,

rehabilitation and reconstruction and maintaining transparency of relief package being delivered to the survivors from government and other supporters.

"We urge the state agencies to respect and adhere to constitutionally guaranteed citizens right to seek, obtain and impart information of public importance and the RTI Act- importantly at the time of national crisis", the document reads.

Receiving the memorandum, Chief Information Commissioner Baskota pledged to draw attention of the government to address the issues raised by RTI activists. ■

From Page 7.....

municipality office, a junior employee took me to the EO Yadav's room. After the junior employee briefed EO Yadav about my application, he spoke foul on me and verbally abused when other service seekers were also there," information seeker Chaudhari said to FF's team, adding that EO Yadav spoke foul on me and tore the application letter. "Who is that person to seek such information, he can't get it. I'll slap him,

bring him here. I can do anything to him at any time I like," Mr Chaudhari said quoting Yadav.

According to information seeker Chaudhari, EO Yadav was lobbying with many local political leaders to press him withdraw the application letter.

As EO Yadav was contacted over the phone (as he was out of office for exam during our visit) and made aware of the situation, he lowered his aggressive voice against information seeker and

said he would give the information sought by Mr Chaudhari.

FF team took a commitment letter reading CEO Yadav would provide the information Chaudhari demanded.

With this, it has been evident that information seekers are increasing in different parts of the country and they are facing risk-threat of attack. It is quite condemnable. So, the relevance of monitoring threat on information seeker is growing. ■

Self Disclosure Updates

Organization's Nature	NGO working for Democracy, Right to Information, Freedom of Expression, Fiscal Transparency and Open Data		
Legal Status	Registered at District Administration Office Kathmandu. DAO Registration Number: 127/062/63, SWC Affiliation Number: 18518		
Location	Adarsa Marga, Prasuti Griha Road, Thapathali, Kathmandu		
Staffs and Roles	<p>Krishna Sapkota: Executive Director, Head of the organization, coordinates overall organizational management, and project affairs (Development and Implementation)</p> <p>Anirudra Neupane: Program Manager, manages program affairs and performs responsibilities as the Information Officer.</p> <p>Narayan Ghimire: Media Monitoring Officer, who coordinates media focused initiatives</p> <p>Aruna Adhikari: Finance Officer, looks after accounting and administrative affairs</p> <p>Nodanath Trital: Program Officer, coordinates a project on Right to Information and RTI campaign</p> <p>Kumar Chaulagain: Program Assistant, Manju Ojha: Media Monitoring Assistant, Trishna Dhakal: Admin Assistant / Receptionist, Basanti Thapa: Office Assistant</p> <p>Project Staffs: Freedom Forum Hires Short Term Project Staffs based on Need of projects.</p>		
Ongoing Project Information	Project Name	Supporting Agency	Contract Signing
	Assessing Post Disaster Impact on Overall Media History	The Asia Foundation	17 July 2015
	Increasing the Safety of Journalists	UNESCO	16 July 2015
	Open Budget Survey 2014	IBP	5 April 2014
	Developing Case Study on Data Use by Parliamentarians and Journalists	Development Initiative	January 2015
	Support for Accountable National Institutions for Citizen's Access to RTI (SANCHAR)	Governance Facility Program	July 2014
Services Offered/ Activities Carried Out	Research, capacity development and policy advocacy including media monitoring, trainings on RTI and journalism, meetings, workshops, seminars and other campaigns to promote issues of democracy, RTI, FoE, fiscal transparency, human rights, local governance. It also provides legal aids to journalists, media and Information Seekers		
Responsible Authority	Chairperson: Taranath Dahal, Executive Director: Krishna Sapkota		
Decision Making Process	General Assembly : Making policies, rules and regulations of organization Executive committee: Formulation and Action Plans rules and regulation as per constitution of organization Management team: Running projects and daily operational affairs and reporting timely to the Executive Committee.		
Past and Current Activities	Please follow the link: http://freedomforum.org.np/content/category/activities/		
Information officer	Krishna Sapkota : Executive Director, Anirudra Neupane: Information Officer		
Financial Information	Freedom Forum received grants amounting NPR 2209,800 from different donors from 2015 April to July.		
Official Website	www.freedomforum.org.np		
Publications of Freedom Forum	Freedom Forum has about 50 Publications (Printed) Please Follow the Link: http://freedomforum.org.np/content/publications.html		
Mechanism for Information Dissemination	<p>Websites: www.freedomforum.org.np; www.nepalpressfreedom.org, www.nepalelectionchannel.org</p> <p>Newsletter: Free Expression</p>		
Information Dissemination	Proactive disclosure through websites- www.freedomforum.org.np ; www.nepalpressfreedom.org , www.nepalelectionchannel.org and Newsletter-Free Expression		

New Kuwaiti cybercrime law a blow to free speech

Kuwait's new cybercrime law includes far-reaching restrictions on Internet-based speech that breach Kuwait's obligations under international human rights law, Human Rights Watch said today. The National Assembly, which approved the law on June 16, 2015, should amend the law to remove these provisions.

The Cybercrime Law establishes criminal penalties for offenses such as hacking electronic systems and retrieving personal data without authorization, as well as fraud, publishing pornography, and engaging in human trafficking via the Internet. However, articles 6 and 7 also expand the reach of existing prohibitions on print publications to virtually all dissemination of information through the Internet, including online journalism and private use of social media and blogs.

"This new law comes at a time when Kuwait is prosecuting many opposition politicians and activists, journalists, and other government critics using expansive interpretations of moral imperatives and national security requirements," said Sarah Leah Whitson, Middle East director. "It appears designed to allow the authorities even wider legal latitude to curtail Kuwaitis' right to free speech."

On June 22, Yaqoub al-Sane, Kuwait's minister of justice, told media sources that the law was aimed at "preserving social stability" and only applied to individuals who run networks designed to publish pornography or offend others. "Everybody has the right to use mobile devices without being monitored," he said. Yet, the wording of the law contradicts that assurance.

Article 6 imposes prison sentences and fines for insulting religion and religious figures, and for criticizing the emir over the Internet. These crimes, which already exist under Kuwait's Printing and Publishing Law of 2006, appear to violate international law.

Article 7 imposes a punishment of up to 10 years in prison for using the Internet to "overthrow the ruling regime in the country when this instigation included an enticement to change the system by force or through illegal means, or by urging to use force to change the social and economic system that exists in the country, or to adopt creeds that aim at destroying the basic statutes of Kuwait through illegal means."



Kuwaiti citizen Raken Subaiya checks his Twitter feed on his phone as Yousef al Anazi looks on during a sit-in protest in front of the Justice Palace in Kuwait City October 19, 2012 (REUTERS/Stephanie McGehee)

The International Covenant on Civil and Political Rights (ICCPR), which Kuwait has ratified, guarantees the right to freedom of expression. It allows governments to restrict expression on certain, specific grounds, such as the "protection of national security or of public order, or of public health or morals," but only when restrictions are absolutely necessary and strictly proportionate to the risk of harm to those interests. The cybercrime law's vague provisions surpass these conditions and the law allows prosecutions for political speech that is subject to particular safeguards under the ICCPR.

Once viewed widely as the Gulf country most tolerant of free speech, Kuwaiti officials now have repeatedly invoked vaguely worded provisions of the penal code and the national security law to suppress free speech.

Both contain provisions that criminalize "insult," and prosecutors have used them to charge activists, journalists, bloggers, and others for engaging in political or social commentary. Under article 4 of the national security law of 1970, anyone convicted of "committing a hostile act against a foreign country that disrupts Kuwait's political

relations with that country or exposes Kuwait to a risk of war" could face at least three years in prison. Since January 2015, authorities have charged at least six people under this provision for tweets deemed critical of Saudi Arabia.

Article 25 of the national security law provides for sentences of up to five years in prison for anyone who publicly insults the emir or "mocks God, the prophets and messengers, or the honor of his messengers and their wives."

As a state party to the ICCPR and the Arab Charter on Human Rights, Kuwait is required to protect the rights to freedom of opinion and expression. Article 36 of Kuwait's constitution also guarantees freedom of opinion and expression.

"Kuwait's reputation as a relatively rights-friendly Gulf state has taken a nosedive in recent years and this new cybercrime law will only steepen the downward trajectory," Whitson said. "The parliament should promptly amend the law to remove its problematic provisions and uphold the right to free speech."

Source: http://www.ifex.org/kuwait/2015/07/28/cybercrime_law_blow_to_free_speech/

Freedom Forum is an independent, non-governmental and not-for-profit civil society organization working for the cause of social accountability, democracy and human rights focused on press freedom, freedom of expression and right to information in Nepal. Incepted in 2005, Freedom Forum has emerged as a prominent national organization in promoting access to information and freedom of expression through dialogue, research, training, public advocacy and campaign and programme implementation. The organization is also working on the issues of public finance management, budget transparency, open data and aid governance, political and parliamentary accountability and electoral reform based on its on-hand experience and learning.

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DESIGNED AND PROCESSED BY: PRINTCOMMUNICATION, 4244148



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