

Report on
A Multi-stakeholders' Discussion
on
SOCIAL NETWORK MANAGEMENT and OPERATION (DRAFT) BILL 2024



December 27, 2024
Kathmandu, Nepal

Organized by
UNESCO Kathmandu and Freedom Forum

Introduction:

UNESCO Kathmandu Office and Freedom Forum jointly organized a multi-stakeholders' discussion on a draft bill on **Social Network Management and Operation 2024** in Kathmandu on December 27, 2024. The draft bill developed by the Ministry of Communications and Information Technology, will be presented in the upcoming session of the federal parliament after Cabinet endorsement.

The event held at Basera Boutique Hotel, Singha Durbar gathered total 79 participants, representing diverse sectors spanning from Members of Parliament, House of Representatives' Education, Health and Information Technology Committee, Ministry of Communications and Information Technology (MOCIT), and representatives from the National Human Rights Commission (NHRC), Federation of Nepali Journalists (FNJ), Nepal Bar Association, media, journalism, advocacy, free expression activists, human rights and the concerned civil society.

There were total 80 participants including 29 female participants.

Major objective of the event was to draw the stakeholders' perspectives on the draft bill and the major issues to be addressed for its amendment aligning it with the national legislation and international standards of freedom of expression.

The participants, including lawmakers called for rewriting the draft bill or improving it so that it would be aligned with national laws including constitution and internationally guaranteed rights to freedom of expression. They were univocal that citizens and journalists' rights should not be compromised.

Event Activities:

The discussion started at 2:00 pm and concluded at 6:15 pm. Freedom Forum's Executive Chief Mr Taranath Dahal began the program by welcoming all the participants. The program was presided over by FF chair, Mr Hari Binod Adhikari.

This was followed by the paper presentations on the draft bill by the cyber law and cyber crime experts and FoE advocates. It then featured the key note speeches by digital rights activists. The floor following the key note speeches saw the opinion and comments from various angles in the bill from the participants. It was wrapped with the closing remarks of Chairperson Adhikari.

Event Highlights:

Freedom Forum's **Executive Chief Taranath Dahal** said although efforts were on for bringing social network bill for some years, it was yet to be finalized. The government was also making efforts to enrich and regulate internet and digital ecosystem, however lacking views from multiple sides. The discussion therefore whets the pressing issues on the bill that was under consideration in the legislation committee of the Council of Ministers as part of the preparation to table in the federal parliament, he said.

Dr Shree Krishna Bhattarai, Former Judge and expert on cyber law and cyber crime made thorough observation on the draft bill through judicial perspectives. He stressed how some points in the bill could jeopardized the- investigation, prosecution and adjudication relating to the FoE

on digital spheres. Reminding constitution and Article 19's provisions for right to freedom of expression, he said that while constitution guarantees right to freedom of expression, the draft bill is aimed at restricting FoE. Defamation online or offline is already mentioned in the National Criminal code, so there was some overlaps in the bill. He criticized the provision of hefty punishment. Dr Bhattarai also shared different models of developed countries to regulate digital platform.



He showed concern that if it was passed in the present form, it could undoubtedly shrink FoE on digital spheres. “It reflects a state-driven, control-based approach to the use of social network,” he added. Dr. Bhattarai recommended several amendments to the proposed bill, emphasizing the importance of clear and precise terminology to safeguard citizens' fundamental rights and align the bill with constitutional provisions. He advised revising the definition of "social network" to provide clarity on what constitutes an offense, the evidence required to prove such acts, and the scope of cyberspace.

He also called for clear definitions of terms like **smishing**, **vishing**, **sharing**, and **cyberstalking**, and proposed the inclusion of additional terms such as **pornography**, **pedophilia**, **child sexual abuse**, **age restrictions for social media usage**, **abetment to crime**, **aggregative crime**, and **accomplice**.

“Clarity in punishment is essential for enforceability,” Dr. Bhattarai stated, further suggesting addition of provisions related to pornography, pedophile content, child grooming, child sexual abuse, abetment and incitement to crime, aggregate crime, co-offender, abettor, accountability of platform or user, etc.

The next presentation saw observation focusing FoE from advocate and Freedom Forum **General Secretary Mr Sanjeeb Ghimire**. He showed concerns over the draft bill, questioning the

extensive powers delegated to administrative bodies for regulating online content. “Although it briefly mentions compensation, the bill primarily emphasizes punishment,” he observed.



Ghimire also called for clarity in several terms, cautioning against a vague and blanket approach on regulation. "Such ambiguity does not facilitate the regulation of social networks but rather creates confusion and fosters control," he stressed adding, "The bill is more focused to prohibit usage than empowering users. It is also ambiguous whether it regulates social media contents or business."

Following this, key note speaker **Santosh Sigdel, Founder Chair of Digital Rights Nepal**, highlighted that the draft document failed to address technology-facilitated gender-based violence (TFGBV) and appeared unenforceable. “It includes vague provisions and flatly ignores the ‘right to appeal,’” he remarked. The bill is also silent about user's data protection.

Next, key note speaker **advocate Baburam Aryal**, also Chairperson of Digital Freedom Coalition, criticized the document for attempting to criminalize the principles and practice of free speech while denying civil remedies. He warned that the bill should not undermine authority of judiciary thereby, giving excess rights to administrative bodies.

Here, **Mr. Dahal** reminded about Digital Services Act brought by the European Union which is even applied in the UK for creating safe and secure environment on online spaces was greeting with criticism because the digital issues are fast evolving.

Seconding him, **Former Director at Nepal Telecommunication Authority, Mr Anand Raj Khanal** viewed that the bill was discouraging and fully intended to regulate users through content moderations.

Referring to Australia's latest step to ban social media among children under 16 years of age, a representative from **Youth Internet Governance Forum Nepal, Mr Ananda Gautam**, commented that in today's digital age, children are increasingly attracted to YouTube. Thus,

instead of restricting their usage, we should focus on teaching them how to use it safely. In this rapidly evolving world, such a bill could potentially hinder the future use of AI and limit people from access the internet freely.



Monika, a representative from Body and Data, an organization advocating for the digital rights of women, queer individuals, and marginalized groups, expressed concern over the provision criminalizing “anonymous” identities. She argued that such measures could harm sexual and gender minorities, as many prefer to use digital spaces without disclosing their true identities.

Similarly, **Freedom Forum Executive Chief Taranath Dahal** emphasized the need for a multi-stakeholder approach in government initiatives to enhance and regulate the internet and digital

ecosystem. He noted that digital issues are rapidly evolving and impact various stakeholders simultaneously. “As the constitution guarantees freedom of expression, its protection—both online and offline—is imperative,” he stressed.

Founder at ChildSafeNet, an organization working for child safety on internet, Mr Anil Raghubanshi, said that in some instances, the mistranslation of certain terms into Nepali in the bill has caused confusion. For the bill to be effective as a regulatory framework, it should incorporate the “safety by design” concept and ensure robust age verification mechanisms on social media platforms. Additionally, he shared a recent report indicating that one in every four girls experiences violence from their intimate partners, underscoring the need for the bill to address gender-based violence comprehensively.

Speaking at the **program research associate Ms Aarya Ghimire** argued that discussion has taken place from various aspects without bearing any fruitful result. She also highlighted the need for a discussion on consent and data utility. As there is lack of a central unified data, judging the utility of data is another issue.

Mr Krishna Sapkota, VDRC Chair, emphasized on putting FoE principles in the fore front while regulating the digital spheres, while the law making process should undergo



the pre-and post legislative scrutiny. Understating the issues, Mr Sapkota highlighted the need to analyze the cost while executing the implementation envisioned by the law.

Mr Prabesh Subedi, Founder Chair, Digital Media Foundation, shared that the discussion presented the issues as complicated rather than its need for present generation. There are issues of cross platform functioning and monitoring. There might be the possibility of protection to content creator and not to the social media user. Mr Subedi advocated for the law that will govern the cross platform function and preserve the sanctity.

Mr Dahal also spoke on the need for other necessary laws on IT, copyright, data protection along with the introduction of the social network bill. He emphasized the need for discussion of this bill because it was of much concern for all citizens. He further added the UNESCO guidelines can be used as reference on this case.

Ms Saloja Dahal, news editor at Nepal Television, argued that bill is not up to the mark and needs amendment on various provisions. She stressed that lots of changes were needed in the fine and penalties, otherwise it can be used to silence the voices of dissent.



Ms Akriti Ghimire, secretariat member of lawmaker Ms Sumana Shrestha, said that there is need for regulation on contents on social media and we need to work on it. She added that there is confusion on application of cyber bureau or any other department and whether the political satire is acceptable or not.

Prakash Rimal, Chief Editor, Republica daily, highlighted the need of others laws on right to privacy, AI, conflict of interest before the social media bill. All social media platforms have their set of rules and we need to look into it while making the law.

Ms Prarthana Thapa, secretariat member of lawmaker Ms Laxmi Tiwari, argued it was imperative to understand the gravity of this bill implications.

Dr. Tikaram Pokhrel, Joint Secretary at NHRC, viewed the proposed law is more in favor of government and rulers than that of citizens. New regulations should be based on existing laws without curbing rights of citizens, according to him.

In view of **investigative journalist Mr Ramjee Dahal**, the elected representatives must pay heed to the citizens concern before presenting bill in the parliament.



Mr Yagya Adhikari, Joint Secretary at NHRC, stressed that any laws should have protection of right, duty of punishment and right of remedy. UNESCO Guideline can be used as a reference and practice of any developing nations will assist, he said, adding that there are also remaining discussion in the Cabinet and the parliament.

Advocate Ms Rammaya Lamichhane opined that the law is related with rights of citizens and it should not curb any citizens right. This law must not overlap provision in other laws and create confusions, she underscored.

Executive Chief Mr Dahal viewed if other existing laws (Criminal Code and Privacy Laws) are amended as per the need of the hour, there may not be the need of this law. He added that once state proposes the new law, citizens' concerns need address.

Similarly, **Dr Bhattarai** responded there is a need to look into the mental health aspect, as well as social media verification process and parental control. Likewise, regulation of Wi-Fi and internet is also another important aspect.

Commitment from Members of Parliament:

MP Ishwori Ghartimagar expressed her commitment on the proposed law with all seriousness to raise the issues in the subcommittee discussion and the parliament committee meeting. She further added that there would be discussions with experts, paying heed to citizens' voice.

MP Sushila Thing also showed her concern on the bill. Amendment request from citizens and experts' suggestion would be given adequate attention. Likewise, she added that government and citizen should go hand in hand to ensure best outcome.

MP Laxmi Tiwari expressed her gratitude to FF and UNESCO for such fruitful discussion as it is essential to address the citizen's voice in law making process. She added that law should not be different from fundamental rights and it should not curb the citizens' right. Use of vague words and opaque provisions should be avoided. She also committed the improvement in the bill.





MP Nagina Yadav said laws should be made without hampering the spirit of constitution and democratic values. She further stressed that personal agendas should be kept aside and legitimate concerns needs addressed for making the best law. The genuine concerns of today's generation dependence on internet for study and research should also be considered well as they might be deprived of innovations. She further added that the model of other countries can be looked into it and if needed the bill should be rewritten, for which, she made commitment.

Final Note:

Chairman Mr Adhikari added that discussions like these help foster alliances to safeguard freedom of expression (FoE) and journalists' rights in an increasingly digital world. He also highlighted the value of such dialogue in raising awareness among lawmakers from different parties about pressing issues in the draft bill on social networks.

Conclusion:

The participants called for the draft bill to be rewritten or improved so that it would be aligned with national laws including constitution and internationally guaranteed rights to freedom of expression on digital platforms. They were univocal that citizens and journalists' rights should not be compromised.

Nepali Congress Parliamentary Party Whip Sushila Thing, along with House of Representatives (HoR) members Ishwori Ghartimagar and Laxmi Tiwari, pledged to facilitate broader discussions on the document, taking into account the concerns raised during the event.

Annex 1: Presentations

- Advocate Sanjeev Ghimire Presentation
https://drive.google.com/file/d/1_9UvncQCRGX2agTleP9uvmJUGOipNvM7/view?usp=sharing
- Shree Krishna Bhattarai Presentation on Social Media Bill
https://drive.google.com/file/d/1sSXZhdctgKIkwnT5FpiEoaB_Uksmt7Xk/view?usp=sharing

Annex 2: Media Coverages Screenshots & Links:

- The Himalayan Times – 30 December 2024



- https://technologykhabar.com/2024/12/27/187500/?fbclid=IwY2xjawHfKqBleHRuA2FlbQIxMAABHTqqYOLmGYr6DeflR3qgzQLb_enNfX5Jiu3K3FYbMgQlCUqMQiV6xTkj6g_aem_otxq1CMjKyNWajwtZzPu1Q
- https://www.newskarobar.com/posts/1293500?fbclid=IwY2xjawHfKuRleHRuA2FlbQIxMAABHWc7Nm05HwSAL32J9TkzGrjyJ3joSrfutaVs0txDKVXgPDJP_owV7pLasA_aem_pdd_HTewNr50Z1TFqd_VkA

- https://nepalsamaj.com/en/stakeholders-urge-correction-on-draft-bill-relating-to-social-network/?fbclid=IwY2xjawHfKwNleHRuA2FlbQIxMAABHVfZ6vrhR6Q5Kj9b4YUqL_E4XYpBdn6zn6l5pYFK_j9Z10CF0NLLaINzNw_aem_AZBXDgsw28HdTYFSMoqCAA
- https://myrepublica.nagariknetwork.com/news/stakeholders-urge-correction-to-draft-bill-relating-to-social-network-regul...-6770dd400920b.html?fbclid=IwY2xjawHfKxpleHRuA2FlbQIxMAABHfVRDBb0rfDkJ8AZgJA_LRN-lcoEaksf6rwPBE8hcG4SphjDsR0638TQoA_aem_qJJmJIAUagaEXOjbIupi_Q
- <https://www.newsabhiyan.com.np/news-details.php?nid=347635>