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## The long march Towards Open, democratic and transparent society



The right to access public information concerns the right of every person to know. It is the right to have access to the information one needs to make free choices and to live an autonomous life. "Every citizen shall have the right to demand or obtain information on any matters of his/her own or of public importance [...]", states Article 27 of the Interim Constitution. It has been gradually gaining popularity all over the world and is accepted as an effective tool to improve democracy, ensure transparency and accountability, check corruption and help ensure other rights. "Freedom of Information is a fundamental human right and the touchstone of all freedom to which the United Nations is consecrated", Resolution 59 (1) of the UN General Assembly states.

Recognising these multiplier significances, the world is observing Sept. 28 as an international "Right to Know Day" in order to symbolise the global movement for promotion of the right to information. It is a day on which freedom of information activists from around the world to promote this fundamental human right and to campaign for open, democratic societies in which there is full citizen empowerment and participation in government. The day is also to remind the state, civil society organisations, information commissions, public agencies, citizens including other stakeholders of their roles to foster access to information so as to create informed citizenry, empower democracy and promote openness in governance.

Nepal adopted its Right to Information (RTI) Act in July, 2007, however, it was guaranteed since the adoption of the 1990 constitution. The parliament passed the Act in 2007 to ensure people's fundamental right to seek, receive and impart information

on any matters of public importance held by public agencies. The RTI Act was the outcome of more than one-and-a-half decades of the movement for the RTI in Nepal led by civil society organisations. Nepal became the third country in South Asia, after Pakistan (2002) and India (2005), to adopt the law. It was, however, the first country in the region to have formal constitutional recognition of the right to information as the right was explicitly enshrined in Article 16 of the 1990 Constitution and is now guaranteed in Article 27 of the 2007 Interim Constitution.

Right to information has been considered the corollary of the right to freedom of expression by the international human rights courts in recent years. It is protected by the international instruments to which Nepal is a party. International Covenant on Civil and Political Rights (ICCPR) protects the right to freedom of expression inter alia right to information under Article 19. Such international instruments are part of the Nepali legal system according to the Nepal Treaty Act. UNESCO's celebration of World Press Freedom Day 2010 has also highlighted the importance of freedom of information as an integral part of freedom of expression and its contribution to democratic governance. UNESCO has set this year's World Press Freedom Day's theme as "Right to Information; Right to Know", which has also demonstrated the global concern on access to information.

Despite all these achievements, implementation of the right to information is sluggish, failing to live up to the essence and significance of the RTI Act-2007. "The government feels that its responsibility is over after the promulgation of the Act and has not taken concrete steps to publicise it and take it to the people's level which has resulted in the non-implementation of

the Act", says RTI researcher Yek Raj Pathak.

One of the major problems concerning the effective implementation of right to information is the lack of a coordinating body. There is no unit established by the executive branch for its implementation. There are no clear responsibilities allotted within the executive branch. Similarly, ministers, concerned public and non-governmental entities and political parties that come under the purview of RTI are either reluctant or unaware of their responsibilities regarding implementation of people's right to know. Government officials still behave as if information generated in their offices is their private property not public.

"Until and unless political leadership and senior government officials are committed, the right cannot be ensured effectively", says Vinaya Kasajoo, the Chief Information Commissioner. NIC has a significant role to implement, promote and monitor the RTI laws, but the Commission has not made noteworthy progress towards that. "It is a very disappointing situation that people are still not aware that information held by public bodies could be received on demand. No government mechanism is looking into the enforcement and monitoring of the RTI implementation," Freedom Forum Chairperson and RTI activist Tara Nath Dahal said, stressing the need of active and cooperative role of the NIC towards promoting information culture in Nepal.

The efforts made by the NIC are meager and have no substantial impact on protection, promotion and practice of RTI laws. The number of appeals filed in the Information Commission shows that the appeal mechanism has not been used

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## Message from the Chairperson

There is the stringent need of bringing about changes in policy and legal framework regarding the regulation and operation of broadcasting channels and their editorial contents. Besides, it is pertinent to come up with concrete initiative to ensure changes in the structural arrangements and enhance quality in editorial exercise.

The history of broadcasting in Nepal begins from April, 1951 with the introduction of state-owned national broadcasting channel, Radio Nepal. Radio Nepal, which was established following the first movement of political change in 1951, is still being operated as per the Directorate on Development Committee under the government. Nepal Television (NTV), which started its operation in 1984, is still functional from the Regulation regarding Corporation/Authority Act relying on the government. Though both the broadcasting media have wider effect and coverage, they are being confined as the mouthpiece of the government. As of today, there is no any Act so far formulated by the parliament for the operation of these media.

Media freedom was constitutionally guaranteed following the second political change in Nepal in 1990. The open and favourable environment after the change resulted in the massive development and expansion of FM radios even from non-government sector. Since then, the radio has been emerged as a crucial medium at the grassroots level of the country. Currently, 231 FM stations are being operated in Nepal, according to the website of Ministry of Information and Communication. The trend is on. Similarly, private sector had started operating television channels since 2001/02.

Altogether 31 organizations have taken license to operate TV channel up to June 1, 2010. Among 31, 13 TV stations have been already brought into operation. It is noteworthy to mention that the government has also provided license to more than 400 cable channel operators who produce and telecast TV program.

The country has already gone for Door to Home (DTH) system. With the advancement of technology, facilities of digital broadcasting have been increased on the one hand and internet service, radios and TV channels are also increasing in number on the other. Despite constitutional openness and protection, the broadcasting sector has been relegated to the backburner from policy and legal perspective. The broadcasting media has been hit hard with the existing chaos in the sector from the perspective of ownership, content and participation. Newspaper and Television are being operated as the mouthpiece of the government against the spirit of democracy.

There is also the lack of clear legal arrangement and mechanism regarding the regulation and management of private and community broadcasting. There is no independent regulatory mechanism. There is no concrete policy and legal provision to resolve the problems surfaced in connection with licensing, renew, tax and advertisement. Frequency distribution and renewal is directly under the purview of Ministry of Information and there is monopoly due to government's discriminatory practices. There is no effective monitoring of the programme and advertisement contents disseminated by the broadcasters.

The country had adopted the National Broadcasting Policy-1992, National Broadcasting Act-1992 and National Broadcasting Regulation-1995. But timely amendment of these legal framework and mechanism have not been made to address the new challenges surfaced during the passage of time and emergence of new context. The dillydallying on the part of authority concerned to this effect has aggravated the problem.

Some efforts have been made so far to establish independent broadcasting authority to monitor and develop broadcasting sector, formulate separate Act for community broadcasters, liberate Radio Nepal and Nepal Television from the clutch of the government and operate them by National Broadcasting Authority under the purview of parliament responsible to people, develop independent body to monitor and regulate the contents of advertisement and editorial, among others. However these efforts have not been materialized as of today.

Despite overall development and effect, problems have been surfaced in a rising level in the absence of clear and concrete arrangement regarding the legal, policy and regulatory mechanism. It is urgent to develop plan and execute it in line with the Public Service Broadcasting concept to make these achievements sustainable and more effective.



Tara Nath Dahal  
Chairperson

## Freedom Forum obtains IFEX membership

Freedom Forum has received the membership of IFEX on July 2010. IFEX Council voted in favour of interim membership for Freedom Forum. IFEX is a network of over 88 engaged and committed freedom of expression organisations throughout the world.

As violations of the right to free expression continue, so do the efforts of the membership of the International Freedom of Expression eXchange network (IFEX), which has emerged as a strong global opposition to forces challenging this right. IFEX was created in 1992 in Montréal, Canada when a dozen leading free expression organisations came together to create a coordinated mechanism to rapidly expose free expression violations around the world. Today, IFEX numbers more than 80 independent organisations worldwide and is internationally recognised as a highly credible and effective global network.



By participating in the IFEX global network of action and information-sharing, members gain influence, leverage and authority. IFEX is in a position to bring real change to a global situation where more than half of the world's nations violate the principles of Article 19 of the Universal Declaration of Human Rights.

The IFEX Clearing House, based in Toronto, Canada, runs the day to day operations of the network and is managed by founding member organisation Canadian Journalists for Free Expression (CJFE).

As an Interim member, Freedom Forum updates the Nepali media situation through IFEX network, participates in international campaigns related to freedom of expression and of press and plays the constructive role to promote environment conducive to freedom of expression and of press.

# Incidents of Press Freedom Violation: Some Glimpses

## Journalists at stake

An unidentified person phoned and threatened journalist Pawan Adhikari, a reporter for Rajdhani daily in eastern Sunsari district on May 1. According to journalist Adhikari, the caller warned him of killing if the latter do not stop to write the news on Unity Life International (ULI), a network allegedly operating illegally in Nepal.

In yet another incident, journalist Rabindra Pokharel of Republica daily was attacked by a group of people at Biratnagar in eastern Morang district of Nepal on June 3.

Following a news report regarding a dispute on land belonging to local Indra Kumar Maskey, a group of 15 persons had severely beaten him up. The news report was published in Rupublica and Nagarik dailies on May 31 edition stating that Maskey had been illegally occupying the house and land owned by Bimala Devi Pokhrel. According to journalist Pokharel Binod Yadav and Pankaj Maskey attacked him along with other group members. Journalist Pokharel escaped only after he called police whom were moving nearby the venue. He sustained injuries in his body.

In a separate incident, Kapil Koirala of Sanjibani Monthly and Bhim Gautam of Image Channel TV were injured during the scuffle between police and locals in central Kavre district on June 6. Scuffle was started after a tipper collided with a motorcycle leaving the death of a local Binod Pahari, who was on the motorbike.

Similarly, an unidentified group threatened Krishna Shahi, reporter affiliated to Rastriya Samachar Samiti and Nepal Samacharpatra and chief editor of Achham-based Ram Roshan daily and Shiva Raj Dhungana, reporter of Gorkhpatria daily and executive chief editor of Ram Roshan in Far-western Achham district on May 10.

Issuing a letter, the group accused them of misrepresenting their organization's mission by publishing news against their 'pro-people' activities. The letter stated that journalist duo Sahi and Dhungana would be killed within a month. The letter sent to the office of Ramroshan daily did not bear any profile of sender. The journalists of Achham were terrorized after the incident. ■

## DFO abuses journalists

Murari Prasad Pokharel, District Forest Officer (DFO), of Sindhupalchok district—a district located in the central region of the country, abused several journalists on June 27, Sunday.

Local journalists Pavitra Kumar Khadka, Gyanendra Timilsina, Yuvraj Puri, Tika Dahal and Dhurba Dangal were abused following news coverage on District Forest Officer. DFO Pokharel attempted to beat journalists up by throwing tea-table on them; however, police had intervened when he tried to pick up a tea table to hurl journalists.

DFO Pokharel was heavily criticized for his wrongdoings in the past week. He was allegedly involved in releasing Chinese national, who was arrested with red sandalwood and orchids and was released by the District Court on a mere fine of Rs. 15,000. ■

## Tensions between India's embassy and local media in Nepal

The International Federation of Journalists (IFJ) joins its affiliates and partners in Nepal in calling upon the Indian embassy in Kathmandu to clear the air with the Nepali media, after an alarming surge in mutual accusations.

The recent exchanges reportedly began with the Indian embassy issuing a press release on August 27, speaking of "certain print and television media" that had been reporting "against products manufactured by Indian Joint Ventures in Nepal". The statement went on to allege media outlets had attempted to extort the Indian "joint venture" companies, saying they had "informed the embassy that they have been approached by such media houses for release of advertisements and are being threatened with negative publicity if those requests are not met".

The Indian embassy upheld the commitment of the Indian companies to the highest quality standards and warned that their persecution by the media would have grave repercussions for investment decisions in Nepal, according to the statement.

A storm of protest has followed, with journalists' unions, media organisations and the Nepal Press Council all denouncing the Indian embassy for breaching diplomatic propriety and acting in gross disrespect of the freedom and autonomy of the Nepali media.

The Federation of Nepali Journalists (FNJ), an IFJ affiliate, has termed the embassy statement as "unfit and improper" and vowed to undertake a "detailed study" of the entire incident.

Also joining issue with the Indian mission were the Television Broadcasters' Nepal, the Nepal Media Society, the Broadcasting Association of Nepal and the Association of Community Radio Broadcasters.

The Indian mission responded by pointing out that the organisations would carry more

credibility if they were also attentive to unethical practices that flourish within the media.

According to a thorough media investigation of the incident and its background, friction between the Indian mission in Kathmandu and Nepal's largest media group, Kantipur Publications, began early this year after a number of reports in the group's two main publications - Kantipur in Nepali and the Annapurna Post in English - led to a determination by the Indian embassy that the newspaper group was adversely disposed towards Indian interests.

While the IFJ does not judge how well-founded this determination was, it is concerned that the Indian mission in Kathmandu may have reacted without due respect for media freedom, in inducing Indian companies operating in Nepal to withdraw their advertisements from the identified media group.

The IFJ, with the support of its Indian affiliates, has earlier pointed out that in following up this action with a questionable decision to hold up a shipment of newsprint imported by the Kantipur group at Kolkata port, the Indian mission and other official agencies were guilty of grossly obstructing media freedom and putting the livelihood of Nepali journalists at risk.

The IFJ has in the past upheld the need to build up the autonomy of media institutions in Nepal as part of the historic political transition under way in the country.

"The IFJ urges all parties involved in the ongoing verbal exchanges to submit the entire range of issues to the adjudication of the Nepal Press Council," IFJ Asia-Pacific Director Jacqueline Park said.

"This course of action would help build up institutional capacity of Nepal's media and establish precedents that could guide future decisions on matters of ethical practice and professional conduct". ■

SOURCE: (IFJ/IFEX) - September 6, 2010

## Youth Force and Maoist cadres vandalize media offices

Cadres of Youth Force (YF), a youth wing of the Communist Party of Nepal—Unified Marxist Leninist (CPN—UML) vandalized the office of Jhapa-based Janasamsad daily in the eastern plain of Nepal on June 1, Thursday.

A group of YF cadres led by Raju Karki, a central committee member, vandalized newspaper office over a news story covered by the paper. YF cadres attacked the newspaper's office as the paper published a story stating that the YF illegally took control over two motorcycles owned by Mahendra cooperative organization in the region.

In a separate incident, activists of the Unified Communist Party of Nepal-Maoist (UCPN—Maoist) vandalized the office of the far western Dhangadi-based Sudursandesh daily on July 5, Monday for allegedly publishing anti-Maoist materials.

A group of Maoist cadres headed by the party's district committee member Tikaram Sapkota also assaulted some staffers of the newspaper. "They barged into the

building asking for the editor and then started attacking us indiscriminately," said Prayag Raj Joshi, who sustained deep cut wounds on his head when Sapkota attacked him with a chair. He was admitted to Seti Zonal Hospital. As the Maoists could not find the daily's editor and publisher Hemanta Poudel at the office, they vented their ire on the office furniture, computers and employees.

Durga Bhandari, the daily's chief reporter, said the Maoists would have killed Poudel had they found him at the office. Poudel was at Tikapur when the incident occurred. By the time police reached the scene, the attackers had left the place.

The Sunday's edition of Sudursandesh had printed a news story on Sapkota extorting Rs. 1,20,000 from Munna Damai of Shripur VDC. Monday's issue of the daily carried an editorial on the Maoists' terror in Kailali. Meanwhile, Poudel said the Maoists had been issuing threats to him for publishing anti-Maoist news and editorials. ■

## Public hospital staffer threatens media workers

Agandhar Tiwari, a reporter for the "Rajdhani" daily in the western Myagdi district, received death threat from the staffer of the district hospital in Myagdi on 11 August 2010.

Tiwari was threatened while he was taking snapshots of an x-ray machine belonging to the hospital, in the course of reporting. Arun Kumar Mandal, who said he was in charge of the x-ray department, threatened Tiwari, saying that he could do anything if a news report about the x-ray department was made public.

However, according to Tiwari, Mandal was there without a hospital uniform or identity card. "Though I showed my press pass, he didn't bother to look at it and kept on threatening me," Tiwari said after the incident. Earlier, Mandal had warned Harikrishna Gautam, a reporter for News24 Television channel saying Gautam may face bad consequence if he carried the news report. ■

## Journalists attacked, publicly threatened

In what appears to be a major catalyst to increasing self-censorship among journalists in Nepal, an unidentified group has publicly threatened journalists by placing a banner and poster in the city of Dharan in the eastern district of Sunsari, for nearly two weeks.

The group had placed the banner, which read "Journalists: be aware, we will take action against you", in a major hub and intersection of the city. Journalists in the district had accused Senior Superintendent of Police (SSP) Mingmar Lama of publicly spreading the life-threatening message.

On 15 August, Lilanath Ghimire, a journalist working for "Fast Times Daily", was allegedly attacked and injured by a gang led by an individual named Thaman Gurung on the orders of SSP Lama. The incident took place at the Hill Garden Restaurant in Shiva Marg of Dharan while journalist Ghimire was covering the news.

According to Rajesh Bidrohi, a local journalist, the threats had increased since that incident. Bidrohi also said he believed the propaganda against journalists was ordered by SSP Lama. "SSP Lama has been misbehaving with journalist using miscreants", said Bidrohi. "Journalists in the district cannot leave their homes in the evening due to rampant threats from the police." ■

## Reporters under threats throughout the country

Mohan Bhattai, a reporter for the daily "Naya Patrika", was threatened by Nabaraj KC, the operator of an employment agency, in Morang, an eastern district of Nepal, on 18 August 2010.

A news report entitled "51 Nepali workers held in Libya" was published in the 18 August edition of the daily. The news story indicated that the employment agency was responsible as they had illegally sent Nepali workers to Libya. Following the publication of the news item, KC, the owner of the Paradise Manpower Agency in Kathmandu, warned Bhattai that he would take action against him. According to Bhattai, KC told him, "If you don't correct the news within 24 hours, don't think that you are safe." In addition, the agency's owner told him to be ready to face any kind of action that might be taken against him.

In yet another incident, on 21 August 2010, the Terai Janatantrik Party, an underground group, issued a death threat against Damodar Bhandari, a correspondent with the "Annapurna Post" daily, based in Nepalganj, a district located in the mid-western part of Nepal. A press statement sent by the Terai Janatantrik Party accused Bhandari of working against their activities and mission. They dubbed Bhandari as "some element within the journalism sector, which has been working as our enemy". In an e-mail sent to local media persons on 21 August, the group threatened to

take action against the journalist. According to Bhandari, this was the second time the group has threatened his life. "I am under psychological pressure and tension," Bhandari told the Press Freedom Monitoring Desk of Freedom Forum over the phone. "I am not sure whether they will take any unpleasant action against me." Bhandari had not so far written any news items directly connected with the Terai Janatantrik Party. However, according to the journalist, the lack of coverage of the group's activities might be a reason behind the life-threatening statement against him. Most notably, the group wrote: "He (Bhandari) may also come across the fate of the late Arun Singhaniya." Arun Singhaniya, a renowned media mogul in Nepal, was shot dead in Janakpur on 3 March 2010.

Similarly, a member of Nepali Congress, the second-largest political party in Nepal, threatened to kill several journalists. The threats were made during the party's district convention on 29 August 2010. Mohan Basnet, who is the district coordinator for the party in Sindhupalchok, a district in central Nepal, accused the journalists of not favoring him during the Nepali Congress district convention. According to Dhurba Dangal, a reporter for "Nagarik Daily", Basnet threatened the journalists over the phone, using insulting language and threatening to take their lives.

## Responsible persons misbehave with scribes

Personal aides of former King Gyanendra Shah manhandled journalists and smashed press equipments at Chitpol area of Bhaktapur on July 26, Monday.

President of Kavre chapter of Federation of Nepali Journalists, Bhola Thapa and Post Kavre correspondent Manoj Basnet were injured in the incident. Similarly, video cameras of Post correspondent Makar Shrestha and Sagarmatha TV were damaged.

The injured journalists said Shah's personal aides, security personnel and local goons thrashed them and damaged their cameras as they were approaching Shah for interview. The incident occurred when Shah was returning after attending a final session of a Mahayaga and puja at the newly-built Latarembhewor Temple.

Meanwhile, Constituent Assembly (CA) member Ishwari Dayal Mishra misbehaved with senior reporter Bijay Barma of Nepal

TV while he was covering the parliamentary party meeting of the Terai-Madhes Loktantrik Party (TMLP) at Singha Durbar, the main administrative building of Nepal, in the capital Kathmandu on 11 August, 2010. Mishra, of the TMLP, a Terai-based party abused Verma aggressively using indecent words.

Similarly, Santosh Kumar Singh, a journalist working for Mithilanchal FM was severely beaten up by police official in Janakpur district in the southern plain of Nepal on July 2, Friday.

Police Sub-Inspector (SI) Arun Kumar Kushwaha, an in-charge of Janaki Police Post not only thrashed journalist Singh but also warned him of taking life. Sub Inspector Kushwaha assaulted journalist Singh while he was en route to Janaki temple on Friday. According to journalist Singh SI Kushwaha thrashed him in the premises of police post and threatened him to kill if he dared to reveal the incident. ■



# 'Returning Home mere a dream now'

**Keshab Bohora was abducted by an unknown group on June 30, Wednesday, reportedly over a news item he disseminated from Tiram Village Development Committee (VDC) of Pyuthan district in the mid-western region of Nepal.**

**Bohara had been receiving threats over a Radio Mandavi news broadcast concerning dispute of land belonging to the Swargadwari Temple. Reportedly, journalist Bohara had questioned the Unified CPN (Maoist) regarding the ownership of land during a live broadcast.**

**'Maoists told him that he was put in captivity for reporting the dispute circled around the land of Swargadwari Temple claimed and captured by the Unified CPN (Maoist) and his involvement in District Chapter of Nepal Red Cross', according to a mission formed to investigate into the incident.**

**Journalist Bohara, who was abducted on June 30 due to the effect of his reporting on land dispute, was released nearby Gorusinge of Kapilbastu adjacent to Pyuthan.**

**After being freed from the abduction he fled to Kathmandu to save his life. Radio Journalist Bohara spoke to Shiromani Dhungana of Freedom Forum for the Free Expression in this issue:**

## **Which was the place from where you were you abducted?**

I was abducted while I was en route to Tiram village for the purpose of reporting. There is a jungle on the way to Tiram VDC. A masked group consisting of five male and one female with pistol came across all of sudden, blindfolded and abducted me.

## **What did abductors told you?**

I have been receiving life-threatening calls since long back. A caller claiming him to be a cadre of the UCPN (Maoist) had been frequently threatening me following a news report that was aired through "Swargadwari FM". They had asked several offensive questions to me over the phone: Why did you air the news related to Maoist? Why are you being clever more than enough? As far as their queries after abduction is concerned, they introduced themselves as Maoist cadres firstly. Later, they used disgusting and irritating language to me. Most notably, they spoke very aggressively as they are replete with the sense of vengeance due to the effect of my news coverage and transmission.

## **What were the reasons they claimed behind the abduction?**

I think the main reason behind my abduction is the transmission of news about the 1200 hectares of land belonging to Swargadwari Aashram. The Maoists had been rampantly distributing the public land to their cadres. I aired the news regarding the wrongdoing of voluntarily handing over the land to the cadres of particular party. Then they started threatening me. The main bone of contention between Maoist and me was the same news.

## **Where did they bring you and how**

## **they behaved with you during the period of abduction?**

They kept me inside the vehicle during the period of kidnapping. They did not even provide me any piece of food to eat throughout the period and I was merely given water only after 15 hours of abduction. They indiscriminately charged me with baton on foot and toe. They frequently threatened me which I could not openly share the excruciating pain and plights at the moment. I was blindfolded throughout the abduction.

## **What did you do once you got freed from the clutch of perpetrators?**

The abductors freed and left me on the road-some two kilometres away from Gorusinge Police Post in Kapilbastu. A mission of journalists met and rescued me at 3.00 AM on July 1, Thursday night. Prior to my meeting with mission team, I had first contacted with the police post in Gorusinge at around 10.30 Am after two-hour walking distance from the place I was freed.

With the help of journalists, human rights activists and press freedom fighters, I went back to Pyuthan. They greeted me with fear and excitement. However, I was feeling anxiety and intimidated with fatal illness due to threats, attacks and misconduct. So I moved to capital city Kathmandu to avoid further difficult days for me in my birthplace.

## **What do you think the impact of the abduction of a radio journalist in media at a time when press freedom violation incidents are increasing?**

I think Nepali journalism sector has been under massive threat and intimidation since



**Keshab Bohara**

few years back. Every interest group wishes to drive journalism as per their interest. Even political parties have not been aloof from launching attacks and threatening media workers and house when media does not cater to their need. In this connection, I was victimized just due to the effect of my reporting, which was in interest and concern of local people.

I think this incident not only makes me insecure but also entire journalists serving this profession have been psychologically shocked. The clear message of the incident is no one is safe if write anything true against misdeeds and irregularities.

## **What may be the other effects of the incident?**

This incident has not only curtailed journalist's right to freedom of expression, but shows that citizen's right to information is also at stake. How long could we do journalism being unsafe for writing news? It is clear that the country is under the state of impunity. Laws are only in the books; its implementation is not effective. As a result, crime has been flourished throughout the nation.

## **So what's your to getting back to your workplace, i.e., Pyuthan?**

I want to go back to Pyuthan soon. Pyuthan is a place where I started my career in journalism and I want to do something in the same place. Nevertheless, I am unable to return soon as my treatment is under going here in Kathmandu. Most notably, I have received unimaginable threats from abductors which I could not express. So I am at state that I can't return to Pyuthan. Returning my native land Pyuthan is my dream now.

### The long march...

widely by the public. So far only 52 appeals demanding information have been submitted to the NIC.

The aim of the Right to Know Day is to raise awareness of every individual's right of access to government-held information: the right to know how elected officials are exercising power and how the taxpayers' money is being spent. But, Nepal presents a sorry picture on this front; the situation calls for political commitment on the part of the state to expedite RTI as a national campaign and a proactive role of civil society organisations to strengthen demand side and caution the supply side to enable an environment congenial for RTI. Civil society has failed to engage citizens whether that is in creating public awareness or in requesting information. Similarly, the National Information Commission (NIC) has limited its role merely as a court and does not expand its efforts to take the overall leadership. Among the other obstacles in the RTI implementation are weak mechanisms for access and enforcement, the bad state of record-keeping, archive management systems and poor monitoring of enforcement.

Hence, this is the day to remind all sides concerned to come up with elevated commitment, innovation and actions to translate the letter and spirit of the RTI Act to practice in a bid to contribute towards building open and democratic societies thereby a strong nation. The dream may come true only when citizens are empowered and offered opportunities to participate in governance, the state machineries are accountable to people and RTI is used as a tool to ensure civil and political rights. This Right to Know Day, let us all come together to send out a clear, collective message that information is the "oxygen of democracy".

*This article by Krishna Sapkota was published in 'The Kathmandu Post' on September 28, 2010*

### Government Budget and My Future

The best competitors of 'The 2010 South Asia Open Budgets Essay Competition' were awarded and felicitated amid a programme organized here today. Freedom Forum organized the essay writing competition on the topic 'Government Budget and My Future' in collaboration with the US-based International Budget Partnership (IBP). In the essay writing competition held among 136 students of grade 9-12 of five English-medium schools of the capital city, Bidushi Pokhrel of Graded English Medium School (GEMS), Dhapakhel stood first and received winner award of cash Rs. 37,500 along with certificate and token of love.

On the occasion, first runner-up Prarthana Bhattacharai of Budhanilkantha and second runner-up Seema Chand of DON BOSCO, Kathmandu were also provided with awards and certificates. While giving away awards and certificates to the winners, Freedom Forum Chairperson Tara Nath Dahal said the initiative was taken to increase understanding about budgetary transparency among school students and increase their concerns in budget issues thereby engaging citizens in ensuring transparency.

On the occasion, Chairperson of NAREC Nepal Dr. Chandramani Adhikari, Executive General Secretary of Association of the District Development Committees of Nepal (ADDCN), Hemraj Lamichhane, Governance Expert of ActionAid Nepal-MS, Ramesh Adhikari, Kedar Khadka of Pro-public, including others shed light on various aspects of government budget and transparency. The competition was participated in by the students of GEMS, Budhanilkantha, DON BOSCO, Nobel Academy and Little Angels of Lalitpur. The competition was also held in five countries in South Asia, namely Afghanistan, India, Pakistan, Sri Lanka and Bangladesh, on the same theme.

The IBP is a non-profit organization based in Washington DC, which collaborates with civil society organizations in developing countries to analyze, monitor, and influence government budget processes, institutions, and outcomes. The IBP and Freedom Forum

are jointly undertaking research on budget transparency in Nepal for budgetary reforms.

The IBP has published an attractive booklet of the essays and post the winning essays on its website. ■

### Obituary



We would like to express our deep sorrow on the brutal murder of **Devi Prasad Dhital (Hemraj)**, 45, chairperson of Community Radio Tulsipur on 22nd July 2010 and wish for the eternal peace of the departed soul.

Dhital was shot at Urahari, about 12 kilometers from Tulsipur in western Nepal. Dhital is survived by his wife, two daughters aged 7 and 9. Freedom Forum expresses heartfelt condolence on his family relatives and the Radio Tulsipur at the grief stricken moment.

Taranath Dahal – Chairperson &  
**Freedom Forum Family**

## HAPPY VIJAYA DASHAMI 2067

**Freedom Forum** wishes to all our readers, well-wishers, friends, partners and everyone a very happy and prosperous Vijaya Dashami, Deepawali and Chhath-2067.

May Goddess Durga bestows all of us the strength to get victory over anomalies and aberrations that may surface during our life. May you and your family prosper and lead a very happy and successful life! May the blessings of Goddess Durga enhance our confidence and creativity to reinforce our action for common cause of human rights, peace and democracy.

**Taranath Dahal**  
Chairperson  
&  
**Freedom Forum Family**





# Electronic Transactions Act 2008

## In its existing form, the Act could be easily used to curb media freedom

A number of journalists were indicted last month and most of the charges were associated with misconduct against women. One was about alleged harassment of a co-worker and another involved an attempt to allegedly spread hatred in a community. There was also one case that involved the publication of an advert looking for recruits for an illegal, underground outfit. All except the later attracted charges under the Electronic Transactions Act 2008.

A Kantipur journalist was accused of harassing a co-worker using the Internet and was in jail last week pending a trial while others had been released from detention. Police had arrested him following a complaint by his editor and the Kathmandu District Court – the designated authority to hear litigation under the law – had approved an extension to his detention. Media reported that the journalist was also suing his former workplace of defamation. In another case, which took place in Dhangadi, the issue was about a computer at a newspaper office being used to send an email with defamatory content about women. On this, the court did not find it necessary to detain the suspect.

The other alleged infraction took place in Pokhara where the email of a newspaper was used to send out content that was said to be detrimental to the sentiments of a particular community. An eerie coincidence – perhaps: All of those accused of infractions under the aforesaid law were related to the profession of journalism. And it is how the law is worded that is of particular concern because, among others, it also mentions the “electronic media” without defining it – or leaves room for its interpretation and use against media freedoms.

Clause 47 says, “If any person publishes or displays any material in the electronic media including computer, internet which are prohibited to publish or display by the prevailing law or which may be contrary to the public morality or decent behavior or any types of materials which may spread hate or jealousy against anyone or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes and communities shall be liable to the punishment with the fine not exceeding One Hundred Thousand Rupees or with the imprisonment not exceeding five years or with both.” “Electronic Form” is very broadly defined to mean information transmitted, received or stored and generated through “magnetic, optical, computer memory or similar other devices.” Without touching the subject of the charges, which is now something for the courts to

decide, what does merit a closer look is the clause that was invoked for the indictments. Why for instance were the charges not based under other laws such as defamation and libel, press and publications, broadcasting or even the law barring violence against women? What if the broadcast media were, for example, to have advertisements that portrayed women in a negative light and if someone were to press charges under the electronic transactions law and not defamation? And should that happen, how would it stand up against the constitutional guarantees of free expression and media freedom? Again, by the same logic, why was the case involving an advert that was published on behalf of a group that is by proclamation violent – for which also a computer was used to generate the message (going by the definition above) – did not attract the same clause? Or, who decides and what is the basis for the decision? The process also leaves a question unasked and unanswered: Why is one of the accused detained while others are not?

 **Binod Bhattacharai**

Such questions have – rightly – caused some journalists to fear that the Electronic Transactions Act could be used by government and interest groups in a roundabout way to control media considered to be “unfriendly”. “This is possible because of the vague terminology,” said Govinda Acharya, vice-president of the Federation of Nepali Journalists (FNJ). He was also a member of a FNJ team formed to look into the case involving the aforesaid cases. “As it is, the same law could also be used for controlling content on social networking sites such as Facebook.”

The electronic transactions law allows authorities to imprison suspects for up to 25 days. Therefore, if journalists considered unfriendly by powers-that-be are detained, they could be thoroughly demoralized even if there was no conviction in the end. And when something like this happens, it would reduce all the constitutional provisions guaranteeing free expression and media freedom to a farce. Till last week, the FNJ had not released reports of its fact-finding efforts on the cases discussed above. It was also likely that its report on the Dhangadi case could take a longer time to be made public because it also involved an attack on the suspect by the president of the district’s journalist union.

Dharmendra Jha, president of FNJ, has discussed the possibility of the electronic transactions law emerging as a major threat

to free expression. “We think the courts will, and we believe should, decide on the charges against the accused but the issue of free expression and the law is something that needs wider discussion,” he said. On the Pokhara case, the editor of the publication in question issued an apology but still faces charges under the law – even though the use of an email belonging to someone else is by no way a definitive proof of committing an act of sending an email.

## No free expression on film

Last month, the censors at the Ministry of Information and Communication (MoIC) forced a documentary festival organized by students to fold up two days before it would have ended. The issue was censorship allowed by a rule amended in late 2009, which now threatens to nip the budding documentary filmmaking in Nepal, and take the emerging platform for free expression head on to a certain death. The festival that was forced to prematurely shutdown was called the Buds Film Fiesta – an exhibition of 40 short videos by young men and women.

Commercial films are censored even in developed markets and even though there are issues about professionalism and transparency of film censorship in Nepal, it has more or less been accepted. Commercial films being commercial ventures are censored because they could breach limits of decency and taste for attracting more audiences. The extension of the same rule to censor documentaries does not stand up to logic because they are not commercial to start with even though some may charge a viewing fee (this more than censorship is something that could have perhaps attracted taxes).

The new rule allowing a committee of mainly government officials to censor documentaries defines ‘film’ to mean anything that includes “moving images”. Such terminology can be extended to mean everything from a student video to, and more importantly, all the content there is on television including news. Hence, these questions: Why censor only documentaries and why not television content? And if such action against television would contravene free expression and the constitutional guarantee against prior censorship, why does the same argument not stand in the case of documentaries that also report reality?

*The Article was published in The Republica National Daily on October 5, 2010*

# International Watch

## Press freedom under attack around the world, WAN-IFRA says

At least 56 journalists have been killed in the first eight and a half months of 2010, and media employees worldwide continue to face physical violence and persecution of all kinds, whether from public officials, criminals or terrorists, the World Association of Newspapers and News Publishers (WAN-IFRA) said in its annual review of press freedom.

Assaults are daily - and often deadly - for those who challenge governments, report on conflicts or investigate corruption and crime, said the report, presented to the Board of WAN-IFRA, meeting in Hamburg, Germany, during the IFRA Expo. At

least 120 media employees were in jail as of mid-September 2010, most often following sham trials or without charges having been brought against them. Hundreds more have been forced into exile.

The report said:

In Latin America, media professionals face serious threats from both governments and powerful crime syndicates. Organised crime and high-level corruption remain the most sensitive subjects for journalists, in a continent where a deep-rooted culture of impunity prevails and where authoritarian and populist regimes do

not tolerate scrutiny or dissent.

Mexico, where the government's war against powerful drug cartels continues, remains one of the most dangerous countries for journalists worldwide. No less than eight journalists have been murdered since the beginning of the year. In the past months, media based in the northern part of the country have refused to cover any event related to the war on drug trafficking, resulting in widespread self-censorship and major news blackouts.

Sub-Saharan Africa remains a dangerous place for the media. Journalists are subjected to harassment, violence and threats of all kinds by heads of state, elected officials, corrupt authorities and militia. Despite the widespread use of defamation and libel laws to silence critics, journalists and citizens alike continue to vigorously and courageously campaign for freedom of expression.

Those in power throughout the Middle East and North Africa continue to resort to harassment, censorship, prosecution, fining and imprisonment of news media professionals in order to control information. Their hostility toward independent and opposition media has often proven to be ruthless.

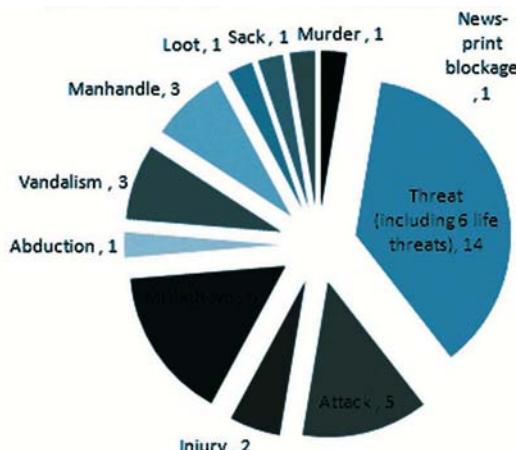
A culture of harassment, intimidation and assaults against journalists continues unabated in certain countries of Europe and Central Asia. The widespread use of insult laws and a growing number of nations proposing legislation aimed at stifling press freedom, particularly in the name of anti-terrorism, is commonplace.

Governments across Asia continue to apply a range of methods to restrict press freedom as a means of controlling their societies and limiting the spread of dissent. The region is still one of the most repressive areas in the world for independent media and reports of state interference, impunity for acts of violence against journalists and lack of protection for media professionals are widespread.

SOURCE: World Association of Newspapers and News Publishers/4 October 2010

### Anti-press incidents in Nepal during June-Sept. 2010

Murder	1	Threat	14
Attack	5	Injury	2
Misbehave	6	Abduction	1
Vandalism	3	Manhandle	3
Loot	1	Sack	1
News-print blockage	1	Total incidents 38	



Source : Press Freedom Monitoring Desk

### Our Websites:

www.freedomforum.org

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Press Freedom in Despair

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