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TRUTH IN A TIME OF PANDEMIC: THE VIRAL FRONTLINE NEPAL COUNTRY REPORT

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NEPAL

ROCKY ROAD TO RETAIN HARD-WON RIGHTS

Journalists in Nepal had to confront the coronavirus pandemic in challenging ways. They had to go out to the field even during the most stringent lockdowns to get stories, and they had to ensure that they remain safe and also not transmit the virus to their families. While intrepid journalists were giving it their all to keep the Nepali public informed, much of the media industry – even the well-established and successful ones – not only held back in providing support but also denied journalists salaries and went on to take measures such as reduced salaries, forced unpaid leave and unlawful termination of jobs. Sadly, while 2020 will be remembered for the journalists who showed undaunted commitment to their responsibility, taking risks to report as a public service, the year will haunt Nepali journalists as a sobering reminder of the worst ways their employers treated them.

On the political front, Prime Minister KP Sharma Oli's majority government, into its third year, went off balance due to intra-party conflict that saw the government dissolving the parliament and setting dates for early elections. The Supreme Court deemed it unconstitutional and reinstated the House of Representatives. However, another unexpected Supreme Court decision sent back two communist parties – which had united after winning a near two-third majority forming an alliance into its earlier state as two parties. This weakened opposition faction led by former prime ministers Pushpa Kamal Dahal, Madhav Kumar Nepal and Jhalanath Khanal within the ruling party as they found themselves split into two parties. PM Oli seems safe for now but faces an uncertain future.

MEDIA FREEDOM OFF POLITICAL AGENDA

Governments at all three levels (federal, provincial and local) seemed disinclined toward media freedom, continually demeaning media, criticising them for their choice of language and content and blaming media for the instability in the country. Media rights organisations and media's attempts to protect freedom of expression have not been very successful as the government continued to move ahead with tougher bills and regulations such as the Media Council Bill, the Public Service Broadcasting Bill, the Information Technology Bill, and the Special Service Bill – all of which have clauses that could undermine press freedom.

As in earlier years, 'shrinking civic space' remained a dominant motif as the government seemed to have ignored principles of democracy, enforced regulations restricting civil liberties and showed no interest in addressing long-standing issues such as impunity for crimes against journalists, labour rights of journalists and press freedom. There was also little or no progress in addressing long-standing issues such as justice for slain journalists, self-censorship, online freedom, and the implementation of the Working Journalists Act.

From May 2020 to April 2021, available data shows that,

although violations of press freedom of other kinds decreased in number, they continued, while the cases of professional safety and security of working journalists increased massively as a consequence of the pandemic and lockdown. According to the records of the IFJ-affiliated Federation of Nepali Journalists (FNJ), there were 35 incidents that violated rights of journalists. The more worrying data out of FNJ is that at least five journalists died, and more than 500 journalists infected by coronavirus; more than 500 complaints from journalists on job termination, non-payment of salary and salary cut; and more than 20 legal cases were registered or fought by FNJ's legal desk.

INSIDE THE PANDEMIC

"Nepali journalists faced massive problems due to the coronavirus pandemic," says the annual review of 2020 by the FNJ which also noted that "Journalists and their families faced financial crises as even the big media houses failed to provide regular salaries and benefits to journalists and put journalists on forced leave." Studies carried out by the FNJ, the Nepal Press Institute, the Press Council Nepal, the Freedom Forum and the Center for Media Research – Nepal on the impact of coronavirus on Nepal's media and journalists painted a glum picture. As the nationwide lockdown was imposed, many newspapers ceased printing – and some of them have not resumed printing yet – and adopted austerity measures at the cost of journalists' labour rights to 'protect them financially' resulting in 'half work, half salary' or 'only basic salary' and even job losses.

FNJ's report said that the pandemic and the nationwide lockdowns directly affected the earnings of 40 percent of journalists, with more impact on females than males. The report in late September 2020 concluded that two-thirds of the journalists surveyed had difficulty meeting their basic expenses for survival during the pandemic. Such a situation arose after several media houses in Kathmandu suspended publications, cut down broadcast hours and decreased the size of the newspapers.

According to the report, as the consequence of pandemic and lockdown, 4 percent of the journalists lost their jobs while 6 percent were forced to go on unpaid leave by their respective media houses. The study revealed that unemployment due to loss of job and forced unpaid leave is around 10 percent. Around 9 percent of the journalists' salary was deducted during this period whereas 20 percent of them did not get their salary on time.

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According to the Association of Community Radio Broadcasters (ACORAB), the income of radio stations decreased by 75 percent due to the pandemic whereas

the Broadcasters Association of Nepal (BAN) stated 80 percent of the revenue of commercial radio stations was lost. The Freedom Forum's study claimed that as many as 38 percent of journalists lost their jobs during the pandemic. It also concluded that the 'pandemic became an excuse for state mechanisms to suppress the citizen's freedom of expression and press freedom'.

A survey of journalists in July 2020 by NPI and Bournemouth University stated that coronavirus "has affected the mental well-being of a majority of journalists in Nepal." The survey found that 83 percent of journalists reported an increased sense of vulnerability, 75 percent increased anxiety, and 62 percent grief, while 25 percent said they experienced depression. The report found that 74 percent of journalists have been impacted financially, with 38 percent having to take a pay cut, and six percent losing their jobs.

Despite all this, journalists remained largely committed to their responsibility of informing the public about the coronavirus pandemic, often reporting from the field where they themselves were vulnerable to infection. With limited safety equipment, and uncertainty over their jobs and salary, journalists did a commendable job, especially in reporting the impact of lockdowns on poorer people and keeping abreast of the evolving information about coronavirus.

As many journalists faced financial difficulties during the pandemic, the FNJ in July established an emergency fund with seed money of NPR 3 million (USD 25,000) to support journalists in need, which will be further upgraded to NPR 10 million.

VIOLATIONS OF JOURNALISTS' RIGHTS

With much of the previous year having been spent under lockdown, the number of physical attacks declined as compared with previous years. Yet, some disturbing trends of undermining press freedom and journalists' rights emerged from both the state and non-state actors. This highlighted the challenging environment for media and for journalists to freely and fearlessly exercise their constitutionally guaranteed right to press freedom.

Since May 2020, Nepal witnessed 35 verified incidents of press freedom violations, according to FNJ. The majority were misconduct towards journalists on duty (26 incidents), threats (10 incidents), attacks (9 incidents), arrest (4) and seizure or disturbance of press equipment or media products (3 incidents).

This year's threats and misconduct towards journalists on duty were observed when journalists reported about irregularities related to the management of the coronavirus pandemic. Radio Janakpur's Shital Sah was threatened with physical attack by a group of three led by government hospital staff after the radio broadcast a program about irregularities and carelessness in the provincial laboratory in May. In April 2021, Kedar Dahal of Naya Patrika daily was not allowed by the police to report about Indians queued up at the Embassy of India. Police roughed up Dahal and tried to delete photos and videos from his mobile.

In August, three journalists - Gorkhapatra Daily's Chitra Mijar, Kantipur daily's Anish Tiwari and AP1 TV's Niroj Chaulagain were harassed and attacked when they were reporting difficulties on local residents due to construction of Upper Chaku

Hydroelectricity Project in Sindhupalchowk district.

In November, civil servants at the Land Revenue Office in Damak, Jhapa beat up journalist Khagendra Ghimire and camera man Bhaskar Shrestha for filming a civil servant taking a bribe. Also in Jhapa, Custom Office's employees misbehaved with News24 TV's journalist Raju Paudel and Narayan Aryal after they refused to accept money to not report irregularities. Attacks were also mostly related to reporting by journalists.

The state's attempt to control journalists was evident when in November, the Chief District Officer Badri Prasad Gaire of Rukum West formed an investigation committee which directed journalists Govinda KC and Ganesh Bisu to furnish a clarification for publishing a report in Nagarik daily that talked about delayed service by the District Administration Office.

A positive development regarding a long-standing issue of justice to a slain journalist came in September 2020 when Nepal Police arrested Hareram Prasad Kurmi, one of the accused in the murder of Bara-based journalist Birendra Shah in 2007. Kurmi was arrested from his hideout and is the fourth person arrested in connection with the case. Another accused, Lal Bahadur Chaudhary Dhami, is still a fugitive. Shah was kidnapped by then Communist Party of Nepal Maoist's cadres on 7 October 2007, and his body was found buried after 34 days. Others accused of the killing, Manoj Giri, Ram Ekwel Sahani and Kundan Faujdar, have been found guilty and are serving jail terms after the court sentenced them to life imprisonment and ordered that all their property be confiscated.

On 25 April 2021 police arrested journalist Anish Tamang from the office of Ujyaalo Network - a three-year-old online news portal - on charges related to sedition and the Electronic Transaction Act. The arrest was made in connection with a news report that the website published on 15 April based on a document, later proven fake, about a purported agreement between PM Oli and the chief of India's intelligence agency. The news portal removed the content and apologised for failing to verify the document after concerns were raised and the Press Council asked for a clarification. Police, acting on a 20 April arrest warrant by the Kathmandu District Court and ignoring the Appellate Court's order on 22 April directing police not to arrest journalists for published content, entered the news portal office, and arrested journalist Tamang.

THE MEDIA SCENARIO

Nepal is a small country with a population of just 29 million served by more than 200 television stations, more than 700 FM radio stations, and more than 7,000 newspapers across the nation. Almost 2,600 online news websites are listed with the government.

The advertising market is worth approximately NRs. 12 billion (approximately USD 100 million) per annum with more than one-third of the pie going to newspapers and nearly one-fourth of the total going to television. Radio and online media claim advertisement revenue worth half-a-billion rupees each annually. However, Advertising Agency Association of Nepal has estimated a 45 percent decrease of advertising revenue during 2020 due to the pandemic.

The Working Journalists Act 1994 has a provision that the media houses set aside 10 percent of advertising revenue for

the journalists' welfare fund at the respective media house. However, for more than 25 years, that provision was not implemented by any media house. This year, FNJ president Govinda Acharya filed a writ at the Supreme Court for implementation of this provision. The court ordered the government to work towards this provision and present a report every two months in the court regarding the progress.

Online media start-ups are flying high, with many new platforms emerging and drawing in established journalists, especially from print media. Online media has created a fast-moving media market and journalists are switching jobs more often than ever. Social media has become a new and powerful avenue of citizen's voices, often setting the agenda for mainstream media and ensuring accountability from government and its agencies. However, there is clear discomfort over such use as the controversial IT Bill was again scheduled to be tabled in the lower house of the Parliament in April 2021, only to be withdrawn after criticism in media and social media. The bill has provisions that allows authorities not only to jail people for writing critically on social media but also to block access to social media for failing to register in Nepal.

THE UNDERBELLY OF SOCIAL MEDIA

Like elsewhere in the world, women journalists in Nepal found themselves battling abuse and violence online, merely for expressing their views. According to the FNJ, over 18 percent of their members are women (2,405 out of 13,058). Of those, 48 percent work in radio and FM stations, 41 percent in print media, 10 percent in television and 2 percent in online platforms. According to a document published by the International Press Institute to mark International Women's Day, 8 March 2021, social media is "dangerous" to women journalists in Nepal.

"We don't have accurate data on the scale of digital violence on women journalists. However, on the basis of the stories shared by women we can say that the situation is worrisome," said Neetu Pandit, president of Sancharika Samuha, an umbrella organisation of around 12,000 women journalists across Nepal. Character assassination, body shaming and purported sexual links with prominent men are some of the accusations flung at women journalists. It is even more difficult for women from the marginalised communities such as Madhesi and Dalit. Women journalists reported several ways that they pushed back – from blocking abusers to reporting them to using aliases to be able to air their views.

WAGE STRUGGLES

The struggle for wage by five journalists at the Nepal News Network International, the publisher of Annapurna Post daily, highlighted the hardships faced by journalists as well as a rare success story. After its decision to halve salaries, management took action against six journalists, including two bureau chiefs, for criticising that decision on an internal group chat. The journalists – photo editor Bikash Karki, Bishwo Raj Khanal, Sushil Pokharel, Dilliraj Upadhyaya and Govinda Devkota, were not even paid half their salaries, their access to the news system was blocked and they were later transferred to a remote part of the country. After a series of letters, where

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management sought clarification from the journalists and journalists asked for their rightful benefits, the journalists took legal action and asked the FNJ to intervene. With legal action ongoing, the FNJ organised sit-in protests, and sat in a few rounds of talks with management without any agreement. The journalists and management finally reached an agreement on 16 February, with FNJ announcing sit-in protests in front of the publisher's house, after more than six months of collective action.

A month later, 28 journalists, some of them employed for two decades, submitted a joint resignation to the Annapurna Post calling it a "forced retirement" after editor Akhanda Bhandari informed them that the newspaper would be closed and therefore everyone had to resign. In their resignation letter, they had demanded due salary payments and other benefits as per the law. But the publication management has neither paid them nor did it enter into negotiations with them.

A similar wage issue was taken up in Karobar daily where journalists went into collective action under the FNJ for salary payments and other rights. The journalists and management reached an agreement mediated by the FNJ.

The largest media house, the Kantipur Media Group (KMG), closed down all publications in April 2020. They resumed Kantipur daily and The Kathmandu Post daily after a week but nevertheless went into austerity measures and forced at least 42 journalists to take unpaid leave for a month. KMG also announced permanent closure of three publications – Saptahik weekly, Nepal weekly and Nari monthly in June 2021 and 53 journalists were forced to resign (they were all compensated with at least three-months salary). However, after all this, KMG resumed publication of Nari monthly.

In the Republic Media, the publisher of Nagarik daily and Republica daily, the wage issue is older than coronavirus. Republica was closed in April 2020 but the journalists working there were already unpaid a few months' salary by then. The media house denied receiving registered mail letter by FNJ regarding the wage issue, leading to the situation where journalist Subid Guragain staged a five-day relay strike. Many journalists since have left the media house.

Some of these struggles are long-standing, but media houses have been finding temporary solutions to avert strikes and other embarrassing situations while failing to commit to permanently solve these issues.

CONTROVERSIAL BILLS

The key area of concern in Nepal remains the legal environment. The government has expressed a commitment to press freedom and 'willingness to amend any anti-press freedom provisions' to end FNJ-led protests on

two controversial laws in 2018, however, neither of these amendments was tabled in the parliament in the last two years. Instead, the government moved ahead with more bills and regulations that undermined the freedom of the press, freedom of expression as well as internet freedom.

Since 2019, two controversial bills have been heavily criticised by media rights organisations including the FNJ and Nepal Press Union (NPU). One of the bills, the Information Technology Management Bill, threatens freedom of speech online. Among the concerns are that it includes provisions to impose fines of up to NRs 1.5 million (approximately USD 12,500) or jail terms of up to five years for posting content on social media that in the eyes of the government may pose a threat to the "country's sovereignty, security, unity or harmony". The bill also includes mandatory provisions for social media companies to be registered in Nepal. If not, the use of their services will be banned. The bill lays down far tougher punishments for committing the same offense on the internet as compared to committing the crime in person. The bill remained in the parliament for more than a year without the government tabling it for discussion and many stakeholders thought it was as good as gone, but it appeared in the schedule of parliament in April. This drew strong criticism from media and social media users prompting the parliamentary affairs committee to remove it in the eleventh hour. However the bill, with all its restrictive provisions, remains in the parliament and could be tabled any day.

Similarly, the Media Council Bill also awaits approval from the lower house of the Parliament and could be tabled any day. Although some of the controversial provisions were taken out in the last minute after prolonged opposition by the FNJ and NPU as well as other civil society organisations, and the opposition party when it passed through the upper house last year, the bill still proposes a Media Council in which the majority of members will be government appointed, thereby undermining its role as an autonomous body to support journalism in the country.

Similarly, the government tabled the Public Service Broadcasting Bill that would empower the government to exercise greater control over state media - Radio Nepal and Nepal Television (NTV) in the Parliament in July 2021. The bill defies the government's commitment to the editorial independence of Nepal Television and Radio Nepal. If approved, the bill extends Parliament's control allowing the Public Service Council, a body envisioned to be run by politicians, to issue a direction to the broadcaster thereby undermining their role as a public service broadcaster.

A positive development in the legal environment is the Supreme Court's order in April 2021 to the government to remove the provision for annual renewal for online media in the Online Media Directives. The Supreme Court said that the rule contradicts the constitutional provision which states no media shall be closed, seized or deregistered. The Online Media Directives' provision stated that failure to renew annually could result in blocking of the website.

CONFLICTING CLAIMS AT UPR

On 21 January 2021, Nepal's human rights record was examined by the UN Human Rights Council's Universal Periodic Review (UPR) Working Group for the third time. Since Nepal's last UPR was in

2015, it provided an opportunity to see what had improved or deteriorated during the last five years.

During the UPR, Nepal claimed to have 'made sincere efforts for the promotion and protection of human rights of our people.' In the opening statement Nepal, while mentioning that "freedom of expression, and right to information are prerequisites for good governance", claimed it "regards civil society and the media as indispensable partners in the promotion and protection of human rights."

In the national report, Nepal stated 'there are laws to protect the press as well as the rights and interest of journalists' citing among others the Electronic Transaction Act that have been criticised by journalists as restrictive. It also cited the Media Council Act 2020 and the Information Technology Act 2020 among the laws to protect the rights of the journalists, however those documents are still bills at the Parliament yet to be enacted as laws. These bills have been heavily criticised for being undemocratic and undermining freedom of expression.

In the stakeholders' submission "several organizations asserted that the Electronic Transactions Act had been used to arrest and detain journalists and members of the public for legitimate online expression" and "recommended to amend the Electronic Transactions Act to align it with the ICCPR and the UN Declaration on Human Rights Defenders."

The National Human Rights Commission, among others, reported that 'the government had presented legislation that eroded freedom of expression and of the press, including the Information Technology, Media Council, and Mass Communications Bills, introducing broad and ill-defined limitations, including criminal sanctions'. Six stakeholders recommended that 'the Government remove all provisions in the Bills that infringe on freedoms, revise the bills to align with human rights standards, or withdraw such draft laws; and ensure laws are not used to criminalize freedom of expression or libel'.

Although Nepal reiterated its commitment to uphold fundamental human rights and look into the issues raised during the UPR, there has been no efforts made towards it so far.

MEETING THE CHALLENGES

The FNJ, which has more than 13,000 members across the country, elected a new executive committee for three years under the leadership of Bipul Pokhrel. This election, the FNJ adopted direct voting, scrapping the delegate-voting system for this election and allowing all members to vote for the leadership. The three-year term for a Pokhrel-led committee does not look like a smooth ride. The FNJ, the NPU and other media rights organisations are looking at challenging years where they will have to strengthen their advocacy, lobbying and struggle for press freedom, journalists' rights and labour rights. The coming year will be more challenging as the coronavirus continues to rage on; restrictive bills are ready to be tabled in the parliament and the full implementation of the Working Journalists Act needs another major push, all within a political situation that looks volatile and unstable.

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