



SOLIDARITY AND SURVIVAL: THE STORY OF SOUTH ASIA

NEPAL COUNTRY REPORT

NEPAL

Labour Rights and Wrongs

Nepal's media and journalists witnessed a challenging year with the continuing impact of the Covid-19 pandemic adding more woes to long-standing issues. The media industry slowly recovered as infection rates went down and vaccines became available between outbreak waves.

Media houses, which had implemented forced leave or reduced salaries as the pandemic took a financial toll, are still to fully recover. Alarming, many journalists are still working on reduced wages and some media houses failed to pay salaries on time. As most of the journalists – vaccinated alongside frontline health workers – got on with their jobs and kept the Nepali public informed, many of them also got infected.

The governments, at both the federal and provincial levels, continued drafting, tabling, and issuing regulations that were restrictive to press freedom and freedom of expression, despite attempts by journalists' unions and rights groups to ensure that any drafts of new laws and regulations adhere to constitutionally guaranteed fundamental rights. The government's hostility towards media increased during the year. The year 2021 is one that Nepali journalists mark as a year that threatened so many achievements in their freedoms and rights.

Politically, it was a volatile year with the majority government led by Prime Minister KP Sharma Oli falling due to an intra-party feud. Two of Oli's attempts to dissolve parliament and call for early elections after his party – the Communist Party of Nepal – United Marxist Leninist (CPN-UML) split in three factions – were not successful due to interventions by the Supreme Court. In July 2021, he was replaced by Sher Bahadur Deuba of the Nepali Congress, who forged an alliance with Oli's former party mates and fringe parties, to form a government that will probably go to the polls in the next parliamentary and provincial elections to be held sometime after local level municipal elections on May 13, 2022. The parliamentary and provincial elections will determine the government for the next five years, during which a lot will be at stake for Nepal's media and journalists, especially in determining the legal and regulatory environment.

Restrictive legal environment

There are a few bills at the federal parliament and provincial assemblies, that if passed without proper amendment, could gravely degrade Nepal's press freedom. Some of these bills were registered in earlier years and have not been tabled for discussion while some new bills – especially media related bills at the provincial level – were registered this year.

The Information Technology Bill, the Nepal Media Council Bill, and the Public Service Broadcasting (PSB) Bill, all registered in 2020, are still at various stages with the federal parliament. All these bills include provisions that criminalise journalistic work and are contrary to press freedom. Though there is an ongoing struggle against the bills – by the IFJ-affiliated Federation of Nepali Journalists (FNJ) and other journalists' unions, media and media rights organisations, there seems to be little progress in changing

the controversial provisions to date.

The federal government turned a deaf ear to the recommendations by stakeholders and moved forward with the PSB Bill that provides for government control over the public service broadcasters, in contravention of the country's Mass Communication Policy. The Bill also contains provisions that are contrary to global standards.

Media bills registered at the provincial assemblies of Gandaki, Karnali and Lumbini provinces are examples of news bills that are likely to stifle press freedom if passed without amendment. In September 2021, the provincial government of Gandaki registered a 'bill to manage mass media' that contains controversial provisions. The FNJ, criticised the bill for being against press freedom, freedom of opinion and expression. It also advised the provincial government to amend the draft, but the government registered the bill without changes. Even the pro-government Press Council of Nepal said the bill 'mocked the spirit of independent journalism'. The IFJ-affiliated Nepal Press Union (NPU) also criticised the bill. After the opposition, the bill was stalled with the provincial authorities and ministers expressing commitments to amend the bill to ensure that it adhered to the spirit of press freedom and freedom of expression.

A similar bill earlier registered by the provincial government of Lumbini in June 2021 has provisions of annulling registration of media, and imprisonment of journalists - which are contrary to the constitution and federal laws. The bill was criticised by the FNJ, the NPU and others as restrictive to media freedom. The concerned minister and others have expressed a commitment to amend the bill - but that is yet to be seen.

The Karnali provincial government registered the 'Karnali IT and Media Academy Bill' for the establishment of an academy, but media rights activists and journalists' unions point out that at least six provisions of the bill attempt to 'regulate' the media. The bill was not discussed among stakeholders, and unions have demanded amendments to remove provisions that ill-define media, journalism; and instead strengthen the bill to create an impactful independent academy aimed at developing journalism. Meanwhile, Bagmati Province allocated a budget to establish state-owned media despite being advised against such a move by the stakeholders. The FNJ said that at a time when state-owned media needed to be converted into autonomous public service media, such a move by a province could be seen as a mechanism to control public opinion and independent journalism.

Drafts and bills of media-related laws and other regulations at the federal and provinces seem to be leading towards a situation in Nepal where the civic space will largely be restricted, with media and individuals forced to self-censor in fear of repercussions. Independent journalism is likely to suffer under the over-reach of the state.

Disinformation and regulation

In March 2022, the government published the controversial 11th amendment to the National Broadcasting Regulation

1997 in the Nepal Gazette without any stakeholder consultation. The amendment, brought by the government as a response to growing misinformation on YouTube, is, as the *Nepali Times* described, “vague, contradictory, and unconstitutional... like all previous ill-thought-out rules.” The amendment to the regulations of the National Broadcasting Act includes provisions that are not in the purview of the Act itself. After the amendment, all internet-based video broadcasting, such as YouTube channels, would be considered illegal if they do not obtain a license that costs half-a-million Nepali rupees (approx. USD 4,000).

The government tried to justify licensing in the wake of misinformation and propaganda clickbait videos uploaded on YouTube surrounding the issue of an accusation of rape of a minor by a celebrity, and the controversial support of USA's Millennium Challenge Corporation (MCC) to Nepal. Advocates of freedom of expression and internet freedom pointed out that it would not solve the problem of people trying to cash in on advertisements through these videos and would only stifle freedoms.

Similarly, in a vague provision, the amendment also made it mandatory for television stations to acquire approval from government to produce and broadcast franchises of foreign programs such as reality shows and made it mandatory for over-the-top (OTT) on-demand video broadcasters to have servers in Nepal. The FNJ expressed concerns over the provisions saying some of them are unconstitutional.

Disinformation is increasingly becoming an issue in Nepal, however, instead of listening to experts, the government is looking for laws to control it. Experts believe that most of this content can be regulated with existing laws and awareness initiatives. Data analysis by the Center for Media Research, Nepal, published in Nepal Fact Check and South Asia Check, showed that nearly half of the disinformation originated on social media, and more than 40 per cent of disinformation originated in mainstream and online media. Such data led FNJ to issue a few statements urging journalists to adhere to professional ethics and to hold discussions with YouTubers and organise training sessions to raise their awareness on ethics.

Squeezing online media

The government's attempt to tighten control around online media suffered a setback with the Supreme Court's interim order, but two notices issued within six days by the Department of Information and Broadcasting show there is no rethinking on the state's intention to control online media.

On April 13, 2021, an interim order from the bench of judges Deep Kumar Kakri and Sushma Lata Mathema nullified Clause 6 (3) of the controversial Online Media Operation Directives 2017 that gave government agencies the power to block services of online media if not renewed annually. In line with the order, the department issued a notice stating that ‘online media's registration will not be cancelled, or operation of online media will not be blocked for not renewing’ on July 4, 2021. However, the notice added that ‘the renewal will be continued for online media’. The notice also warns that online media without renewal will not be issued press credentials.

On July 25, the department issued another notice

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referring to the Supreme Court order and stated, that registration would be renewed for online media upon furnishing a tax clearance certificate, company renewal, and other necessary documents. The notice does not say anything about what would happen to online media failing to renew.

Journalists' rights disrespected

In 2021, the Supreme Court was at the centre of news – not only for its orders to stop the dissolution of parliament by then-PM Oli but also because of the events leading to the registration of an impeachment motion on Chief Justice Cholendra Shamsher Rana. At some point, the guardian of Nepal's constitution acted in a manner that amounted to disrespect of independent journalism. On May 25, two editors-in-chief of online portals were summoned by the Supreme Court administration and were interrogated over a news report that the court said was ‘baseless’. Rajan Kuikel, of Image Khabar, and Narayan Amrit, of Nepal Samaya, were summoned over a news report that quoted a source saying the Prime Minister and Chief Justice met while the court was deliberating on parliament dissolution.

The court claimed that the news was “fake and misleading” and “damaged the Supreme Court's image”. Journalists' unions, including the FNJ, termed it as “contrary to provisions of press freedom” and said that the court should adhere to the established legal procedure to complain against news content. The Press Council Nepal also issued a letter to editors seeking clarification over the news content and source.

In November 2021, the Court obstructed journalists from covering the demonstrations by lawyers demanding the resignation of Chief Justice Rana. While the lawyers were demonstrating inside the premises of the Court, journalists were barred from entering the premises which were at other times accessible to them, and some journalists were roughed up by the police.

It was not only in the judiciary where journalists experienced restrictions, but the legislature also attempted to bar journalists from reporting. On December 21, 2021, journalists were prohibited from entering a meeting of the parliamentary committee while it discussed two ordinances. Citing ‘orders from above’, the parliament staff forced journalists to watch the meeting on a screen outside. The Office of the Governor of Bagmati Province did not

allow journalists from private media to attend an oath taking ceremony of the new chief minister and ministers in January 2022. A similar incident took place when the ruling Nepali Congress party held its General Assembly in Kathmandu. Photojournalists were roughed up by the police and election officials and were not allowed to report the voting.

Criticism banned

Umakanta Pandey, a Nepali journalist living in the United Arab Emirates (UAE), was arrested by UAE police officials for his social media posts criticizing the Nepali Embassy in Abu Dhabi. Pandey, a journalist affiliated with Ujjyalo Radio in Nepal, was arrested on February 15, 2022, under cybercrime charges following a statement he published on Facebook when he was in Nepal in early January, in which he accused the Nepali embassy in the UAE of alleged wrongdoing regarding visitor visas.

After the complaints from the Nepali Embassy and his subsequent arrest, a court in Dubai sentenced Pandey to three months in prison, deportation after release and a fine of 20,000 Dirham (approx. USD 5,500). The FNJ and others launched a campaign to secure his release, including meeting Nepal's Minister of Foreign Affairs, Dr Narayan Khadka, to force the Nepali Embassy in Abu Dhabi to withdraw the case. In early April, the Ministry of Foreign Affairs directed Nepal's envoy to UAE to work for Pandey's release from prison and stop his deportation.

Misuse of authority was also evident in Madhesh Province when private secretary of a minister used the letterhead of the Ministry of Women, Children, Youth and Sports to issue a statement expressing concerns over the news published in *Kantipur* daily with title "The terror of Minister's bodyguard".

Journalism in Nepal continued to be a profession where threats and physical attacks were normalised. Despite Covid-19 restrictions and lockdowns, the FNJ recorded 52 incidents of press freedom violations from May 4, 2021. Of these, 28 were related to threatening or manhandling journalists, and nine were related to professional insecurity. There were nine incidents where journalists were obstructed from reporting, or their equipment was temporarily seized; three incidents of arrests; two incidents of prohibition and one attack.

One incident that highlights the situation of Nepali journalists was the case of journalist Gajendra Budhathoki. Budhathoki, an editor, had consistently followed-up a potential tax evasion case of Bottlers Nepal – the producer of Coca Cola in Nepal, when 73 per cent of its stake was sold. The case was being investigated by Department of Inland Revenue and Budhathoki followed-up with stories in *Taksar* magazine and online portal Lumbini Sanchar for which he received numerous threatening calls. Bottlers Nepal management also reportedly forced the trade union to name Budhathoki as 'someone to be taken care of' in leaked meeting minutes.

Labour wrongs

The pandemic continued to take a toll on Nepal's media and journalists. The third wave of infections, between mid-January to mid-February 2022, saw around 450

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journalists infected. Since the pandemic began, 26 journalists have lost their lives to Covid while more than 1,500 have been infected. Many journalists have also lost family members.

The impact of the pandemic was also felt in the media sector as media houses struggled financially. Many reduced wages and are still yet to revert to the pre-2020 salary range for journalists. The media continued to force journalists take unpaid leave, to give up benefits, to delay salary payments and even transferred journalists despite union actions by the FNJ and others. The FNJ initiated negotiations with media houses, staged demonstrations and initiated labour rights cases, yielding some success but it remained a pressing issue throughout the year.

According to FNJ records, 221 journalists filed complaints related to labour rights since mid-April 2021. Of those, 69 complained that they were forced to resign or were fired unlawfully; 134 said they were deprived of salary and benefits; 16 said their dues were not cleared after resignation; and two said they were forced to take unpaid leave. A year earlier, 517 journalists had filed similar complaints. The FNJ said that more than 60 per cent of the complaints were resolved through union actions whereas 40 per cent of cases still remained to be solved. In many cases, even mainstream newspapers and television stations are failing to respect labour rights. In December 2021, the FNJ organised sit-in protests at the offices of *Annapurna Post*, *Nagarik*, *The Himalayan Times*, *Rajdhani*, Image Channel TV and News24 TV.

State-owned Gorkhapatra Corporation, which publishes two dailies and three monthlies, ended contracts with 29 correspondents and stringers outside the Kathmandu Valley. Some of them were serving the publications for more than 15 years and were removed for what they described as political reasons. The FNJ, while condemning the action, said that the trend of firing journalists after each change in government needed a permanent solution.

Meanwhile, a meeting chaired by the Chief Secretary of the Nepal government in February decided to merge the Minimum Wage Fixation Committee with the Department of Information and Broadcasting. The committee is mandated under the Working Journalists Act to support proper implementation of the Act and is responsible for fixing minimum wage of journalists and media staff. Although its members are appointed

by the government, the committee members are not career civil servants and the committee functions as an autonomous body. The unions have condemned the decision as unacceptable. While the decision has not yet been implemented, it raises questions over the state's intentions.

Justice prevails

On December 12, 2021, the Dailekh District Court sentenced three people convicted of the murder of Dailekh based journalist, Dekendra Raj Thapa, to life imprisonment. Bam Bahadur Khadka (aka Arun), Keshav Khadka and Bam Bahadur Khadka will serve 20 years in prison for the murder of the journalist 17 years ago. District Judge Dandapani Lamichhane also awarded a three-year jail term to Bhakti Ram Lamichhane for assisting the murderers in concealing the journalist's body.

Thapa, a Dailekh district reporter for state broadcaster Radio Nepal, was kidnapped on August 11, 2004, by cadres of the Communist Party of Nepal-Maoist (CPN-M). He was tortured and buried alive in Naumule of the Dailekh district 45 days after his kidnapping. The investigation into Thapa's death did not begin until the rebel Maoists ended the armed conflict in 2006 and Thapa's body was exhumed for a DNA test in 2008. The same year, Thapa's wife, Laxmi, lodged a case with police and in 2014, the court ordered the arrest of nine suspects. Six of the nine accused were taken into custody, and five of them were sentenced to life imprisonment but the case was put on hold while the remaining three absconders were absent. While the accused can appeal in higher courts, the district court has closed the file on Thapa, who was one of 35 journalists killed during Nepal's decade-long insurgency, between 1996 and 2006.

Ongoing struggle

The FNJ, with 13,077 members, including 1,408 women journalists, across the country and other unions such as the NPU and other media rights organisations are looking at 2022 as a challenging year with the upcoming general elections. During election periods, not only do journalists face hard times but the media will also come under scrutiny for its performance. There will no doubt be a rise in disinformation which media and journalists must fight against. The election will pave a way for new governments with whom they have to engage in advocacy and lobbying to ensure that drafts of new laws, bills and existing regulations meet international standards of press freedom and freedom of expression. For this, they will have to strengthen their advocacy and lobbying and push forward for press freedom, journalists' rights and labour rights.

This document has been produced by the International Federation of Journalists (IFJ) on behalf of the South Asia Media Solidarity Network (SAMSAN).

Afghan Independent Journalists' Association
Afghanistan's National Journalists Union
Bangladesh Manobadhikar Sangbadik Forum
Federation of Nepali Journalists
Federation of Media Employees' Trade Unions, Sri Lanka
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Indian Journalists' Union
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Nepal Press Union
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Sri Lanka Working Journalists' Association

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The full IFJ South Asia Press Freedom Report 2021-22, including a full list of known cases of media rights violations and jailed and detained journalists is available at: <https://samsan.ifj.org/SAPFR21-22>

See also the IFJ SAMSAN Digital Hub for all rights monitoring, advocacy and actions of IFJ affiliates and the SAMSAN network in South Asia: <https://samsan.ifj.org/>

Front cover: Demonstrators clash with police during a protest against the proposed grant agreement from America under the Millennium Challenge Corporation (MCC), in Kathmandu on February 24, 2022. CREDIT: PRAKASH MATHEMA / AFP

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