



# An overview of Nepal's media and recommendations for development priorities: **Building for the future**

ASSESSMENT

International Press Freedom and  
Freedom of Expression Mission to Nepal

May 2008

**Contributing Organisations:**

ARTICLE 19  
Hirondelle Foundation  
International Federation of Journalists (IFJ)  
International Media Support (IMS)  
International Press Institute (IPI)  
Internews  
Reporters without Borders (RSF)  
Open Society Institute (OSI)  
UNESCO  
World Association of Community Radio Broadcasters (AMARC)  
World Press Freedom Committee (WPFC)

# Acronyms

AI	Amnesty International
AMARC	World Association of Community Radio Broadcasters
CPN (M)	Communist Party of Nepal (Maoist)
CPJ	Committee to Protect Journalists
CRBA	Community Radio Broadcasting Association
DANIDA	Danish International Development Agency
DFID	Department of International Development (UK)
FNJ	Federation of Nepali Journalists
IFJ	International Federation of Journalists
IMS	International Media Support
IPI	International Press Institute
NGO	Non-Government Organization
NHRC	National Human Rights Commission
OSI	Open Society Institute
PCN	Press Council Nepal
RSF	Reporters sans Frontières
UML	Communist Party of Nepal (unified Marxist-Leninist)
UNESCO	United Nations Educational, Scientific and Cultural Organization
WAN	World Association of Newspapers
WPFC	World Press Freedom Committee

## **Coverphoto:**

Media gathering around popular humour artistes Madan Krishna Shrestha (center) and Hari Bansha Acharya (left to center). Both gave samples of political satire when joining a rally in Kathmandu on 8 June 2008 in which civil society demanded peaceful election polls. Photo: Harold Ryan/IMS

## **The findings in this report are based upon a joint mission to Nepal in January 2008**

This report is being made publicly available in the interests of sharing information and enhancing coordination amongst press freedom and media development actors. All information presented in this report is based on interviews and written contributions provided to the mission members in December 2007 and January 2008, and should be independently rechecked by any party seeking to use it as a basis for comment or action.

The mission team welcomes all feedback and suggestions from organisations or individuals about this report, which can be sent to the participating organisations.

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Map of Nepal. Source: University of Texas at Austin  
 (www.lib.utexas.edu/maps/middle\_east\_and\_asia/nepal\_pol90.jpg)

# 1 Introduction

This report seeks to outline the findings and recommendations from the visit undertaken by the 'International Press Freedom and Freedom of Expression Mission' (also referred to as the International Mission) to Nepal in January 2008. This mission brought together the expertise of a number of regional and international organisations working on media development and freedom of expression.

In this regard, the report assesses developments since the *Jana Andolan* (People's Movement) of April 2006 forced the Government of King Gyanendra to step down and yield power to political parties and removed media restrictions imposed by the royal regime. The report is also informed by the knowledge gathered through the four visits of the International Mission to Nepal since July 2005, as well as the longer-term individual involvement of each of the participating organisation in the country.

## 1.1 Structure of report

The report has three main parts. The first includes a brief summary of the background and rationale for the International Mission and its involvement in Nepal, as well as the political and security situation in the country. These chapters are brief as they contain general information that can also be accessed elsewhere.

The second part consists of the focus areas. Each section provides a description of an area, which aims to provide an overview of some of the main activities and actors, including facts and figures about individual media, as well as an interpretation of the situation based on the expertise of the organisations contributing to the report.

The third part outlines the recommendations for each focus area. These have been kept brief with the intention of focusing on the key areas needing immediate and/or greatest attention.

## 1.2 The International Mission

The International Press Freedom and Freedom of Expression Mission to Nepal was conceived in 2005 as a response to the deteriorating press freedom and freedom of expression situation in the aftermath of the installation of direct rule by King Gyanendra.

A dozen international organisations, including UN agencies, global media associations, freedom of expression advocates and media development organisations undertook two assessment missions in Nepal during the king's reign – in July 2005 and in March 2006<sup>1</sup>. These first two missions sought to expand the space for freedom of expression. A third mission, organised in September 2006, aimed to get guarantees for press freedoms from the new democratic government installed in April 2006 and leaders of the main political parties. The fourth International Mission was undertaken in January 2008.

The political changes brought about by the *Jana Andolan* of April 2006 resulted in a significant shift in the media environment. In May 2006 the government annulled all media-related ordinances issued after 1 February 2005 and formed a High Level Media Commission to make recommendations

<sup>1</sup> International organisations represented in the missions have included ARTICLE 19, Committee to Protect Journalists, International Federation of Journalists, International Freedom of Expression Exchange, International Media Support, International Press Institute, Press Institute of India, Reporters Sans Frontières, South Asian Free Media Commission, United Nations Educational, Scientific and Cultural Organization, World Association of Community Radio Broadcasters – AMARC, World Association of Newspapers and World Press Freedom Committee.

on media policy. Since the September 2006 mission the Government has implemented some of Commission's recommendations, including those made by the International Mission, including the enactment a new Working Journalists Act and the Freedom of Information Act.

However, even though there are guarantees for press freedom and freedom of expression in the Interim Constitution and the parliament<sup>2</sup> has also passed laws that support freedom of expression, the safety of journalists and protection of press freedoms remain major challenges. The Federation of Nepali Journalists (FNJ) recorded over 670 instances of attacks, threats and harassment of journalists from April 2006 to December 2007. Violence against the media rose after November 2006 – which was also the month when the Maoists formally joined the peace process<sup>3</sup>.

In January 2008 the International Mission took a two-pronged strategy: One reactive for the defence of press freedoms by denouncing the recorded violations, and the other proactive, to ensure that the gains made over the years are codified into regulations that are transparent, fair and comparable with international practices. This approach aims at pursuing further reforms towards a more transparent and liberal media environment, while continuing targeted support for strengthening the independent media alongside the monitoring of press freedoms and the security situation.

This assessment of the Nepal's media and recommendations for development priorities are formulated around discussions with a cross-section of the national media community, political parties and national authorities. The findings and recommendations are based on the expertise of the international organisations, as well as their long experience and working relations with Nepali counterparts.

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<sup>2</sup> *Nepal's Interim Legislature Parliament was formed January 15, 2007.*

<sup>3</sup> *The Comprehensive Peace Accord was signed on 22 November 2007.*

## 2 Current context

The Government formed after the *Jana Andolan* of April 2006, which forced King Gyanendra to step aside and yield power to political parties, removed all restrictions the royal regime had imposed on the media. The seven-party Government and the Communist Party of Nepal (Maoist) or CPN(M) signed the Comprehensive Peace Accord in November 2006. Nepal's parliament then adopted the Interim Constitution on 15 January 2007 when the CPN(M) joined parliament. The CPN(M) joined the government on 1 April 2007. However, the adoption of the Interim Statute did not result in stability. Instead, it triggered a month-long protest in the country's southern plains by groups demanding the inclusion of Madhesis (peoples originating from the plains) and other ethnic minorities in the political process.

Nepal's Constituent Assembly election was planned for November 2007. However, the election was postponed in early October following demands by the Maoists for changes to the electoral system. The CPN(M) demand for holding an election based on proportional representation, and declaring Nepal a republic before the election stalled the peace process. The political crisis that resulted after the Maoists stepped out of government on 18 September 2007 was resolved in December when the CPN(M) rejoined the Government and agreed to hold the election in April 2008.

The media came under attack from different forces during this period, including groups affiliated with political parties and new groups demanding greater say in the constitution-making process. These attacks intensified after mid-January 2007 in the wake of protests by Madhesi groups dissatisfied with the failure of the new constitution to address inclusion of plains-origin people in the state-building process. Over a dozen armed groups claiming to represent the demands of the Madhesi people have emerged since, and the violence, largely targeted against people of hill origin, has not spared journalists.

The media also continued to face attacks from organisations affiliated with the CPN(M), especially its trade union. The attacks often resulted in disruption of publication and broadcasting. On 5 October 2007 the Maoists abducted and killed Birendra Sah, a journalist in Bara district. The whereabouts of another journalist Prakash Singh Thakuri, allegedly abducted by the Maoists on 5 July from Mahendranagar in Far-western Nepal, remains unknown. The Janatantrik Terai Mukti Morcha (Jwala Singh) took responsibility for killing Pushkar Bahadur Shrestha in Birgunj of Parsa district on 12 January 2008. However, the Government had taken no action to investigate the death and bring those guilty to justice.

Nevertheless, the independent media community has continued its fight against different direct and indirect threats to press freedoms and the safety of journalists. Even though Nepal now has "space" for freedom of expression, the difficulties faced by the State in maintaining law and order has resulted in an environment of continuous threats against journalists and press freedom.

Nepal has enacted two vital laws for protecting the rights of journalists and media freedoms. These include the Working Journalists Act and the Right to Information Act (8 August and 18 July 2007). However, both the laws remain to be fully implemented for lack of appropriate regulations and other



implementation-related issues. Nepal, however, has yet to amend laws and regulations on broadcasting, in the spirit of the guarantees provided by the Interim Constitution (see: Broadcasting) and the recommendations of the Media Commission. The outcome has been rapid but haphazard growth in licensing new broadcasters, especially FM radios, whose management, growth and sustainability remain major challenges.

Media development in Nepal remains constrained by inadequate legislation and/or implementation of laws – where they exist – as well as the lack of institutional capacity of media organisations and resources (human and material). Preparing the Nepali media for taking on the challenge to support communications on state-building during the transition requires continuous efforts in training journalists, supporting media organisations in producing content and supporting forums for media to discuss and identify major challenges and the steps to address them.



### 3 Media, elections and the peace process

Media played an important role in rallying society against the royal takeover of 2005, and continues to be essential element in the protracted peace process. Representative journalist organisations, the tabloids and the larger print media were in the forefront of protests, joined later by FM radio stations, private television stations and program production studios and other media organisations. Their courage in defying censorship inspired civil society to challenge the curtailment of democracy and human rights during royal rule.

#### **Partisan journalism**

Media have again been playing crucial part in guiding the public through the many intricacies of the peace process, a long and often torturous course that is yet to yield the long-awaited, lasting peace. With a general tendency within the political establishment to reach decisions behind closed doors, media were left with the task to generate public support by channelling information and giving space to varying opinion and public discussions and debates.

It seems that party politics also has undue influence within the journalistic community itself (to the extent that some of the journalists' trade unions are based on party affiliation) at the expense of professional interests and solidarity (see Unions and Associations). This puts at risk an ability of media to provide unbiased coverage of and facilitate a dialogue on the complex transition underway in Nepal. For the success of Nepal's peace process, it is imperative that media and journalists operate without intimidation and political or other interference. It is also important to establish formal links between the drivers of the peace process and the media to minimise contradictions in messages and communications.

#### **Violence against media**

Whereas violence against journalists by the two sides engaged in the conflict (February 1996 to April 2006) subsided with the onset of the peace process, it is being replaced by a growing pressure, including violent attacks, by identity-based and other social groups fighting for recognition and rights. At the same time, journalists have become targets to a growing number of criminal gangs – that operate with or without political patronage. The vulnerability of journalists could increase during times when the political contests intensify. Many journalists told the Mission that they feel unsafe to even display their press identification while covering rallies and other mass events.

Thus, unless law-enforcement agencies manage to provide adequate security for unhampered reporting, and promptly investigate and apprehend the culprits of crimes against journalists (which would also help stem the growing culture of impunity), and unless non-state actors stop treating media and journalists as tools or hostages, the ability of the latter to cover the crucial peace process will be severely restricted.

The media, for their part, need to act responsibly in reporting and commentary. The standards should be upheld through self-regulatory mechanisms, rather than by coercion from the state or other outside actors.

#### **Self-regulation**

A Code of Conduct for journalists was enacted by the Election Commission for the election period and it had sought the services of the Press Council for

monitoring compliance and reporting violations. Cases of alleged breaches of the Code of Conduct, or professional and ethical standards in general, are to be referred to the Press Council Nepal to deal with in accordance with its legal mandate. Under this construction no other state agencies, and certainly no political or ad-hoc groups, should be allowed to try and discipline or punish the media for perceived misconduct. The challenge here is to establish an adequate monitoring mechanism.

Particular attention should be paid to instances of hate speech and/or calls to violence. Every manifestation of hate speech carried by a media outlet should be promptly identified and unequivocally condemned by the journalistic community.

At the same time, the media should strive to provide adequate and unbiased coverage of issues and concerns of disadvantaged ethnic and social groups – both around the election period and in a long-run. Including representatives of these groups (after they receive necessary professional training) in the newsrooms of mainstream media would be a welcome step towards ensuring fair representation of diverse views, and facilitating social dialogue.

## 4 Focus area

### 4.1 Press freedoms violations and safety

The political context in Nepal became supportive of press freedom and freedom of expression after April 2006, but media and media practitioners continue to struggle for their safety in a climate of growing impunity. Even though threats from the state have stopped after the restoration of democracy, the Government has failed to provide security to media practitioners and institutions while they continue to face threats and attacks from the Maoists and a wide range of new groups – both armed and unarmed.

Attacks against journalists (April 2006-December 2007)

- 1 abduction and murder
- 5 abductions (whereabouts of one unknown since July 2007)
- 219 Journalists/ media houses attacked

The FNJ has recorded over 670 incidents of press freedom violations between April 2006 and December 2007, including the killing of Birendra Sah and the disappearance of Prakash Singh Thakuri.

Birendra Sah was abducted in early October. It was only several weeks later that the CPN(M)<sup>4</sup> admitted that its party workers were involved in the abduction and murder. Earlier, on 5 July 2007, Thakuri was abducted in the Far-western district of Kanchanpur by a group of armed men believed to be associated with the Maoist party. His whereabouts remained unknown at the time of the Mission in January 2008.

On 12 January 2008, Pushkar Bahadur Shrestha, editor of a weekly newspaper was shot death near the city of Birgunj, a southern town bordering India. The Janatantrik Terai Mukti Morcha (Jwala Singh) – one of about a dozen armed groups operating in the plains – claimed responsibility for the murder.<sup>5</sup>

Two district delegations of the International Mission met with the families of journalists killed or abducted, local FNJ representatives and the respective local police and security authorities. The Mission noted that the cases were not investigated promptly and thoroughly and the judicial authorities had failed to bring all those responsible to justice. The Mission asserted to the Home Ministry, as well as to Maoist leaders, that unless the state security forces and the Maoists themselves made a thorough, widespread and convincing investigation of the murders and abductions of journalists, the climate of impunity will continue and there will be little disincentive to harm journalists.<sup>6</sup>

The Mission message to both government and party officials is that freedom of the press and freedom of expression are not just for journalists, but for the entire populace, and that without the watchdog role of the press, the citizens will never be sufficiently educated to be able to debate and vote knowledgeably, which are prerequisites of a democracy.

In Nepal's eastern districts, several groups demanding regional autonomy and identity-determined federations have threatened and attacked journalists, both in the Terai (plains) and in the hills. The threats have come from armed

<sup>4</sup> The party issued a statement to the effect on 5 November 2007.

<sup>5</sup> Nepal's police have been largely unable to ensure law and order and largely unable to respond to violence by the different armed groups in the plains.

<sup>6</sup> In an ideal situation it would have to be the police that investigates and brings culprits to justice.

and unarmed groups and many journalists have been forced to temporarily move from their work stations or self-censor content.

Media owners and workers who met with the Mission representatives in Bara and Parsa districts in south-central Nepal described how increasingly difficult it had been for them to practice their profession. It was unsafe for the journalists to work on assignments after 6:00 p.m., and although this 'self-imposed curfew' had affected the population as a whole, for media workers it imposes a clear obstacle to reporting. The International Mission also noted that the local authorities and Government had been largely unable to ensure public security along the open border with India.

Journalists in the plains faced censorship from armed and non-armed groups or were forced to self-censor their work. For instance, in some cases different armed and non-armed groups had asked editors either to publish/ broadcast or not to print/ broadcast certain content. Non-compliance would invite threats and even attacks. The climate of fear had even caused media workers in the western district of Rupandehi to remove press identification signs from motorcycles as a safety measure. Earlier vehicles with press IDs were allowed passage even during strikes and closures, now they have become targets.

Security issues have affected photojournalists in particular. At the frontline of any event, they are physically attacked, and their equipment is either damaged or confiscated. Most of the photojournalists own their equipment, but have no insurance. The media organizations they work for do not provide equipment or insurance either because they cannot or would not or help the photojournalists replace or repair damaged equipment.

The safety of media practitioners outside the Kathmandu Valley remained grim. This resulted from the general lawlessness, poor communication facilities and inadequate protection measures. The lack of security and deplorable working conditions – journalists often do not have appointment letters and remuneration (See: Unions and Associations) – has displaced many reporters.

#### **Voices from the districts**

*'Before our country wasn't free, but journalists were free. Now journalists hide their ID cards if there's trouble in the streets [because they're targets for attack].'*

*'Government forces attack journalists and say it's the Maoists. Maoists attack journalists and say it's the government.'*

*Media Safety Workshop, International Media Mission and FNJ, Kathmandu, 14 January 2008*

The mission met with Madhesi leaders and journalists, as well as representatives of indigenous and ethnic groups. They expressed concerns about the poor coverage of issues affecting their communities in the national media. There have also been reports of isolated cases of hate speech and violence-promoting content, mainly on FM radio stations outside Kathmandu.

Many media companies had faced attacks in the months preceding the Mission. The Mission noted the particular case of media workers who, while defending their professional rights, threatened journalists, vandalized vehicles and blocked the distribution of newspapers jeopardizing the people's right to information. Many of the issues raised by the media workers and

their organisations are valid workplace related concerns but the methods of expressing demands and violence against media are not acceptable.

## 4.2 Media policy and legal reform

The 2007 Interim Constitution provides the overarching legal and policy framework governing freedom of expression and information in Nepal. Its provisions on freedom of expression and information are similar to those of the 1990 Constitution, and are generally quite progressive. However, there has never been a comprehensive review of law and policy to assess the compatibility of existing rules with the constitutional provisions, and many such rules are in breach of the right to freedom of expression as guaranteed under international law.

The framework for broadcasting is most urgently in need of reform. Broadcasting is still governed by the National Broadcasting Act, 1992, which essentially leaves licensing in the hands of Government, rather than an independent entity. Moreover, despite a well-developed community broadcasting sector, the law does not cater to this sector and there are no specific rules regarding the licensing of community broadcasters. The state broadcasters – Radio Nepal and Nepal TV – as well as a newspaper company and the national news agency remain under firm Government control.

Newspapers are regulated by the Press and Publications Act, 1992, which contains a number of problematical provisions. Although these are not enforced in a repressive manner, the potential for that remains as long as they remain in the books. The Press Council Act, 1992, established the Press Council Nepal. Although formally independent, and currently independent in practice, the law fails to provide for structural guarantees for that independence, with all members being appointed by Government – not always on the basis of an open and transparent selection process.

Since the restoration of democracy, or *Loktantra* as it is referred to locally, significant efforts have been made to study the legal framework and to recommend reform. A High Level Media Commission was established in 2006 to look into the need for media law and policy reform. It presented a 40-page report addressing a wide range of recommendations to the Prime Minister in September 2006.

Following on from the High Level Media Commission report, working groups were established to recommend adoption of right to information legislation, as well as changes in the laws governing the public media and broadcasting. The Interim Parliament approved the Right to Information Act in July 2007, but it had not been implemented as of March 2008. The public media working group provided its report to government recommending, among other things, that the state broadcasters be transformed into public service broadcasters, but the recommendations had not yet been put into effect at the time this Report was prepared. The broadcasting working group also provided its report to Government, but again its recommendations have not yet been acted upon. A new Working Journalists' Act (amending the existing law) was adopted in August 2007, but like the Right to Information Act, was not implemented by March 2008.

### 4.2.1 Assessment and Analysis

#### Constitution

Article 12(3) (a) of the Interim Constitution guarantees every citizen the right to freedom of opinion and expression. However, the same article goes on to

state that this shall not prevent the making of laws to impose "reasonable restrictions" on any act which "may undermine the sovereignty and integrity of Nepal, or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes, religion or communities, or on any act of defamation, contempt of court or incitement to an offence; or on any act which may be contrary to decent public behaviour or morality."

This provision is welcome, but it also suffers from certain weaknesses as compared to international guarantees of freedom of expression. The most serious problem is the low standard for restrictions on freedom of expression. In particular, restrictions are only required to be 'reasonable' to prevent speech which 'may undermine', 'may jeopardize' or 'may be contrary to' various interests. Under international law, restrictions must be 'necessary' to safeguard the protected interests. Further problems are the long list of protected interests, which goes beyond the list of those protected under international law, and the limitation of the right to citizens, rather than applying to everyone.

Article 15 of the Interim Constitution provides various protections for the media. Censorship of publications, broadcasts and printed news is not permitted. At the same time, as with freedom of expression, reasonable censorship restrictions to protect various interests are permitted. Both electronic media – defined to include radio, television, online media or any other type of digital or communication media – and print media are protected against closure, seizure or having their registration cancelled for content. Finally, no communication medium shall be obstructed except in accordance with the law.

While these provisions are welcome they do suffer from a number of defects, in addition to the general comments on the scope of restrictions made above, which also apply to the prohibition on censorship. Indeed, it is now well-established in democracies that prior censorship of the media can never be justified as necessary (or 'reasonable') and so it would be preferable for it to be ruled out entirely.

Article 27 of the Interim Constitution guarantees every citizen the right to seek and receive information of a personal nature or relating to matters of public importance, provided that no one shall be required to provide information which has been declared secret by law. While very welcome, as with the other provisions, this suffers from a number of defects. The right should extend to everyone and it should apply to all information, not just personal information or information on matters of public importance. Even more importantly, it should not provide for secrecy laws to override the right; instead, it should only allow limitations on the right which are necessary to protect overriding public and private interests, such as national security and privacy.

### **Broadcasting**

There is urgent need for reform of the National Broadcasting Act, 1992. The most serious problem with this law is that it leaves regulation of broadcasting in the hands of Government; although it is very clear that international (and constitutional) guarantees of freedom of expression require any regulation of the media to be undertaken by independent bodies. The Media Commission called for a "National Broadcasting Authority" to be "established as an independent body".

The Act does include framework rules on licence applications, providing that these must be addressed to the Government, in prescribed format and with the prescribed fees. Otherwise, however, no detail is provided regarding processing of applications. Since the restoration of democracy, the

Government has been very liberal about awarding licences and a large number of new broadcasters have been licensed. However, it is important for fair rules to be set out in law to prevent any backsliding in this area. Furthermore, the rules fail to distinguish between commercial and community broadcasters, subjecting all to the same rules, including regarding fees, such as Royalty charges which can be as much as four percent.

The law also gives the Government the power to prohibit broadcasting on any specified matter and to revoke licences for breach of the Act or any applicable rules. It also contains a long list of prescriptive rules about what sort of programmes must be prioritised, such as development oriented programmes and programmes promoting national culture. These rules were used to dramatic effect during the royal regime to ban news broadcasts. Some of these provisions were ruled unconstitutional by the Supreme Court in May 2006, but others remain in place. As with other problematical provisions, although they are not being applied at present, it is important to reform the law so that they could not be used in future.

Finally, the Act fails to provide for the development of a longer-term frequency allocation plan and no such plan has in fact been developed. There are serious problems with allocating frequencies in the absence of such a plan, including that all frequencies in desirable locations, basically Kathmandu Valley, may be given out, leaving no scope for future developments, regardless of the overall public interest. The law also has no provisions to limit the terms of the licenses or on licence renewals.

As noted, a broadcasting working group provided a report to the Ministry of Information and Communication with recommendations for reform in this area – the report has not yet been made public – which is apparently being considered. The Government made a public commitment to the International Mission in January 2008 to undertake further policy development in this area and, specifically, to establish an independent broadcast regulator and a three-tier (public, commercial and community) broadcasting system. According to reports, a broadcasting law has been drafted but the draft does not provide for an independent regulator.

### **State media**

The Government controls a number of media outlets. These include the state broadcasters – Radio Nepal and TV Nepal – a newspaper company, Gorkhapatra Sansthan, which produces both English and Nepali language newspapers, and the Rashtriya Samachar Samiti, the national news agency. Although in practice these bodies have become far more independent since the return to democracy, this is largely due to the political context rather than law reform. Structurally these bodies remain potentially subject to extensive Government control. A taskforce has drafted a new bill for establishing a National Broadcasting Authority. The bill has not been discharged publicly, although the taskforce submitted the request to the Ministry.

The High Level Media Commission recommended that the state broadcasters be transformed into independent public service broadcasters, with an independent oversight board. It recommended that Gorkhapatra Corporation be privatised, but that its brand be protected and its employees “managed well”.

A public media working group was formed for recommending transformation of state media into public media. The committee submitted its report to the prime minister in mid-2007. The contexts of the report have not been made public. Like the Media Commission, it recommended transforming the state broadcasters into true public service broadcasters, reporting to an



independent board and serving the public interest. It also recommended the privatisation of Gorkhapatra, but the retention of the brand. The report, however, has not yet been acted upon.

During the International Mission in January 2008, the Minister of Information, Krishna Bahadur Mahara (CPN-M), reiterated the Government's commitment to facilitate the transformation of state broadcasters into public service broadcasters, overseen by an independent regulator and to privatise the state-owned print media. This remains an area where there is a significant gap between the formal recommendations and commitments, on the one hand, and actions on the other.

### **Print media regulation**

Newspapers are subject to the rules set out in the Press and Publications Act, 1992. This law contains a number of problematical provisions and, although these are not enforced in a repressive manner, the potential for that remains as long as they remain on the books. The law requires newspapers to be registered with a press registrar in a system that is relatively benign and in practice has not led to pressure or censorship. However, the Media Commission called for the rules relating to registration to be relaxed and for newspapers to be able to register through the district development committees (elected bodies, instead of the district administration office, a government entity).

The law also contains a number of wide-ranging, vaguely-worded restrictions on freedom of expression, although the most repressive provision, providing for prior censorship by Government, was struck down by the Supreme Court in May 2006. As with many provisions in Nepali law, these are not currently being applied, but they should still be removed.

The Press Council Nepal was established by the Press Council Act, 1992, for the purpose of "the development of healthy journalism." Its specific objectives include monitoring the implementation of a code of conduct for journalism, protecting the press against interference, maintaining public morality and dignity, and ensuring good relations between the media and the Government. It has a specific mandate to hear and decide complaints, and can order an offending newspaper to print an apology or the victim's statement.

Although the law specifically states that the Council shall be autonomous and independent, pursuant to the law all members are appointed by and nominated by the Government. Only six of the 14 members are nominated from among, respectively, journalists, editors and publishers (two each) and even they are appointed by the Government. The processes for independent nominations are not transparent. The Director-General of the Department of Information is the secretary. It thus lacks appropriate structural guarantees of independence. Although the current Press Council operates reasonably independently, the structural issue remains. The Media Commission recommended that the Press Council be reconstituted as "as an independent and effective body".

### **Right to Information**

The Nepali Constitution guarantees the right to information. Until recently, however, there was no law to implement this right. The Media Commission called for the adoption of a right to information law and a draft was prepared by a working group shortly thereafter. A Right to Information Act was adopted in July 2007, based on the working group's draft, but with a number of amendments.

The Act is a good one and, if implemented properly, should go some way to securing the right of Nepali citizens to access information held by public

authorities. Its positive features include, among other things, the fact that it specifically places an obligation on public bodies to respect and promote citizens' right to information and that it provides for an independent National Information Commission.

At the same time, the Act could still be further improved. A joint analysis by ARTICLE 19, Freedom Forum and the Federation of Nepali Journalists (FNJ) highlighted a number of shortcomings with the Act, described in a press release issued by the three organisations in February 2008, as follows:

- It is limited in scope to citizens rather than applying to everyone.
- The information request procedures require applicants to submit reasons for their requests, which is not only contrary to international standards, but also potentially places the burden of proof on the applicant.
- It lacks an override providing for the disclosure of even exempt information where this is in the overall public interest.
- Parliament and civil society groups should have greater input in appointing members of the National Information Commission.
- The National Information Commission should be given a wider promotional mandate to foster implementation of the law.

Proper implementation of the Right to Information Law requires regulations to be passed giving effect to various matters. These were being prepared by an expert group in December 2007. Similarly, giving effect to the Law requires the appointment of the National Information Commission, which had not been done.

### 4.3 Broadcasting

Nepal's broadcasting sector has seen major changes since the popular uprising in April 2006. After the restoration of Parliament on 24 April, Prime Minister Koirala also oversaw the Ministry of Information and Communication until he appointed a Minister in June.

By early 2006 FM stations had resumed news broadcasts – after the 10 August 2005 interim order by the Supreme Court on a writ filed by Nepal FM and other court decisions related to *Kantipur* FM and *Sagarmatha* FM. The court had barred the Government from revoking Nepal FM's licenses after it had defied the ban on news.

The Government formed a High Level Media Commission in August 2006. Thereafter, it formed a taskforce to recommend new legislation, which is being reviewed by the Information and Communication Ministry. However, most of the recommendations relating to the sector remain unimplemented (see Media policy and legal reform). Meantime, the Government has asked the Press Council Nepal (PCN) – the regulator of the print media – to also oversee broadcasting. However, the PCN has been unable to fulfil the role for lack of adequate legislation and capacity.

The print and broadcast media have equal legal status. However, the National Broadcasting Act, the Radio Act, the Radio Communication (License) Regulation and the National Broadcasting Regulation, need to be amended before the provision can take effect.

In December 2007 the Government had licensed over 200 new radio stations, taking the total number to around 250. Around a 100 radio stations were broadcasting in December 2007.

The number of television licensees has reached 18. Among them seven Nepal-based channels are broadcasting – five are private and two state-run. One TV station broadcasts to Nepal from New Delhi, India. The Nepali audience has access to almost all the satellite channels available in South Asia.

The state-broadcaster Nepal Television began broadcasting in January 1985 and was the only station until independent television channels were licensed in mid-2001.

### **4.3.1 Assessment and Analysis**

#### **FM Radio**

Harassment of Nepal's broadcasters by the state ended in April 2006, but the number of problems in the sector have increased. The uncertainty of the transition and lack of clear policy and laws have resulted in unplanned and unmanaged development, inconsistent application of laws and regulation, cut-throat competition, commercialization and politicization (the lack of special provisions governing community radio has contributed to the complexity).

Competition is driving the radio stations towards greater market orientation and higher budgets, thus challenging the public service and community radio principles and practices. Both volunteerism and access of poor and marginalized groups to the airwaves are threatened, more so because frequencies have been distributed based on a first-come-first-serve basis, but those licensed have often been individuals and groups with access to the political and bureaucratic elite.

There are new issues related to the credibility and professionalism in broadcasting. Nepal's broadcasters comprise a large number of small ventures still in the process of institution building, which tend to be overshadowed by the few larger broadcasters. Generally, the fairly developed broadcasters in Kathmandu tends to eclipse the struggling district FMs, which Nepali journalists said was reason why there was not as much donor support to radio as there should have been.

The sporadic donor support to radio is often spent in Kathmandu, contributing little towards institutionalization or sustainability of local broadcasters. As donors have no collective strategy for using radio for enhancing the outputs of their investments in other sectors including peace-building, Sustainability therefore remains a challenge, especially for the real community-run ventures.

Another challenge to radio stems from the licensing regime. Existing law does not have enough termination clauses and this has made entry of new broadcasters almost impossible, especially in some regions where almost all available frequencies have been allocated. There are no laws to differentiate commercial and community radios and smaller ventures are subject to the same license and renewal fees applied to all broadcasters.

Many stations use inappropriate equipment and technology. Much of the equipment has already broken down or has become outdated. A secular technical support centre for radio accessible to all broadcasters can help to better manage the growth.

#### **Television**

Nepali television is becoming more professional as a result of both in-country and international competition, but this does not mean that the sector does not have serious problems. The technology used by many stations is dated compared to international standards.

The lack of adequate power supply and Nepal's rugged topography are also two factors that will continue to hamper the reach of television for many more years. Roughly 40% of Nepalis have access to electricity, which is not available year-round, even in the capital.

Another problem is the content of television, which seems to be targeting the urban populations (and advertisers) rather than the rural groups, helping thus to magnify the growing rural-urban inequalities rather than contributing towards bridging the gap. The role of television in Nepal's transformation will remain marginal until the aforesaid challenges can be overcome – which is unlikely in the short- and medium-terms.

## 4.4 Print media

Despite the fact that Nepal's independent newspapers flourished only since the re-establishment of democracy in 1990, Nepal has a vibrant print media landscape. There are currently more than 4,500 registered newspapers and magazines, although only about 500 of them publish on a regular basis.<sup>7</sup> Of Nepal's roughly 8,000 media practitioners, some 6,000 are involved in the print media.

According to the World Association of Newspapers (WAN), hundreds of independent vernacular and English-language newspapers representing various points of view were available in 2007, both in Kathmandu and the districts. The privately-owned broadsheet dailies report largely independently, while the government-owned dailies, Gorkhapatra and The Rising Nepal, reflect government policy. There are weekly newspapers that are close to or even identify with and pledge allegiance to different political parties – including the CPN(M).

### 4.4.1 Assessment and analysis

With a few exceptions, most newspaper companies are small ventures with low circulation figures, ranging from a few hundred copies to a few thousand. Circulation is affected by the low literacy, relatively high cover prices and difficulties in distribution, especially in the districts, where security and poor infrastructure make it difficult to deliver newspapers on a timely basis. Regular distribution is restricted mainly to the Kathmandu Valley, which accounts for more than 85 percent of the market. Newspapers are predominantly distributed door-to-door by bicycle. According to WAN, there are approximately 1,000 newspaper outlets in Kathmandu Valley and another 1,000 in the rest of the country. About half of these are stationery or grocery stores doubling as newspaper outlets.

The inequitable allocation of state advertising has also had a debilitating effect on the print media, especially on small and medium-sized newspapers. The Government scrapped the “one-window” advertising policy introduced by the royal government in June 2006. Using this policy, it had deprived independent publications of public advertising funds and given state-controlled media preferential treatment for commissions. However, the Kathmandu-based publications still continue to receive the large part of public advertising and existing allocation rules exclude district media from a – perhaps – fairer share.

The working conditions of journalists at most newspaper companies are still not comparable to other industries. Salaries paid to journalists are low. In addition, many newspaper companies do not pay journalists in a timely manner.

<sup>7</sup> Nepal's law bars the cancellation of registration so periodicals once registered stay on the list forever. The Press Council Nepal which classifies newspapers and monitors them has a list of about 2600 publications – dailies, weeklies, bi-weeklies, fortnightlies and monthlies.

Nepal's decade-long civil conflict has had a profound impact on the print media, with both government forces and Maoist rebels targeting journalists and media houses. Under the state of emergency, from 1 February 2005 to end April 2005, fundamental rights, including freedom of expression and the right to information, were suspended. Soldiers and security forces entered newsrooms, monitoring newspaper copy and warning newspaper companies against disseminating any information that showed the Government in a negative light. In protest, some publications left their editorial pages blank. Hundreds of print journalists were detained, arrested or beaten throughout 2005 and early 2006. Threats came from all sides, with journalists facing interference from Maoists, representatives of the then Royal Nepalese Army<sup>8</sup>, and from the police.

During the popular uprising of April 2006, journalists played a major role in resisting King Gyanendra's attempts to restrict freedom of opinion and expression, thereby contributing toward the popular shift to democracy. The situation of the print media improved with the end of King Gyanendra's direct rule in April 2006. The new Government removed all restrictive directives imposed on the media by the king's government.

The delay in holding a Constituent Assembly election has resulted in a state of lawlessness whereby public security has suffered. Outside Kathmandu, journalists continue to face threats, harassment and violent attacks from a wide range of perpetrators, including local officials, criminal gangs, Maoist cadres, and other armed or unarmed groups. Both the two journalists who were killed in 2007 and the one who was abducted (and whose whereabouts remained unknown since July 2007) were print journalists. Prakash Singh Thakuri edited and published *Aajako Samachar*; Birendra Sah wrote for the Kathmandu-based weekly, *Dristi* and *Pushkar Bahadur Shrestha*, publisher of two local weeklies, *Highway Weekly* and *New Season*. These attacks, coupled with the climate of impunity in Nepal, have led to numerous cases of self-censorship among print journalists.

The print media also continued to face attacks from organisations affiliated with the CPN (M), especially its trade union, the All Nepal Communication, Printing and Publication Workers Union (CPPWU), which sought to prevent the distribution of newspapers for carrying unfavourable news reports about the Union. In August 2007, the CPPWU disrupted the publication of the daily newspapers, the *Himalayan Times* and the *Annapurna Post*. Similar attacks continued in September 2007, when the CPPWU prevented the printing of *Kantipur* and the *Kathmandu Post*.

Nepal's print media continue to face a wide range of challenges. The high level of illiteracy, insufficient distribution networks and the incapacity of the average citizen to afford a newspaper mean that relatively few Nepalis can read newspapers on a regular basis, especially in the outlying districts.

The allocation of state advertising remains a crucial issue, especially for newspapers in the districts, which are more dependent on public advertisements for revenue. The high taxes on newsprint, high postage rates, and the poor working conditions of the average print journalist also need to be addressed.

## 4.5 Unions and associations

Organisations representing the interests of journalists and media workers in Nepal have been prominent in defending and promoting the country's transition to democracy as a fundamental element of their campaigns

<sup>8</sup> It is now known as the Nepal Army.

for a free and independent media and the safety of journalists and media workers. After April 2006 it seemed for a time that anti-media attacks were declining and journalists could look forward to focusing on securing better working conditions. However, increasing tensions about the political process throughout 2007 have generated new sources of danger for journalists and media institutions.

The most significant challenges and concerns for journalists, media workers and their representative bodies are (i) safety in the conduct of their professional duties, especially in the Terai plains in southern Nepal and regions with growing demands for ethnic federations; (ii) professionalism among media workers in small outlets, especially FM radio stations and small newspapers in volatile regions; (iii) appropriate tactics for negotiating for improved working conditions; (iv) implementation of the amended Working Journalists' Act; and (v) strengthening structures of representative bodies of journalists and media development organisations.

The Federation of Nepali Journalists is the umbrella organisation representing journalists in Nepal. It has 7,000 members, including senior media managers, and branches in all 75 districts. Operating in Nepal since 1956 (originally as the Nepal Journalists' Association), FNJ has a long history of fighting for freedom of expression and media rights, including successfully ensuring, along with other media development organisations, that Nepal's 1990 Constitution contained provisions about these issues.

The Nepal Press Union (NPU) and the National Union of Journalists, Nepal (NUJ), which also organise journalists within the FNJ, complement the larger federation. The NPU, with about 46 district branches, has about 1,400 members representing various media. The FNJ and the NPU are affiliates and the NUJ is an associate member of the International Federation of Journalists (IFJ).

Nepal also has a large number of media development organisations, which complement the activities of FNJ through their long experience in training journalists, content production, research and other media development activities.

The FNJ's branch structure – the most extensive in the South Asia region – contributes significantly to campaigns of the Nepali media community for defending media rights and safety and to promoting democratic transition. Its activism addresses all sides of Nepal's political divide. The branch network was fundamental in the FNJ's campaigns throughout 2005 as pro-monarchist security forces clamped down on media and arrested hundreds of journalists. Since April 2006 it has led several campaigns against violence against journalists by groups affiliated with the CPN (M) and others.

A national network functions through the FNJ's branches to monitor and report on violations of the rights of journalists, media workers and media institutions, including threats, intimidation, assaults and murder. FNJ district volunteers report to the main office in Kathmandu, which then undertakes investigations, especially of serious incidents and activates its advocacy and lobbying strategy, targeting national authorities and the international community. The monitoring process also serves to unite journalists and media workers.

While the monitoring network has been working well for several years, there is a need to consolidate the work further and to strengthen the organisational capacity of FNJ's branches. This is necessary because the FNJ office in Biratnagar was the target of a minor explosion and two other district offices were locked up by various groups in 2007.

### 4.5.1 Assessment and analysis

Nepal's journalists' organisations have maintained their vigilance in reporting attacks on media personnel and institutions. However, as Nepal undergoes political transformation, the threats, risks and challenges for journalists and media workers have taken on a new character. If earlier the threats came from clearly identified organisations – the Government or the Maoists – more recently, it has come from various groups, even criminal gangs.

#### **Working Journalists' Act**

A fundamental issue for journalists' organisations is to improve the working conditions and qualifications of journalists and media workers, including freelance reporters and photographers. They argue that the absence of a minimum wage and decent working conditions are hindering the development of a quality professional media, with the result that citizens are denied critical and balanced information.

There are huge differences in salaries across the media industry. Many journalists and media workers, especially in the smaller media outlets, do not receive a minimum wage and experience long delays in payments. Many lack security because they do not have an appointment letter. Little assistance is made available to help journalists and media workers, especially freelancers, to protect themselves in the field. Insurance is not normally provided. Good quality training is not uniformly available across the country.

Continued advocacy by journalists and their organisations resulted in the amendment of the Working Journalists' Act (WJA) in August 2007. It includes provisions requiring media institutions to (i) employ no more than 15 percent journalists on a contract basis; (ii) provide journalists on contract with access to a provident fund and other facilities available to permanent staff; (iii) provide medical treatment and compensation for journalists injured in the course of conducting professional duties; (iv) contribute one percent of annual income for capacity building; (v) provide appointment letters; and (vi) empower working journalists with the right to organise trade unions. Penalties for noncompliance include fines up to Rs 25,000.

A government committee set up in September 2007 to recommend a basic minimum salary had not made a recommendation by January 2007, largely for lack of funds to hold nation-wide consultations. The FNJ believes consultation with stakeholders across all districts is essential for ensuring the WJA is properly applied, but it did not have the financial resources needed. It is the responsibility of the Government to assure that the committee is provided adequate resources for carrying out the consultations.

Several media managers told the International Mission they were committed to the WJA. However, their support was qualified. The chairman of the largest media group (*Kantipur*) Hemraj Gyawali said that while his organisation now offered permanency to 60 percent of its workers, he doubted that small media establishments would be able to employ 85 percent of workers on a permanent basis, as required by the law. The commitment of media institutions to support skills development as required by the law remains to be tested. The enforcement of the WJA remains a challenge because most media companies in Nepal are individual and family-owned ventures and are not fully transparent.

#### **Political influence**

A challenge for organisations representing journalists and media workers is the emergence of sharp divisions in tactics for negotiating improved working conditions. Professional bodies and unions, which apply a dialogue-based approach, are increasingly contending with the highly combative tactics of



Maoist-aligned in-house unions or committees that have come to the fore since the CPN (M) joined the interim government<sup>9</sup>.

The new workplace conflicts appear to be more than a turf war for the right to represent workers' interests and more a case of politicised interference in media operations via worker organisations affiliated to the CPN (M). Before and since joining the interim Government, the Maoist leadership has publicly committed to media freedom. It now heads the Information and Communication Ministry and this has in effect resulted in promoting party interests via state media outlets – which was also common when other parties were in charge of the Ministry.

Aggressive actions by worker groups supported by the Maoists forced closures of some media establishments for short and long periods<sup>10</sup>. At the largest newspaper, *Kantipur*, about 150 protesters led by the Maoist-influenced All Nepal Communication, Printing and Publication Workers' Union forced disruption in printing. The action was intended to redress concerns about poor wages and security of tenure. Similar groups disrupted publication and distribution of other newspapers in Kathmandu in 2007.

Three top CPN (M) leaders intervened to negotiate directly with *Kantipur*, sidelining FNJ representatives who had been mediating between management and the workers. Baburam Bhattarai, CPN (M) deputy leader, told the International Mission that his party had not instructed the CPPWU, but he defended the party's actions in the case. The key concern is that a political party's intervention in a workplace dispute and a newspaper's concessions has set a precedent for political-business alliances that could result in negative repercussions for freedom of the media, freedom of association and the public's right to diverse sources of information.

### Gender equity

Another area of concern for FNJ is gender equity and ensuring women journalists have equal pay with men and equal access to media positions, both at the senior level and in the allocation of assignments. The FNJ amended its constitution in 2007 to include mandatory representation of one woman journalist in its central executive committee (as well as Dalit, Janjati and Madhesi representatives). It also eased entry-level requirements for female candidates with Grade 10-level education wishing to contest for elected positions and for those from excluded social groups. FNJ will elect its new executive committee April/May 2008.

The directive is in line with the Charter of Gender Equity in Media and Journalism adopted at a gender equity summit in Kathmandu in November 2006. The charter states that journalists' organisations have a responsibility to adopt gender equity policies and to take up the concerns of women. It calls for increased representation of women in journalists' organisations and in their decision-making structures as a means of mainstreaming gender equity issues within the media sector. Aside from seeking to ensure women have equal rights to progress professionally, the charter calls for advocacy for workplace policies that promote gender equality and work practices that ease the burden on working parents.

### Future

Nepal's community of journalists will remain a prominent and powerful force for promoting democratic values and processes as the country passes through its difficult transition towards peace and democracy. Nepal's new power-holders do appear to recognise and acknowledge the strength of journalists' organisations and their commitment to independent, quality media, even as some parties appear to struggle with the concept of a free media.

<sup>9</sup> Representative journalist organisations do not tend to negotiate with employers on matters related to work-place conditions. One way to introduce non-violent negotiations on workplace issues could be to increase such activities through representative organisations and unions, while other media development organisations could focus on larger development issues.

<sup>10</sup> Trade unions affiliated with the CPN (M) have used similar tactics against other businesses.

The Election Commission is working with FNJ and other media organisations to try to ensure that reportage on the election process is fair. Meanwhile, in discussions during the International Mission, the Home Minister, Krishna Prasad Sitaula, sought the FNJ's direct support in providing advice to district security personnel to ensure the protection of journalists during the polls and to avoid misunderstandings about the application of laws related to the conduct of the election and the media's right to report fairly and freely.<sup>11</sup> At the same meeting, the assembled security chiefs were put on notice that they were expected to respect the rights and integrity of journalists, and to report immediately in cases of threats or attacks against the media.

Despite FNJ's high-level engagement with the authorities, journalists in Nepal face major challenges ahead. Media is an easy target for the expression of frustration and dissent. Safety in the plains region and other volatile districts is a major immediate concern.

The FNJ, among others, has expressed concerns that newly-recruited workers in media establishments, especially in small FM radio stations and newspapers in the districts, lack awareness of the principles of good journalism and the positive role of independent media in a democratic society. It is concerned that a failure by poorly qualified workers to understand and recognise the human rights of minorities can become a base for serving special interests. The FNJ, other unions and media development organisations need to consider ways of addressing identity issues and tensions in the districts, both in terms of conflicts among media workers and in relation to broader community understanding of the role of a quality media in a democracy. Training is needed for reporting on minority issues. One suggestion is to set up round-table discussions with editorial managers, focusing in particular on eliminating hate speech.

In the longer term, journalists and media workers across Nepal need guidance, training and skills development to improve the quality of the media across the board. Professional training should include more specific components on basic journalism, human rights, media rights and safety.

The success of the FNJ in monitoring media rights violations needs to be sustained and strengthened. As the umbrella body representing journalists in Nepal, the FNJ's organisational structure needs to be enhanced. Union leadership training already conducted at the provincial level needs to be extended deeper into the district chapters in order to consolidate the FNJ's organisational strength and the ability of Nepal's media community to defend the rights of all journalists.

## **4.6 District media**

Nepal's district media, and particularly radio, is often cited as a great strength of Nepali democracy. There have been many advances since the democratic revolution in 1990 and after the political changes of April 2006. However, the district media also face several issues which make these advances either fragile, or still in need of consolidation. This is particularly true during the political transition, with regional and identity-driven pressures becoming increasingly prominent.

### **4.6.1 Assessment and analysis**

As a generalised assessment, the problems faced by the media are similar to those in the capital, but often further acerbated.

<sup>11</sup> FNJ sent a note to this effect to the Home Minister Krishna Prasad Sitaula after the January mission.

## Safety

Several journalists have been targets for murder, abduction and disappearance, threats, beatings, and intimidation. The prominent cases against journalists – two murders and one abduction/ disappearance – in 2007 took place in the districts, two in south-central Nepal and one in the Far-western Region.

In none of these or many other cases, including abuses that occurred during the conflict, have any of the perpetrators been brought to justice. Both national political leaders and local authorities have displayed a lack of commitment in following these cases.

The risks to journalists are expected to increase as regional and ethnically-based political claims heat up, and militant groups, especially in the plains, increase their activities. Some commentators believe that for those militant groups who wish to raise their national profile through violent acts, journalists are a particularly an attractive target, as such attacks will guarantee media attention. This situation is placing increased restrictions on journalists in areas of tension, and making it more difficult for them to do their work.

In addition, there are increasing incidents of militant groups directly threatening journalists and pressuring them to cover stories that aid their profiles or agendas. Local media outlets have been pressured to carry certain stories, while those filing to national publications and broadcasters are often pressured again if their editors decide not to carry a story. The generally poor law and order situation and associated security risks, and a growing culture of impunity, are having serious chilling effects on Nepal's district media.

The sudden proliferation of new radio stations adds a further dimension to this problem. With a broad range of either inexperienced, or politically-motivated, broadcasters coming on air, the potential for biased and inflammatory coverage and comment has increased dramatically. Some incidents already point to this disturbing trend emerging. If this were to develop, it would mark a tragic turn for Nepal and its media, one in which a great strength of regional diversity would be weakened and become a potentially-serious hazard.

Local authorities, including police and district administrators, have largely failed to provide the necessary secure environment to counter these trends. They have also failed to effectively and convincingly investigate and pursue cases of murders, attacks, and intimidation against journalists.

## Economic issues

District journalists and media outlets in general labour under difficult economic conditions:

**District journalist/stringer payments:** Local journalists filing to Kathmandu-based national outlets are paid low rates. Mission members were told of monthly incomes of less than Rs5, 000, which is not enough for the journalist to remain focused on one profession. It is therefore difficult for journalists to make a living, and work to the required level of professionalism. Payment is only by the piece, and is often received late. Journalists also lack effective insurance schemes from their employers.

**Economy of scale:** Local media outlets generally struggle to make ends meet. Circulation of local newspapers is often low and that limits their access to advertising revenue. The Mission was told that circulation of district newspapers in the Far-western Region (which was visited) could reach around 2,000 maximum. Such circulation greatly limits the number of journalists newspapers can employ and the news they could gather. Local radio stations estimated listenership in the hundreds of thousands, but without accurate

surveys it is impossible to confirm this figure. Even the claimed "high" listenership has not translated into advertising revenues. More equitable distribution of Government advertising was a common request of district media outlets, and this is seen as a simply first step to resolving this issue.

National media vs. district media: District media outlets expressed apprehension over the impact of burgeoning monopolies as big media houses consolidate and expand nationwide. This was particularly a concern of small radio stations – with large stations like Kantipur FM and Image FM rapidly acquiring powerful national reach and market penetration – which feared that this could result in closing off advertising sources and in the end would reduce diversity for local audiences. One local radio operator in Birgunj complained that in previous years his operation was profitable, but since Kantipur FM began local broadcasts his station is at financial risk.

Institutionalisation: The institutionalization of district media outlets is another issue that is rarely discussed. The media – especially print – are small individual or family-run operations, with affinities to political or business players, and even government departments. Such a situation does not allow the assumption that increased ad incomes would automatically translate into better salaries and facilities for journalists. Many district media are published to tap in on public advertising while the owners could be involved in multiple vocations.

### **Infrastructure**

Infrastructure for journalists is severely lacking. In several locations, appropriate printing presses are not available for newspapers, leading to the use of contracted smaller presses that in turn greatly affect newspaper quality and timeliness. Radio journalists do not often have field recorders or have equipment of very poor quality, limiting the effectiveness of reporting for both local and national outlets. Internet connectivity is still limited and slow in the Far-western Region that was visited by the Mission. It is true for many towns in the districts, but the Internet is already emerging as a better alternative to fax machines, especially with the expansion of telecommunications (CDMA phones provided by Nepal Telecom). However, the cost of the service remains an issue.

### **Training**

There are insufficient training opportunities for district journalists. Of 10 journalists met by the Mission in the Far-western Region, all had received short-term training, while none had received training of one month or more. The lack of training also has implications for security, both of journalists themselves and, potentially, within the districts more broadly<sup>12</sup>.

As local situations become more complex and tense, the potential for serious mistakes to have repercussions on the ground increases with the lack of skilled coverage. This in turn increases both the possibility that inaccurate coverage inflames local tensions, and the likelihood of journalists being targeted, either individually or as a group, for their coverage. Therefore, there is a need to improve training opportunities for district journalists, which has to account for, among others, the generally low academic background of journalists and the mediocre social science education offered by Nepal's university system.

12 In a national TV survey that asked the audience 'Why are journalists being attacked?' Eighty percent of respondents stated that it was because of their own behaviour, reflecting a serious downturn in the public credibility of the profession.

## 5 Recommendations for development priorities

The following recommendations for medium and long term development priorities from the International Mission are based upon the collective knowledge and experiences of the involved organisations<sup>13</sup>.

### 5.1 Press freedom violations and safety

1. Police should investigate thoroughly all threats of violence against journalist and media workers, and the public should be made aware of investigations and prosecutions to discourage attacks, and ensure an end to impunity.
2. Press freedom monitoring and alert networks should be strengthened across the country and specifically in areas outside of Kathmandu. In this regard, the monitoring system of the FNJ should be maintained and strengthened, including reporting nationally and internationally on information gathered, and a central database on press freedom violations should be established and maintained.
3. Knowledge of press freedoms should be strengthened amongst media practitioners, and specifically outside of Kathmandu, including on how to report violations.
4. Safety training should be provided through existing training organizations and relevant international organizations. Such training should be country specific and accessible to all journalists and media workers in the districts.
5. Media houses should seek to provide the basic safety equipment to journalists when needed.
6. Life and health insurance should be provided to journalists, photographers, camera-people media workers and their equipment.
7. Support mechanisms to assist journalists and their families should be strengthened and institutionalised.
8. Safe houses, hotlines, reactive missions and other safety related activities should be strengthened/ undertaken as needed.
9. Local authorities, judiciary and police should be trained on press freedoms and freedom on information issues.
10. Linkage between human rights defenders, peace-process drivers, FNJ and other national media bodies should be strengthened.
11. Political parties should develop and clearly communicate to their membership and the public, positions and concrete measures in support of media safety.
12. No journalist should be sacked on the basis of ideology as long as it does not reflect in the content of his/her work, even if s/he works for a state-run media.

### 5.2 Media policy and legal reform

1. An inclusive consultative process with the media community, civil society and other stakeholders should be undertaken to ensure broad and inclusive discussion on media policy reform and identify action areas.
2. The new constitution should ensure press freedom and freedom of expression, and guarantee the independence of media regulatory bodies.
3. Authorities should consider the provision of a regular grant from the state to the media, either directly in terms of finances or indirectly through tax relief in accordance with the spirit of the UNESCO 'Florence

<sup>13</sup> The groups under which these recommendations are clustered are not mutually exclusive.

Treaty' – the Agreement on the Importation of Educational, Scientific and Cultural Materials; any such system of support, however, should be based on equitable, objective criteria applied in a non-discriminatory fashion.

4. The Ministry of Information and Communication should either close or privatize all state-run media, or turn them into public service media.
5. Support should be provided to national and local authorities to train public officials on the implementation of new legislation.
6. Public awareness should be developed regarding the new media and right to information legislation and voluntary media accountability systems, and capacity-building should be provided to the media community and civil society to monitor implementation of the new laws.
7. The participation of experts should be ensured in all activities relating to media law and policy reform; despite many of the positive steps Nepal has made, standards still fall short of international standards.
8. The distribution of public advertisement should be allocated through a fair and transparent mechanism to both print and broadcasting media.
9. The FNJ legal desk should be strengthened for responding to protection needs of journalists and media workers. The legal desk will assist in ensuring enforcement of laws related to the media.

### **5.3 Broadcasting**

1. State radio and TV should be placed under the governance of an independent body, the membership of which reflects the diversity of Nepali society, and it should be adequately financed.
2. The mandate of public service broadcasters should be to serve the needs of all groups in society, especially those not being adequately served by commercial and community broadcasters.
3. The licensing process should be designed to promote maximum diversity in the broadcasting sector.
4. Frequencies are a public resource and political parties should not control broadcasting stations.
5. All regulation of broadcasting should be undertaken by an independent regulatory body.
6. Support should be made available for existing broadcast media, particularly in the districts, for addressing infrastructure problems and working towards financial sustainability in the post-donor environment.

### **5.4 Print media**

1. Taxes on newsprint and replacement parts should be lowered and postal rates reduced.
2. Registration requirements for print media should be removed.
3. Rules on cross-ownership and concentration of ownership should be set.
4. The Audit Bureau of Circulation should be established and supported to undertake its duties.

### **5.5 Unions and associations**

1. Trade unions should negotiate for fair and reasonable working conditions and employers should seek to implement the amended Working Journalists Act. Media employers should implement fair and decent working conditions, which also reflect equal access to recruitment, work opportunities and promotion for all groups.
2. Support should be provided for organizational strengthening associations, unions and media organizations at the national and district levels, including

for the secretariats and performance of the core-functions (with specific reference to the FNJ).

3. Gender awareness and mainstreaming should be promoted among media associations and institutions. Media employers should ensure that women and members of minority groups are provided equal opportunities for employment, pay, professional assignments and promotion.
4. Government support is required for consultations on the Working Journalists' Act to be held among all stakeholders in districts across Nepal.

## 5.6 District media

1. Assistance should be provided for improving communications for media workers and district media outlets (including telephone, internet, etc.)
2. Access to longer-term training opportunities should be provided in basic skills, as well as specialized areas such as graphic design and business management.
3. Training of Trainers (TOT) should be undertaken for building a team of district-based trainers.
4. Access to modern equipment, including offset printing presses and field reporting equipment, should be made available through appropriate mechanisms, and
5. Options to facilitate improved circulation of the print media should be provided.

## 5.7 Training and education

1. Support should be provided to develop media training institutes as hubs of national professional excellence and service providers to the wider media community.
2. Training on basic skills and ethics should be provided for new entrants alongside specialised training for mid-career and senior media professionals of both the print and broadcast media.
3. Opportunities and facilities for students should be improved with better access to equipment and resources for practical training, including internships at media outlets.
4. Mass communication and journalism curricula should be reviewed and updated, and linkages pursued with other Asian training and education institutions.
5. Media owners and managers should be assisted to develop their skills in business planning and management.
6. Training activities should be carefully coordinated to avoid duplication and a roundtable of national and international organisations should be held to produce a comprehensive multi-year training strategy document.
7. A database of training programmes already conducted should be created and maintained to provide information about training that has taken place, the focus of the training, the participants and the organisers.
8. A system to monitor and evaluate the impact of training conducted, including lessons learned and future initiatives, should be created.
9. Training courses should ideally be long-term and undertaken on a repeated basis thereby re-engaging participants, as well as undertaken in-house incorporating all staff from chief-editor to junior journalists.
10. Training programmes should ensure greater inclusion of excluded groups in enrolment to create a pipeline of journalists for the job market.
11. Networking and linkages between media houses and training institutions should be encouraged, including direct input from the media community on the type of training activities to be prioritized.
12. Media houses should be encouraged to set aside sufficient resources to provide training for their staff.



## 6 Concluding remarks

Nepal has overcome a decade-long armed conflict, but still remains at the crossroads of a delicate transition. A wrong turn could threaten the achievements made so far while the right strategies and investments can help speed up the peace process, strengthen democracy and open up the space for development. The media can play an important role in facilitating the change but it requires an environment where it can work freely and without fear of harassment, abductions and murder.

There is no alternative to a free media in a democracy. Attacks on media companies, abduction of journalists, threats and harassments and obstructions disrupt information flow and constrict the people's right to know. It is sad that the same media which played a leading during the restoration of democracy in 2006 has now become the target of attacks from various groups, even including criminal elements who are taking advantage of weak law enforcement.

The Nepali transition which began in April 2006 remains volatile and complex. Even though there are guarantees for press freedom and freedom of expression in the Interim Constitution and the Government has also passed several laws that favour freedom of expression, the issues of safety of journalists and protection of press freedoms remain major challenges. Developing the capacity of the media to respond to these challenges and the need for informed debate in Nepal is another major challenge.

The International Mission is committed to support the needs of the Nepali media in building an environment that guarantees freedom of expression and press freedoms. It calls upon all donors to review their policies on communication and media-support and to devise strategies to support the Nepali media, which in effect would be vital for attaining their goals to facilitate Nepal's peaceful transition to democracy. To Government and also to donors, the Mission offers its expertise for assisting it to formulate policies and establish systems for facilitating media development.

# 7 Annexes

## **Annex 1: Mission statement**

**(17 January 2008)**

International Press Freedom and Freedom of Expression Mission to Nepal

At a press conference today in Kathmandu marking the end of the fourth International Press Freedom and Freedom of Expression Mission to Nepal, the mission members welcomed the progress on reforming the media environment since April 2006, whilst noting that much remains to be done and support must be made available for the continued development of the media. Moreover, the International Mission raised serious concerns about press freedom violations taking place throughout the country, particularly as impartial and independent media coverage will be essential for holding free and fair elections and promoting the democratic process.

### **Press Freedom Violations**

Journalists, media workers and media institutions continue to be harassed and threatened within a growing culture of impunity. The Federation of Nepali Journalists has recorded 652 incidents of press freedom violations between April 2006 and December 2007. The International Mission condemns the murders of Birendra Sah and Pushkar Bahadur Shrestha, and the disappearance of Prakash Singh Thakuri, and calls for the prompt and thorough investigation of these cases by the judicial authorities with full assistance of all relevant individuals and groups, in order to bring those responsible to justice. In particular, the Mission urges the Maoist leadership to form a committee of investigation into the disappearance of Prakash Singh Thakuri, as was done in the case of Birendra Sah. The International Mission stressed the crucial importance of the trials of those accused in these cases being fair and transparent.

### **Constituent Assembly Elections**

The International Mission spoke with government ministers, political party leaders, community leaders and the security forces about the importance of the elections proceeding as scheduled and supporting an independent and unobstructed media to ensure a free and fair vote. Attacks, threats and interference in the media are unacceptable and deny the public's right to access independent and diverse information. The Mission calls for the government and political parties to undertake and publicise measures to ensure the safety of journalists and media workers. The Mission will send a short-term observation team during the elections to focus on the media situation.

The International Mission urges the national and local media to provide independent and impartial coverage of the elections, avoiding biased content. In this regard, the Mission calls on the media to abide by professional standards in accordance with international principles, and to engage in an open and constructive dialogue with the Election Commission and other relevant groups for delivering fair and impartial content.

The International Mission is very concerned about reported cases of hate speech and violence-promoting content, and strongly appeals to all media throughout the country to work professionally, in a manner conducive to ensuring lasting peace.

**Legal Reform**

The International Mission welcomes the amendment of the Working Journalists Act and the enactment of the Right to Information Act, noting the need to ensure their prompt and proper implementation.

The International Mission also stressed the need for strong constitutional protection of freedom of expression and press freedom, as well as the reform of the broadcast law and transformation of the state media into public service media, offering diverse programming serving the needs of all in society. The Mission calls for the recommendations of the High Level Media Advisory Commission to be implemented, bringing clarity to the management of broadcasting frequencies, creating a three-tier (commercial, community and public) broadcasting system, administration of licenses, allocation of public advertising and governance of public service media. An enabling environment should also be created for internet-based media.

**Journalists' and Media Workers' Rights**

The International Mission requests media institutions to provide journalists and media workers with fair and decent working conditions, as well as calls for negotiations between trade unions, media management and media workers to be held in a constructive manner. The expression of workers' demands should not unnecessarily interfere with the public's right to information.

**Inclusion of Marginalised Groups**

The International Mission calls upon media managers to ensure women are provided equal opportunities for employment, pay and promotion. The Mission also asks media institutions to ensure staffing at all levels representing diversity, including marginalised groups such as Dalits, indigenous nationalities, Madhesi and religious minorities.

**Follow-up to the Mission**

The International Mission will be releasing a full report in the coming weeks, including a list of recommendations for media development as discussed with the various stakeholders in Nepal. Together with the national media actors, the International Mission will work towards the creation of a comprehensive coordinated 'roadmap' for media development. Organizations represented on the Mission are ready to provide support to the Nepali stakeholders as requested in their efforts to ensure press freedom and media development and will call upon other media support organizations to join.

**Information about the Mission**

The International Mission met with government ministers, political party leaders, community leaders, the election commission, police, armed forces, civil society, international community and a broad cross-section of the media in Kathmandu. The Mission also visited the Bara and Parsa Districts (where Birendra Sah and Pushkar Bahadur Shrestha were murdered) and Kanchanpur District (from where Prakash Singh Thakuri disappeared). Prior International Missions to Nepal occurred in July 2005, March 2006 and September 2006.

The International Mission incorporates a dozen international organizations, including UN agencies, global media associations, freedom of expression advocates and media development organizations. Those organizations participating in the January 2008 mission included ARTICLE 19, Hirondelle Foundation, International Federation of Journalists (IFJ), International Media Support (IMS), International Press Institute (IPI), Internews, Reporters Without Borders (RSF), Open Society Institute (OSI), UNESCO, World Association of Community Radio Broadcasters (AMARC) and World Press Freedom Committee (WPFC).

The International Mission thanks the Federation of Nepali Journalists and other national organizations involved in preparing and hosting the visit, acknowledging the crucial importance of close cooperation with national actors and ensuring a nationally driven process.

For more information contact any of the participating international organisations or IMS at:

Jesper Højberg, IMS Executive Director, [jh@i-m-s.dk](mailto:jh@i-m-s.dk), +45 25 31 00 15  
Binod Bhattarai, IMS South Asia Consultant, +977 9851 025230

## **Annex 2: List of participants**

### **Government**

Home Minister  
Information & Communication Minister  
Chief of Army Staff  
Inspector General of Police  
Inspector General of Armed Police

### **Political Parties**

General Secretary Madhav Kumar Nepal, UML  
Dr. Baburam Bhattarai, leader, CPN (M)

### **Other Pressure Groups**

Nepal Trade Union Congress, All Nepal Free Trade Union – Revolutionary,  
General Federation of Trade Unions  
President, Nepal Federation of Indigenous Nationalities  
Representative, Madhesi Janaadhikar Forum  
Women's Groups

### **Meeting with Media Institutions**

*Kantipur* Publication  
Association of weekly newspapers  
Association of Photojournalists  
Nepal Forum of Environmental Journalists  
South Asia Free Media Association (Nepal)  
HBC Radio  
Radio Sagarmatha  
Nepal FM  
Online Journalists Association  
Others

### **Meeting with diplomatic missions and development agencies in Nepal**

British Ambassador to Nepal  
Danish Ambassador to Nepal  
Chinese Ambassador to Nepal  
Japanese Ambassador to Nepal  
DFID  
DANIDA/Hugou

## Annex 3: Mission members

1. AMARC Raghu Mainali
1. Article 19 Daniel Simons
2. Article 19 Santosh Sigdel
2. Hironnelle Mike Künzli
3. IFJ Deborah Muir
3. IMS Binod Bhattarai
4. IMS Jesper Højberg
5. IMS Thomas Hughes
6. Internews Matt Abud
7. IPI Michael Kudlak
8. OSI Algirdas Lipstas
9. OSI Martin Hala
10. RPT Elisabet Canterny
4. RSF Binod Dhungel
11. UNESCO Jocelyne Josiah
12. WPFC Mark Bench

## Annex 4: Sample media coverage of the mission

### Int'l media mission wraps up visit to Nepal

KATHMANDU, Jan. 17 (Xinhua) – The International Media Mission wrapped up its four-day visit to Nepal on Thursday, making various recommendations to the Nepali government, political parties and media institutions for promoting press freedom.

Speaking at a press conference at the end of the visit, Executive Director of International Media Support Jesper Hojberg, who led the mission, said the mission was concerned about continued violation of press freedom taking place through the country.

The mission has called on the government and the parties to ensure the safety of the journalists during the Constituent Assembly elections, especially in the southern Nepal's Terai region and informed that a small team of the mission would be sent for election observation.

The mission has also urged the government to treat the web-based media at par with print and broadcast. Urging the government to form a body to make a distinction between commercial and community broadcasters, the mission also recommended for equal treatment to daily and weekly newspapers.

Representatives from 12 international media organizations including International Federation of Journalists and Reporters Sans Frontiers, among others, are in the mission.  
(www.chinaview.cn 2008-01-17 19:36:11)

#### **Govt. serious towards security of journalists: Sitaula**

Home Minister Krishna Prasad Sitaula has said the government is coming up with a special package for the safety of media persons, promising at the same time that special security arrangement would be made for journalists covering Constituent Assembly election.

During his meeting with the delegation of International Media Mission Thursday, Sitaula said that the government was serious towards the safety of journalists and added that authorities would start investigations on those involved in killing journalists during the conflict period and take action against them.

He also told the media delegation, which is here to assess the situation of Nepali press and freedom of expression after the reinstatement of democracy, that the government would form special committees for the safety of journalists all over the country.

He said the special committees would be formed at the Home Ministry, district administrations and regional offices of Nepal Police.



During the meeting, the Home Minister said that authorities were looking for those involved in the abduction and murder of Bara-based journalist Birendra Shah and abduction of Mahendranagar-based journalist Prakash Singh Thakuri.

Federation of Nepalese Journalists (FNJ) president Bishnu Nisthuri accompanied the media delegation in the meeting attended by top security officials.

This is the second time the media mission met the Home Minister during its stay in which it held discussions with leaders of major parties, high level government officials and security chiefs, among others.

The media mission is holding a press conference at the FNJ central office, Kathmandu, where it would inform about its achievement during its Nepal stay.

The media mission is ending its 4th visit to Nepal today.

([www.nepalnews.com](http://www.nepalnews.com) (Jan 17, 2008))

## **Journos still under threat: FNJ**

*Kantipur* Report

KATHMANDU, Jan 15 - Even after restoration of democracy, Nepali journalists have been struggling for safety and editorial freedom due to constant threat from Maoists and armed outfits operating in tarai districts, the Federation of Nepalese Journalists (FNJ) informed a delegation of International Media Mission (IMM) here on Monday.

FNJ expressed concern over deteriorating personal security of working journalists, inadequate media laws and policies, need of capacity building and challenges faced by broadcast media, during a consultation with the delegation.

"After the restoration of democracy, attacks on the press by the state has stopped. However, Maoists, Madhesis, Janajatis, and criminal groups have increased attacks on the press," said Prateek Pradhan, editor of the Post, presenting a paper on press freedom and security of journalists.

From April 24 to December 1, 2006, FNJ recorded 652 incidents of physical attacks on the press, and the attacks are increasing.

Due to threats, some journalists are forced to practice self-censorship while in some cases, journalists have forced editors to publish certain news to appease armed groups. "Self censorship trend seen in the media in recent days is most dangerous, and it promotes impunity and the culture of silence," he said.

During the consultation on freedom of press, journalists were urged to be professional, abide by the code of conduct and detach themselves from political parties.

Journalists should enjoy freedom to increase their credibility, said Gokul Prasad Pokharel, chairman of Nepal Press Institute.

Shiva Gaunle, vice president of FNJ, pointed out that press laws are restriction-oriented in one way or another.

The 13-member IMM delegation is here to assess the condition of media in Nepal after the establishment of democracy.

This is the fourth visit of IMM. Representatives from 12 international media organizations including International Federation of Journalists and Reporters Sans Frontiers, among others, are involved in the mission.

([www.kantipuronline.com](http://www.kantipuronline.com))

## Journalists facing security threats

By A Staff Reporter Kathmandu, Jan. 13:

Journalists still face threat to their security even after the successful April Movement due to the state of impunity in the nation, journalists highlighted their situation at the inaugural session of the International Media Mission on Press Freedom and Freedom of Expression on Sunday.

Fifteen journalists from 12 different international media organisations, including Nepalese journalists, are currently on visit to Nepal under the leadership of Jesper Hojberg of International Media Support. This is their fourth mission after the royal coup and the second after the April Movement.

Praising Nepalese journalists for their reactive and proactive roles against the state authority for creating media friendly environment, Hojberg asked Nepalese journalists to keep up working in favour of freedom of expression and press freedom.

President of Nepalese Journalists (FNJ) Bishnu Nisthuri said the incidents like abduction and disappearances, murder of journalists and threat against free media houses were still prevalent mainly from the non-state side.

Although some achievements were made in the legislation like the Right to Information Act and amendment in the Working Journalists Act their implementation had been delayed, FNJ general secretary Mahendra Bista said.

The FNJ has recorded 677 incidents against journalists and freedom of press that include one murder and one abduction in the year 2007.

The International Mission is scheduled to meet the Prime Minister, Speaker of the Legislature Parliament, concerned ministers, chief of security organs and visit some diplomatic missions along with Bara and Kanchanpur districts where journalists Birendra Shah and Prakash Singh Thakuri were killed and disappeared respectively. The task of the mission scheduled till January 17.

([www.gorkhapatra.com.np](http://www.gorkhapatra.com.np))

## Journalists seek media law reforms

By A Staff Reporter Kathmandu, Jan. 14:

Nepalese journalists at an interaction with International Media Mission 2008 underscored the overall reform in media laws making them compatible with the interim constitution and newly enforced legislation in the field.

"In essence the mass communications laws of the country should be guided by the principle of unchecked flow of information and transparency. But till now these laws are restriction oriented in one or another way," vice president of Federation of Nepalese Journalists (FNJ) Shiv Gaunle said in his working paper on 'Communication Policy and Media Law: Existing Situation and Reforms.'

"Even though the government has envisaged healthy, responsible and professional development of Nepali press, it has failed to introduce any special programme for the purpose. For example, the government has acknowledged mass communication as the means of development but it has not invested for its qualitative growth," he said.

Unless the journalists enjoy professional safety, the physical security alone would not be enough and the journalists should get adequate compensation for their work, chief editor of *The Kathmandu Post* Prateek Pradhan said in his working paper on 'Press Freedom and Security of Journalists'.

"Journalists should earn personal and professional credibility; it is necessary to command respect from the society. It also makes difficult for predators to attack them," he added.

The mission led by Jospser Hojberg of International Media Support includes 15 media persons from 12 different international media organizations. This is the fourth mission after the royal coup and the second after the April Movement.

([www.gorkhapatra.com.np](http://www.gorkhapatra.com.np))

## **Annex 5: Letter to the Home Minister, Mr Krishna Pd. Siraula, regarding relations between media, police and security officials before and after the Constituent Assembly elections.**

**18 January 2008**

To: The Home Minister, Mr Krishna Pd. Siraula, regarding relations between media, police and security officials before and after the Constituent Assembly elections.

**For the consideration of the Minister, as requested by the Minister at a meeting with representatives of the Federation of Nepali Journalists (FNJ) and the international press freedom mission, 17 January 2008.**

The FNJ requests the Home Minister work with the media (i) to ensure the safety of journalists both before and after the CA elections; (ii) to promote freedom of expression as a fundamental element of democratic process in Nepal's transition to peace; and (iii) to encourage a constructive relationship between the media and security officials in order to avoid misunderstandings about the role of the media in reporting on the CA elections and Nepal's transition.

Below is a suggested draft of some points the Minister may wish to include in a written directive to be issued by him to all District Police Commissioners and other senior security personnel.

"The Minister instructs all senior security personnel, including all District Commissioners and . . . to comply with these instructions, intended to ensure a constructive and positive relationship between media personnel, media institutions and Nepal's security apparatus before and after the Constituent Assembly elections.

1. Police and security personnel are to ensure that journalists, including photojournalists, are able to observe and report on the conduct of the elections and related events, including public unrest (in so far as such action does not endanger other citizens).
2. Police and security personnel will allow the media unobstructed access to all groups, individuals and political parties in the conduct of their work.
3. Within each district, the District Chief will act as a focal point for receiving reports of attacks or threats made against journalists, media workers and media institutions. The Chief will be responsible to inform the Minister of such reports, which may be received from individuals or representatives of the FNJ.
4. District Chiefs and senior security staff will act immediately on such reports by investigating them thoroughly and promptly, according to due process, and making provision for the protection of threatened or harmed individuals or institutions.
5. Security personnel responses to such reports are to be reported in writing to the Minister within 24 hours of initial receipt of a report.

6. In the interests of ensuring a constructive relationship between the media and security personnel, District Chiefs and senior security staff are to make themselves available to the media for comment on events or incidents of news/national interest.
7. District Chiefs and senior security staff are responsible to ensure their officers are aware of the rights of the media to report in a fair and responsible manner on the election and transition process. Journalists, media workers and media institutions are not to be held responsible for reporting the views of others.
8. Allegations of professional misconduct against journalists or media outlets should be forwarded to the Press Council, in accordance with the Election Commission's *Code of Conduct on the Election of Members to the Constituent Assembly 2064 (2007)* and the FNJ's professional code of ethics, unless the allegations constitute a prosecutable crime.
9. All police and security personnel are encouraged to work with the media to educate and inform citizens about the election process and related issues, in order to ensure Nepal's peaceful transition.

## **Annex 6: Follow-up Meeting of Agenda for Change (22-23 March 2008)**

Kathmandu-The joint second stakeholders' meeting of 'Agenda for Change' process organized on the initiative of ARTICLE 19, Federation of Nepali Journalists (FNJ and Freedom Forum at Godawari Village Resort, Godawari furnished various recommendations on media regulation, media workers, print media, broadcasting and right to information (RTI).

The two-day meeting that took place on March 22-23 was attended by high level select panel of civil society and other stakeholders. The panel drawing up the "Agenda for Change" consists of 20 leading individuals representing different sectors of Nepalese society, all of whom have an important interest in strengthening freedom of expression.

The aim is for the Agenda for Change is to become a rallying point for all those seeking to promote freedom of expression in Nepal, a benchmark against which government policy can be compared for many years to come. It is a substantial initiative that has flared up various issues concerning the restructure of Nepali media as well as the current movement of freedom of expression and right to information.

Nepal is now at a pivotal stage in its transition to peace. Improved respect for freedom of expression is key to strengthening fragile peace process and building a sustainable and inclusive democracy in Nepal. In this important phase the panel has sought to reach agreement on an "Agenda for Change", a detailed policy document setting out a consensus vision on how freedom of expression and information should be protected and improved in Nepal.

The recommendations furnished by the second meeting are as follows.

### **Constitutional Issues**

#### *General Guarantee of Freedom of Expression*

- The constitutional guarantee of freedom of expression should apply to everyone.
- The grounds for restricting freedom of expression should be limited to those grounds recognised under international law – namely protection of the rights and reputations of others, national security, public order, and public health and morals. Harmonious relations among peoples of various castes, tribes, religion and communities should be protected only inasmuch as this is necessary to maintain public order.
- The right to freedom of expression should include the right to seek, receive and impart information and ideas of all kinds, and through any media.
- Restrictions on the right to freedom of expression should be permitted only where they are necessary to protect one of the above-mentioned interests (rather than the lower standard of reasonableness that currently applies).

### **Content Restrictions**

#### *Defamation*

- There should be no criminal defamation provisions.
- Public bodies should not be able to bring defamation cases.
- Public officials should be required to tolerate a greater level of criticism than ordinary citizens.
- No one should be liable in defamation for statements which are true or which are opinions.
- Certain types of statements – such as statements made in court or in Parliament – should never attract liability under defamation law.



Statements made in the performance of a legal, moral or social duty or interest should be exempt from liability unless they can be shown to have been made with malice.

- No defamation liability should ensue for reporting statements by third parties where this is in the overall public interest and those statements have not been endorsed.
- No defamation liability should ensue where an incorrect statement is disseminated due to an honest mistake. Other remedies, such as a complaint to the Press Council, may still apply.
- Courts should apply the lightest remedy that redresses the harm done by a defamatory statement, taking into account any other remedies that might have been applied, for example by the Press Council.
- Legal and natural persons who suffer actual financial loss from a defamatory statement should have a right to receive compensation for that.
- In cases of intentional defamation, the person affected should be able to recover damages, for which minimum and maximum levels should be set.

### **National Security**

- A clear set of legal rules on restrictions on freedom of expression should be adopted which reflects the principles set out below. The rules should only be applied in accordance with the three conditions placed on restrictions on freedom of expression under international law.
- No one should be punished for an expression on grounds of national security unless the expression is intended and likely to incite imminent violence, and there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.
- When restricting freedom of expression on grounds of national security, the authorities should be transparent and demonstrate clearly what threat the restriction will remove.

### **States of Emergency**

- The right to freedom of expression should not automatically be limited when an emergency is declared. Derogating from the right to freedom of expression during emergencies should be an exceptional measure to be applied only when strictly justified by the particular circumstances.

### **Hate Speech**

- Media pluralism, in terms of ownership, workforce and content, is key to any long-term solution to the problems of racism and intolerance. Media owners should take steps to ensure diversity in their workforce and the authorities should take steps to promote a pluralistic media environment.
- At the same time, intentional incitement to discrimination, hatred or violence based on nationality, race or religion should be prohibited.

### **Privacy**

- A law on privacy should be adopted which clearly defines the scope of privacy and which establishes an appropriate balance between the right to private life and freedom of expression.
- No one should be liable for an expression which intrudes on another's private life where dissemination of the expression was justified in the public interest.

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**The following recommendations have not been discussed and agreed by the group and they are added here as draft statements only.**

**Blasphemy**

- There is a difference between attacks on individuals on the basis of their religious affiliation (which may constitute hate speech) and criticism of a religion per se. All criticism honestly directed at a religion, no matter how trenchant, should be permitted.

**Criticism of the Judiciary**

- Judges and others officials associated with the courts are public figures who should be required to tolerate criticism, particularly in relation to their official functions.
- These officials, like everyone, may take advantage of remedies, for example through the Press Council or in defamation law, to protect their reputations.
- Other rules restricting criticism of these officials should, however, be limited to cases where this is strictly required to maintain the authority and/or impartiality of the judicial system. Where these rules are applied, they should not be adjudicated by a judge who was him- or herself a target of the criticism.

**Informal Harassment**

- The authorities should refrain from actions which are intended or likely to lead journalists and others to engage in self-censorship.







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