



# A call to end violence and impunity

ASSESSMENT

International Press Freedom and  
Freedom of Expression Mission to Nepal

February 2009

Including DVD about the Mission

**Contributing Organisations:**

ARTICLE 19

International Federation of Journalists (IFJ)

International Media Support (IMS)

International Press Institute (IPI)

Reporters without Borders (RSF)

UNESCO

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
UCPN(M)	Unified Communist Party of Nepal (Maoist)
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

**Cover photo:** The Federation of Nepali Journalists

*The President of the Federation of Nepali Journalists, Mr Dharmendra Jha, speaking to the press together with members of the International Mission.*

**The findings in this report are based on a joint quick-response mission to Nepal in February 2009**

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 January-February 2009, 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](http://www.lib.utexas.edu/maps/middle-east_and_asia/nepal_pol90.jpg))

# 1 Introduction

This report contains the findings and recommendations of the Quick-Response Assessment Mission gleaned during a visit undertaken by the 'International Press Freedom and Freedom of Expression Mission' (also referred to as the International Media Mission or the International Mission) to Nepal from 4 to 8 February 2009. This mission brought together the expertise of a number of international organisations working on media development and freedom of expression.

The report assesses developments since the Comprehensive Peace Accord (CPA) was signed between the government and the Communist Party of Nepal (Maoist) and the election held in April 2008 which brought the current coalition government led by the Unified Communist Party of Nepal (Maoist) or UCPN(M) to office. The report is also informed by the knowledge gathered through the five visits of the International Mission to Nepal since July 2005, as well as the longer-term involvement of each of the participating organisation in the country.

## 1.1 Structure of report

The report has three main parts. The first provides a brief summary of the background and rationale for the International Mission and its involvement in Nepal. This chapter is brief as it contains general information that can also be accessed on: [www.i-m-s.dk](http://www.i-m-s.dk).

The second section consists of an analysis of the focus areas examined by the Mission. Each subsection herein provides a description of an area of present concern and aims to provide an overview of some of the main activities and actors, including available facts and figures, as well as an interpretation of the situation based on the expertise of the organisations contributing to the report.

The third main section lists the recommendations for each focus area.

## 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 after King Gyanendra took direct control of the country in February 2005.

A dozen international organisations that include 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 advocate for guarantees for press freedoms from the democratic government installed in April 2006 and from leaders of the main political parties. A fourth International Mission was undertaken in January 2008. A special press freedom and media rights monitoring mission was undertaken during the election of the Constituent Assembly in April 2008.

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

The political changes brought about by the *Jana Andolan* (people's movement) 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 on media policy. The government has implemented some of this Commission's recommendations, including those made by the International Mission. These include the enactment a new Working Journalists Act and the Freedom of Information Act. Nepal was declared a federal republic on May 28 2008, and the CPN (M) took on leadership of the coalition government in August.

Nepal's Interim Constitution - in effect until a new statute is promulgated - guarantees press freedom and freedom of expression. However, data at the Federation of Nepali Journalists (FNJ) suggest that the press freedom situation has deteriorated considerably since April 2006, especially in terms of the number of recorded violations.

In 2008 alone the FNJ recorded over 342 instances of murder, attacks, threats and harassment of journalists and media companies. Included were two murders, 114 instances of attacks against journalists and media companies and 80 instances of threats and harassment. Analysis of the FNJ data suggests that violence against the media rose sharply after July 2008. Most of the reported attacks and threats against the media have taken place in the southern plains that border India and in the eastern hills, which has been the seat for demands for identity-based provinces and autonomy.

Incidents of media rights violations peaked in late 2008 and early 2009. Two of the more notable attacks occurred during this period: the remains believed to belong to a murdered journalist who went missing in October were discovered in November 2008 And on 11 January 2009 a group of unidentified assailants brutally murdered a young female journalist.

The February 2009 International Mission to Nepal had two purposes: to respond quickly to the increasing violence against journalists and media companies and to undertake a rapid assessment of the situation of media rights. The Mission continued its past strategy of reacting in defence of press freedoms by denouncing the recorded violations and continued its advocacy for ensuring that the gains made over the years are codified in the new constitution which is now being formulated, and to further ensure that regulations on press freedom to be codified after constitution making are transparent, fair and comparable with international practices.

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

## 2 Nepal's media environment - 2009

The Government formed after the *Jana Andolan* (people's movement) of April 2006, which forced King Gyanendra to relinquish 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 after which the CPN(M) joined parliament. The CPN(M) then joined the government on 1 April 2007. It quit from government briefly over differences on election dates later in the year, causing postponement of the election, which was held in April 2008.

Contrary to expectations, however, the 2007 Interim Statute did not result in peace and stability. Instead, it triggered a month-long protest in the country's southern plains by groups demanding the inclusion of Madhesis (peoples from the plains) in the political process. Other ethnic groups pressed for similar demands, often resulting in strikes and disruptions. The Madhes has remained a hotbed of violence with over a dozen groups resorted to violence to press through their demands for inclusion and autonomy. Some opposition came from criminal elements. The demand for identity-based provincial autonomy has also resulted in strikes and disruptions in the hill districts. The uncertainties in the general political environment were also aggravated by the newly seated government's inability to maintain law and order and establish rule of law – and the gradual militarization of politics.

The Constituent Assembly election later held on April 10, 2008 paved way for the abolition of monarchy and the installation of an elected coalition government led by the CPN (M). The major partners in the Government are the UCPN(M), Communist Party of Nepal (Unified Marxist-Leninist), Madhesi Janadhikar Forum (MJF) and the Terai Madhes Loktantrik Party (TMLP). The Nepali Congress party is the main opposition in the Constituent Assembly and parliament. In May 2008, Nepal abolished the 240-year-old monarchy.

The main task of the Constituent Assembly is to write a constitution by May 2010. The new statute is expected to institutionalise the republic and also restructure Nepal from a unitary state into a federal democratic republic. The number of provinces in the federation and the mechanism for autonomy are two highly contested issues among the various stakeholders. Another contested issue within the government's coalition parties is the modality and mechanics of reintegrating about the 19,000 Maoist combatants – now living in United Nations supervised cantonments.

Attacks against the media and journalists continued even after the installation of the elected government. Various groups that have been accused of attacking the media and journalists are affiliated with political parties and groups all of which have specific demands for inclusion in the new constitution. Journalists have been attacked for both reporting and/or not reporting on these groups and their demands in the ways the proponents would have liked. Attacks on the media intensified after July 2008.

The law and order situation in Nepal had initially improved but has since deteriorated and many parts of the country have little or no government presence. Security situation in the plains districts had worsened compared to

early 2008, when the Mission last visited Nepal. General insecurity, especially that of media workers, has also been reported mainly in the eastern region's hill districts. In the southern plains there are over a dozen armed groups claiming to represent the demands of the Madhesi people, whilst violence in the hills is related to the demand for establishing autonomous identity-based provinces.

Media companies have faced increasing disruptions owing to trade-union related disputes championed by workers affiliated with the ruling UCPN(M) party. The government has failed to bring those accused of violence against journalists to justice. The authority's inability to guarantee justice to the victims has sent the message that 'it is ok to attack the media,' which could have long-term implications in a society with weak or almost non-existent law enforcement.



*The International Mission members meet with the Prime Minister, Pushpa Kamal Dahal.*

There are a number of pending cases in which the government has failed to bring those responsible for attacking the media and journalists to justice has led to a climate of impunity for those resorting to violence. On 5 October 2007 the Maoists abducted and killed Birendra Sah, a journalist in the Bara district. The whereabouts of another journalist, Prakash Singh Thakuri, allegedly abducted by the Maoists on 5 July 2008 from Mahendranagar in Far-western Nepal, remained unknown at the time of the publication of this report. The Janatantrik Terai Mukti Morcha (Jwala Singh) took responsibility for killing Pushkar Bahadur Shrestha in the Birgunj region of Parsa district on 12 January 2008. However, the government had not made any asserted efforts to investigate the deaths and bring those guilty to justice.

More recently, J.P. Joshi was abducted in October 2008 and what is believed to be his remains were found on 28 November 2008. The Government detained two individuals accused of the murder but investigations have made little progress. On 11 January 2009 a group of about 15 persons murdered Uma Singh, a journalist in her mid-twenties, in the Janakpur region of Dhanusha district. The government investigated the attack but concluded that the murder was related simply to a property dispute - even though there were clear indications that the murder may have been motivated by her work as journalist. The deceased had written critical articles about the ruling party and the local Maoist leadership.

Several media companies came under direct attack from pro-Maoist trade unions in late 2008. Rather than respond and arrest those identified as



responsible, the government waited until the perpetrators “surrendered” to the District Administration and they were later released on bail. The inability of the police to arrest and detain the perpetrators affiliated with the governing party has sent a clear message that supporters of the ruling party are beyond rule of law.

In 2007 Nepal 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 (18 July and 8 August 2007). However, both laws have not been enforced for lack of appropriate regulations and other implementation-related issues. Nepal, however, has yet to amend laws and regulations for the broadcasting sector in the spirit of the guarantees provided by the Interim Constitution and the recommendations of the Media Commission. The lack of clear regulatory guidelines has resulted in a rapid but haphazard growth in licensing new broadcasters, especially FM radios, whose programming, management, growth and sustainability remain major challenges.

Media development in Nepal remains constrained by inadequate legislation and/or implementation of laws, these exist at all, as well as the lack of both institutional capacity of media organisations and resources (human and material). Preparing the Nepali media for taking on the challenge of supporting communications needed for state-building during the ongoing transition requires continuous efforts in supporting journalists in difficult situations, training of journalists, support to media organisations for content production (where applicable) and support to media forums for identifying and discussing major state building challenges and the steps needed to address them.

## 3 Media and the peace process

The media sector played an important role in rallying society against the royal takeover of 2005, and remained an essential catalyst during the protracted peace process. Representative journalist organisations, the tabloids and the larger print media were in the forefront of protests against direct rule by the monarchy, and were joined later by FM radio stations, private television stations and program production studios and other media organisations. The courage of the media in defying censorship inspired civil society to challenge the curtailment of democracy and human rights during royal rule. During the ongoing constitution making process the media can provide a neutral platform for contesting and discussing ideas and options.

### Partisan journalism

Nepal's media is vibrant and diverse and has the potential to play a major role in facilitating debate and discussions on constitution making and state building. However, its ability and that of journalists to facilitate impartial dialogue is contingent on building a fear-free environment where journalists can work independently and impartially while communicating messages to and from readers and audiences.

It is apparent that party politics still continues to have undue influence within the journalistic community itself (to the extent that some journalists' trade unions are based on party affiliation) at the expense of professional interests and solidarity.<sup>2</sup> This political affiliation puts at risk an ability of media to provide unbiased coverage and facilitate impartial dialogue on the complex issues related to state building. There have also been reports of identity playing into the already politicised divisions. For the success of Nepal's peace process, it is imperative that media and journalists operate without intimidation and political or other interference. If not checked in time, identify politics which tends to be driven by passion, and resulting violence, and a media that is caught in-between, can be a recipe for a spiral of violence and human suffering.

### Violence against media

Violence against journalists by the two sides in the conflict (February 1996 to April 2006) subsided with the onset of the peace process. It has been replaced by growing pressures, including violent attacks, from a number of adversaries – groups affiliated with the ruling and opposition parties and those with allegiances to identity-based and other social groups fighting for recognition and rights. At the same time, journalists have become targets of a growing number of criminal gangs that operate with or without political patronage, especially in the plains districts. The vulnerability of journalists could increase as the political contests intensify; the constitution writing process could stimulate a clash of ideologies and beliefs if the current high level of impunity is curtailed. Many journalists told the Mission that they feel it unsafe to even display their press identification while covering rallies and other mass events or to even write constitution making and state restructuring issues, fearing that their reports could antagonise one side or the other and result in their being the target of violent attacks.

Self-censorship has increased to levels unknown in the past, which not only hampers production of media content but also seriously compromises peo-

2 According to sources met by successive missions, the party-affiliations are clearer among the smaller weekly tabloids, about which the readers are largely aware and can therefore differentiate between partisan views and independent coverage. The lines are fuzzy among the larger media, and particularly in FM radio.

ple's right to access of information. The inability of the state to ensure law and order and rule of law has worked to the advantage of the enemies of media freedoms and the right of the people to be informed.

The ability of the media to cover the crucial peace process will be severely restricted unless law-enforcement agencies manage to provide adequate security for unhampered reporting, to carry out prompt investigations and apprehend the protagonists of crimes against all media workers. Non-state actors must also immediately stop treating media and journalists as political tools or hostages.

The media, for their part, need to act responsibly in reporting and commentary. Journalism standards need to be upheld through self-regulatory mechanisms.



*The International Mission meets with representatives of community radio in Nepal.*

### **Self-regulation**

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 (PCN) to deal with in accordance with its legal mandate. Under this modality 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 is to ensure that the PCN enforces journalism standards professionally and transparently.

PCN needs to actively pay particular attention to instances of hate speech and/or calls to violence. All manifestations of hate speech carried by media outlets 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. To ensure ethnically sensitive coverage and insight representatives of these minority groups should be hired by the newsrooms of mainstream media after they receive necessary professional training. This initiative would be a welcome step towards ensuring fair airing of diverse regional and ethnic views and facilitate a broad multiethnic, cross regional dialogue.

### **Response to recent attacks on media freedoms**

On 22 December 2008, the FNJ and other press freedom bodies began a series of nationwide protests to raise public awareness about the perilous state of

media freedoms. Police attacked the protesters at one demonstration held in the vicinity of the parliament, injuring many, including the secretary of FNJ. In a concerted move to highlight the magnitude of the threat to press freedom from elements that apparently had official patronage, the Media Society and the Editors' Alliance in Nepal published newspapers with blank editorial spaces on 23 December. Similarly, participating radio stations and television channels aired a special message of protest, immediately after the signature tunes announcing their news bulletins.

On 28 December, the FNJ and the Nepali government, represented by Krishna Bahadur Mahara, Minister of Information and Communication, signed a 10-point agreement on measures to be taken to protect press freedom. The government committed to making a strong affirmation of its commitment to press freedom and the security of journalists and media companies. Accordingly, the ministry was to set up a special bureau to deal with incidents of press freedom violations, which would monitor incoming complaints and the relevant action then taken by the concerned authorities. It also promised to initiate legal actions against some recent media freedom violators and to assist in mediating ongoing industrial disputes at media companies. The government had not followed up on its commitments in early February when the FNJ had announced new round of protests.

## 4 Focus areas

### 4.1 Press freedoms violations and safety

Nepal's political context became supportive of press freedom and freedom of expression after April 2006, but media and journalists continue to struggle for their safety in a climate of growing impunity. Contrary to the general expectation that the installation of an elected government would lead to improvements in the media environment, the situation began worsening in mid 2008.

The FNJ has recorded over 342 incidents of press freedom violations between January and December 2008, including the killing of two journalists. Prakash Bahadur Shrestha was killed on 12 January 2008 and Jagat Prasad Joshi in November 2008. According to FNJ data, the attacks increased after July and continued till the end of the year. An armed group claimed responsibility of the murder of Shrestha; it is alleged that the members of the Maoist party were involved in the murder of Joshi.

#### **Attacks against media/journalists (January–December 2008)**

Journalists killed	2
Journalist abducted	2
Media houses attacked	114
Journalists/media houses threatened/harassed	80
Closure of publication / broadcasting	50

*Source: Federation of Nepali Journalists*

Nepal also has a number of pending investigations to resolve. Birendra Sah was abducted in early October 2007 and it was only several weeks later that the CPN(M)<sup>3</sup> admitted that its party workers were involved in the abduction and murder. Sah's murderers have not yet been brought to justice.

Another pending case is the 5 July 2007 abduction and presumed murder of Prakash Singh Thakuri. He was abducted in the Far-western district of Kanchanpur by a group of men believed to be associated with the Maoist party. His whereabouts remained unknown in February 2009. Instead, the Government dropped the charges against those accused of involvement in the abduction. The International Mission visited Janakpur and met with the family of Uma Singh who was murdered in January 2009 and held meetings with the local FNJ representatives, journalists, local police and security authorities. The Mission noted that the case had not been investigated promptly and thoroughly. The Mission asserted to the Home Ministry, as well as to Maoist leaders, that unless the state law enforcement agencies 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>4</sup>

The Mission's message to both government and party officials is that freedom of the press and freedom of expression are not just for the protection

<sup>3</sup> The party issued a statement to the effect on 5 November 2007.

<sup>4</sup> In an ideal situation it would have to be the police that investigates and brings culprits to justice.

of the rights of the media community, but address the rights of the entire population, and that without the watchdog role of the press, citizens will never be sufficiently informed and able to debate knowledgeably, which are prerequisites for peace and the establishment of a federal democracy.

The safety of media outside the Kathmandu Valley remained critical (see section on District Missions). This is the result of number of factors: the general atmosphere of lawlessness, poor communication facilities, inadequate protection measures and lack of demonstrated political will to protect the press. The lack of security and the deplorable working conditions – journalists often do not have appointment letters and remuneration – has displaced many reporters.

In many 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 and unarmed groups and many journalists have been forced to temporarily relocate from their work places or to heavily self-censor their reporting.

The International Mission's visit came in the wake of increased attacks on the media and journalists. The last three years have been a period of transition. All though the interim constitution enshrines certain guarantees for the right to free speech, media rights remain compromised. The first steps of the transition have been completed. A Constituent Assembly is in place, mandated to lay the foundations of a new republican order and an elected government is in authority. But the relative calm of the early years of the transition has now given way to new contentions and often violent disruptions of public order. Media rights have been weakened with attacks on the media increasing in various forms since the election to the Constituent Assembly was held in April 2008.

In the most traumatic manifestation of the turbulence in Nepal's media environment, a young woman journalist, Uma Singh, was murdered on 11 January 2009. She was a broadcast and print journalist working in the Janakpur region of Dhanusha district. Her rented accommodations were raided by a group of about 15 men. She was dragged out onto her veranda and brutally murdered. The Mission undertook a visit to Janakpur upon the request of FNJ (see District Media - Section 4.6).

Another journalist was murdered in late 2008. The remains of J.P. Joshi, alias "Pandit", were found in a forest in the Far-western region of Nepal. Joshi was reported missing from his home in Nepal's far-western district of Kailali, since October 8. The family identified the remains based on documents and other belongings found nearby. The deceased was the editor of the Far-western edition of the Nepali language daily *Janadisha*. He was a member of the FNJ and president of the Kailali district chapter of the Revolutionary Journalists' Organisation, an organisation closely allied with the CPN(M).

Joshi's family identified two brothers as suspects, both of whom he had named in a report filed just before he disappeared. He linked that to involvement in the illicit trade in tiger skins. The family said Joshi was last seen after he had gone to collect some money the two owed to him. Despite this, Maoist workers are believed to also have a hand in Joshi's killing. Many people met by the Mission seemed convinced that the killing may have been an outcome of a falling out within the ranks of the former insurgents.

On June 25, the wife of journalist Dekendra Raj Thapa identified a body exhumed in the town of Dailekh, in Nepal's Far-western region, as that of her

husband. The exhumation took place on the basis of information the FNJ had gathered, in the presence of officials of the National Human Rights Commission (NHRC). Thapa, a reporter for Radio Nepal, had disappeared in June 2004.

Subsequent forensic tests identified the human remains to be Thapa's. The FNJ has established through its own investigations that Thapa may have died under torture on August 10, 2004. Bam Bahadur Khadka, a Maoist militia commander is alleged to have primary responsibility for Thapa's torture and killing.

Krishna Bahadur Mahara, then spokesman of the Maoist party and now Minister of Information and Communication, had publicly expressed remorse over Thapa's killing and called it a violation of his party's central policy directives. As Minister Mahara has the remit to ensure that those responsible are brought to justice. Doing that would test his commitment to principle even if it involves momentarily abandoning partisan loyalties.

### **Political pressures undermine press freedom**

A new form of political partisanship has spread through the media industry, considerably muddling the labour-management equation. This has been manifest in Nepal's large media organisations, perhaps most illustratively at Himalmedia Pvt. Ltd.

Himalmedia, which publishes a Nepali language fortnightly magazine, *Himal Khabarpatrika* (HKP) and an English language weekly, *Nepali Times*, has according to a director and editor, Kanak Mani Dixit, had cumulative losses of NRs 95 million over the last nine years. Early in 2008, Dixit recommended to the board of directors that shutting down HKP seemed the only option available for ending the losses. According to him, the directors turned down his suggestion in view of the significant place that HKP had come to occupy in the Nepali media scene and asked him to explore other options.

The company's subscriptions department was identified for closure following a financial evaluation and a voluntary retirement scheme was offered to the 18 personnel in the unit. This became the subject of a bitter dispute between the management and a newly registered union.

The Himalmedia management informed the Mission that the union had been unlawfully registered. It did not have the mandatory number of signed-up members of 25 percent of total staff strength required under Nepali law to qualify as a legitimate collective bargaining agent. The management alleged the invalid identity cards of certain employees who had retired or otherwise left the company, were used to obtain union registration. A friendly dispensation awarded by government officials ensured that the irregularity went unpunished and was indeed rewarded.

Deepak Sangraula, the leader of the Himalmedia union and an employee of its subscriptions department, had a different account of the dispute. He said the union was launched in 2007 without political affiliation. When the management proved indifferent to all efforts at dialogue, it sought political affiliation with the Maoist-led All Nepal Federation of Trade Unions (ANFTU) in order to increase its heft.

Eleven employees of the subscriptions department accepted the retirement package on the terms initially offered by the management – a month's salary paid as compensation for every year of service. The remaining seven, with Sangraula as their leader, held out for better terms. Negotiations soon broke down, followed by a descent into violence.

Unknown assailants attacked the car of Asutosh Tiwari, chief executive officer at Himalmedia, in October. Tiwari escaped without injuries, but the incident prompted an immediate reaction by the company's management, which effaced all logos and other identification marks on its vehicles.

On November 16, just as the fortnightly edition of HKP was being readied for distribution, a group of around 10, reportedly in combat uniform, arrived at the gates, seized some 5,000 copies of the magazine and set them afire. As its cover story that issue of HKP featured a dire warning of the state of anarchy that threatened Nepal. The story stated that the numerous youth cadre that operated with impunity during the years of the insurgency had yet to accept the rule of the law that a nascent democratic order required.

Himalmedia reported that the Young Communist League (YCL), the youth affiliate of the UCPN (M), had carried out the attack. The cover illustration in the issue of HKP that was seized and burnt featured cadres of the YCL under a caption that strongly deprecated the growing mood of disregard for the rule of law. The story, the HKP editorial staff insists, did not target any particular group. It was equally critical of all the youth vigilante groups – and there are a number of them fielded by Nepal's political parties – that threatened to upset the political transition through their recourse to coercion and force.

Yet another attack, this time far more serious, occurred after the HKP in its issue launched on 16 December, ran a story critical of the Maoist unions and their allegedly strong-arm attitude towards labour-management relations. On 21 December a group of around 25 came to the newspaper office asking for the reporter who wrote the story. According to Himalmedia management and staff, this group did not wait for answers, but went into action in a manner suggesting a high degree of training in unarmed combat, beating the staff members they crossed paths with and causing material damage. The assault was abruptly called off when one HKP staff began bleeding profusely. The attackers then reportedly exchanged words among themselves, concluded that they had gone beyond the pre-determined limit and abruptly left.

Himalmedia registered a police complaint on December 25, naming two individuals whom they identified as leaders of the December 21 attack. These were Ramesh K.C. and Ramesh Babu Pant, both senior functionaries in the Maoist union. The UCPN (M) leadership promptly ordered both individuals to surrender to the nearest police station. They were detained for two days before being released on bail, to a rapturous reception by Maoist cadre in Kathmandu.

A few days later, Salik Ram Jamakattel, the head of the ANFTU visited Himalmedia to negotiate a settlement. The severance package for personnel who had not accepted the earlier offer was enhanced to two-and-a-half months pay for every year worked, as against one month. With this a line was drawn under the whole episode.

In retrospect, it is clear that the Himalmedia case study is hardly one that suggests any movement towards a healthy industrial relations culture. Firstly, the issue of the legitimacy of the union under the law of the land remains uncertain. Secondly, Himalmedia may have been somewhat too hasty in choosing confrontation rather than negotiation and consensus building. Thirdly, in calling for the intervention of the main political party in the government, the union may have sought undue advantage, though it would argue that this was a recourse forced upon them by management intransigence. Finally, disparate terms were worked out for two groups of employees



who were to begin with, equally disadvantaged by the decision to close a department. This seems to leave an impression that disruption and sabotage, and the invocation of political patronage, are likely to be a more successful approach to settling industrial disputes than long-established processes of collective bargaining.

The incident involved overt violence. It was followed by a series of events at two other media companies, Kantipur and Asia-Pacific Communication Associates, Nepal (APCA-Nepal) that had a more profound impact on the labour and management relations.

Kantipur publishes two dailies: *Kathmandu Post* in English and *Kantipur*. In late December 2008, its satellite publishing operation in Biratnagar was paralysed for five days by Maoist unionists pressing their demands for improvements in wages and working conditions. The Nepal Press Union, which is a recognised representative of the Kantipur work force, distanced itself from the demands. The management insisted that the demands were superfluous, since most of them had been met. It was far from evident whether the union leading the agitation had the endorsement of any section of the work force or had followed appropriate procedures in pressing its demands. Clearly, however, the incidents at Kantipur's Biratnagar operations did not meet the description of a legitimate strike action. It was more akin to a blockade, with Maoist union activists preventing media workers from reporting for work.

Concurrently, activists of the All Nepal Communication, Printing and Publication Workers' Union – part of the Maoist-controlled ANFTU – had put up their flags in the office of APCA Nepal. This action was obviously an effort by the Maoist union to force itself upon APCA Nepal as the *de facto* representative of its work force even though few of the procedures in place for union recognition and registration were seemingly followed.

Following the 10-point agreement between the FNJ and the Government, the union lifted its siege of Kantipur's Biratnagar premises. However, the Maoist union kept up pressure on APCA-Nepal. Union flags were hoisted on the building a day after the agreement was signed. And in mid-January, the union blockaded the media group's advertisement offices for three days. This was obviously a pressure tactic that the union has resorted to during a period when its status within the newspaper group was still awaiting a definitive ruling by Nepal's Supreme Court.

### **Official response to the attacks on the media**

Nepal's Prime Minister, Pushpa Kamal Dahal, issued an unequivocal condemnation immediately after the attack on Himalmedia. He rejected any possibility that his party could have been involved in the incident and referred to the perpetrators as "immoral agents" who had "infiltrated" his party with the intent to discredit it. However, the continuing good standing of the two individuals who were arrested and then released on bail within the UCPN(M) hierarchy, tends to undermine the Prime Minister's claim. A sharp disavowal of the celebratory reception that the two were accorded on their release from detention, might have served to underline the message that the ruling party will not countenance any further acts of vandalism against the media.

It is evident that politics in Nepal often induces a degree of equivocation from those holding high office. At a public gathering after the attack on Himalmedia, Prime Minister Dahal was ambivalent at best, questioning why there was such a furore over an incident in which no one had been seriously injured or killed. He reportedly drew an adverse comparison between this seeming 'fuss' over the incident and the supposed silence that followed J.P. Joshi's murder.

This seemed like a thoroughly unfair comparison to most observers since the FNJ, as along with all other press freedom bodies had taken up his killing as an issue of concern, regardless of Joshi's political affiliation to the Maoists. The Maoists themselves, however, have not been able to convincingly dispel the aura of suspicion that Joshi may have been killed as a consequence of a falling out within their ranks. Evidently, Prime Minister Dahal's statement, while being only loosely based on facts, also seemed unmindful about the need to convey certain positive reassurances on his commitment to press freedom, irrespective of the political stripe of the media organisation or journalist concerned.

Before taking office as Prime Minister, and while he was the leader of the largest party in the Constituent Assembly, Dahal issued a warning to the Kantipur, that if it continued to criticise the party it would risk serious consequences. The implication was that a party that had won a fairly convincing electoral victory was effectively immune to public criticism.

However, this assumption, that electoral legitimacy exempted a political party from media scrutiny seems to be giving way to a more reasoned acceptance of the role of a free media. During his meeting with Mission members, Prime Minister Dahal gave his commitment to the principles of a multi-party democracy and a free and diverse media. Other senior governmental and constitutional authorities that the Mission members spoke to – including Subash Chandra Nemwang, chairman of the Constituent Assembly and Madhav Kumar Nepal, chair of the Constitution Committee – were equally definitive about their support of a free press.

## **4.2 Impunity and investigation of attacks**

The sad epilogue to Nepal's largely successful start to the transition to democracy has been the sharp increase in impunity for those responsible for gross human rights violations. The government has withdrawn over 300 charges against individuals for different crimes, sending out the message that with the right political connections every crime is escapable. This has also meant the same would apply to those attacking the media, and more so when those doing so are affiliated with, or close to, one political party or another, and especially those in the government coalition.

The inability of the government to thoroughly investigate and take actions to bring those that have been accused of attacking the media and journalists has resulted in a similar message. Its inability to restore basic law and order combined with the withdrawal of investigations and litigation against some highly visible cases has had a chilling effect on media freedoms. Journalists not only hesitate to cover issues where political accountability is involved but have also begun heavily self-censoring content. Both of these outcomes are not conducive to establishing a culture of debate, the basic tenet of democracy.

The Mission met government leaders and officials (including those responsible for investigations) and leaders of different political parties to convey a concern that the growing impunity was not conducive to not only media freedoms or free debate but also to the democracy that the Nepali population aspires. Government leaders have assured the Mission to that they will review some of the well-known cases and initiate actions where required. The Mission will be monitoring actions taken to fulfil these commitments and make appropriate responses where needed.

The Prime Minister, government members and the leaders of the political have expressed to the International mission their commitments to press freedom and have given guarantees that those attacking journalists, including their supporters, will be punished. But such commitments to end impunity and to stop all acts of violence against journalists and the media have not had any effect at all.

The more recent attacks, threats and harassment of media personnel and organisations are having a chilling effect on press freedoms. In many parts of the country, free and open debate is being compromised with journalists and media forced either into self-censorship or to stop working. This curtailment of free speech could seriously destabilise the peace and democratisation process currently underway in the country.

The government has responsibility for this development for a number of reasons. Firstly, the security forces are not taking adequate measures to protect threatened journalists and media companies. Second, investigations of attacks and harassment rarely end with the arrest of the attackers. Third, the government has failed to investigate a large number of cases where media institutions and journalists have been threatened and attacked, thereby sending a message that they condone the violence. The Mission strongly urges the government to establish a mechanism to follow up issues of safety and security of journalists as agreed in the 10-point agreement with the FNJ in December 2008. Failure to do so would imply agreement with and even complicity with this harassment of the media.

The International Mission asks the government to create a special police Taskforce charged with conducting investigations into all attacks against media and human rights activists. Considering that local police are not cooperative enough with journalists who are victims of violence, the government must put more resources into end to the impunity. This Taskforce should be responsible for re-launching investigations into the cases of journalists who have been murdered or who have been the victims of serious physical attacks.

The government should also ensure that investigations continue and, when completed, the cases are transferred to prosecutors for trial.

The International Mission calls all stakeholders – journalists, editors, media owners and workers and larger society – to implement the proper mechanisms, including training and security measures, to improve the safety of the field reporters.

Attacks on the media and journalists have been documented by the local and international journalists' organisations. However, political parties, armed groups and security forces involved in such violations have never taken serious actions against their members, who are guilty of the violence.

In the southern plains, dozens of journalists were physically assaulted, threatened or forced to flee after being threatened by Madhesi militants who have grown ever more violent in their attacks. Media harassment has never been seriously addressed by the Madhesi political parties or the government, and thereby exhibits lack of commitment to the safety of journalists.

The Terai has been hit hard by growing lawlessness due to an upsurge of more than a dozen armed, underground and unidentified outfits, whose writ looms large for the journalists. For example, Rajesh Prasad Verma, the Siraha correspondent of *The Himalayan Times*, who received death threat from an

anonymous caller, had to leave the area. So far, the national journalists' organisations themselves have implemented most of the security measures now in place to protect journalists. The state, on the other hand, has done little even though it is its duty to protect citizens.

Members of trade unions and young Maoists involved in campaigns of threats and attacks against the media were not investigated in the properly, leaving the impression that they had support of circles in the government.

The government did launch some investigations into the murder of journalists and disappearances, but some important cases have not been properly investigated. Upon arrival in Nepal, Mission members were told that the government had decided to suspend the investigation into the possible murder of Prakash Singh Thakuri, a journalist missing since July 2007 and believed to have been abducted and killed by Maoist cadres. Seven suspects had been booked for the alleged murder. But on 3 February 2009 according to a letter that was handed to Thakuri's wife, the Cabinet had, on 27 October 2008, decided to drop all charges in the case.

Madhav Kumar Nepal, chair of the Constitution Committee in the Constituent Assembly, told the Mission that the Cabinet decision was unilateral. His party, the Communist Party of Nepal (United Marxist-Leninist) – though a part of the ruling coalition – had no part in it. At the meeting with the Mission, Prime Minister Dahal assured the visitors that the Cabinet decision would be re-examined and the cases reinstated.

Other investigations into the murder of journalists continue to flounder with no visible progress. In particular, the Mission underlines the need for results in the two cases that were recorded during January 2008 Mission: Pushkar Bahadur Shreshta (January 2008) and Birendra Sah (October 2007).

An armed group, the Janatantrik Terai Mukti Morcha (Jwala Singh), has taken responsibility for killing Shreshta. However, Maoist cadres are suspected to have been behind the murder of Sah. The Mission was informed by Madhav Kumar Nepal that the principal suspect in the Sah murder has been promoted to the Maoist party central committee.

### **4.3 Interference and obstruction of media houses**

After the election in April 2008, the general expectation was that Nepal's press freedom situation would improve and allow space for dialogue and debate needed for state building. However, this has not been the case. Attacks on the press and the media intensified after July 2008 and culminated in a gruesome murder of a woman journalist in early 2009. There have been a number of attacks on media companies, including large media groups such as Kantipur, Himalmedia and APCA. District media such as the *Ankush* daily and *Ramaroshan* FM have also been attacked. At the time of the Mission there were little or no indications that the security of journalists and media would improve due to growing impunity and general insecurity in the country.

The recent spurt in attacks on media houses in Nepal must be therefore viewed as an integral part of the recent assaults on journalists representing the independent media. The violence has included murder, abductions and beatings or insecure conditions that hamper a journalist ability to perform his or her functions without fear.

The International Mission is deeply concerned over these attacks on media companies. Besides the attacks on the media houses mentioned before there have been similar incidents at media offices in Dadeldhura, Achham, Dolakha, Sindhuli and Kavre and some other districts. A large number of these attacks have been carried out by trade unions aligned with the UCPN(M). The attack on Himalmedia in December 2008 is alleged to have been provoked by published reports in *Himal Khabarpatrika* and the *Nepali Times*. The publications had printed reports of Maoist militants threatening businesses and media organisations. The Maoist-linked trade union said the dispute and the attack were set off by the firing of some employees.

A point which needs to be highlighted, and which was indeed emphasised during Mission's meetings, including that with the Prime Minister, is that employee grievances, even if legitimate, do not warrant violence and have to be redressed through legal processes, negotiations and dialogue.

Nepal's media companies responded swiftly to the attacks on Himalmedia by publishing blank editorials on 23 December 2008; TV and radio news programmes also joined the protests. The blank editorial spaces had appeared in the *Annapurna Post*, the *Himalayan Times*, the *Kathmandu Post*, *Kantipur*, *Nepal Samacharpatra*, *Rajdhani*, *Himalaya Times*, Image Channel TV, Kantipur FM, myrepublica.com, dainikee.com, eKantipur, *Newsfront*, *Nepali Times* and *Himal Khabarpatrika*.

The Mission raised the issue of attacks on media in meetings with the leaders in government and those heading major political parties. The Prime Minister assured the Mission that the case the government had dropped against the accused in the abduction and killing of journalist Prakash Singh Thakuri, would be reopened. He also explained how he had prevailed upon those who attacked Himalmedia last December to surrender to the police and face prosecution. What continues to be of concern is that the arrests should have come as part of normal law enforcement. The accused had been asked to "surrender". The police had not been ordered to arrest the accused. This procedure sets a wrong precedent. Moreover, not every media company attacked garners the same level of attention and concern, as was the case of the attack on Himalmedia.

The Prime Minister said, "There are, however, some people who in the name of Maoists do a lot of things to defame the Maoists". He reiterated his commitment to freedom of the press and rule of law saying "we have had intense discussions within our party and reached the conclusion that even in socialism there must be a multi-party competitive system as well as freedom of the press."

Jhala Nath Khanal, the General Secretary (elected president after the Mission) of the Communist Party of Nepal (Unified Marxist-Leninist (CPN-UML), which is in the government coalition with the UCPN-M, passed a party resolution condemning the attack. Khanal said that the "party led by the Prime Minister is involved in these attacks" and "there are people within the party who cannot tolerate criticism." Khanal added: "Press freedom is an inalienable part of democracy. We will defend press freedom with all our strength."

Madhav Kumar Nepal, the Chairman of the Constitutional Committee of the Constituent Assembly, acknowledged that journalists were working in a state of fear and thus not able to carry out their professional responsibilities.

Opposition Leader and Nepali Congress President G.P. Koirala was highly criti-

cal of the government in power. "Media is in the frontline of the attack on democracy by Prachanda's government which is moving towards a dictatorship. Any dictator coming to power will attack the media first." Koirala assured the Mission that the opposition would do whatever was possible to protect the media. He felt that the Prime Minister should be held directly responsible for the attack on the media houses.

Subhas Chandra Nembang, the Chairman of the Constituent Assembly, said the parliament had passed a resolution on the murder of Uma Singh asking the government to take necessary steps to ensure security for journalists while bringing the culprits to book. "We want armed attacks on media houses to stop and impunity brought to an end," he said.

Upendra Yadav, the Chairman of the Madhesi Janadhikar Forum and Foreign Minister, said certain elements had been taking advantage of the transition to carry attacks on journalists and media houses. He said actions were difficult owing to the political protection of the culprits.

Kedar Prasad Giri, the Chairman of the National Human Rights Commission of Nepal, shared the Mission's anxiety over human rights violation of journalists and media workers since freedom of expression and right to information were basic rights of all. He said the type of attacks on media companies, especially Himalmedia were "unacceptable." He spoke of the nexus between politics and crime and said it was difficult to demarcate one from the other, and said police officials had informed the Commission of political pressure that had been put on them to release the accused. Giri said there should be penal provisions for killing or attacking journalists for ending impunity.

Journalists working in *Kantipur* and Himalmedia expressed grave apprehensions about the future while conveying their resolve to continue to defending press freedom and carry out their professional obligations in a true independent spirit.

## 4.4 Constitutional and legal framework

This section of the report deals with constitutional and legal issues, including the issue of State responsibility for attacks on media workers, which was a dominant concern of the International Mission of January 2008. It draws from *An Agenda for Change: The Right to Freedom of Expression in Nepal*, which was published by ARTICLE 19 in September 2008 and launched at a conference in Kathmandu on 5 February 2009.<sup>5</sup>

The publication of *An Agenda for Change* is the culmination of a year of intensive activities conducted jointly by ARTICLE 19, Freedom Forum and the FNJ. These activities included a series of three meetings that brought together a stakeholder group representing different sectors of Nepali society, including the media, government officials, representatives of political parties, civil society, representatives of women's groups, representatives of minority groups, members of parliament and legal experts. The *Agenda for Change* reviewed law and policy in Nepal to assess whether they are compatible with the right to freedom of expression as guaranteed under international law. Only key select points of reform from the report are highlighted in this section.

### Constitutional and legal framework

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

5 <http://www.article19.org/pdfs/publications/nepal-agenda-for-change.pdf>

the 1990 Constitution, and are generally quite progressive. It is essential that these guarantees are retained and even improved during the upcoming constitutional review, which is the main task of the Constituent Assembly.

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 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, and the government adopted the Freedom of Information Regulation on 9 February. 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 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 2009.

## Constitution

Article 12(3)(a) of the Interim Constitution guarantees every citizen the right to freedom of opinion and expression. The right to freedom of expression, as a human right, should be applicable to all individuals in Nepal, whether citizens or non-citizens.

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 formulation 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<sup>6</sup>, 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. These provisions suffer from a number of defects in addition to those general problems concerning the scope of restrictions indicated above. Specifically, 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 that has been declared secret by law. 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 that are necessary to protect overriding public and private interests, such as national security and privacy.

As a response to all these constitutional shortcomings, we recommend that Article 19 of the Universal Declaration of Human Rights be used as the standard for the provision on freedom of expression in the new Constitution, which is due to be drafted through a constitution-drafting process initiated by the Constituent Assembly.

### **Decriminalisation of defamation**

The Nepali Defamation Act 1959, enacted on 29 June 1959, provided for the first time for a specific regime for the regulation of defamation which, prior to that, had been dealt with under the Country Code. Although the Act does not specifically distinguish between civil and criminal aspects of defamation, Section 5 provides for a fine of up to NRs. 50,000 (approximately USD850) or imprisonment for up to 2 years or both for dishonouring someone, or for printing or writing something deliberately, or with adequate reasons to believe it is not true, to dishonour someone. Section 12 of the Act provides for compensation, taking into account the public reputation and prestige of the plaintiff, where a claim of defamation is upheld.

Imprisonment is clearly a criminal sanction and hence defamation has a criminal nature in Nepal. However, the practice shows that plaintiffs rarely request imprisonment in defamation cases. Defamation cases are not categorized under the State Cases Act, so that the State does not play a role in the process of bringing defamation cases. Where the plaintiff is successful in winning his or her defamation case, the defendant must also pay for legal costs.

Furthermore, a growing number of countries around the world have done

6 *International law only permits restrictions designed to protect the rights and reputations of others, and national security, public order (ordre public), and public health and morals.*



away with, or are in the process of doing away with, criminal defamation laws, replacing them with civil defamation regimes. Criminal defamation is offensive to the guarantee of freedom of expression because civil defamation laws provide adequate protection for reputation, so that criminal laws cannot be justified.

The Mission therefore recommends that there be no criminal defamation provisions. Also public bodies should not be able to bring defamation cases and public officials should be required to tolerate a higher level of criticism than ordinary citizens.

## **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 no detail is provided regarding processing of licence 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 that fair rules be set out in law to prevent any backsliding in this area. The Mission recommends that all broadcasters be required to obtain a licence through a fair and transparent process. Licences should be given for set periods of time but may be allocated to the same applicant again where they have met their licence conditions.

The formal licensing rules fail to distinguish between commercial and community broadcasters, although there has been some recognition of community broadcasting. On 14 January, the government changed the license fee and royalty structure to differentiate between community broadcasters and commercial ventures. Accordingly, the royalty for non-profit broadcasters, including cooperatives, using transmitters of up to 500 watts would pay a two percent royalty on income (commercial radio: 4%) and the renewal fees would be 10 percent of the license fees (commercial stations: 110%). Licensing procedures should be adapted to the different broadcasting sectors. Community broadcasters, in particular, should benefit from less onerous procedural requirements. The Mission recommends that the royalty be abolished entirely, while a set percentage of the licensing fee paid by broadcasters is allocated for professional development and capacity building in the sector.

The Act also gives 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. In May 2006 the Supreme Court ruled that some of these provisions were unconstitutional, 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. The Mission recommends that the government not oversee broadcast regulation and that it be put in the hands of an independent regulatory body, which should benefit from structural protection against political, commercial and other interference. The regulator

should be funded from State funds and its budget should be approved by parliament.

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 public commitments 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. However, 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.

The High Level Media Commission recommended that the State broadcasters be transformed into independent public service broadcasters, with an independent oversight board. It also recommended that Gorkhapatra Corporation be privatised, but that its brand should be protected and the rights of its employees respected.

As noted, a public media-working group was established in 2006 and it provided a report to the Prime Minister in mid-2007, although it has not yet been made public. Like the Media Commission, the report 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.

The Mission recommends that there be no government print media. Furthermore, we recommend that the existing State broadcasters – Nepal Television and Radio Nepal – be transformed into independent public service broadcasters. They should have their mandates set out in law, which should include provisions stating that public interest broadcasting should serve the needs of all sectors of Nepali society. These broadcasters should be funded directly from the State budget in accordance with a budget approved by parliament. They should be accountable to the people through parliament, as well as through direct means, such as surveys and feedback sessions.

### **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, which would be elected bodies, instead of the district administration office, which is 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. The Press Council thus lacks appropriate structural guarantees of independence. Although the current 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".

The Mission recommends that structural reforms be adopted to transform the Press Council into a fully independent body that operates on a pro-people basis. It should be self-regulatory in the sense that appointments are overseen independently of the government, even if it is formally established by law. We recommend that the independent Press Council be responsible for complaints and applying the Code of Conduct.

### **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 working group prepared a draft 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. There are a number of shortcomings with the Act:

- 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.
- The National Information Commission should be given a wider promotional mandate to foster implementation of the law.

Although members of the National Information Commission have now been appointed, proper implementation of the Right to Information Law requires comprehensive regulations to be passed giving effect to various matters. Although a set of regulations were adopted on 9 February 2008 there are a number of shortfalls to the regulations:

- The regulation provides that the fee may be up to 500 times the actual market price of copying A4 size paper documents for government bodies.
- The procedure of filling in an application to the National Information Commission is unnecessarily formal and will hinder and dissuade many individuals from accessing information.
- The requirement that only a government official may be appointed Secretary at the National Information Commission (NIC) suggests that NIC is a government department.
- The regulation fails to establish any mechanism or standards for proactive disclosure of the information.
- The regulation lacks the provision of different application process.

The regulations should be amended to address these deficiencies. We recommend that the government proactively publish information and adopt procedures and practices to give effect to the Right to Information Act in practice. The government should demonstrate clear political will at the highest levels to support the right to information and effective measures should be put in place to address the culture of secrecy, including the provision of adequate training to public officials, and in particular, to information officers.

### **State responsibility for attacks on media**

Nepal's media workers and media houses have been the subject of very serious threats, attacks and even murders. These attacks, and the culture of impunity which has arisen in relation to them, represent not only a violation of their rights to freedom of expression but also of other human rights, notably the right to life, and the right not to suffer torture, or inhuman or degrading treatment, which in turn, has a "chilling effect" effect on journalists' freedom of expression.

State authorities should explicitly recognise their specific legal obligations and responsibilities in relation to the killings and physical attacks on journalists and media houses. The State bears responsibility in two ways for these attacks. The State is directly legally responsible where:

- State officials act in an official capacity, whether or not they have express authorisation for this, for example where State security forces blackmail journalists in an attempt to control their output.
- State officials "contract out" abuses of human rights to third parties, for example by paying of an unidentified group to kill, attack or intimidate a journalist or to attack a media house.
- State officials are complicit in, or aid or abet, human rights abuses committed by private actors, including unidentified armed groups.



*The International Mission members meet with the main opposition leader and Nepali Congress President, Girija Prasad Koirala.*

But State responsibility goes beyond this and includes a positive responsibility to take effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. As the special international mandates on freedom of expression – the UN Special Rapporteur on Freedom of Opinion and Expression, the Organisation for Cooperation in Europe (OSCE) Representative on Freedom of the Media and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression – said in a Joint Declaration of December 2000:

States are under an obligation to take adequate measures to end the climate of impunity and such measures should include devoting sufficient resources and attention to preventing attacks on journalists and others exercising their right to freedom of expression, investigating such attacks when they do occur, bringing those responsible to justice and compensating victims.

On this basis, we recommend that State authorities, including the police and the judicial system, meet the State's legal obligations by:

- Taking effective measures to ensure that officials are not involved, directly or indirectly, in the attacks against journalists and media houses.
- Establishing competent, independent and impartial investigations into the killings, disappearances and physical attacks on journalists.
- Preventing, punishing and/or redressing the harm caused by private persons, including by unidentified or politically driven armed groups.

## **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 for a free and independent media and the safety of journalists and media workers.

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 about 8,000 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 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 for promoting a democratic transition. Its activism addresses all sides of Nepal's political divide. The branch network was fundamental in the FNJ's campaigns throughout 2005 when 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 UCPN(M) and other groups.

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's district volunteers report violations to the centre, which then undertakes investigations, especially of serious incidents and activates its advocacy and lobbying strategy, targeting national authorities and the international community. 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. The FNJ also lacks management expertise and could function as a representative organisation better by making the leadership and staff more inclusive.

As Nepal undergoes political transformation, the threats, risks and challenges for journalists and media workers have taken on a new character. Earlier the threats came from clearly identified organisations – the Government or the Maoists – more recently they have come from various groups including 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

job security because they do not have an appointment letter. Little assistance is made available to help journalists and media workers, especially freelancers. Insurance coverage 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 per cent 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 non-compliance include fines up to NRs 25,000.

A government committee set up in September 2007 to recommend a basic minimum salary made its recommendations to the government on 28 August 2008. On 20 February 2009 the government took a decision to implement minimum wages as recommended, to be effective from 13 April. The government has decided to require the media to implement minimum wages for specific positions in for large newspapers by mid-July 2009.<sup>7</sup> Large media companies (all government media, television companies, radios with networking arrangements and companies running more than one station, and all A-category national dailies and magazines (weeklies and fortnightlies).<sup>8</sup>

Several media managers told the International Mission they were committed to the WJA. However, their support was qualified. The commitment of media institutions to support skills development as required by the law also 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 came to the fore after 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. Before and since joining the interim Government, and as leader of the Government since August 2008, the Maoist leadership has publicly committed to media freedom. However, more recent pronouncements made by the prime minister that the media should report "positive" news and not just news as they see it are open to interpretation.

### Crosscutting issues

One area of concern for journalism in Nepal 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 a 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

7 The minimum wage is Rs4600 for media workers and Rs5200 for journalists.

8 [www.mediawage.gov.np](http://www.mediawage.gov.np) & [www.moic.gov.np](http://www.moic.gov.np)

9 Representative journalist organisations do not tend to negotiate with employers on matters related to workplace 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.

elected positions and for those from excluded social groups. FNJ's new executive committee elected in May 2008 has two women (one nominated) and representatives of Dalits, Madhesis and Janajatis (indigenous nationalities).

Another crosscutting issue is the lack of representation of Nepal's social groups in newsrooms, at all levels. The argument of the media companies is that they recognise the value of diversity but do not have adequate trained and qualified candidates to hire (It is the same argument when questioned about women representation). There are no institutions catering to this specific need, such as those training journalists from under represented social groups in order to create a pipeline of candidates that the media organisations could hire. These crosscutting issues have yet to be adequately taken up by representative organisations.

## 4.6 District media

Despite the fact that Nepal's independent newspapers only began to flourish since the re-establishment of democracy in 1990, Nepal today 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>10</sup> Of Nepal's roughly 8,000 media practitioners, some 6,000 are involved in the print media.

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. According to the World Association of Newspapers (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 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. The government has increased the handouts to media in the form of public service advertisements but issues about making the distribution equitable remain. 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.

### The murder of Uma Singh

The International Mission to Janakpur, Dhanusha District, was comprised of two international representatives and two members from the FNJ. The purpose of the visit was to inquire into the state of the investigation into the murder of Uma Singh, killed on January 11, 2009, and to assess public perceptions about this and other issues of concern. The visit took place following an announcement by the police that the motive for the murder was related to

<sup>10</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.



a property dispute, and Singh was killed because she allegedly held the title to a large part of the family's assets, mainly land.

The neighbours of the deceased told the Mission that on the day of the murder, a group of about 15 men had entered Uma Singh's ground-floor rented room, dragged her out of the house, brutally hacking at her with knives and other lethal instruments. The group had entered the compound into which three other tenements open on to and walked the twenty metres to Singh's room without attracting attention. Singh was discovered on the veranda of her modest one-room dwelling by a neighbour, who took her by motorcycle to the nearest hospital, but all too late to save her.

In Janakpur the Mission met Sonia Muller Rappard, representative of the United Nations Office of the High Commissioner for Human Rights (OHCHR), and later with Shambhu Koirala, the Chief District Officer (CDO) and Yadav Raj Khanal, Superintendent of Police (SP).

Muller-Rappard informed the mission that the OHCHR's mandate to investigate the murder would apply "only if" Singh had been killed because she was a journalist (because the United Nations classes journalists among human rights defenders). This meant that the office could not investigate the murder if it was proven to be a criminal case involving a property dispute in the family, or any other such matter. Preliminary studies, the OHCHR representative said, had not been able to establish that Singh was killed because of her work as a journalist. The OHCHR's mandate does not require the office to seek government permission to begin an investigation that falls within its ambit. But the preliminary inquiries had not established that the case would be within its mandate.

On the basis of its inquiries and interviews, the Mission believes that this element of confusion about the motives for the murder, though inherent in the situation, is easily dealt with. Property issues and familial rivalries were undoubtedly part of the reason why she was killed. But there is little doubt that her work as a journalist and the significant investigative reporting she had done on the wrongful seizure of land by the Maoists in Nepal's plains region during the 1996-2006 insurgency was a major reason for the murder.

The CDO and the SP concurred in the Mission's assessment that Uma Singh could have been killed because she was very much a journalist. Both officials were new to the area—the CDO had been at his post in Janakpur for three months and the SP two months – and this probably testified to the objectivity of their accounts, since they did not carry the baggage of familiarity or any kind of involvement with local politics.

Singh's father and brother had disappeared in 2005, after a popular mass upsurge compelled the former king to reinstate the parliament and cede powers to a coalition of political parties, but before a formal ceasefire agreement gone into effect, ending the country's decade-long Maoist insurgency. The belief in virtually all sections of opinion in the region is that Maoists were behind the disappearance, which was in all likelihood, followed by the murder of both men. Since the family is relatively well off and owns land, there was a strong suspicion that the motive for the two men's "disappearance" may well have been the property. Convinced that the Maoists were responsible for the disappearance and killing of the two men, Singh had begun a campaign to bring them to justice in through her reporting.

Singh also had documented a number of instances of land grabbing by Maoist cadres. With the ceasefire and the transition to an elected government,

there had been considerable public pressure building up for returning the seized land to their prior owners. This was deemed a vital part of the process of national reconciliation as a transitional approach until lawful land reforms could be instituted. The Maoist-led national government, formally committed to national reconciliation, has issued directives for the return of expropriated land. But it often proved unable or unwilling to enforce its writ on local cadres.

In an article published in the Nepali language monthly *Sarokar* in October 2008, published in English translation on the website [www.dainikee.com](http://www.dainikee.com) on January 6, 2009, five days before her murder, Singh had written: "The Maoists have not returned the seized land in Siraha district even three months after Maoist chairman and Prime Minister Pushpa Kamal Dahal directed his party cadres to do so. Some 1,200 bigahas of land captured during the People's War is still under Maoist control". She followed up this observation with a detailed catalogue of land seizures and an enumeration of the people affected by the expropriation of their property. The intent of her campaigning journalism was clear: to render justice to all people in Dhanusha district in particular, and in the plains region in general, who had been dispossessed and displaced due to land seizures.

Appropriately, the arrests made in the Singh murder have drawn attention both in Nepal and outside. Five individuals are currently in detention and await charges in the case: Lalita Devi Singh, Nemlal Paswan, Shraban Yadav, Bimlesh Jha and Abhishek Singh.

In the assessment of the police investigation, Lalita Devi Singh, Uma Singh's sister-in-law (wife of Uma's brother who disappeared in 2007) is one of the key conspirators. Her arrest was made on the evidence of the number of telephone calls she made prior to the murder to Umesh *alias* "Swami" Yadav. Following the murder, there were in the account given by the police, two days of silence, after which there is a resumption of frequent telephone contact.

Umesh Yadav is still evading arrest and is believed to be in the neighbouring district of Sitamarhi in India. He is a person with a known criminal record. A former functionary of the UCPN(M), he broke away to join forces with the Jwala Singh group, one of the many armed factions professedly fighting for the rights of the Madhesis against what they see as the disproportionate power wielded by the hill Nepalis (or the Paharis). Umesh Yadav then formed the Terai Ekta Parishad, which professes the same goals.

Shraban Yadav, one of the five already in detention, is a district level activist of the UCPN(M). In the estimation of the police, Yadav was almost certainly involved in the disappearance and subsequent murder of Uma Singh's father and brother. Inquiries by the FNJ have shown that Lalita Devi Singh perhaps came into contact with Shraban Yadav in the days and months that followed the kidnapping to secure his assistance in tracing her missing husband. The district police, however, argue that Lalita Devi Singh probably had an association with Shraban Yadav from even before.

Until his arrest, Shraban Yadav was a local leader in good standing with the UCPN(M). Political passions were aroused on the day of his arrest and tensions ran high for a while thereafter. The east-west highway through the plains – Nepal's main artery of communication – was blocked for a period but tensions abated after authorities announced that the arrest was in connection with Uma Singh's murder.

Reportedly Shraban Yadav's motive for participating in the killing was his desire to efface the evidence of his involvement in the disappearance of Uma

Singh's father and brother. Lalita Devi Singh's motive was to gain control of the share of the family property that would otherwise have gone to Uma Singh. Since Singh's journalism was a severe encumbrance to the Maoist cadres that had been active in land seizures during the insurgency and after, her elimination was an outcome that some of them may have actively sought.

Of the four others who have been detained, Nemlal Paswan and Abhishek Singh have criminal records, with a number of indictments against them. Bimlesh Jha is believed to have been a Terai Ekta Parishad activist who faxed a claim of responsibility for the murder to local media offices.

From all the information available, the cause of Uma Singh's murder seems to have been her journalism, which consistently took up the issue of illicit land seizures and demanded their restitution. She was fearless and outspoken in her reporting on the operations of numerous armed groups that have sprouted in the plains region since the end of the insurgency, which were using the proximity of the Indian border as an easy cover and wreaking havoc with civilian life.

The preponderance of evidence suggests a direct link between Uma Singh's journalism and her murder. Though there is no denying that she may have had a personal stake in the issue of land seizures, her journalism was exercised in the larger public interest and to serve the cause of all those who had been dispossessed and displaced.

The Mission will be sharing its conclusions, which are drawn from an extended round of discussions with the CDO and the SP of Dhanusha, with the OHCHR.

### **Meetings with journalists**

The Mission held separate interactions with journalists. It met 35 male journalists on 5 February. There is a strong sense of professional pride within the journalist' community over the rapid strides that the media has made in the area, especially in terms of the emergence of a number of FM radio stations. However, the journalists are angry and frustrated about the level of impunity afforded those responsible for killing, kidnapping, and threatening journalists. They said legitimate, thorough, speedy and transparent investigations were unlikely under the current government even though such investigations were the only way to bring the perpetrators to justice. During the year before the murder of Uma Singh, there had been two cases of journalists being brutally attacked in Janakpur. In the more serious of these cases, a local freelance journalist, Manoj Sah, suffered a near lethal assault on 17 January 2008; in retaliation for an article he wrote exposing rampant corruption in one of the town's prominent religious trusts. This attack, and that of Brij Kumar Yadav, a print and broadcast journalist, had not been investigated.

The Mission was told that women journalists were not attending the meeting because it was particularly unsafe for them to venture out at night.

In fact, young women who work late hours in various radio stations often stay the night at work. Employers bring in food to avoid the hazards they could face while heading home after dark. The Mission met 11 women journalists on 6 February. These discussions confirmed what their male counterparts had reported. One of the participants said that she earned one half of what her male counterparts did because she could not work a full day owing to the lack of security. She had been a very good friend of Uma Singh whose murder has had an enormous impact on her and several other women journalists in Janakpur. Her parents were insisting that she quit her job. Uma

Singh had received threats of violence on the phone, and the women expressed deep concern about their own safety. All the other women at the meeting said that their earnings were on par with young men whose education and experience level were equivalent.

All the journalists in Janakpur, men and women alike, were fearful. The wives and children of the men begged them to leave the industry; the parents of the young women demanded that they leave the profession. They said the government was unable to protect them, and that its inability or indifference to the plight of journalists tended to make the government complicit in the crimes that occur. Because none of the killers of journalists have ever been brought to justice, the environment in which media workers function was rapidly deteriorating.

The journalists said that the UCP(M) was yet to shed its identity as an insurgent outfit. Disturbances of the peace and outright crimes are still looked at through the prism of an underground unit. Where a government should apply the same standards to every such case, and investigate them in accordance with accepted norms of impartiality and fairness, irrespective of the political stripe of the offender, the Nepali government seemed to still believe that any demand for accountability is a denial of its status as a popularly elected government. The journalists were also seriously concerned about the blatant messages the government was sending to journalists and editorial writers suggesting that there are subjects that are out of bounds, especially accusations that the Maoists are still a long way from learning the responsibilities that come with authority.

### Identity politics

The outbreak of serious discord in the plains over issues of "indigenous" peoples' rights against those of the settlers from the hills (the ethnic tension between the Madhesi and the Pahari) has taken its toll on freedom of expression. A senior, highly respected journalist, Ramesh Ghimire, who has been active in Janakpur for 48 years, faced constant threats from activists of the various *Madhesi* groups that have sprouted in the region since the end of the Maoist insurgency.

Ghimire, the editor and publisher of the *Dhanusha* weekly, has had to face repeated questioning from anonymous callers: such as the reasons why he is running a Nepali language publication in the plains region, a region where the majority speak other languages. At a meeting with the mission, Ghimire spoke of being threatened several times over telephone by anonymous callers. In his many decades in journalism, he said, he has never had any reason to believe that the people of Janakpur were resentful of a Nepali language newspaper being published in their town. Faced with rising threats and harassment, Ghimire's family has chosen voluntary exile in a nearby town. He continues to live in Janakpur and to bring out his newspaper. Media freedom bodies have taken up Ghimire's case and demanded that he be given a secure environment to pursue his profession. The Mission would also like to underline this demand.

### National district missions

Four district missions organised by the FNJ complemented the International Mission. The teams led by former FNJ office holders travelled to 12 districts between 29 January 2008 and 3 February 2009.<sup>11</sup>

All national missions had a standard modus operandi and a common purpose. The primary objective was to raise the morale of journalists and media organisations through the presence of senior journalists and FNJ office

11 District visited: Far- and Mid-west – Kanchanpur, Kailali, Bardia and Banke; Central plains – Bara, Parsa and Rautahat; Eastern plains – Sunsari, Saptari, Siraha, Mahottari and Dhanusha.

holders. The other purpose was to advocate for media freedoms. Meetings were held with local political party leaders and workers, and heads of security agencies. The Mission teams held consultations with journalists, media companies, local political leaders and security agencies. One mission team also escorted Rajesh Verma, a reporter based in the eastern plains, back to Kathmandu because he had been receiving threats for his reports on the murder of Uma Singh.

Brief findings of the district missions organised by the FNJ are as follow:

- *Bara, Parsa and Rautahat districts.* The team reported that journalists were working in an environment of fear and harassment, mainly from armed, underground groups. Many armed groups had been using journalists as mediators or go-betweens and this had created tensions with those without any affiliations with any of these groups. Some journalists had even been "serving" armed groups, voluntarily, for meeting economic ends or under coercion. Law enforcement mechanisms were fully dysfunctional in terms of both their ability, and the efforts made, to provide security to journalists as well as the general public.
- Senior police and administration officials told the Mission that even though they were aware of groups that had threatened and attacked journalists and the media, they were unable bring them to justice owing to political protections provided to those individuals. Leaders of one political party or another were linked to the violence against the media and that political protection had made it almost impossible to press charges and bring the perpetrators to justice. The team added that there were early signs that the mutual trust that had existed among journalists and the general population was eroding. Many journalists said it was becoming increasingly unsafe to venture outside the district capitals for reporting. The situation had partly to do with the unresolved identity-based demands and polarisation around identity and increase in lawlessness. The politicisation of identity-based demands had made the situation more complex as people had begun to hesitate to trust others, especially those with different identities.
- *Banke, Bardia, Kailali and Kanchanpur districts:* The team followed-up on the investigations of the alleged culprits behind the disappearance of Prakash Singh Thakuri (July 2007) and queried the chief district administrator and the chief of police as to why Chandra Kanta Bhatta, in-charge of the local town committee of the YCL in Dadeldhura, and others accused of involvement in the crime had not been arrested. The Mission was told that the government had withdrawn the charges. The team also found that the government had not sent to district officials the directives in its 10-point agreement with the FNJ of December 2008 in which it had promised to take special measures to ensure security of media and journalists -.
- While expressing support to media freedoms, Yagyaraj Joshi, a member of the Kanchanpur district committee of UCPN(M) added that his party would not hesitate to "crush" reactionaries who had disguised themselves as journalists for the purpose of disrupting the constitution-making process. The repeated use of the term "crush" was clearly a threat intended for journalists.
- Journalists told the team that they had resorted to self-censorship to avoid attacks and threats and had stopped leaving their home or office after dark. The mission also met Lucky Chaudhary who had been beaten

by local Maoist cadres in the premises of the District Administration over a property dispute. Those who had threatened him still went around, reportedly saying, 'The issue remains to be resolved, and we still have to cut off the hands and feet'. Chaudhary had been forced to stay away from his village.

- The mission also met with the family of Jagat Prasad Joshi who had been abducted and killed in late 2008. The two persons accused of the murder had been jailed but the investigation had not been completed. Joshi's family said the deceased had gone missing after he went to collect NRs 65,000 that one of the accused owed him.
- According to journalists, it had become almost impossible to investigate and write about underground groups, and crimes and corruption-allegations against Maoist cadres. They said poor law enforcement was reason for the increased threats and attacks against journalists.
- *Sunsari, Siraha and Saptari districts.* Local administration officials told the mission that there were about 32 known and some other still unidentified groups operating in the area. Many of the individuals that had attacked and threatened journalists had political protection. Political pressures had also made it difficult for administration officials to detain suspects.
- Reporters said they wrote what they thought would keep them safe and not everything that they would have otherwise written about. Reporting about issues such as extortion and forced-donations by groups that were negotiating with the government and others pressing for identity-based demands were clearly off-bounds. Those threatening journalists in the region included groups seeking identity-based federations in the hills as well as Madhesi political parties, and groups affiliated with the ruling Maoist party.
- Reporting was more dangerous in areas bordering India as Nepal and India share an open border. Reporters from the central hill regions feared to venture into Madhesi settlements for newsgathering. There were also serious issues about the distribution of press identification cards to non-journalists and as regards to upholding the code of conduct by journalists.
- Some groups demanding the establishment of an autonomous ethnic federation in the eastern hills have announced "taxation policies" which would also apply to media operating in the area. In the absence of efforts by the state to end the lawlessness, journalists said the FNJ should initiate a dialogue with such groups to end harassment of the media.
- *Dhanusha, Mahottari and Sarlahi districts.* The mission was told that Uma Singh's murder had not been thoroughly investigated owing to political protection of the suspects. Journalists not willing to disclose their identities named six alleged culprits behind the murder. Some of these were arrested a few days later.
- Newspapers publishing in Nepali and journalists from the central hill said they received regular threats asking them to shut down their papers and/or stop writing in Nepali or rather write in Maithili which is the predominant language in districts in the south-central plains, especially in Dhanusha and Mahottari.
- There were also reports of land-grabbers with political protection that were threatening journalists from the hill regions as part of a strategy to extort property at lower prices. Among those threatened was Ramesh

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Ghimire who has been publishing a weekly from Dhanusha for the past 48 years. Another journalist, Shanker Shrestha from Malangawa, has been living in Hariwon for the past year after receiving regular threats. Several Madhesi journalists have also felt threatened and have been forced to change their workplaces.

- The mission was told that Uma Singh had received four or five threats before she was killed. Many suspected that she might have been killed because of her investigative pieces against those who had abducted her father and brother some years ago. The hurried nature in which the investigation was conducted, the transfer of some police officials and the filing of charges based on the property dispute are some reasons to suspect the case was mishandled.

The district missions observed the following broad trends:

- Mobile phones were used to threaten journalists and many groups seemed to be attacking journalists because this brought publicity to their causes.
- The intolerance of criticism among workers of some parties elected to the Constituent Assembly, including those that are in government, the increasing criminalisation, and the belief among certain groups that violence can provide a short-cut to power and privilege were other reasons for the attacks.
- The politicisation and polarisation around identity-politics, and the condoning and the use of violence by political parties and identity-based groups had sent the message that attacks on the media were acceptable.
- There was increasing self-censorship among journalists as a strategy for survival, and coverage narrowing to reporting on formal programs such as inaugurations and meetings.
- There were instances of persons with press credentials being directly involved in partisan politics and vocations other than journalism. Part-time involvement in journalism continued because media companies do not pay enough for journalists to make a living from the profession.

## 5 Recommendations

The following recommendations are based on the assessment carried out by the members of the International Mission.

### 5.1 Press freedom violations and safety

1. Police should investigate thoroughly all threats of violence against journalists and media workers, and the public should be made aware of investigations and prosecutions to discourage attacks, and ensure an end to impunity. The International Mission will closely watch progress in the investigations of the pending cases on the attacks on Birendra Sah, Prakash Singh Thakuri, Prakash Shrestha, J.P. Joshi and Uma Singh. The Mission urges all international agencies and governments to raise the issue of state responsibility during their interactions with the government of Nepal.
2. Press freedom monitoring 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. 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.
4. Media houses should provide basic safety equipment to journalists when needed.
5. Life and health insurance should be provided to journalists, photographers, camerapersons and media workers, and for their equipment.
6. Support mechanisms to assist threatened journalists and their families should be strengthened and institutionalised.
7. Safe houses, hotlines, reactive missions and other safety related activities should be strengthened/ undertaken as needed.
8. Local authorities, judiciary and police should be trained on press freedoms and freedom on information issues.
9. Linkages between human rights defenders, peace-process mediators, FNJ and other national media bodies should be strengthened.
10. Political parties should develop positions and concrete measures in support of media safety and clearly communicate these to their membership and the public.
11. No journalist should be sacked simply on the basis of his or her political perspective as long as it does not reflect in the content of his/her work.



## 5.2 Uma Singh's murder and pending investigations

1. The International Media Mission recommends that the government invite competent external parties such as the OHCHR, FNJ, and other NGOs to assist the police in carrying out speedy, impartial, thorough and transparent investigations of all threats, kidnappings, disappearances and murder of journalists and media workers.
2. That the government demonstrate clearly its commitment to press freedom and freedom of expression through involvement in the investigations and by working for the establishment of a committee or sub-committee within Parliament to study all credible cases in which journalists or media workers have been threatened, kidnapped, disappeared or murdered.
3. That it cooperate with civil society and competent institutions to reach an accord on how to provide security to journalists and other media workers, with special attention to the security of women journalists.



*Members of the International Mission to Nepal in February 2009.*

## 5.3 Impunity and investigations into the attacks of journalists

1. The International Media Mission urges the UN OHCHR to investigate the murder of Uma Singh as circumstantial evidence suggests she may have been killed for her role as journalist (a human rights defender) and not over a pending property dispute as Nepali authorities have been presenting the case.
2. The state is responsible for investigating all the pending cases of murder and disappearance of journalists. Only thorough investigations and punishing those guilty can the state put a stop to attack on the media and journalists.
3. The growing impunity for those responsible for attacking journalists must stop immediately. This can be attained by thoroughly investigating and punishing those responsible for attacks on Birendra Sah, Prakash Singh Thakuri, Prakash Shrestha, J.P. Joshi and Uma Singh. The Mission also recommends that the government initiate investigations and actions against the murderers of Dekendra Thapa.

4. The mission also demands impartial investigations into the murders of all journalists killed before 2006 and punishing those who were responsible.
5. The attacks on journalists and media companies must end immediately. Violence against journalists and the media cannot be justified for any reason in a law-abiding society. Ending violence against the media would be Nepal's first step towards democratisation because there can be no democracy without a free media and vice-versa.

## **5.4 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 to 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 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 privatise 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 media 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.

## **5.5 Broadcast media**

1. State radio and TV should be placed under the governance of an adequately financed independent body, the membership of which should reflect the diversity of Nepali society.
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 diversity in the

broadcasting sector.

4. Frequencies are a public resource and political parties should not control broadcasting stations. A study should be carried out to assess the ownership of 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.

## 5.6 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.

## 5.7 Unions and associations

1. Trade unions should negotiate (not resort to violence) 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 strengthening associations, unions and media organizations at the national and district levels, including for the secretariats and performance of 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. The minimum wages and other recommendations made by the committee for fixing minimum wage should be implemented and should gradually be extended to all media, irrespective of type and size of investment.

## 5.8 District media

1. Assistance should be provided for improving communications for media workers and district media outlets (including telephone, internet, etc.)
2. Assistance should be provided for the training of journalists from marginalized groups to ensure that they receive the same professional development opportunities as other journalists, and that they can be properly represented in the national media.

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

## 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 but 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. A free media is the one and only barometer of a functioning democracy and a country that does not protect journalists cannot become 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 unfortunate that the same media which played a leading role during the restoration of democracy in 2006 has now become the target of attacks from various groups including organisations affiliated with major political parties and criminal elements who are taking advantage of weak law enforcement.

The Nepali transition remains volatile and complex. Even though there are statutes that guarantee press freedom and freedom of expression in the Interim Constitution and the government has passed several laws that favour freedom of expression, the safety of journalists and protection of press freedoms remain major challenges. Developing the capacity of the media to respond to these obstacles to press freedom remains a major challenge.

The International Mission is committed to supporting 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 a peaceful transition to democracy. To the government and also to donors, the Mission offers its expertise to formulate policies and establish systems for facilitating media development.

# 7 Annexes

## **Annex 1:**

### **Mission statement (8 February 2009)**

#### **Joint Statement**

#### **International Press Freedom and Freedom of Expression Mission: Rapid Response Assessment Mission to Nepal**

#### **8 February 2009**

*The International Press Freedom and Freedom of Expression Mission (also known as the International Media Mission) came to Nepal from 5 to 8 February to undertake a rapid response assessment of the situation in the country. The International Mission was represented by six organisations including ARTICLE 19, International Federation of Journalists (IFJ), International Media Support (IMS), International Press Institute (IPI), Reporters Without Borders (RSF), UNESCO and World Press Freedom Committee (WPFC).*

The International Mission would have expected the Nepali press freedom situation to have improved with the restoration of democratic rule. However, Nepal's media and journalists are still facing serious threats.

The Federation of Nepali Journalists (FNJ) recorded a staggering 342 incidents in 2008 alone. Four journalists have been killed since 2006, including Uma Singh, J.P. Joshi, Birendra Shah and Pushkar Bahadur Shrestha, and the International Mission calls on the authorities to undertake independent and impartial investigation of all cases of murder and disappearance.

Another journalist, Prakash Singh Thakuri, has been missing since July 2007 and his whereabouts remain unknown. Instead of pressing the investigations, late last year the Government withdrew charges against the accused. However, in a meeting with the International Mission, the Prime Minister, Pushpa Kamal Dahal, provided assurances to reinstate charges.

The International Mission is concerned that due process is not being observed in the cases against Rishi Dhamala, Ram Subhak Mahato, Birendra KM, Manoj Mahato.

Conditions for female journalists are of particular concern, as they appear more exposed to attack and harassment, and are being forced to leave their work due to such pressures.

The International Mission is deeply worried by the attacks on media houses, including Kantipur, Himalmedia, Ankush Daily, Ramaroshan, APCA Group and others. Such attacks on media workers, publications and property are unacceptable. Those responsible must be held accountable for the actions and not lauded as heroes as has happened in some instances. Any substantive grievances over work conditions must be addressed through dialogue and not violence.

The ongoing attacks, threats and harassment of media personnel and organisations are having a chilling effect on press freedoms and freedom of expression. Free and open debate is being compromised with journalists and media feeling forced to self-censor their reports or stop working although, which could seriously destabilise the peace and democratisation process currently underway in the country.

A pattern in the attacks and harassment is discernable. Critical reporting is being responded to with violence, whilst the perpetrators go unpunished due to the culture of impunity that exists. The authorities are failing in their duty to address the culture of impunity and the lack of action on their part seemingly condones the attacks on the media. In this regard, the rights of journalists are not only being violated, but also that of the general public to be informed. Furthermore, the connection between political parties and some the perpetrators of these violent acts are extremely concerning and would indicate the acceptance and possible complicity of those political parties in the violence.

The International Mission calls on the Prime Minister and Government to follow-up his commitment to end impunity and demands that all acts of violence against journalists and the media cease.

The International Mission asks the Government and political parties to implement the recommendations for structural and policy reforms for freedom of expression and press freedom outlined in the 'Agenda for Change' document as swiftly and fully as possible. In specific, the International Mission would call attention to the following six points, which should be addressed in accordance with international standards and best practice:

- Guarantees of freedom of expression and press freedoms must be strongly enshrined in the new constitution to be promulgated by May 2010;
- The Right to Information (RTI) law must be properly enforced;
- The Government should end direct control of state broadcasters and introduce Public Service Broadcasters;
- An independent regulator for broadcasting should be created;
- Criminal defamation should be removed from law;
- The Working Journalist Act should be implemented and accompanied by regular dialogue between journalists, editors and owners.

Furthermore, the International Mission would ask that the Constituent Assembly form a specific committee to deal with the structural and policy reforms in the 'Agenda for Change', as well as follow and respond to the press freedom situation in the country.

The International Mission is convinced that all stakeholders - journalists, editors, media owners and workers and larger society - must rally around the common goal of safeguarding Freedom of Expression. Dialogue and close collaboration amongst owners, editors, journalists and the various networks and unions is the best way to defend press freedoms in Nepal. The International Mission would also strongly urge the international community to support the national media community in their efforts to defend press freedoms.

The International Mission also calls on the Nepali authorities and political parties to take action to address threats to press freedom. Only this can assure the public can enjoy the fundamental right to be informed and express themselves. Control of voice and thought has never won, and the International Mission believes that it never will in Nepal.

The International Mission remains committed to supporting and defending freedom of expression and press freedoms in Nepal together with our national partners.

**About the International Mission**

The International Mission came to Nepal in February 2009 with only two weeks notice on the request of the Federation of Nepali Journalists and other members of the Nepali media community. The International Mission met with the Prime Minister, Ministers, and Constituent Assembly, leaders of Government and opposition political parties, heads of security agencies, media, and civil society organisations. Mission members also visited Janakpur in Dhanusha District, where the journalist Uma Singh was murdered in January 2009.

The International Mission incorporates fifteen international organisations, including UN agencies, global media associations, freedom of expression advocates and media development organisations. This was the sixth visit of the International Mission to Nepal, with previous trips in July 2005, March 2006, September 2006, January 2008 and April 2008.

The International Mission thanks the Federation of Nepali Journalists and other national media organisations involved in preparing and hosting the visit, acknowledging the importance of close cooperation with national stakeholders and ensuring a nationally driven process for ensuring press freedoms in Nepal.

For further details about the International Mission please contact any of the participating organisations or:

Thomas Hughes  
International Media Support  
Mobile: +45 2645 6563  
E-mail: th@i-m-s.dk

8 February 2009  
Kathmandu, Nepal



## Annex 2:

### List of meetings in Nepal

#### Government

Puspa Kamal Dahal, Prime Minister and chairman of the UCPN(M)  
Upendra Yadav, Foreign Minister and chairman of the Madhesi Janadhikar Forum  
Govinda Prasad Kusum, Secretary, Ministry of Home Affairs  
Hem Bahadur Gurung, Inspector General of Police  
Basu Dev Oli, Inspector General of Armed Police

#### Political Parties

Girija Prasad Koirala, president, Nepali Congress  
Jhalanath Khanal, president of the CPN (UML)  
Mahanta Thakur, president, Terai-Madesh Loktantrik Party

#### Constituent Assembly

Subash Chandra Nemwang, Chairman  
Madhav Kumar Nepal, Chairman, Constitutional Committee

#### Other Pressure Groups

Nepal Trade Union Congress  
General Federation of Trade Unions  
All Nepal Free Trade Union – Revolutionary  
Professional Alliance for Peace and Democracy  
Nepal Bar Association  
Federation of Indigenous Nationalities  
Editors Alliance

#### Meeting with Media Institutions

Kantipur Publication  
Himalmedia Pvt. Ltd.  
Association of Community Radio Broadcasters (ACORAB)  
Broadcasters Association of Nepal (BAN)  
Kathmandu Valley FM Radio Broadcasters Forum

#### Meeting with international agencies

Karin Landgren, United Nations Mission to Nepal  
Office of the High Commissioner for Human Rights (ONCHR), United Nations  
Meeting with donors hosted by the Embassy of Denmark, Kathmandu

## **Annex 3:**

### **International Mission members**

- |    |            |                      |
|----|------------|----------------------|
| 1. | Article 19 | Toby Mendel          |
| 2. | Article 19 | Sejal Parmar         |
| 3. | IFJ        | Sukumar Muralidharan |
| 4. | IMS        | Thomas Hughes        |
| 5. | IPI        | Sumit Chakravartty   |
| 6. | RSF        | Binod Dhungel        |
| 7. | UNESCO     | Iskra Panevska       |
| 8. | UNESCO     | Serena Pepino        |
| 9. | WPFC       | Mark Bench           |

## Annex 4:

### Sample media coverage of the mission

#### NATION

##### Mission statement

##### Press freedom in Nepal threatened

The International Press Freedom and Freedom of Expression Mission visited Nepal from 5-8 February to undertake a rapid response assessment of the press freedom situation in the country. The mission was represented by ARTICLE 19, International Federation of Journalists (IFJ), International Media Support (IMS), International Press Institute (IPI), Reporters Without Borders (RSF), UNESCO and the World Press Freedom Committee (WPFC). This is the statement the mission issued on 8 February:

Press freedoms in Nepal continue to face serious threat despite the hope that restoration of democratic rules would improve the situation.

The Federation of Nepali Journalists (FNJ) recorded a staggering 342 press freedom violations in 2008 alone, including a significant escalation in the number of physical attacks on journalists and media houses. Four journalists—Uma Singh, J P Joshi, Birendra Sah and Pushkar Bahadur Shrestha—have been killed since 2006. The International Mission calls on the authorities to undertake prompt, independent and impartial investigation of these and all other cases of murder and disappearances of journalists.

Another journalist, Prakash Singh Thakuri, has been missing since July 2007. Late last year the government withdrew charges against the accused, who was earlier released on bail. The International Mission also calls for an investigation into the killing of Dekendra Thapa, after his remains were found last year.

The International Mission is deeply worried about the attacks on media houses, including Kantipur, Himalmedia, Ankush, Ramaroshan FM and the APCA Group. Such attacks on media workers, publications and property are unacceptable. Those responsible must be held accountable for their actions. Any substantive grievances over work conditions must be addressed through dialogue and negotiation.

The International Mission is concerned that due process is not being observed in the cases against Rishi Dhamala, Ram Subhak Mahato, Birendra KM, Manoj Mahato.

The ongoing attacks, threats and harassment of media personnel and organisations are having a chilling effect on press freedom. Free and open debate is being undermined with journalists and media being forced into self-censorship, seriously jeopardising the peace and democratisation process currently underway in the country.

A pattern in the attacks and harassment is discernible. Critical reporting is being met with violence and perpetrators go unpunished. The authorities are failing in their duty to prevent, punish and redress the harm caused by such attacks. The violation of journalists' rights is a direct infringement of the public right to information. Furthermore, the links between political parties and some of the perpetrators of these violent acts are a matter of serious concern and would indicate the acceptance, and possible complicity, of those political parties in the violence.

Conditions for women journalists, already seriously underrepresented in the profession, are of particular concern as they are more vulnerable to attack and harassment, and are being forced to leave their work and sometimes to move away from home due to such pressures.

As of now, not one person has been convicted for a criminal act against journalists and media houses, and the International Mission calls on the prime minister and the government to follow up their commitment to end impunity.

The International Mission draws attention to the following six points:

- Guarantees of freedom of expression for all and press freedom must be enshrined in the new constitution
- The Right to Information Act should be properly enforced so as to give practical effect to the presumption in favour of disclosure
- The government should end control of media and introduce Public Service Broadcasting
- An independent regulator for broadcasting should be created in place of direct government control
- Criminal defamation should be abolished and defamation should be addressed only through civil law
- The Working Journalists' Act should be implemented and accompanied by regular dialogue between media workers and owners

The International Mission is convinced that all media stakeholders must rally around the common goal of safeguarding freedom of expression and urges the international community to support the national media community in its efforts to defend press freedom.

<http://www.nepalitimes.com.np/issue/2009/02/13/Nation/15676>

### **Press still under threat: Media mission**

#### POST REPORT

KATHMANDU, Feb 8 – Notwithstanding the establishment of democracy, press freedom in Nepal continues to face serious threats, concluded the International Press Freedom and Freedom of Expression Mission after completing its four-day assessment visit to Nepal on Sunday.

“The ongoing attacks, threats, and harassment of media personnel and organisations are having chilling effects on press freedom,” said Thomas Hughes, a member of the Mission, at a news conference in Kathmandu on Sunday.

Media is being forced into self-censorship, seriously jeopardising the peace and democratisation process currently underway in the country, Hughes added.

“A pattern in the attacks and harassment is discernible. Critical reporting is being met with violence and perpetrators go unpunished,” He said, reading a press statement.

The international media mission said links between political parties and some perpetrators of these violent acts are a matter of serious concern and indicate acceptance and possible complicity of those political parties in the violence.

Concerned by the attacks on media houses, including Kantipur, Himalmedia, Ankush Daily, Ramaroshan FM and APCA Group, the mission said, “Such

attacks on media workers, publications and property are unacceptable. Any substantive grievances over working conditions must be addressed through dialogue and negotiation."

Referring to a report prepared by the Federation of Nepali Journalists (FNJ), the mission said 342 press freedom violation cases were recorded in Nepal in 2008 and four journalists - Uma Singh, J.P. Joshi, Birendra Sah, and Pushkar Bahadur Shrestha - were killed since 2006. It also demanded investigation by the government to trace Pankaj Das who was reportedly kidnapped while the media mission was still in Nepal.

The media mission also expressed concern over the case withdrawal of the alleged murderers of journalist Prakash Singh Thakuri and demanded investigation into the killing of journalist Dikendra Thapa, whose mortal remains were found last year.

The mission has called on Nepal government to conduct swift and impartial investigation of the murder and disappearance of journalists in the country.

In its statement, the mission also claimed "due process is not being observed in the cases against Rishi Dhamala, Subhak Mahato, Birendra and Manoj Mahato". The four were arrested from Kathmandu last week on the charge of extortion.

Calling on the government to protect and promote press freedom, the media mission has also made various recommendations to Nepal government in this regard. The recommendations include the guarantee of press freedom in the new constitution, proper implementation of the Right to Information Act, end to government control of media, establishment of an independent regulator for broadcasting, abolition of criminal defamation and enforcement of Working Journalists' Act.

The international media mission incorporates 15 international organisations including UN agencies. During its visit to Nepal, the mission met with Prime Minister Pushpa Kamal Dahal, and Constituent Assembly Chair Subas Nembang, political party leaders and members of civil society. The mission members also visited Janakpur where journalist Uma Singh was recently murdered.

<http://www.kantipuronline.com/kolnews.php?&nid=179427>

### **Nepal press still under threat says International Media Mission**

*The International Press Freedom and Freedom of Expression Mission said that press freedom in Nepal continues to face serious threats.*

Kathmandu, Feb 9: The International Press Freedom and Freedom of Expression Mission said that press freedom in Nepal continues to face serious threats.

During a press conference here on Sunday, Thomas Hughes, a member of the Mission said, "The ongoing attacks, threats, and harassment of media personnel and organisations are having chilling effects on press freedom."

Media is being forced into self-censorship, seriously jeopardising the peace process currently underway in the country, Hughes added.

"A pattern in the attacks and harassment is discernible. Critical reporting is being met with violence and perpetrators go unpunished," Kantipur quoted him as saying.

The international media mission said links between political parties and some perpetrators of these violent acts are a matter of serious concern and indicate possible complicity of those political parties in the violence.

Concerned by the attacks on media houses, including Kantipur, Himalmedia, Ankush Daily, Ramaroshan FM and APCA Group, the mission said, "Such attacks are unacceptable. Any substantive grievances over working conditions must be addressed through dialogue and negotiation."

Calling on the government to protect and promote press freedom, the media mission has also made various recommendations to Nepal government in this regard.

The recommendations include the inclusion of provision to guarantee press freedom in the new constitution, proper implementation of the Right to Information Act, end to government control of media, establishment of an independent regulator for broadcasting, abolition of criminal defamation and enforcement of Working Journalists' Act.

The international media mission includes 15 international organisations including UN agencies.

ANI

<http://www.andhranews.net/Intl/2009/February/9/Nepal-press-still-88785.asp>

### **International Media Mission visits Nepal**

February 6th, 2009 - 3:01 pm ICT by ANI -

Kathmandu, Feb 6 (ANI): The International Media Mission that is actively working for freedom of press in Nepal initiated meeting with leaders of political parties on Friday. The mission conferred with Nepali Congress President Girija Prasad Koirala this morning. Koirala said the recent series of attacks on free press and judiciary has posed threat to democracy. "The current Maoist-led government has remained a mute-spectator to continuing attack on press," he added. "The attacks on media and judiciary are continuing just like during the regime of then King Gyanendra. This will plunge democracy into crisis," Kantipur quoted him as saying. Reiterating his commitment to press freedom, Koirala gave assurances that his party will strongly raise voice for press freedom in the legislative. The mission is also scheduled to meet Minister for Information and Communications, top leaders of the major political parties, chiefs of security agencies, human rights activists, civil society members, chiefs of media houses and diplomatic missions. Representatives from 12 international media organisations including International Federation of Journalists (IFJ), and Reporters Sans Frontiers, among others, are the participants in the mission. (ANI)

[http://www.thaindian.com/newsportal/south-asia/international-media-mission-visits-nepal\\_100151875.htm](http://www.thaindian.com/newsportal/south-asia/international-media-mission-visits-nepal_100151875.htm)



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