

## Joint Statement

### International Fact Finding and Advocacy Media Mission to Nepal

27 February 2012

*The International Fact Finding and Advocacy Mission to Nepal (also known as the International Media Mission) visited Nepal from 23 to 27 February 2012 to assess the media freedom situation in the country. The International Mission was represented by AMARC, ARTICLE 19, Centre for Law and Democracy (CLD), Committee to Protect Journalists (CPJ), International Federation of Journalists (IFJ), International News Safety Institute (INSI), International Media Support (IMS), International Press Institute (IPI), Internews, Open Society Foundations (OSF), Reporters sans Frontières (RSF), South Asia Free Media Association (SAFMA), South Asia Media Solidarity Network (SAMSN) and UNESCO.*

This is the seventh International Media Mission to Nepal, starting with a mission in July 2005. Notwithstanding dramatic improvements following the restoration of democracy in 2006, in recent years progress in promoting respect for media freedom has stalled.

The International Mission focused on two key areas: legal and policy reform, and attacks on journalists and the culture of impunity. Despite the existence of a wide range of law and policy reform needs, concrete action has been taken in only two areas since April 2006, namely amendments to the Working Journalists Act, 2051 (1993) and the adoption of the Right to Information Act, 2064 (2007). While the overall number of attacks on journalists has declined in recent years, the rate remains unacceptably high and there is disturbing degree of political protection being afforded to the perpetrators. Many of those responsible for murdering journalists remain at large, promoting a culture of impunity and leading to widespread self-censorship by journalists.

The International Mission is making specific calls for action in relation to these two priority areas. It is committed to conducting rigorous follow-up to monitor progress on their implementation and also to providing support for this. We also invite our partners and other local stakeholders to work together, and with us, to achieve these goals.

The International Mission has two further priority concerns. First, implementation of the Working Journalists' Act remains poor, even within State media outlets. Security of employment and fair compensation for working journalists are essential for press freedom and independent, quality journalism. We call upon media owners and employers to fulfill their legal obligations under the Working Journalists' Act by signing secure employment agreements with journalists and by paying the wages that are set pursuant to the law. We also call on the Government to fulfil its obligation to enforce the law where owners and employers do not do so.

Second, the International Mission is concerned with the growing threats to online freedom of expression and the application of restrictive regulations to the Internet.

The International Mission calls on relevant actors to address the following media freedom needs:

## **I. Law and Policy Reform**

### Strengthening Proposed Constitutional Guarantees

The International Mission has studied three of the new constitutional proposals, namely for the freedoms of expression, of the media and of information. We note that, while relatively strong, the proposed guarantees are actually weaker than those found in the 1990 Constitution. Furthermore, the current proposals are not fully in line with international standards. In particular, vague language is used to describe the permissible restrictions to these rights, which could be abused to unduly limit them. We call on the Constituent Assembly to review these draft provisions with a view to further improving them. Several key actors – including the Prime Minister, the Chairperson and other Members of the Constituent Assembly, and the political party leaders we met – have agreed to open up the discussion on these guarantees so as to strengthen them. To support this process, the International Mission will provide a detailed analysis of international standards in this area, as well as the ways in which the current proposals could be improved.

### Development of an Inclusive Media Policy

In the course of a bilateral cooperation project, which includes efforts to transform Radio Nepal into a public service broadcaster, the Ministry of Information and Communications has published a draft Media Policy, 2012, on its website. The International Mission recognises the need, following the adoption of the Constitution, for the development of a comprehensive, progressive media policy in Nepal, which is non-discriminatory in relation to all media. However, the current efforts are problematical both because they failed to involve key players – including the Federation of Nepali Journalists – in the process and because the substance of the policy is inadequate, for example because it fails to address key issues such as the need for independent regulation of broadcasting and protection of freedom on the Internet. We call on the Ministry of Information and Communications to develop a new media document, through an inclusive, pluralistic and gender sensitive consultative process, with a view to producing a policy which fully addresses the needs of the media in Nepal. Most of the key stakeholders we met supported this and the Ministry of Information and Communications made a commitment to do it. To support this process, the International Mission will prepare an analysis of the draft policy and work with other stakeholders to ensure a robust consultative process.

### Limiting the Scope of Classification of Information

In January 2012, the Government of Nepal issued a document, purportedly in accordance with the Right to Information Act, but without conducting any consultations with local stakeholders, listing some 140 categories of secrets and types of information that should not be made public. These go well beyond what is permitted by the Right to Information Act, as well as by international standards. Following widespread local protests and a legal challenge, the Government has postponed implementation of these rules. We call on the Government to scrap this document and to restart this process, beginning with consultations with interested stakeholders. If the Government does this, the International Mission commits to providing relevant support for the process.

## **II. Addressing the Culture of Impunity**

The International Mission notes that while there have been some convictions for attacks on journalists, perpetrators of many of the most serious crimes remain at large (for example in the cases of Uma Singh, Birendra Sah and Arun Singhaniya). We call on the Government of Nepal to take appropriate action to bring the culture of impunity to an end, including by being fully transparent in relation to the status of investigations into crimes against journalists. We specifically call on the Government to publish the findings of the high-level committee that inquired into the killing of J.P. Joshi and to ensure that political pressures do not derail prosecutions already launched, including the case of Prakash Thakuri.

In the current hostile environment that prevails in much of Nepal, journalists need to know how to protect themselves, while owners and editors need to be made aware of their duty of care. We recommend the provision of a sustained safety development training programme, which would build sustainable local expertise on this issue, and which would cover physical dangers and trauma awareness, and be gender sensitive.

We also call on relevant stakeholders to set up a high-level, independent task force with a mandate to take action to address the culture of impunity, including by carrying out transparent investigations of serious cases and working with the authorities to ensure that convictions are secured. In due course, and subject to resources, proactive measures could also be undertaken, including developing a mechanism for protecting journalists at risk and a witness protection programme. The precise contours of the task force still need to be finalised, but we call upon the National Human Rights Commission, which already has a mandate to investigate human rights abuses, to play a key role, working with a range of stakeholders, including government. Many of the key stakeholders we met – including the Commission, several political parties, victims, and civil society and government representatives – agree that this is a priority. To support this process, the International Mission will provide examples and facilitate exchanges to raise awareness of how similar mechanisms have worked in other countries, and provide support to bring key stakeholders together to develop the task force.

## **About the International Mission**

The International Mission travelled to Nepal from 23-27 February 2012 at 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 the Attorney General, the Chairperson and other Members of the Constituent Assembly, political party leaders, human rights bodies such as the National Human Rights Commission and National Information Commission, donors, and media and civil society organisations. Mission members also visited Janakpur in Dhanusha District and Biratnagar in Morang District.

The International Mission comprises fifteen international organisations, including global media associations, freedom of expression groups, media development organisations and UNESCO. This is the seventh visit of the International Mission to Nepal, the previous trips being in July 2005, March 2006, September 2006, January 2008, April 2008 and February 2009.

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

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27 February 2012  
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