

Press freedom in Nepal: A gap between constitutional provisions and laws

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Abstract

Press freedom is a cornerstone of democratic governance, yet it remains particularly vulnerable in transitional political contexts. Nepal—marked by its history of monarchical rule, political upheavals, and constitutional shifts—offers a compelling case for examining how media laws both empower and constrain journalistic practice. This article critically analyzes the evolution of Nepal’s media law framework, tracing its development from the Panchayat era to the present democratic republic. It assesses key legal provisions governing freedom of expression, the press, and broadcasting, while identifying structural, political, and institutional challenges that continue to compromise journalistic independence. Drawing on international norms and comparative perspectives, the article explores the tensions between regulation and freedom, the roles of state institutions, and the influence of political and commercial actors. While Nepal’s constitution formally enshrines strong protections for press freedom, the paper argues that vague legislation, weak enforcement, and pervasive political interference undermine these guarantees in practice. The article concludes by offering policy recommendations aimed at strengthening Nepal’s media law landscape and reinforcing press freedom in line with democratic principles and international standards.

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Introduction

The Constitution of Nepal has guaranteed the freedom of the press as a fundamental right. Article 17(2)(a) emphasizes that every citizen shall have the right to freedom of expression, freedom of the press, and freedom of publication and broadcasting. In practice, though, certain laws and regulations have attempted to limit this freedom. Press freedom in Nepal is considered the cornerstone of democratic practice. Although the constitution guarantees freedom of expression and the right to communicate as fundamental rights, practical challenges have emerged in journalists' independent work due to restrictive legal provisions, economic-political pressures, and rapid technological developments. This research conducts a comparative analysis of the constitution, laws, regulations, and recent bills to analyze the major challenges observed during the period of 2023-2025 with factual evidence. Based on international indices, national reports, and case studies, the current state of press freedom in Nepal is examined, and actionable recommendations for improvement are presented.

Press freedom has long been regarded as a barometer of democratic health. In societies transitioning from authoritarianism to democracy, the media serves not only as a watchdog of power but also as a platform for public deliberation and accountability. It includes the immunity of the communications media, including newspapers, books, magazines, radio, and television from government control or censorship. Freedom of the press is regarded as fundamental to individual rights (Acharya, 2014). The notion of the press as the fourth branch of government is sometimes used to compare the press with Montesquieu's three branches of government, namely the legislative, the executive and the judiciary branches. Edmund Burke is quoted to have said, "Three Estates in Parliament, but in the

reporters' Gallery yonder, three sat a Fourth Estate more important than they all (Carlyle, 1866, 147)."

Nepal offers a unique context for analyzing the relationship between media law and press freedom. Over the past seven decades, the country has moved through several political systems—absolute monarchy, constitutional monarchy, multiparty democracy, armed conflict, and republican federalism. Each political shift has brought corresponding transformations in the legal environment for media and journalism. Section 47 of *Electronic Transaction Act* is being invoked unnecessarily against journalists. There are different laws to deal with journalistic contents that the government may deem offensive but we often see law enforcement agencies invoking this Article which provides for five years' jail term (Kamat, 2024, *Media year book*, p-201).

Despite stakeholders' warning against criminalization of defamation, the major parties criminalized defamation when they enacted the National Penal Code, 2017. Likewise, The Media Council Bill is purposed against Press Freedom and independency of Press Council (KC, 2082). The Constitution of Nepal has guaranteed the press and publication rights in its third part under the title Fundamental Right. Absolute press freedom is included in the preamble of the constitution. Whereas the constitution guarantees freedom of the press, in practice, some laws may threaten the freedom of journalism due to vague terminology, the potential for government interference, or the possibility of punishment. Such laws are likely to violate Articles 17 and 19 of the constitution.

Nepal's 2024 media landscape shows a concerning rise in press freedom violations, with increased physical attacks, threats, arrests, and legal harassment against journalists, despite constitutional protections. Key legislation like the Media Council Bill and proposed Social Media and IT Bills are seen as threats to independent journalism and expression, while Reporters Without Borders (RSF)

reported Nepal ranked 74th in their 2024 World Press Freedom Index. Organizations like Federation of Nepali Journalists (FNJ) and Media Action Nepal continue to document these incidents and advocate for government action to uphold media freedom and safety. Despite constitutional guarantees, the Nepali press faces persistent legal and political challenges. The Constitution of Nepal (2015) enshrines the right to freedom of opinion and expression and explicitly protects the freedom of the press.

However, the implementation of these guarantees is undermined by restrictive provisions in other laws, vague definitions of “national security” and “public decency,” and the state’s inclination to regulate the media sector more tightly during times of political instability. This work adopts a qualitative research method to discuss issues concerning the enforcement of existing media laws and the overall level of press freedom in Nepal. The work is based on previously published work on media law and press freedom, the writer's field experience, and library research. The findings are justified using descriptive and analytic frameworks that give a clear picture of the legal and institutional processes influencing media practice in the country.

Literature review

The trajectory of media law in Nepal mirrors the country’s political transformations. The press has oscillated between control and freedom, depending on the ruling regime’s approach to governance and dissent. The Rana oligarchy (1846–1951) maintained strict censorship. Publications like *Gorkhapatra* (est. 1901) were state-controlled and served propaganda purposes. Private publications were rare, and dissent was suppressed through administrative orders rather than codified media laws. The absence of press laws reflected not freedom but state monopoly over communication. The overthrow of the Ranas in 1951 and the introduction of multiparty democracy created a brief period of press pluralism. The 1951 *Interim Government of Nepal Act* guaranteed freedom of speech

and expression, laying the groundwork for media legislation. However, instability and palace interventions limited the growth of independent journalism. King Mahendra dissolved parliament in 1960, banned parties, and instituted the Panchayat system. The Constitution of 1962 restricted freedoms, emphasizing loyalty to the monarchy and national unity.

Media laws such as the *Press and Publication Act* (1963) introduced licensing requirements and censorship mechanisms. State-owned outlets (Radio Nepal, *Gorkhapatra*) dominated, while private journalism faced harassment. The “guided democracy” approach reduced the press to a mouthpiece of the state. The 1990 People’s Movement restored multiparty democracy and enshrined strong guarantees of press freedom. The 1990 Constitution of Nepal explicitly protected freedom of opinion, expression, and the press. Lots of newspapers, FM radio stations, and television channels emerged. Key media laws, such as the *Press and Publication Act* (1991) and the *Press Council Act* (1992), established regulatory structures while encouraging media pluralism. During the Maoist insurgency, both the state and rebels targeted journalists. Emergency provisions allowed the government to restrict press freedom in the name of national security. Journalists faced arrests, censorship, and even extrajudicial killings. Despite constitutional guarantees, press freedom was severely curtailed during conflict years. The 2006 People’s Movement and the abolition of monarchy paved the way for a republican framework. The Interim Constitution of 2007 and later the Constitution of Nepal (2015) guaranteed broader freedoms, including the “right to communication.”

However, subsequent laws such as the *Electronic Transactions Act*, *National Broadcasting Act* and draft bills on information technology introduced vague provisions that threatened free expression. Even in the federal era, political pressures, frequent lawsuits against journalists, and government attempts to control online media demonstrate continuing tensions.

Current legal provisions affecting media and press freedom in Nepal

The contemporary legal framework for media in Nepal reflects a mixture of progressive constitutional protections and restrictive statutory provisions. While the Constitution of Nepal (2015) enshrines some of the strongest guarantees for press freedom in South Asia, subsequent laws and their implementation often dilute these rights.

Findings and analysis

The analysis of media law and press freedom in Nepal requires both a theoretical lens and a conceptual grounding. Media systems function at the intersection of law, politics, and society. While constitutional texts may guarantee freedoms, their practical realization depends on the broader political culture, the nature of governance, and institutional practices. The press should remain free from government control, serving as a “marketplace of ideas.” In Nepal, liberal ideals are constitutionally enshrined but constrained by laws framed under statist assumptions. Press freedom is vital, it must be exercised responsibly, with regulation to prevent harm and ensure accountability. Nepal’s Press Council and Code of Conduct reflect attempts to institutionalize this model, though critics argue these mechanisms are politicized (Basnet, 2082). Nepal’s media law reflected authoritarian control, especially under the Panchayat regime, where the press was subordinated to state interests. Even in the post-1990 democratic era, elements of development list thinking persisted, framing the media as an instrument of national unity and social harmony rather than as a platform for dissent. In 2024, no significant progress was made on press-related laws. The long-awaited Media Council Bill remains incomplete. Meanwhile, the government is preparing to introduce the Information Technology Bill and Social Media (Usage and Regulation) Bill. The federation has consistently urged the government to develop media laws in accordance with constitutional principles (Media monitoring report 2024). Press freedom in this paper is conceptualized not only as the absence of state censorship but also as the positive ability of

journalists to operate without undue political, by adopting this broader understanding, the analysis captures both the formal legal structures and the informal practices that affect Nepali journalism.

Constitutional guarantees

The Constitution of Nepal (2015) provides the legal foundation for press freedom. Article 17 (Freedom of opinion and expression) ensures every citizen the right to freedom of opinion and expression. Article 19 (Right to communication) grants citizens the right to demand and receive information, prohibits censorship of media, and guarantees editorial freedom. Article 27 (Right to information) explicitly states that every citizen shall have the right to access information held by the state, except where disclosure would jeopardize national security, privacy, or other restricted categories. These constitutional provisions establish Nepal as a country formally committed to a free press. Yet, their implementation is often undermined by vague limitations. For example, restrictions based on “national security,” “public decency,” or “harmony” allow significant discretion to authorities. As far as the constitutional guarantee of the press freedom is concerned, all constitutions promulgated after 1990s are progressive. The latest constitution was drafted at the backdrop of the royal coup which suppressed the media violating the rights guaranteed by 1990 constitution. Despite the constitutional guarantee, many laws have been formulated with a purpose of curtaining the press freedom.

Press Council and self-regulation

The Press Council Act (1992) established the Press Council Nepal (PCN) as a regulatory body to oversee journalistic ethics and standards. It monitors compliance with the Journalists’ Code of Conduct, investigates complaints, and provides recommendations. While intended to be independent, the Council’s leadership is appointed by the government, raising concerns about political influence.

The PCN regularly updates the code, but its enforcement mechanisms are often criticized for being selective and inconsistent (Bidari, 2082). There is a persistent tendency in Nepal to create overlapping institutions aimed at controlling the media, without clearly understanding or respecting their distinct mandates. The Media Council Bill, for instance, seeks to grant expanded powers to a new Media Council, many of which overlap with functions already assigned to existing government agencies. This has led to a widespread perception within the bureaucracy that PCN is merely another department under the Ministry of Communication and Information Technology, damaging its credibility and undermining its intended independence. Successive PCN leaderships have done little to challenge this perception (Bhattarai, *The Annapurna Express*, 2025). *The Criminal Code of Nepal* (2017) contains several provisions that directly affect press freedom:

It criminalizes statements that “damage the reputation” of individuals or institutions, with penalties including fines and imprisonment. This is often used to silence investigative journalism. Vaguely defined provisions allow matters, discouraging scrutiny of the judiciary. While important for social harmony, vague definitions provide leeway for arbitrary application against journalists. The expansion of digital media has led to new laws targeting online expression.

Electronic Transactions Act (2008)

Intended to regulate e-commerce, it has been repeatedly invoked against journalists and social media users for publishing content deemed “offensive.” It contains provisions that criminalize online expression, mandate licensing of digital platforms, and empowers authorities to block sites. Critics argue it poses one of the gravest threats to digital press freedom in Nepal. Nepal lacks comprehensive legislation on data protection, creating legal uncertainty for journalists handling sensitive information.

Broadcasting regulations

The National Broadcasting Act (1993, amended) regulates radio and television. Licensing requirements and periodic renewals give authorities significant leverage over broadcasters. Community radio stations, once heralded as democratic innovations, have faced increasing political and regulatory pressures. The government retains discretionary powers to revoke licenses, often cited as a tool to suppress dissent.

Access to information laws

The Right to Information RTI Act (2007) operationalizes Article 27 of the Constitution, obliging public bodies to disclose information upon request. Implementation challenges include bureaucratic resistance, lack of awareness among citizens, and reluctance to share politically sensitive data. Journalists often struggle to obtain information within mandated timeframes, limiting investigative reporting.

The Working Journalists Act (1993, amended 2007) addresses employment conditions, minimum wages, and insurance. Enforcement remains weak, and many journalists work without contracts or security. This precarious condition indirectly undermines press freedom by making journalists vulnerable to pressure from employers and political interests. Despite robust constitutional guarantees, Nepal's media operate within a compliance-heavy, ambiguity-rich legal environment that creates a persistent "chilling effect." The main pressure points are legal vagueness, punitive enforcement, politicized regulation, and structural vulnerability.

Legal ambiguity and over breadth

Several provisions that touch expression—especially in criminal and digital law—are framed broadly (e.g., "defamation," "public decency," "disharmony," and "national security"). Such vagueness gives wide discretion to investigators and courts, enabling prior restraint in practice (even if formal censorship is prohibited).

For years, officials have used the *Electronic Transactions Act* (ETA) 2008 to prosecute speech posted online. Critics note that ETA's "offensive" content clause, designed for e-commerce, has been stretched to cover satire, criticism, and ordinary commentary. Rights groups and journalist bodies have warned repeatedly that successive IT/Social Media bills risk criminalizing online expression, empowering blocking, and mandating onerous registration. In February 2025, the IFJ highlighted a new Social Media Bill's potential to curb expression and access to information. Amnesty and CPJ have made similar critiques across earlier drafts since 2019–2020. In September 2024, the Supreme Court imposed three months' imprisonment on two online media figures (publisher and executive editor of *sidhakura.com*) over contempt—an unmistakable signal that critical judicial coverage can invite custodial penalties. In June 2025, the Special Court summoned *Drishti* weekly's publisher and journalists for contempt after a report alleging middlemen's influence in corruption cases. On August 17, 2025, the Supreme Court underscored that all social media and online sites must register—continuing a regulatory trajectory that expands compliance burdens and exposes nonregistered actors to sanction.

Even when acquittals or light fines follow, the process is the punishment—time, cost, uncertainty, and reputational risk dissuade robust investigative reporting into the judiciary.

Media Council Bill (revived 2024–2025)

Civil society and media organizations warn that the draft strengthens executive influence over media oversight and disciplinary powers, contrary to constitutional spirit and international standards of self-regulation. The Federation of Nepali Journalists (FNJ) recorded 60 press-freedom violations in 2024, up from 58 in 2023 and 53 in 2022; women journalists were also significantly affected. Media Action Nepal's 2024/2025 reports and independent columns corroborate escalating obstruction, detentions, threats, and assaults.

Even without formal censorship, routine interference, threats, and legal harassment degrade the working environment, nudging outlets toward caution and self-censorship. The convergence of journalism and user-generated platforms means journalists are policed like creators and creators are policed like journalists. Proposed social media rules risk: Treating platform noncompliance (e.g., registration, takedown timelines) as grounds to throttle access – shrinking distribution and critical discourse. Legal exposure interacts with labor precarity (weak contract enforcement, delayed or low pay, limited insurance), making journalists more susceptible to editorial pressure from owners with political or commercial ties.

Nepal’s constitutional text aligns with ICCPR Article 19 principles, but practice diverges where necessity and proportionality tests are not rigorously applied. Criminal defamation, contempt without a high threshold for necessity, and speech-restrictive tech laws are all red flags in comparative jurisprudence. Advocacy groups repeatedly urge decriminalization of defamation and tight tailoring of any restrictions to meet international standards. In addition, there is a pressing need to grant journalists greater legal rights and amend the Press Council law to give it greater powers to enforce ethical journalism standards(Bidari, 2082).

Table 1

S.No.	Name of Law	Article No.	Challenges to Press Freedom
1	<i>The Electronic Transaction Act 2063</i>	47	Publication of illegal materials in electronic form
2	<i>Criminal (Code) 2064</i>	49(4), 50(3),(4) and 65(1), (2)	Constitution of Nepal, 2072 guarantees press freedom, but certain provisions in the Criminal Code can still undermine it in practice, despite constitutional protections.
3	<i>Media Council Bill 2080</i>	Under discussion in House of Representatives	Some provisions are against the autonomy of the Press Council.

Conclusion and recommendations

Nepal's experience with media law and press freedom illustrates the tensions inherent in transitional democracies. On paper, the constitutional framework of 2015 provides one of the strongest guarantees for press freedom in South Asia. It recognizes freedom of expression, the right to communication, and the right to information as fundamental rights. Yet, in practice, these commitments remain fragile. Vague legal provisions, expansive interpretations of defamation and contempt of court, and the application of digital-era laws such as the *Electronic Transactions Act* have repeatedly been used to silence journalists and stifle dissent. The recurrence of politically influenced regulation, attempts to pass restrictive media and IT bills, and the precarious working conditions of journalists collectively weaken the environment in which free media can flourish. Ultimately, the health of press freedom in Nepal will depend not only on legal reforms but also on broader political will and civic culture. A democratic society requires more than constitutional text—it requires institutions and practices that uphold the spirit of those rights. If Nepal can address the contradictions between its legal ideals and political realities, its media could serve as a stronger pillar of democracy, accountability, and social transformation.

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