

**PRACTICES OF FREEDOM OF EXPRESSION IN NEPAL: MEDIA
PERSPECTIVES**

A Dissertation

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By

SHASHI NATH MARASINI

TU Regd. No.: 6-1-40-1086-97

PhD Roll No.: 55/2072 B.S. (2015A.D.)

TRIBHUVAN UNIVERSITY

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LETTER OF RECOMMENDATION

We certify that this dissertation entitled "**Practices of Freedom of Expression in Nepal: Media Perspectives**" has been prepared by Shashi Nath Marasini under our supervision and guidance. We, hereby recommend this dissertation for final examination to the Research committee of the Faculty of Humanities and Social Sciences, Tribhuvan University, in fulfillment of the requirements for the degree of Doctor of Philosophy in Journalism and Mass Communication.

Dissertation Committee

.....

Prof. Dr. Laxmi Prasad Mainali

(Supervisor)

.....

Dr. Madhu Sudan Neupane

(Co-supervisor)

2024

APPROVAL LETTER

This dissertation entitled "**Practices of Freedom of Expression in Nepal: Media Perspectives**" has been submitted by Mr. Shashi Nath Marasini for final examination to the Research Committee of the Faculty of Humanities and Social Sciences, Tribhuvan University, in fulfillment of the requirements for the degree of Doctor of Philosophy in Journalism and Mass Communication. I, hereby, certify that the Research Committee of the Faculty has found this dissertation satisfactory in scope and quality and has, therefore, accepted it for the degree.

.....

Dean and Chairman
Research Committee

2024

DECLARATION

I hereby declare that this PhD dissertation entitled "**Practices of Freedom of Expression in Nepal: Media Perspectives**" submitted to the Office of Dean, Faculty of Humanities and Social Sciences, Tribhuvan University, is my original research work prepared under the supervision of my supervisor Prof. Dr. Laxmi Prasad Mainali and Co-supervisor Dr. Madhu Sudan Neupane. I have made due acknowledgements to all ideas and information borrowed from different sources in the course of writing this dissertation. The findings and results of this dissertation have not been submitted or presented anywhere else for the award of the degree. I shall be responsible to any other evidence found against my declaration.

.....

Shashi Nath Marasini

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ABSTRACT

Freedom of expression refers to a person's or a group of people's ability to express their thoughts, feelings, and views on a variety of topics directly or with the help of the media through various channels. It is a part of the natural instincts of humankind and the basis of all social institutions.

The main aim of this study is to analyze legal aspects of Freedom of Expression in Nepal from media perspectives, in the spirit of global and Constitutional features of the public communication system. For conducting this research, both qualitative and quantitative methods of data collection, such as questionnaire surveys, focus group discussions, key informant interviews and case study methods have been employed.

The study has found that the government of Nepal has equipped the people by disseminating the policy related decision and other necessary information. In course of the study, the researcher got to know that majority of the respondents believe that the Constitution of Nepal and other laws are playing crucial roles in protecting the press freedom and freedom of expression.

The study has concluded that a higher awareness level is better for good governance. Freedom of Expression is essential but needs to be limited to the extent that countrywide security, public order, and social-ethnic harmony have not compromised. Moreover, Nepal's media play an important role in flourishing Freedom of Expression.

Respondents have been found very optimistic about the future of Freedom of Expression in Nepal. In Nepal, the Government has persistently attempted to restrict the basic right to Freedom of Expression. It is imperative to ensure the right to freedom of expression in order to uphold the separation of powers and the rule of law.

The Constitution of Nepal ensures the ideal rights of citizens, such as Freedom of Expression. All rights are tied to press freedom because the press is a section of society. The majority of respondents are aware of the Freedom of Speech and Opinion. The Constitution of Nepal has ensured the indispensable rights of citizens, as the freedom of expression which is said to be integral part to upholding the separation of power, check and balance, limited Government, transparency, human rights, good and accountable governance, Constitutionalism and the rule of law.

Though the Constitution of Nepal guarantees the integral rights of citizens that is the Freedom of Expression as mentioned earlier, it has been found numerous lacunas in its exercises. The reason behind is that the Executive and Media seem to have poor performance in their roles whereas the role of the Judiciary seem to be more balanced. Both the Executive and the Media are created for the people's services, but they seem to be lagging behind in playing their proper roles that they are assigned to. According to the Social Responsibility Theory, they should be accountable to the people and the society but in reality, it is not so.

Key words: Freedom of Expression, Human Rights, ICCPR, UDHR, Laws, Media

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LIST OF ABBREVIATIONS/ACRONYMS

ACFHR	: African Commission of Human Rights
ACHPR	: African Commission on Human and People's Rights
ACHPR SR	: African Commission on Human and Peoples' Rights Special
ACHPR	: African Commission on Human and Peoples' Rights
ACHR	: American Convention on Human Rights
Art.	: Article
ASPAC	: Asia Pacific
AU	: African Union
CA	: Constituent Assembly
CCPR	: International Covenant on Civil and Political Rights
CEDAR	: Contributing to Education through Digital Access to Research
CLDIMS	: Centre for Law and Democracy International Media Support
COE	: Council of Europe
Const.	: Constitution
CRC	: Convention on the Rights of the Child
DDG	: Division for Democratic Governance
ECHR	: European Convention on Human Rights
Ed	: Edition
FFR	: Freedom Forum Report,
FNJ	: Federation of Nepali Journalists
GSGGPNR	: Global Strategy for Good Governance People in Need Revised
HMG	: His Majesty's Government
IACHR	: Inter-American Commission on Human Rights
IAPA	: Indonesian Association for Public Administration

ICCPR	: International Covenant on Civil and Political Rights
ICERD	: International Convention on the Elimination of All Forms of Racial Discrimination
ICERD	: International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	: International Covenant on Economic, Social and Cultural Rights
ICMW	: International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
IIDEA	: International Institute for Democracy and Electoral Assistance
IMS	: International Media Support
IPU	: Inter-Parliamentary Union
MRACRP	: Media Rights Agenda, Constitutional Rights Project, Media Rights Agenda and Constitutional Rights Project
NKP	: Nepal Kanoon Patrika
OAS SR	: Organization of American States Special Rapporteur for Freedom of Expression
OAS	: Organization of American States
OSCE RFM	: Organization for the Security and Cooperation of Europe's Representative on the Freedom of the Media
OSCE	: Organization for the Security Cooperation of Europe
Sec.	: Section
UCLG	: United Cities and Local Government
UDHR	: Universal Declaration of Human Rights
UNDF	: United Nations Democracy Funds
UNESCO	: United Nations Economic, Social, Cultural Organization

- UNGA : United Nations General Assembly
- UNHRC : United Nations Human Rights Committee
- UNSR : United Nations Special Rapporteur
- v. : Versus

CHAPTER I

INTRODUCTION

1.1 Background

Freedom of Expression refers to the ability of an individual or group of individuals to express their beliefs, thoughts, ideas, and emotions about different issues free from Government censorship. It is a fact that expression comes from nature. It is related to natural law. Life, liberty and happiness are natural rights of the people. Nature of Freedom of Expression is determined as per the value and worth of expression. It may or may not be equally protectable or even mutually protected in the same event. It is also known as human rights, Fundamental Rights and legal right.

Some prominent scholars have pointed out “Freedom of Expression is a part of human rights that links with all individual’s rights like to freedom of religion, speech, press, petition, and assembly under the general term freedom of expression” (Mc Quail, 2001). Similarly, the principal author of the American Declaration of Independence proclaims that Freedom of Expression is a crucial part of democracy (Jefferson, 1816).

Freedom of Expression is a part of human rights for each individual in the world. People have their rights to hold their own opinions, and to get, analyze and share information and ideas independently (Neupane, 2014). Similarly, people have to play a critical role in democracy to establish good governance for entire development, which help to protect human rights (UDHR, 1948). Journalists use Freedom of Expression in every sector for collecting information to write news. They help people to exercise it in their daily lives (Belliver, Mendiburu & Poli, 2008). It is not only the right of journalist but also the right of every person. For journalists, these rights are useful for searching, analyzing and sharing the right information. To bring this

concept of Freedom of Expression into practice, Constitution of a country should incorporate all the relevant rights in the Constitution (Neupane, 2014).

Democracy is a system of processing conflict in which outcome depends on what participants do, but no single force controls what occurs (Palmer, 2014). The demands of free speech in a democratic society, as well as the interest in national security have better served by candid and informed weighing of the competing interests (International Media Support, 2014). The normative domain of human being is shaped by public communication, reflected in the content of mass media and other alternative media (Acharya, 2018). According to Bresner (2015), Freedom of Expressions should not be imparted the accurate and reliable information for people. People have to inform to take the proper decisions about their lives themselves.

Reason of Expression

Human civilization has become well- organized and developed as with the presence of communication; otherwise, there would not be a difference between human and animal domain (Sunden & Wicander, 2006). Public communication is a base of human rights and popular sovereignty. The function of democracy is possible only through socially responsible communication. The responsibility of this communication goes not only to Government and its organ but also to private sectors to the extent that they are existed in the market (Acharya, 2018).

The object of communication is to provide information or receive information (Schauer, 2012). The possibilities of nature of expression can divide into two broad categories: *individual and social*. The personal function of the expression can serve personally or self-centered requirements. The Social function of expression supports some important social activities of the societies. The concept of marketplace of ideas helps to promote knowledge and truth that should examine by public (Irene, 2010).

Values of Freedom of Expression

Freedom of Expression has guaranteed under the international laws and bylaws of every Constitutional bill of rights in the world. The main values of Freedom of Expression are to develop democratic culture in society, separation of power, limited Government, good governance and personal liberty which enables citizen to raise concerns with authorities and ensures that new policies and legislation for the sake of social welfare (IMS reports, 2014). Societies protect common interest of the people and society. Those interests can be complex or multifaceted; hence, society may adopt a variety of values according to specific situations (Mills, 1962).

Normativity and Facility of Freedom of Expression

Jurisprudence can be divided into general and particular jurisprudence as well as communication jurisprudence which falls under the second category, is a latest development of modern jurisprudence. Jurisprudential views regarding communication law date back to long history (Schofield, 1998) pleaded power must be communicatively legitimated over those whom it is exercised. Locke believed that knowledge is the product of experience. His view is that man is born with empty mind (Daniel, 2013).

The empty mind of human being has filled up with the information, for the reason information is essential to enrich human mind. Similarly, father of American Realist School of Thought of jurisprudence, Holm (1919) used the metaphor marketplace of idea, which is also similar with Mills (1859), theory of liberty both are related with liberal theory. There is an inherent danger that the vast power to the executive can use not for public good but for private gain or for corrupt motive (FFR, 2008).

Father of positive School of Thought Bentham (1777) has insisted publicity of law, which helps to keep awareness about rule and misrule system of the Government. It also asserts the choices of the citizens in a democratic system, between control and authority or openness and the freedom to assess and the decisions of their leaders and their government. It informs about the decisions to the people and Government for making access of information on the democratic process (Postema, 2019). American president Jefferson (1776) advocated about the press freedom and stated that "Newspaper without state" rather than "state without newspaper" If anyone asks me about my choice between them, I would choose the first. Another US president Kennedy's (1962) consumer message propounded four rights of consumer, one of them was right to be informed. There was a lot of law about free discussion (Dhungana, 2023).

Similarly, one of the jurists of Natural Law School of Jurisprudence, Finnis (1980) found seven goods are necessary for human beings, among them knowledge and sociability are related with communication. Knowledge is a basic value. Fuller defines rule, well published and easily understandable of the inner morality of law related with communication. Rawl's (1971) theory of justice clearly demands the right to information, because in its absence, justice as fairness would not work. Habermas said, participatory law-making process is required to protect Freedom of Expression. He required the communicatory approach to law. Without consultation, law should make sufficient. A notion of popular sovereignty has found in communication jurisprudence (Habermas, 1984).

Critique of Freedom of Expression

Milton (1644) has known an early theorist of freedom of speech. He would extend religious toleration to all Protestant churches. His position toward criticism of

the secular power was even more confusing. Respectively Locke (1960) was equally preoccupied with religious as against secular expression. He believed that no opinions contrary to human society are to tolerate by the magistrate. One division of the "Fundamental Constitutions of Carolina "stated, "No person whatsoever shall speak anything in their religious assembly indecently of the Government or governors or of state matters". According to Professor L. Levy, Milton and Locke accepted the notion that the state had indisputable right to exclude agitation, a commodious concept encompassing anything from mild criticism of public policy to attempted revolution of Government (Locke, 1960 p. 103).

J.S. Mill endeavors to cover all forms of expression. He deals with religion as one subcategory merely in the field of moral, aesthetic and political ideas, which are to be given full defense. Mill initiates his tract by blandly stating that there is no more need to defend liberty of the press against a corrupt and authoritarian Government. He assumes that the Governments of Constitutional countries will not attempt to control the Freedom of Expression (Mill, 1962, p.79). Dicey and Mills (1962) have jointly emphasized that utilitarian premises, knowledge makes man happy. Mill believed fully rational can be trusted to participate in debate. Freedom of speech applies only to human beings in the maturity of their faculties. Minors and children have excluded as well as non-civilized peoples (Marcuse, 1978).

According to Rogers (2024), John Locke Liberal theory (1690) has been related with the level of rationality with economic status. "Locke has assumed fully rational behavior to be accumulative behavior; he could find that full rationality lay in appropriating rather than in struggling. For Locke, the laboring class, the greatest parts of humankind have not leisure for learning and logic, and delicate distinctions of

the schools. Where the hand is used to the plough and the spade, the head is seldom raised to beautiful ideas or exercised in mysterious reasoning" (Macpherson, 1977).

Freedom of Expression is the base for the Representative Government. In the shorter run, his model of democracy proposed an elegant system of plural voting as a guarantee against the numerical strength of the working class, which could use the franchise (Mill, 1859). The marketplace is universal principle of completion in unfriendly society. The principles of the market economy have extended to the political and intellectual ones. The intellectual market was necessary for the flourishing of individuality and the development of personality (Cohen, 2017).

Holmes thinks the market place is the mechanism through which isolated and antagonistic individuals and groups can carry out their wishes. The competition of the market is the best or the only means for self-gratification. Holmes in his writing social Darwinism is evident. According to him struggle for life is the order of the world, at which it is vain to repine (Zandt, 1994).

The intellectual and political markets can see, therefore, as providing a mechanism through which self-preferences backed by the state force can hold sway. The "fighting faiths" that compete and the resulting "truths" are nothing more than the publicly sanctioned interest of the more powerful forces in society seeking their self-interest (Holmes & Laski, 1920).

Freedom of Expression as Human Instinct

The right to Freedom of Expression is a broad concept. It covers numerous aspects of freedoms of the people in the world. It is not the privilege of the journalist, but the journalist can utilize this right to dig out the fact and disseminate to the people. Freedom of Expression is an essential part of democracy. Free speech goes hand in hand with a free media. Thomas Jefferson, the principal author of the

American Declaration of Independence, declares ‘where the press is free, every man is able to read, and is safe’ (Jefferson, 1816). Similarly, the United States Agency for International Development (USAID) and the International Research and Exchanges Board (IREX) issued a report on fundamental freedoms relating to people. According to the report, there are the following four types of freedom: the freedom of issuing newspapers and publications, the independence of broadcast licensing and regulation, the prohibition from all forms of censorship and freedom of accessing, obtaining and circulating information.

The definition of freedom of speech has been evolving in the course of time after the UN General Assembly passed the resolution by recognizing Freedom of Expression as a basic human right. It has established as a one of the branches of human rights (UNDF, 2015). Freedom of information indicates right to collect, prepare and transmit Ideas and opinions everywhere without censorship. As such, it is a crucial factor in any thoughtful effort to promote the peace, progress and development of humanity (UDHR, 1948). UDHR also protects the concept of Freedom of Expression in Article 19, it defines this right as a right to collect, search, prepare and disseminate the information through media. International human rights treaties, UN Human Rights Committee reports and other special UN conventions’ reports clearly insist that Freedom of Expressions are the flavors of democracy. Different rights are interrelated to maintain interdependent environment to each other (Article 20, UDHR 1948).

Global Perspective of Human Expression

The concept of Freedom of Expression originated from natural school of jurisprudence. This concept has developed through Magna Carta (1215), French revolution (1789) and declaration of American independence (1776). After the

establishment of UN in 1945, it was taken as a serious issue for the global society which as reflected in Universal Declaration of Human Rights (1948). The declaration treats it as the fundamental right within the framework of basic human rights. UDHR (1948) in Article 19 declares that the principle regarding the Right to information has directly connected with the freedom of information and expression without any intervention. This covers the right to get, analyze and share information and ideas through any means around the world (Mendal, 2006). Similarly, Article 19 of ICCPR, (1966) declares that everyone shall have the right to hold opinions without any obstacles. It includes freedom to get, analyze and share information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other means. The rights might be subjected to some limitations like privacy, official secrecy, defamation, copy right, non-discrimination, national security, parliamentary privilege, obscene publication (ICCPR, 1966).

Freedom of Expression in Nepal

In Nepal, human rights, including freedom of expression, were not a matter of public policy until 2047 BS (1990 AD). From 1903 BS/1846 AD to 2007 BS /1951 Nepal was ruled by the Rana family oligarchy. In 2007 BS (1950s AD), an armed Political movement against the Rana regime started to establish a democracy. The sovereignty of the king restored in 1951 and a new Government formed in association with the established political parties. Two Constitutional documents, the Interim Government Act of 2007BS (1951 AD) and the Constitution of the Kingdom of Nepal of 2015 BS (1959 AD), enacted by the monarchy, but they did not establish any real human rights. In 2019 BS (1962 AD), a new Constitution had enacted based on the absolute monarchy.

In 2047 BS (1990 AD), Nepal experienced a revolution, from a party-less political system to a multiparty democracy and Constitutional monarchy. The 2047 BS (1990 AD) Constitutional revolution recognized human rights as the key standard to measure the public policy (Kandel, 2017). On 14 May 1991, the Government of Nepal ratified the International Covenant on Civil and Political Rights (ICCPR) 1966. This brought the activities of Nepal's public bodies under significant national and international scrutiny and obligated the country to enact domestic legislation in harmony with ICCPR guidelines and institute conformity within its bodies. The new Constitution created a mechanism to realize Fundamental Rights through the judiciary. Extraordinary jurisdiction was granted to the judiciary to evaluate and correct the activities of the other branches of the Government, including the legislative branch. This has proven to be an effective tool to develop laws to protect human rights in line with Constitutional standards.

On many occasions, activities of public bodies declared un-Constitutional because they imposed unreasonable restrictions on the Constitutional rights of ordinary people (Timilsina, 2003). In fact, judicial review has significantly contributed to the development, promotion and protection of Fundamental Rights in Nepal. In terms of addressing public interest through litigation, in principle, the Nepali judicial review more effectively safeguards rights from restrictive legislative activity than judicial review in the United Kingdom (UK). Due to the UK principle of parliamentary supremacy, acts of parliament are not subject to judicial review (Acharya, 2012). Legislation passed by the UK's parliament cannot question or overturned by the judiciary, even if it limits freedom of speech (Fenwick, 2002). In Nepal, extraordinary jurisdiction allows the courts to review acts of parliament and

declare laws or parts of laws void if they impose unreasonable restrictions on Constitutional freedoms.

However, this powerful tool is ineffective during armed conflicts. For example, during the royal takeover of 2061 BS (2005 AD) all remedial mechanisms, including judicial review, failed or were ineffective. During the time of Royal take over 2061 BS (2005 AD), Constitutional and legislative guarantees of Freedom of Expression were suppressed and denied (FNJ, 2061 BS/2005 AD). The Government imposed unreasonable restrictions on Freedom of Expression and complaints brought to the Supreme Court for judicial review were not heard until the liberal political system was restored (Advocate Tulsi Ram Niraula v. Government of Nepal PN 2829 (SC Nepal 2007 BS/1950AD) and other important cases). Radio Sagarmatha brought this case to the Supreme Court, seeking judicial review and court replaced the ordinance. The new Constitution embraces the principles of republicanism, federalism, secularism, and inclusiveness. Human right is also a key principle of this new Constitution (Kandel, 2017).

1.2 Statement of the Problems

The Constitution of Nepal states that Nepal is a democratic society, which follows the principle of rule of law, free press, human rights, equality, peace and justice. It further elaborates that all Government organs and its servants shall follow and adhere to the international human rights treaties and good governance. Freedom of Expression is the heart of any democratic society. The Nepal Government has adopted various legislations and policies concerning freedom of expression. Nepali judiciary has given the principle relating to Freedom of Expression. We are also the party of international convention. However, the enjoyment of any freedom in any country has measured within the line of international standard. There are different

researches relating to the topic in the different countries of the world. In the context of Nepal, it is found that there is lack of research in this area.

The exact situation of Freedom of Expression has not been identified in the context of Nepal to identify the exact situation existing laws should be analyzed. Such type of analysis is not found in the context of Nepal. The existing laws are in line with global values and norms or not, the laws follow the philosophical grounds and components of Constitutionalism is the major problem of the study (Mendel, 2008). Similarly, implementation aspect of the laws relating to Freedom of Expression and the use of this right by the media is also another problem of the study. Therefore, this study has focused on these issues (Shaswat, 2022). There are some works in other fields of law but there is a lack of research in the field of Freedom of Expression in the context of Nepal. In the same way, there are negligible studies in the area of Freedom of Expression in the context of world. But such work has not been found especially in Nepali media (Taylor, 2020). So, the researcher has chosen this issue as the problem of the study.

Under this research, it intends to examine the following questions:

- a) What are the legal and Constitutional aspects of Freedom of Expression in line with accepted Norms in Nepal?
- b) Why is Freedom of Expression discussed in the Nepali media?
- c) How much legal guarantee of Freedom of Expression is actually implemented in Nepal?

1.3 Objectives of the Study

- a) To investigate legal and Constitutional aspects of Freedom of Expression in line with accepted Norms in Nepal.
- b) To analyze the practices of Freedom of Expression in Nepali Media.

- c) To evaluate the implementation of legal guarantee of Freedom of Expression in Nepal.

1.4 Justification of the Study

Generally, the U.N. system and Regional System have developed a lot of jurisprudence concerning how this right has practiced and guaranteed by the States as well the criteria for limiting this right. It has noted that under international law the States are required to comply with human rights obligations even though the domestic legislations provide a less level of protection or is in discrepancies with international standard. This research topic is unique. There is not enough research conducted in this sector in Nepal. Constitution of Nepal 2072 BS (2015 AD) has protected this Freedom of Expression in Article 17. There are numerous theories, which strongly support this right. This study is based on democratic theories on media, which rectify international norms of free speech. The right to Freedom of Expression enjoys broad protection in international law. However, since this right is not absolute, so it has to balance in consideration of other rights, notably the right to privacy and the right to non-discrimination. States have obligations to protect free speech, which protects the individual's right to privacy. It also protects media workers from harm related to their line of work; as well as an obligation to restrict the Freedom of Expression in certain circumstances, provided they pass the three-part test for restriction outlined in Article 19, or are necessary in the case of a national emergency as purported in Article 4 of the ICCPR. Therefore, it is one of the important areas of the research. Constitution is the fundamental law of the land to domesticate the international law in the nation. The Constitution should incorporate that provision as a fundamental right in the context of Nepal. It is necessary to study about the Freedom of Expression in Law and its implementation aspect in the context of Nepal. Consequently, the researcher has

chosen this issue for the research. Researcher hopes that it is important work in this field. It will contribute to formulate new knowledge in this fields and it will be helpful to solve the practical problem in the related field.

1.5 Scope and Limitation of the Study

Scope of the right to Freedom of Expression has covered broadly on media and communication issues and it enjoys special protection in international law. However, since this right is not absolute, it must balance in consideration of other rights, notably the right to privacy and the right to non-discrimination. This research is based an exercise of Freedom of Expression in Nepal from the media perspectives. It also covers the provisions of International and Regional Conventions on Freedom of Expression.

The Fundamental Rights enshrined in the Constitution of Nepal, laws, rule, regulation and court decision relating to the Freedom of Expression and its implementation aspect in the context of Nepal is the area of the study. Researcher has used doctrinal method to analyze the existing legal provision on Freedom of Expression. Legislation, court decisions, international conventions and customs have been analyzed under the doctrinal study. Researcher also conducts the empirical study to find out the implementation aspect of legal provision relating to the freedom of expression. Survey method has been used to gather first hand data. Probability sampling technique has been used to collect the primary data. Total number of samplings has 666. Out of the total number of samplings, 333 general people, 246 journalists, lawyers and human rights activists and 87 political and other experts have taken to collect data on random basis. This study is related with present Constitutional and legal provision relating with freedom speech and expression. International conventions, precedence, customs and legislation are the primary sources of law. In

the same token, expert's opinions, juristic writing, reasons, equity, justice and good conscience are the secondary sources of law. Therefore, this study has covered all these sources of law relating to Freedom of Expression. These sources are also known as the national law directly and indirectly. In the same footing, decisions made by international court are also important for this study. Constitutionalism is related with rule of law, equality before law, separation of powers and checks and balances, democracy, good governance, transparency, human right, freedom, public service delivery, press freedom and independent judiciary etc. as well as the philosophical aspect of Freedom of Expression. Therefore, this study has covered all the areas.

1.6 Significance of the Study

Freedom of Expression is a fundamental human right and it must be upheld in democratic societies. Yet there is a worrying global trend of Governments unjustifiably limiting freedom of speech, targeting journalists, protesters and other persons considered dissenting from Government views. Even in western democracies, laws are curtailing protest activities and threatening press freedom and free speech through mandatory metadata retention schemes. It is imperative that civil societies across the globe are vigilant in defending freedom of expression. This is necessary for the enhancement of people's lives and the creation and maintenance of strong, healthy democratic societies. In the present context, our society has accepted democratic values and norms. Our Constitution has given high priority for the Freedom of Expression. Constitutionalism aspect of Freedom of Expression has a relation with the rule of law, Separation of powers, checks and balances, independent judiciary, human rights and transparency are the key aspects. Nepali Constitution has accepted this right as a fundamental right. According to the spirit of the Constitution, many laws are formulated in Nepali context. In the same way, Nepali judiciary has given a

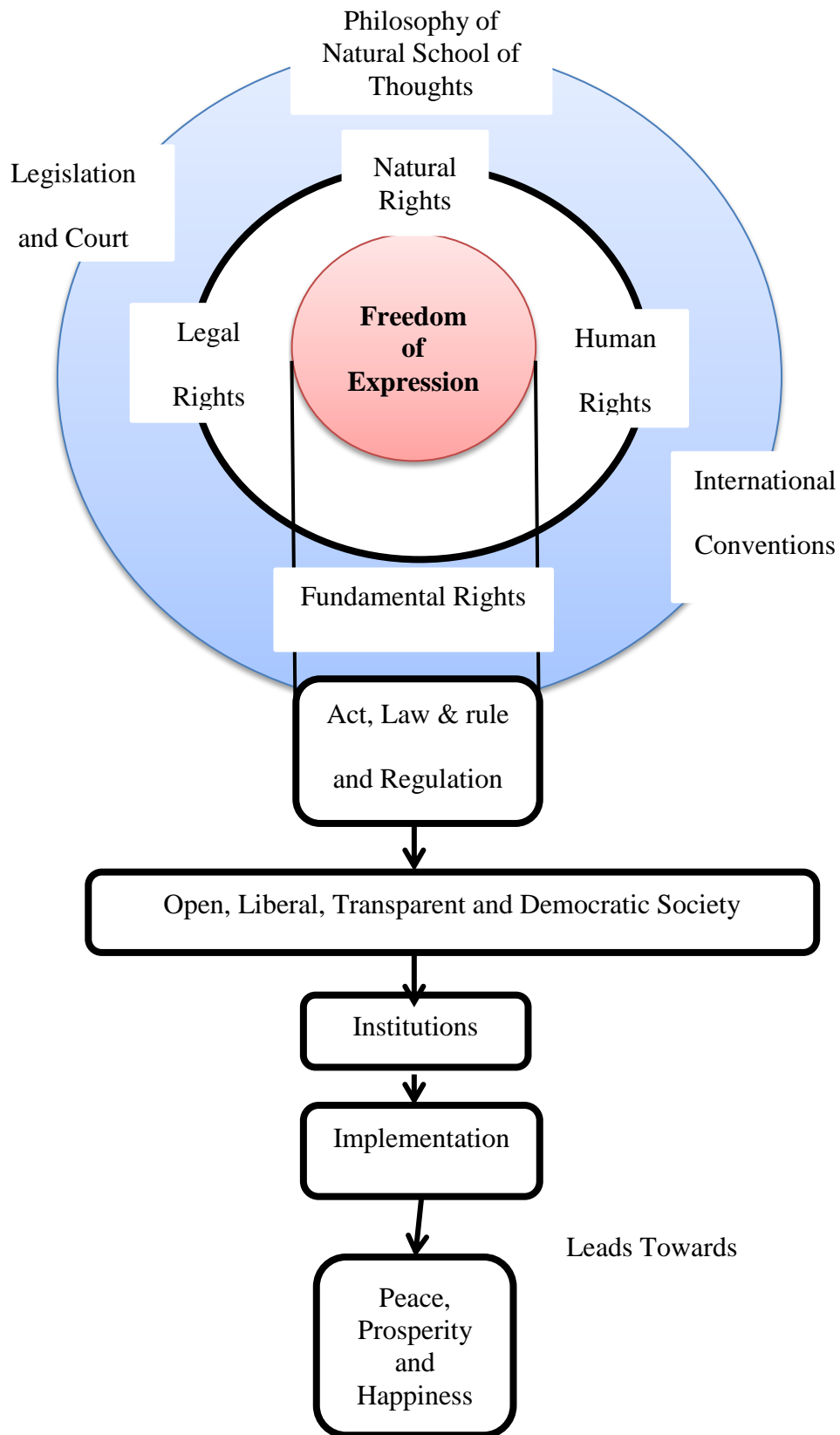
high privilege for the philosophy of Freedom of Expression and Nepal has become the party of international conventions. Nepal has given the importance for transparent and liberal society. So, value, philosophy and principle have become the important components of the democratic society. In this context, there is the significance for the study in the area.

1.7 Organization of the Study

In the study, the first chapter incorporates the introduction, statement of problem, research questions and objectives of the study including Scope and Limitation, rationale and organization of the study etc. The Second chapter has included review of the remarkable literature. It has covered all the aspects of the Freedom of Expression. Thematic and normative reviews are included in this chapter. This chapter has asserted research methodology. It is a blueprint of the research design. It has tried to cover suitable scientific methods of the social science research. Chapter 4 is linked with the legal aspects on Freedom of Expression in line of global context and Constitutional aspects of Freedom of Expression in Nepal. This chapter is related with practices of Freedom of Expression in Nepali Media. The chapters have designed as per the objectives. This chapter is concerned with the implementation of Freedom of Expression in Nepal and data presentation and analysis. Chapter 7, the final chapter incorporates summary, conclusion and recommendations.

Figure 1

Conceptual Framework of the Study



Source: Habermas (1984) and Siebert, Peterson & Schramm (1956)

CHAPTER II

LITERATURE REVIEW

2.1 Philosophy of Freedom of Expression

The principal author of the American Declaration of Independence proclaims that Freedom of Expression is a crucial part of democracy. Free speech helps a free media. The free press helps every man to read and it makes life safe (Jefferson, 1816). Freedom of Expression is one of the branches of Human Rights. It is also rooted with Natural school of Jurisprudence. Different scholars have given the concept of Freedom of Expression. It supports the free flow of idea with tolerance of opposing views. The central importance of the free flow of ideas to democracy means that tolerance of opposing views is a necessary precondition of that form of Government.

Freedom of Expression has to balance against the need to remedy the emotional harm it can cause. Hate speech consisting of group defamation and insult inflicts emotional injury, and thus impairs an important human interest. It is with the balance between freedom of expression, on the one hand, and the need to remedy harms (Simpson, 2013). Leveson reports in UK has emphasized right to respect the truth, to obey the law and to uphold the rights and liberties of individuals. In short, to honor the very principles declared and articulated by the industry itself (Leveson, 2012 p. 4). Likewise, it is also an important right in democratic society to be freely allowed to contribute to society's well-being. It helps to know the issue of public importance, and it must be possible for everyone to speak his mind freely about it. In the absence of freedom of expression, there would not be the meaning of liberty (Forsskal, 2009). Freedom of Expression has related with individual and state but in the context of Sweden the importance of making a distinction between democracy-driven and market-driven freedom of expression. These kinds of an approach are crucial for

further research (Svensson & Edström, 2014). The concept marketplace for ideas helps to promote knowledge and truth that should be examined by public (Holmes, 1919).

Freedom of Expression is a branch of human right for all people in the world. It is not only the right of journalists. It is the right of every citizen; Journalists help others exercise their freedom of opinion and expression by providing citizens with important, timely and accurate information to the people. Media should be free, fair and independent while disseminating the information. It belongs to all persons that has exercised through speaking, writing, publishing and broadcasting or through physical act and it is the primary freedom, an essential precondition to the exercise of other freedoms. It can be limited to respect other social interests, which are of pressing and substantial significance. Persons who exercise Freedom of Expression are under obligations to act responsibly and in a manner consistent with established ethical notion (Martin, 2002, p. 524).

In the same way, the dignity of individual is the basis of freedom of expression. Its purpose is to inform, persuade, and convince others as well as to reveal the truth or to clarify and reduce doubts (Hashim, 1994 p. 76). Likewise, Harris and Xavier (1995) assert Freedom of Expression as an intractable in human rights law. In democratic political system, free flow of ideas means tolerance of opposing views that is necessary precondition for democratic Government. It has protected such artistic endeavor. Haris also has insisted for the proper remedy to protect these rights. We should not promote hate speech from media. Obscene publications use to explicit wrong material, which have bad effects in the society.

Freedom of Expression is interrelated with other rights like linguistic rights, freedom of assembly and association, freedom of the press, right to the privacy, and

the freedom from State interference in correspondence and personal property. The relationship with freedom of thought and conscience is most apparent when addressing issues arising from press and academic freedom. It also overlaps with political right (Rhona & Smith, 2007 p. 267). Human thoughts are not possible to express exactly. It is a desire. This desire is a natural one and this freedom is a natural right. Some have described it as inalienable, and impress scriptable, but it is better to describe as primordial. It is essential to organize and progress society from uncivilized to civilize. Without its existence, individuality of man has suppressed. Without the right to acquire and impart information, knowledge becomes static, and subsequent generations can learn nothing from their ancestors (Kay, 2000).

Liberal approach has highlighted and focused by Mill. There should be liberty to express the idea and opinion (Mill, 1962). To overcome the gap between norms and facts, Habermas (1984) appeals to the medium of law, this gives legitimacy to the political order and provides it with its binding force. Legitimate law making itself has generated through a procedure of public opinion and will-formation that produces communicative power. Communicative power, in turn, influences the process of social institutionalization (Shabani, 1998). The definition of freedom of expression, recognized by law, has been evolving. United Nations General Assembly in January (1946) passed the resolution by recognizing freedom of information as a fundamental human right and the criterion of all the freedoms to which the United Nations is consecrated. It provides an early definition of freedom of expression.

Freedom of information implies the right to get information, right to analyze the information and right to analyze the information without prior restriction. As such, it is an essential factor in any serious effort to promote the peace and progress of the world (UNGA, 1946). Universal Declaration of Human Rights (UDHR, 1948)

protects Freedom of Expression under Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to find, receive and communicate information and ideas through any media and regardless of frontiers (UDHR, 1948). The right to Freedom of Expression does not exist in isolation. All rights are interrelated, interdependent and indivisible. Freedom of Expression is linked with the right to peaceful assembly, association, freedom of thought, conscience, and religion in particular (Article 18, UDHR, 1948). In the context of Nepal Recent Constitutional, provisions of freedom of expressions have led to institutionalize Nepali liberal democracy. As we know that Freedom of Expression are essential tools for making effective participation of the people in democratic process (Kandel, 2017 p.56). Both theoretically and practically Nepal has enjoyed the Freedom of Expression. Legal provision relating to the Freedom of Expression is supportive in the context of Nepal. There is open and liberal environment for the Freedom of Expression (Bista, 2015).

Free speech is one of the leading rights included in the Bill of Rights (1791). It takes precedence over other important Constitutional or legal rights, including the Constitutional right of copyright (Art. 9, 16th Amendment of United States of America). There are three factors, which relate to developing our ideas on regulating expression, along with certain pragmatic limitations imposed by the nature of regulating expression, and, finally, we consider what forms of expression ought to protect to advance those social values (Guinn & David, 2005). Freedom of Expression focuses challenges from the market to free speech. How free speech can protect, promote and develop when lines between journalism and advertising are unclear (Edstrom at al., 2016).

2.2 Evolution of Freedom of Speech and Press

Concept of freedom of speech has rooted on Natural law philosophy has carried out in different revolutions in the world like Magna Carta (1215), French revolution and revolution of American independence. Bill of Rights has given high priority to provide open environment for press and the people in American democratic history. The significance of the written and printed word was fully recognized by Elizabeth, Cromwell, and the Stuarts. From the time William Caxton set up the first printing press in England, in 1476, a new force was released in the world, but until Henry VIII's split with the Catholic Church, printed books were predominantly concerned with orthodox religion or were non-controversial in subject matter. A blow against censorship and prior restraint was struck by John Milton in 1644 in his classic polemic *Areopagitica*, contending against parliamentary censorship and for unlicensed printing. Milton's stirring defense for liberty of the press went unheeded, and Governmental censorship continued for another fifty years. The Licensing Act 1662, made law after the Restoration, prohibited seditious and heretical books and pamphlets; forbade printing any material unlicensed by the Stationers' Company, a Governmental monopoly; made illegal to importation or sell of a book without a license, and required that all printing presses has registered with the Stationers' Company. The system did not come to the end until 1694; six years after the "Glorious Revolution" threw out the last of the Stuarts (Downs, 1970).

The American Constitution in 1790 for the first time amended to protect Freedom of Expression by insisting on moral democratic values, it clearly defines as "Congress shall make no law abridging the freedom of speech, or of the press" (First Amendment of American Constitution, 1790). In the same way as a member of UN and Party of UDHR 1948 and ICCPR 1966 Nepal has domesticated the concept in the

Constitution and national Law. Recent Constitutional provisions of freedom of expressions have led to institutionalize Nepali liberal democracy. As we know that Freedom of Expression are essential tools for making effective participation of the people in democratic process (Kandel, 2017 p. 56).

2.3 International Development of Freedom of Expressions

Freedom of Expression is rooted in natural school of jurisprudence that has originated from the nature. This is the right based approach developed from ‘Magna Carta, (1215), French Revolution and Declaration of American Independent and United Nations Charters (UDHR 1948 and ICCPR 1966). This concept has recognized by Nepal. The Nepali Constitution has included this right as fundamental rights. International law insists on free environment for the press to utilize its rights, which has strongly committed against restrictions on freedom of expression in democratic society (Mendel, 2008). There is a relation between modern First Amendment theory and the Progressive Era free expression controversies and, therefore, that the progressive years are important to our understanding and application of first Amendment doctrine (Cobb & Linda, 1986).

The legislative foundation for Freedom of Expression law in the United States is grounded in the First Amendment to the Constitution. Based on this text, the Supreme Court has created the Freedom of Expression doctrinal framework by which lower courts and other branches of Government are bound. Unlike other jurisdictions, the United States grants broad Freedom of Expression protections based largely on the idea that “good” speech will prevail over “bad” speech in the open market (Velenchuk, 2019). In specific, this procedure has founded on the logic that I refer to as corporate libertarianism where the negative rights of media corporations have privileged over the positive rights of everyone else. Historically, much US media law

and policy have framed in negative terms, exemplified by the First Amendment. But there are also largely forgotten traditions that draw from a positive rights discourse. This social democratic orientation privileges media diversity and protects collective rights held by publics, audiences, and communities over the individual rights of corporations (Pickard, 2015).

Freedom of Expression is recognized connotation, which means the liberty to express one's views, opinions and idea. United States, the advocate of world press freedom, granted the press freedom in first amending the Virginia Bills of Right appeared in 1776 as, 'Congress shall make no law abridge Freedom of Expression including press; but there is various law like obscene, privacy, official secrecy that are used to impose reasonable restriction for responsibility (Mason, 1776). Article 19 of the Indian Constitution has guaranteed right to freedom to the citizen of India. Act 19(1) (a) is related to Freedom of Expression (Constitution of India, 1949). These guarantees of free speech stand in sharp contrast to harsh repression in other nations.

The UK provides for Freedom of Expression as a qualified right that can be restricted in certain circumstances as prescribed by law. The UK has laws in place that operate to prevent people from criticism speakers, but these are not frequently implemented. The main laws that appear to use against critics are those aimed to preserve public order (Feikert, 2019).

Constitution of Sweden protects free speech. However, law can limit freedom of the press and freedom of expression. For example, Sweden criminalizes a number of behaviors aimed at groups and individuals, including hate speech (racial agitation), enticement, and defamation. Disruption of certain public gatherings, such as public deliberations in the Swedish Parliament and religious ceremonies, has also criminalized. In addition, disorderly conduct aimed at aggravating others has

criminalized. Public speech (such as at town halls and demonstrations) can be limited by law. Demonstrations require a prior permit. Police may break up public speeches or other groupings of people if there is a risk to human life or of a disruption to traffic or the immediate surroundings (Hofverberg, 2019). The Constitution of Japan guarantees Freedom of Expression and the Supreme Court has stated that Freedom of Expression is particularly important in a democratic nation such as Japan. However, this freedom can be restricted for the sake of public welfare to a reasonable and unavoidably necessary extent.

The issue of interrupting general public speech has not yet discussed in Japan, but disrupting campaign speeches is a criminal offense. There is no mechanism to control specifically broadcasters working on behalf of foreign Governments. All broadcasters have required by the Broadcasting Act to be politically fair and not distort the fact (Umedas & Sayuri, 2019). The German Constitution guarantees freedom of expression, freedom of the press, and freedom to receive information, among other enumerated communication rights, to every person. Disseminating untrue facts or “abusive criticism,” defined as a statement that has not primarily made to debate a topic, but to defame a person, fall outside the scope of protection. General laws may only limit the communication rights. In the context of heckling, such general laws could be criminal law provisions protecting personal honor or civil law norms on undisturbed enjoyment of premises, or other basic rights. However, these limitations have to be examined in light of the Constitutional significance of the basic right they are restricting, meaning the limitations must themselves be restricted (Gesley, 2019).

Freedom of speech has considered to an “essential freedom” in France. It has protected by the 1789 Declaration of Human and Civil Rights, which has incorporated

in the reference of French Constitution. It has also protected by the European Convention on Human Rights, to which France is a party (Boring & Nicolas, 2019). Although the Chinese Constitution declares that citizens enjoy freedom of speech and freedom of the press, these freedoms have restricted to the specific laws and regulations. Typically, the laws and regulations governing Internet, the press, and the media contain a list of prohibited content, which includes but has not completed to matters concerning national security, terrorism, ethnic disgust, ferocity, and obscenity. Foreign media organizations and their journalists must be approved by and registered with the Chinese foreign affairs authority and obtain relevant certificates. Compared with journalists working for China's state-controlled media, foreign journalists give the impression to have fewer opportunities to call on and raise questions at press conferences of the National People's Congress meetings (Zhang & Laney, 2019).

The modern roots of the origin of the right to Freedom of Expression can trace from seventeenth century. In 1787 Bill of Rights has provided freedom of speech and debate within the Parliament. It had expanded gradually by the United States Bill of Rights in 1791 and the French Declaration of the Rights of Man and the Citizen (Britannica, 2022). These two declarations have reshaped the principle of Freedom of Expression in the era of United Nations from 1946 till 1948 that was agreed. Finally, the provision of Freedom of Expression was included in the UDHR in 1948 (HRC Judgment, 1999).

The root of Freedom of Expression is natural school of jurisprudence. Magna Carta (1215) included this right in this charter, Declaration of American Independence and French Declaration of Right of Man and citizen (1789) also included Freedom of Expression as a human right. Article 19 of UDHR 1948, proclaims the general principle on the right to freedom of information and expression to all individuals

without any interference. This includes the right to seek, collect and communicate information and ideas through any media and regardless of frontiers (UDHR, 1948). This Article has not imposed any limitations in the exercising of this freedom. Article 29(2) and (3) contains the general limitations for all rights and freedoms contained in UDHR (1948) including the Freedom of Expression (UDHR, 1948). Article 19 of ICCPR (1966) exactly put out this freedom together with limitations, which read as: Everyone shall have the right to hold opinions without interference. It includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. The right can be subject to certain restrictions, but these shall only be such as have provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order. The ICCPR (1966) also establishes the Human Right Committee, which monitors the implementation of rights found under the Covenant (ICCPR, 1966).

Under Article 10 of the European Convention for the Protection of Human Rights, the principles of Freedom of Expression read as: Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The situations which a restriction can be justified include the need to protect public interests- such as national security, territorial integrity, freedom from crime and disorder, health and morality, and the authority and impartiality of judiciary as well as protection from individual rights, such as right to privacy or reputation (Britannica, 2024)

However, when a contracting party imposes restrictions upon the exercise of freedom of expression, the right has to render meaningless. Besides, the restrictions

should be provided by law; proportionate, and necessary in a democratic society, and only be imposed for the specified aims. The restrictions permitted under the Convention to the said rights and freedom shall not apply for any purpose other than those for which they have prescribed (Jacob & White, 2006 p. 220).

For the purpose of protection of the rights under the European Convention, it establishes the European Court of Human Rights, which came into operation on 1 November 1998, and function on a permanent basis (European convention Article 19). In a number of cases on the issue of limitation for the protection of morals, the Court allows wide latitude of the national discretion under the margin of appreciation doctrine (European Court of Human Rights, 1976).

The detailed provision on Freedom of Expression has found in Article 13 of American Convention of Human Rights, which read as: Everyone has the right to freedom of thought and expression. It includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice (American Convention on Human Rights, 1969).

African Union is less developed as compared with other regional development by having very weak formulation of Freedom of Expression (Vorauer & Claude, 1998). Political intolerance, often in the wake of the establishment of military dictatorship or installation of one-party state, has put this freedom in jeopardy (ACFHP, 1982). The right to Freedom of Expression is explained under Article 9 of the ACHPR which read as: Every individual shall have the right to receive information as well as the right to disseminate opinion within the law (African Charter on Human and People's Rights, 1982). The right to Freedom of Expression and opinion is a core right of the International Covenant on Civil and Political Rights, which has described as an

essential right. The enjoyment of which illustrates the degree of enjoyment of all human rights enshrined in the United Nations Bill of Rights, that comprises the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and reflects a country 's standard fair play, justice and honesty (UNHRC, 1994). This right has a dual dimension (ICCPR, 1966).

An individual dimension, consisting of the right of each person to express his/her own thoughts, ideas and information has to be protected (MRACRP, 1998). However, the amount of the registration fee should not be more than necessary to ensure administrative expenses of the registration, and the pre-registration fee should not exceed the amount necessary to secure against penalties or damages against the owner, printer or publisher of the newspaper. Excessively high fees are essentially a restriction on the publication of news media (ACHPR, 2019). In this case, the fees required for registration, while high, are not so clearly excessive that they constitute a serious restriction (Mendel, 2008). It includes the freedom of access to the State and the freedom from the State. The former refers to the participation of the individual in matters of the State. The latter refers to the realm of privacy of the individual and requires absolute protection against any undue external interference. The legal obligation imposed by Article 2 of ICCPR is that, the State must respect, protect and refraining from interference in these either rights by the State organs itself or by third parties (Article 2, ICCPR 1966).

Types of Protectable Expression

The idea of free expression has inherently linked to politics and ideals of self-governance. It has not embraced in the First Amendment of the United States Constitution. It is a central ideology of the International Bill of Human Rights. It has

considered as a fundamental human right. According to UDHR convention, freedom to expression involves all three of the principal features of expression: to communicate political ideas among the citizen; to transfer of significant political information; and to encourage those citizens of the merits or demerits of a specific political position or idea. The social role of political expression is to advance political action through the tool of public forum (UDHR, 1948).

Political expression categories as political speech, expressive speech, expressive conduct, and free press. Each is slightly different, with different characteristics or values. What unifies the four is that the content is unambiguously concerned with political ideas, including the advocacy of state policies, criticism of state action and promotion of political representatives. There are cases where the nature of the expression is so lacking of social value that the expression itself has believed non-protectable (*Schenck v. United States*, 1919). Likewise, Hate Speech does not protect responsible speech of civilized world. It helps to increase the tensions among the groups, which have based on race, ethnicity, religion, culture or another characteristic. Hate speech is a danger creating expression, creates unacceptable risks of harm without advancing any visible social values. The supreme court of United States of America has adopted the approach that the best defense against hates speech is a functioning free marketplace of ideas. Specifically, the court accepts that exposing hateful ideas to public discussion will lead to their containing ideas through legal embargo risk increasing their impact among those ideas (*Holm*, 1919).

Freedom of Expression as Part of Human Rights

Freedom of Expression is part of human rights. Therefore, they need to protect. Different conventions have protected this right in different Articles. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and

to receive and impart information and ideas without interference by public authority and regardless of frontiers (Article 10 of European Convention for the Protection of Human Rights 1950). Everyone has the right to freedom of thought and expression. It includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

In the exercise of the right provided shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which has expressly established by law to the extent necessary to ensure: (a) respect for the rights or reputations of others; or (b) the protection of national security, public order, or public health or morals. Article 13(2) of the Convention put out three conditions for limitations: the limitation have to define in a precise and clear manner by a law, in the formal and material sense, the limitation must be necessary in a democratic society to serve the compelling objectives pursued (Article 13 of American Convention on Human Rights 1969).

The right to Freedom of Expression explained under Article 9 of the ACHPR reads as: Every individual shall have the right to receive information as well as the right to disseminate opinion within the law. The provision contains the claw-back clauses restricting the Freedom of Expression from the start, meaning that it recognizes and guarantees the right in question only to the extent that national law does not infringe upon such right. The African Commission, which established charter, that has given little attention to the Freedom of Expression (ACHPR, 2019). Everyone shall have the right to hold opinions without interference.

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of

frontiers, orally, either in writing or in print, in the form of art, or through any other media of his choice. The exercise of the rights provided in the Article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as have provided by law and are necessary: To respect of the right or reputations of others and to protect of national security or of public order, or of public health or morals. (ICCPR Article 19, 1966)

By virtue of the overwhelming rate of treaty ratification and its inclusion in the UDHR, freedom of speech has considered as the norms of customary international law (Triggs, 2011).

Similarly, Freedom of opinion and expression are Fundamental Rights that contain both a personal and a social dimension. They are considered “indispensable conditions for the full development of the person” ’essential for any society” and a “foundation stone for every free and democratic society” (UN Human Rights Committee, 2011 p. 2).

All forms of communication are protected, including “political discourse, commentary on one’s own and on public affairs, pleasing, discussion of human rights, journalism, cultural and artistic expression, teaching and religious discourse” (UN Human Rights Committee, 2011 p.11). freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of a person’s choice” (ICCPR 1966, Article 19(2). This protects expression in all forms, including spoken, written and sign language, and non-verbal expressions through artworks (UN Human Rights Committee, 2011 p. 12). Without free speech, the enjoyment of other rights is not possible. For example, freedom of speech, along with freedom of assembly and association, are necessary for the effective exercise of the right to vote (UN Human

Rights Committee, 1996 p. 12). The right to vote has compromised in a society that does not have a free exchange of ideas and information on public and political matters between citizens, candidates and elected representatives (UN Human Rights Committee, 2011 p. 20). However, free speech is not an absolute right and can be limited where it is necessary and done in a proportionate manner. Freedom of Expression can only be restricted by law and where necessary to respect of the rights or reputations of others; or for the protection of national security or of public order, or of public health or morals (ICCPR, 1966), Article 19 (3). By reason of those meters, defamation and hate speech laws can be justifiable as protect in the reputation and rights of others, so long as they are not overbroad. However, laws, for example, that restrict door-to-door canvassing in an election activity such as blocking access to media sources are Likewise to violate the freedom (UN Human Rights Committee, 201 p. 37).

Finally, Freedom of Expression plays an important role upholding other human rights. Transparency and accountability for human rights abuses are enhanced by freedom of expression, making it an essential precondition to ensuring the proper protection of rights (UN Human Rights Committee, 2011 p. 3). Freedom of Expression and other democratic rights are strongly associated with western democracies, as a legacy of the Cold War era. Whereas the Soviet Bloc largely promoted treaties that protected economic and social rights like rights to housing, education and health, the West prioritized civil and political rights like freedom of speech, freedom of assembly and rights to participate in public life (Office of the High Commissioner for Human Rights, 2008 p. 9, Roth, 2004).

The UN expert on Freedom of Expression reported that individuals seeking to exercise their right to expression face all kinds of Government impose limitations that

are not legal, necessary or proportionate (UN General Assembly, 2016). Recent laws and policies show that western democracies have not protected from this trend, with Governments increasingly willing to limit the freedom of civil society to participate in public debate. Diminishing rights to protest that engages, both Freedom of Expression and assembly. In the context of protests, people will express themselves verbally, as well as through nonverbal expressions, such as raising banners or placards (UN Human Rights Committee, 1994).

In 2017, in the United States, in response to large-scale protests arising out of emerging peoples' movements such as Black Lives Matter (2013) and the opposition to the Dakota Access Pipeline, at least 20 states proposed new laws to limit people's ability to protest (American Civil Liberties Union, 2017). Anti-protest bills, pending in seven states, were passed in five states and 12 states failed to pass any of the anti-protest laws introduced (Britannica, 2021). These laws are being proposed in a country whose Supreme Court has held that both the rights to freedom of speech and assembly encompass the right to peaceful social protest, which in turn is critical to the preservation of "freedoms treasured in a democratic society" (US Supreme Court, 1965). At that time, two UN experts made a joint statement of concern in relation to the proposed anti-protest laws, stating that: The bills, if enacted into law, would severely overstep upon the exercise of the rights to freedom of expression.

Freedom of Expression is protected by international human rights law. Freedom of peaceful assembly in ways those are incompatible with US obligations under international human rights law and with First Amendment protections. The trend also threatens to jeopardize one of the United States' Constitutional pillars: free speech (Office of the High Commissioner for Human Rights, 2017 p. 4). Similarly, in Australia, state-based anti-protest laws are criminalizing peaceful protest. In the state

of Tasmania (2014), anti-protest law effectively criminalizes peaceful protest on public land, even for a short time. The laws criminalize all protest activity, peaceful or otherwise, that occurs on or near certain business premises and which “prevents, hinders or obstructs” access to business premises (Tasmania, 2014, sec. 6). This law applies to both public and private property and carries with it substantial penalties of up to \$10,000- and four-years’ custody (Tasmania, 2014). Three UN experts on freedom of opinion and expression called the laws “unequal and unnecessary” (Office of the High Commissioner for Human Rights, 2014). Tasmania’s law has struck down by Australia’s highest court for violation of the implied freedom of political communication in Australia’s Constitution (High Court of Australia, 2017).

2.4 Free Speech and Meta-theory

One of the most interesting issues observed in Western democracies pertains to the implementation of metadata retention laws, which pose a threat to free speech and press freedom and may discourage individuals from disclosing information pertaining to matters of public interest. The United Nations Human Rights Committee (2011) asserts that freedom of expression necessitates a press that is free, unrestrained, and unhindered, enabling the media to express their opinions on public issues without censorship or restraint, and to inform the public. The European Court of Justice asserts that precise conclusions must be drawn regarding the private lives of individuals whose data has been retained, including daily habits, permanent or temporary residences, daily or other movements, activities performed, social relationships of those individuals, and social environments frequented by them. Specifically, this data serves as a means of establishing a profile of the individuals concerned, information that is equally sensitive, in terms of the right to privacy, as the actual content of communications (European Court of Justice, 2016 p. 99).

The schemes, which necessitate the massive collection and retention of metadata and permit authorities access without adequate safeguards, have been declared invalid by European courts owing to their significant impact on the right to privacy (European Court of Justice, 2016).

There is also an impact on the freedom of expression when metadata retention laws are employed to pursue journalists' sources, thereby undermining press freedom. This is due to the fact that by scrutinizing a journalist's phone or email metadata, authorities can swiftly determine who has been in communication with them, thereby revealing the identities of sources and whistleblowers. Although there are some protections in place for accessing the metadata of journalists that require law enforcement agencies to obtain a special warrant, in at least one case, the Australian Federal Police have admitted to unlawfully accessing a journalist's metadata without the relevant warrant.

Further, government reporting indicates that authorities have been granted warrants to access two journalists' data on at least 33 other occasions (Australian Attorney-General's Department, 2017). The European Court of Justice has also observed that the invasion of people's privacy through metadata collection can also dissuade people from speaking freely. It stated that the fact that the data is retained without the subscriber or registered user being informed is Likewise to cause the persons concerned to feel that their private lives are the subject of constant surveillance. The impact of this scheme could have an impact on the use of means of electronic communication and, consequently, on the exercise by the users of their freedom of expression (European Court of Justice, 2016 p. 100).

The right has a dual dimension (individual and collective). An individual dimension, consisting of the right of each person to express her own thoughts, ideas

and information, and a collective dimension, consisting of society's right to obtain and receive any information, to know the thoughts, ideas and information of others, in addition, to be well-informed (ICCPR, 1966). It includes the freedom of access to the State and the freedom from the State. The former refers to the participation of the individual in matters of the State. The latter refers to the realm of privacy of the individual and requires absolute protection against any undue external interference. The legal obligation imposed by Article 2 of ICCPR is that, the State must respect, protect and refraining from interference in these either rights by the State organs itself or by third parties (Article 2 of ICCPR, 1966). Restricting free speech may address issues of dignity, trust, democracy, and institutions, but it's based on historical evidence. Free speech laws and cultural standards are the "great bulwark of liberty," and without them, we risk a less free, democratic, and egalitarian future, leading to ignorance, authoritarianism, and tyranny (Mettangama, 2022).

Tambini (2021) has written two approaches to media freedom clearly in his book "Theory of Media Freedom" about the relationship between theories of freedom of media and new approaches to regulation of internet intermediaries. He purposes two approaches of media freedom that are international human rights approach supported by regional human rights courts and UN which adopts a positive approach to the role of law and the state and media regulation (Tambini, 2021).

"The limited media freedom is strongly associated with poor political knowledge, low political participation, and low voter turnout; the reverse is true for the countries for media freedom" (Leeson, 2008 p. 167).

2.5 Constitutional Aspect of Freedom of Expression

Freedom of Expression makes people aware about their Fundamental Rights and the norms of rule of law, democracy, good governance and transparency. The rule of

law, vital for any effective democracy, has based on major democratic principles like equality before the law, accountability, section of powers and participation in decision making. It is a principle of governance secured in participatory and consultative processes. Laws should be widely consulted and reflective of society's needs and values to become legitimate in society. Elected representative of people and a vibrant and solid civil society deliver ideal mechanisms for achieving rule of law (IIDEA, 2015).

Transparency is an indicator of good governance in a democratic system. Provision of accurate, clear, and relevant information is highly necessary for achieving a transparent Government and gaining public trust. Modern democratic society expects to have more transparent Government, especially with many corruption cases and abuse of authority found in every level of Government and the branch (IAPA, 2019).

The concepts of governance, good governance, and democratic governance have defined somewhat ambiguously during the 2047 BS (1990 AD) depending on who is doing the interpretation and on the context. A few years ago, a general concept of governance has equated with good governance, and good governance was not confused with democratic governance. Certain confusion can be found in the field of governance (Breeze, 2021). Good governance means the management of Government in a manner that is essentially free from abuse and corruption, with due respect of rule of law and people's rights to be engaged in public affair and Accountability of the Authorities (GSGGPNR, 2017).

There is no common view about definition of governance because it depends on the intended purpose, the people involved, and the socio-political environment. According to the United Nations, governance refers to the activities of all political and

administrative authorities to govern their country. In the same way, the International Monetary Fund, governance is a concept in which a country has managed, including economic, policy, and legal aspects. So, 'the decision-making process and the process of determining which policies will be implemented and not implemented Freedom of Expression gives the free environment to exercise good governance and transparency' (UCLG, 2021).

Good Governance and Accountability are the principles essential to a country for achieving real democracy and prosperity. Good Governance brings along respect of human rights, the rule of law, effective people's participation in development, as well as transparent and accountable processes and institutions. Thus, it is only sustainable way of addressing development challenges in the world (Konrad, Adenauer and Stiftung, 2011). The word democracy has most used terms of the political vocabulary. This is vibrant concept because it touches the very fundamentals of the life of human beings in society. This concept was probably in some way frozen by the opposition between plain or "formal" democracy and "popular" democracy in worldwide multilateral circles. These times are past; democracy now unreserved seems to be the subject of broad consensus and its promotion is high on the agenda of international bodies (IPU, 1998).

Democracy also involves accountability and good governance. The public have a right to examine the actions of their leaders and to engage in full and open debate about those actions. They must be able to assess the performance of the Government and this depends on access to information about the state of the economy, social systems and other matters of public concern. One of the most effective ways of addressing poor governance, particularly over time, is through open, informed debate (Mendel, 2008).

The legislative base for Freedom of Expression law in the United States has grounded in the First Amendment to the Constitution. In this text, the Supreme Court has created the Freedom of Expression doctrinal framework by which lower courts and other branches of Government have bound. Unlike other jurisdictions, the United States contributions extensive Freedom of Expression protections based largely on the idea that good speech will prevail over bad speech in the open market. Freedom of Expression is a core human right, which has guaranteed under international law and by virtually every Constitutional bill of rights in the world (CLDIMS, 2014).

The Judiciary is one of a pillar of any democratic Constitution. The legislature and the executive may influence the majority electorate politics and attempt to apply and interpret Constitution according to the party compulsion and interest. However, Judiciary is an impartial and independent organ. The role of Judiciary is vital in Constitutional democracy (Regmi, 2009). The 1776 Delaware Declaration of Rights provided that the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people (Farrand, 1898).

Media scholars have emphasized that role of the media is to inform, educate, entertain and persuade to the people. Besides that, role, another role of media is the role of watchdog. The different literatures suggest that media has over the years been playing the role in bringing change as a watchdog of Government (Kisii University, 2013).

Montesquieu insisted that legislative and executive powers have combined in the same person, or in the same body of Government, there cannot be liberty, there would not be liberty. If the powers of judging have not seated from the legislative and executive, there would be an end to everything, if the same man or the same body

exercised those three powers (Montesquieu, 1748). The principle of the “section of powers” refers to the division of a democratic state into three institutions or branches of Government: the legislature, the executive and the judiciary. The rationale behind that is “check and balance”. It has argued to limit the possibility of arbitrary excesses by Government, since the sanction of all three branches is required for the making, executing, and administering of laws. Such a division helps to prevent abuses of power and is essential to a healthy democracy (ECHR, 1976). One of the major principles of the Constitution is section of power. A main justification for press freedom is that free media has to act as a watchdog over the Government. While we would expect democracies to have free media and autocracies to have Government controlled media, some democracies have Government-controlled media, and some autocracies have free media. One of the most widely criticized Government behaviors is the violation of physical integrity rights. The question posed here is, how media freedom affects Government respect for these rights (Gurevitch et al., 1990).

Human Rights, Democracy and Free Media

Human right is the most prominent right to integrate the people for their democratic development. Consistently, the actors of the movement of freedom found that democracy plays a key role to improve condition and provide the benefit to the people (Landman, 2017). Davenport and Christian (2004) recognized a “threshold of domestic democratic peace” that will help to improve multiparty Government system to respect for human rights. Free media and democracy are interrelated with each other that use to analyze the effects of different dimensions of democracy and its norms as well. Democracy is associated with the physical integrity and accountability which has indicated by political competition is “the critical feature that makes full-fledged democracies respect human rights; limited accountability generally retards

improvement in human rights.” Free media is depended on many social subsystems. So, media freedom has quietly associated with its characteristics. Simon (1997) supported the perceptions of Abharam Linckon's perceptions, as "Democracy is the form of the Government, of the people, for the people and by the people". According to the Schumpeter, democracy is an “institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote. Political, cultural, economic, social pluralism help to make strong and participatory of the media and the press for its development (Freedom House report, 2007).

The Freedom of Expression has regarded as the first condition of liberty. Freedom of Expression means the right to express beliefs and opinions freely by mode. In modern time, it is widely accepted that the right to freedom of speech is the spirit of open free and democratic society and it must safeguard in every condition. The first principle of a free society is an unrestricted flow of idea and information in an open forum (Raza, 2016).

Due to the creation of global forums for expression, social media has changed the idea of interacting with each other. It made easy and possible now to reach the masses that never existed before social media Right to Freedom of Expression has enjoyed by everyone in order to express free thoughts, ideas or opinions through any form of communication across the limits (Gomez & Rafael, 2014). Under the domain of law, different legal philosophers describe the role of communication for protecting Freedom of Expression in their write-ups. Inner morality of Fuller, command of Austin, penumbra situation of Hart, principle of hard case of Dworkin (1977), Freedom of Expression as a personal interest of Roscoe Pound, no harm principle of JS Mill, requirement of publication of law for formality, participatory approach of law

making, interpreting and enforcement process etc. Communication depends on the nervous system of society and human knowledge. It is a base of transparency, good governance and effective Government system.

Thus, Freedom of Expression is Nervous system of public communication. So, both private and public communications are required for discourse of social phenomenon for Habermas. Yet, public communication can use for defamation; libel and slander, contempt of court, racial disharmony, stake, criminal instigation etc. It attracts the necessity of reasonable regulation to the public media for healthy discourse (Habermas, 1984).

A healthy and strong culture of free speech must be the foundation for the future of liberal democratic society. Rapid technological revolution brings new challenges and threats. Free speech must continue to serve as an essential ideal and a fundamental right for all people, regardless of race, ethnicity, religion, nationality, sexual Article 19 of the ICCPR, which is the key international standard for protecting freedom of expression. In order to examine this issue in a concrete way whether Twitter's hate speech rules would need to modify. This Article also evaluates potential benefits of and concerns with aligning corporate speech codes with this international standard (Aswad, 2018).

In the twenty-first century, at the very moment that our economic and social lives have dominated by information technology and information flows, the judge-made doctrines of the First Amendment seem increasingly irrelevant to the key free speech battles of the future. The most important decisions affecting the future of freedom of speech will not occur in Constitutional law; they will be decisions about technological design, legislative and administrative regulations, the formation of new business models, and the collective activities of end-users. Freedom of speech depends not

only on state censorship, but also on an infrastructure of free expression. Policies that promote innovation and protect the freedom to create new technologies and applications are increasingly central to free speech values. New technologies offer ordinary citizens a vast range of new opportunities to speak, create and publish; they decentralize control over culture, over information production and over access to mass audiences. But these same technologies also make information and culture valuable commodities that can be bought, sold, exported and imported to markets around the world (Balkin & Jack, 2009).

2.6 Limitation of Freedom of Expression in Nepal

The restrictions permitted under the Convention to the said rights and freedom shall not apply for any purpose other than those for which they have prescribed (Jacob and White, 2006, p 220). In this context, we can say that Freedom of Expression is not limitless. Nepal's Constitution subjected freedom of expression and freedom of opinion to certain limitations and restrictions. The differences between Nepal's restrictions and international law have a significant impact on fundamental rights. Therefore, it is essential to put all restrictive provisions through the three-part test to determine their proportionality in achieving legitimate interest. The Constitution proposes twenty different grounds to justify limitations on freedom of expression. (Constitution of Nepal 2072 BS (2015 AD), Article 17, sec. 2a, (1)). Most of the exceptions specified in these restrictive clauses have also found in international law. A few, such as "harmonious relations between federal units" and "reference to nationality" are very low standards for imposing legitimate restrictions.

National sovereignty and integrity is one of the grounds to limit Freedom of Expression. Constitution of Nepal has given the ground to limit the right to Freedom of Expression in the proviso clause of right to Freedom of Expression in Article 17

and 19 (Constitution of Nepal 2072 BS (2015 AD)). In the case of Narayan Dutta Kandel v. Nepal Government Supreme Court of Nepal has played down the principle that Freedom of Expression may curtail to protect social responsibility.

The Government has the right to reject the Freedom of Expression to protect the security of the State. However, the threats against security must be a serious threat to public order, such as revolution, insurgency, fighting war against the State, etc. Security of state is one of the issues to limit the Freedom of Expression. Protection of the national sovereignty and territorial integrity of the country provides valid grounds for the restriction on freedom of expression. Under the international law, the national security is valid ground for the restriction on the freedom of expression whereas under the Nepali Constitution protection of the national sovereignty and territorial integrity serves as the valid ground for similar restriction. However, the use of term nationality in this section does not seem to serve any usefulness in this context. The national sovereignty and territorial integrity of Nepal, provides valid grounds for restrictions in the name of national security; however, the term “nationality,” as used in this section, hardly justifies any legitimate threats or interests. Section 15 of the Press and Publication Act and Section 7 of the National Broadcasting Act prescribed the national grounds to impose prior restrictions on publication and broadcasting (National Broadcasting Act 2049 BS/1992 AD). Article 48 (C) of the Constitution deals with the duties of the citizen. One of the duties and responsibilities is to render compulsory service as and when the state so requires (Constitution of Nepal, 2072 BS / 2015 AD).

Public order is one of the grounds to limit the Freedom of Expression. In Article 17 (2) of the Constitution of Nepal there is the provision in the proviso clause. It has given the provision to make a law to limit the Freedom of Expression to maintain the

public order. The reference to harmonious relations among different religions, castes, tribes, and communities is more problematic. It is promoting harmonious relations among populations is a legitimate goal (Constitution of Nepal, 2072 BS/2015 AD).

In a globalized world with unequal power relations, maintaining positive relations with neighboring countries and other countries is significant. Hence, if a person's Freedom of Expression threatens to hinder these relations or harms the country's international relations, it can be restricted. This is essential to curb malicious actions by some to jeopardize the reputation of the country. In the Constitution of Nepal, in provision clause, in Article 19 there is the provision to limit the Freedom of Expression to maintain the friendly relation with foreign state (Constitution of Nepal, 2072 BS /2015 AD).

Speech and expression must be decent and moral. It should not go against the morals of contemporary society. Restrictions on Freedom of Expression are imposed in the interest of decency and morality. It can find in the Constitution of Nepal in Article 17 and 19. However, standards of decency and morality evolve and change along with society and are not static (Constitution of Nepal 2072 BS /2015 AD). The Hicklin test originated in England is one of the tests to determine the decency or morality of a publication by checking its effect on the most vulnerable members of society.

The judiciary holds great value in a democracy and hence to maintain its stature and preserve public trust in the institution, free speech and expression can be restricted. This is important to safeguard the courts. In the Constitution of Nepal there is the provision of contempt of court in Article 128(4) and supreme court Act 2048 BS (1991 AD there is the provision of contempt of court Act in sec (7)(1). The court has given different verdict in different cases. Thir Prasad Pokharel v. Bimarsa weekly

(NKP 2049 BS/ 1992 AD) Advocate Aroon Gyawali v. Kanakmani Dikshit and Advocate Toyanath Dhungana v. Kantipur Publication (NKP 2078 BS / 2021 AD in 2/3DN 10639) are the some of the examples of contempt of court case. Normally court seems to be liberal but in the case of Thir Prasad Pokharel v. Bimarsa weekly (NKP 2049 BS/ 1992 AD) court seems to be comparatively rigid.

The right to Freedom of Expression is not a license to defame any person and deter their reputation. Hence, the right to free speech and expression does not provide immunity to discolor another person's character in society. Defamation also can be divided in two types. Defamation committed in the form of spoken words is called slander and the same committed in written or printed form is called libel. In the context of Nepal in Article 17 and 19 there is the provision of defamation. In the same way criminal code 2074 BS (2017 AD) there is the provision of defamation (Criminal code of Nepal, 2074 BS /2017 AD).

Privacy is the one of the grounds to limit the Freedom of Expression. Constitution of Nepal has given the provision of privacy in Article 27. According to this provision everyone has right to privacy of body, housing, property, written document, data, mail and character related subject. Right to privacy Act, 2075 BS /2018 AD) has also given the protection of privacy of the people (Right to privacy Act, 2075 BS /2018 AD). In the case of Annapurna Rana v. Kathmandu District Court (NKP 2055 BS /1998 AD) in 8 Page 4076) Supreme Court has given the verdict that private part of the body cannot be tested without consent of individual. It is against the Constitutional Right to privacy. The court has given the verdict against the order of Kathmandu District to protect the Right to privacy. In the same way in the case Sapana Malla Pradhan v. Nepal Government (Supreme Court Bulletin 2064 BS

/Decision Date: 25th December, 2007), court has given the verdict to protect the right of the victim and child. The identity of victim and child should not disclose.

Hate speech poses a challenge to the right to Freedom of Expression. In contemporary times, it is often used as a tool to gain popularity. It manifests itself into a form that creates divisions in society by attempting to belittle specific groups of people based on their religion, culture, ethnicity, race, gender, sexual orientation, disability, language, occupation, ideology, appearance, etc. A limitation on the freedom of expression must comply with the requirement of legality i.e. must be established in advance, expressly, restrictively and clearly, in a law in formal and material sense. The laws set limits to freedom of expression has to draft in the clearest and most specific terms possible, as the legal framework must provide legal certainty (Brax, 2016).

Article 17 of the In the Constitution of Nepal, there is the provision in proviso clause. The reference to harmonious relations among different religions, castes, tribes, and communities is more problematic. It is promoting harmonious relations among populations. It is a legitimate goal, and it can be argued that some forms of freedom of expression could potentially jeopardize positive discussions or support discrimination. However, it can also be argued that progressive discussion or thought that empowers underprivileged communities may positively impact harmonious relations (Constitution of Nepal 2072 BS / 2015 AD). Only discriminatory activity and expressions, such as hate speech, should be restricted, as per Article 20 of the (ICCPR, 1966).

2.7 Communication in Legal Discipline

Law is normative discipline, which has issued or promulgated to control and regulate the behavior of people. Law is the instruments for act or enact from different

sect of people to establish justice. The communication of law is basic method of any governance system of the world. Lon Fuller highlights on eight desiderata of law; there must exist of laws, these laws must be published, it must be prospective; not a retroactive, law must be understandable, law must not contradict each other, it must not be impossible; it must not be the subject of frequent change, and there must be configuration between enacted law and administered law. Fuller argues 'total failure in any one of these eight directions does not simply result in a bad system of law; it results in something that is not properly called a legal system at all ' (Summers, 1965).

Philosophically, Milton (1644) advocated in his prose *Aeropogitica* for right to seek, receive and impart information that represent multifaceted approaches of Freedom of Expressions. In the realm of law, the principles 'nobody is thought to be ignorant of the law (*nemo censetur ignorare legem*) or 'not knowing the law is harmful' (*ignorantia iuris nocet*), 'ignorance of law excuses not' (*Ignorantia juris non excusat*) or 'ignorance of law excuses no one' adds value on the role of communication in law. So, law perceives that once it is issued with formal means, all citizens of people under its jurisdiction should know the law and its provisions. John Stuart Mill is important proponent of Freedom of Expression. He argues in his book 'On Liberty' that Freedom of Expression has logical limit and not a limit of social embarrassment. Likewise, 'no harm' principle is equally applicable in communication jurisprudence.

Freedom of Opinion is absolute right for the people and the press. It has not allowed restricting by law or any other power since it is a private right belonging to the realm of mind (Johannesburg Principles on freedom of expression). It is for these reasons that the Covenant in Article 19 (1) declares an independent right to hold opinions without interference. It requires state parties to refrain from any interference

with the freedom of opinion (by indoctrination, 'brainwashing', and influencing the conscious or subconscious mind with psychoactive drugs or other means of manipulation) and to prevent private parties from doing so. In the case of Yong-Joo Kang v. Republic of Korea (HRC judgment, 1999) the author was a suspected sympathizer with the North Korean communist regime. He had convicted of subversive activities that were prejudicial to the national security of the Republic of Korea. During his incarceration, it had subjected to the ideology conversion system, attempting to convert him from his alleged Communist opinions. Because he continually refused to convert, he had held in solitary confinement for 13 years. The HRC confirmed that, this act amount to violation of the right to hold opinion under Article 19(1) (IACHR, 2009).

Inter-American Commission on Human Rights (2009), helps to enable the individuals to understand their obligations and to foresee whether particular action is unlawful. Interference based solely on an administrative provision or vague statutory authorization violates this Article 91 even if made public and approved by legislature, is not sufficient because it is not legally binding on the public authorities. Vague or ambiguous legal provisions are incompatible with this provision, because they can support potential arbitrary act is Article 92, that are tantamount to prior censorship, or that establish disproportionate liabilities for the expression of protected speech (Mendel, 2010).

Constitutional Foundations of Freedom of Expression

Kandel (2017), published Article entitled "*Standard Review of Freedom of Expression and Censorship in Nepal*" insisting the essence of Freedom of Expression in current Constitution (2072 BS/ 2015AD) in the context of Nepal. He insisted the power to promulgate this Constitution, which has vested in the Nepali people; the

people agree to govern by its fundamental principles, which concern human rights, including full freedom of the press, as provided in its preamble. The Constitution has given the provision of Fundamental Rights in part three. There is the provision of right to freedom of speech and expression (Article 17(2) (a) and the right to communication (Article 19 (1) on the information and ideas to publish, broadcast, disseminated. It provides some level of freedom from interruption, except in accordance with the laws of Nepal (Article 19 (3)). Article 19 also provides protection to the means of communication, equipment from being seized and registration being cancelled. The Constitution also protects the right to information in Article 27. These rights reveal a continuation or expansion of Nepal's Constitution 2047 BS (1990 AD). Restrictive provisions have also expanded beyond those listed in the Constitution 2047 BS (1990 AD). These provisions have formulated in the spirit of international standards, and therefore, may not encourage the exercise of full democratic freedoms. In ICCPR (1966) freedom of opinion is absolute without interference whereas Freedom of Expression can be subjected to reasonable restriction. But Article 17, Section 2 (a) of the Nepali Constitution provides the same level of protection to both the freedom of opinion and freedom of expression.

Article 19 of Nepal's Constitution protects the right to communication. This right is specific to the use of mass media. This provision provides protection against prior censorship, arbitrary cancellation of registration, arbitrary closure or seizure of equipment, and arbitrary interruption of means of communication. It also provides some level of protection for imparting certain ideas and information. It does not recognize the specific scope of 'information and ideas of all kinds to be protected, nor does it include all kind of media. International human rights mechanisms provide the same protections to all types of media about freedom of opinion and Freedom of

Expression per Article 19 of the ICCPR, which has drafted with the foresight to accommodate future technological advances. However, Nepal's Government seems less tolerant of electronic and digital media than other more traditional media.

According to Article 273 (10) of the Constitution of Nepal 2072 BS (2015 AD), in the event of state of emergency, fundamental freedoms can be suspended. Except for the rights provided in Article 19, Section 2, all the other rights related to the Freedom of Expression and opinion would suspend with the declaration of a state of emergency.

The exception covers freedom from has seized regarding means of communications, the press and equipment, as well as the mass media's freedom from closure and their registration being cancelled. No petition may lie in any court for the enforcement of the fundamental right conferred by that Article; nor may a question have risen in any court regarding the suspension of the freedom (Article 273 (11)). The emergency provision in this Constitution proposed the unconditional suspension of fundamental rights. Article 4 of the ICCPR provides a derogation of rights during the state of emergency but set both procedural and substantial conditions for such derogations. Derogation may only limit rights to the extent strictly required and may never lead to discrimination. The Nepali Constitution does not recognize this condition and proposes a derogation of rights without an assessment of situations.

Media Censorship in National Legislation

The Press and Publication Act, 2048 BS (1991 AD) imposed restrictions out of the scope of the Constitution. Section 15 of the Act provides that the Government of Nepal in view of the national interest, by publishing a notification in the Nepal Gazette; prohibit the publication of any news, information or other reading material relating to any specific subject. This provision not only overrides the Nepali

Constitution but also violates the substantial and procedural requirements set out by international law (Kandel, 2017). The law allows the Government to impose restrictions by publishing a notification, as the international law strictly requires that law must provide any restriction.

The European Court of Human Rights sets out two requirements to satisfy those provided by law (*The Sunday Times v. The United Kingdom*, 1979). The ground proposed here is the national interest, which is not a legitimate interest as set out in Article 19 Section 3 of the ICCPR. It may prohibit ‘any’ news and information. It recognizes Government interference in the Freedom of Expression as the authority requiring any materials to examine or verified before publication.

Right to Information Act, 2064 BS (2007 AD) deals with the right of citizens to request and receive information. The Right to Information Act provides guidelines on which bodies or institution have a responsibility to provide information, what kinds of materials constitute information and who is entitled to receive the information. The public bodies subject to the law have named in Section 2 (a), while Section 2 (b) defines ‘information’ as any written document, material or information related to the functions, proceedings or decisions of public importance made by a public body.

2.8 Analysis of Review

The capacity of a person or group of individuals to communicate their opinions, ideas, and feelings regarding various subjects has referred to as freedom of speech. A component of human rights has connected to each person's freedom of assembly, petition, expression, and religion. The sociological school of thinking is where communication law belongs. However, it has connected to natural law, and philosophers of natural law have made contributions that cannot disregard. According to Locke (1964), knowledge is a byproduct of experience rather than solely the result

of being born without knowing, in order to maintain knowledge of the rule and misrule systems of governance (Karundeng, 2023).

The laws relating to and regulating freedom of speech are scattered throughout various texts. It would be easy for the public to know about their rights and responsibilities if they have a single legal document or Act. Right to expression would be more systematic and people's dignity and social prestige would affect in the name of freedom of expression. Freedom of Expression is a fundamental human right that must upheld in democratic societies. Yet, there is a worrying global trend of Governments unjustifiably limiting freedom of speech, targeting journalists, protesters and other persons considered to be dissenting from Government views. Even in western democracies, laws are curtailing protest activities and threatening press freedom and free speech through mandatory metadata schemes. It is imperative that civil societies across the globe are vigilant in defending freedom of expression. This is necessary for the enhancement of people's lives and the creation and maintenance of strong, healthy democratic societies. The Nature and Contents of the Freedom of Expression under UDHR (1948) and ICCPR (1966) has institutionalized the concept.

However, this concept is not new. The origin of this concept is natural school of jurisprudence. History of freedom of speech is history of struggle. This concept has developed in the history from Magna Carta (1215), French revolution and Revolution of American independence. From the review of different literature, researcher has studied the concept, philosophy international trend and development, existing Acts, Constitution, National and international court decision and international conventions relating to the Freedom of Expression. It has given an overall picture relating to the topic for the study. It shows the need of research in that field to study and analyze the recent phenomena relating to the topic.

The findings of this review suggest that free media is able to play a watchdog role over Government behavior. It will help to make the democratic Government transparent and accountable with its people. Indeed, Freedom of Expression is the part of human rights of the people. In the absence of active participation of the people in each sphere of the political, social and economic part on the society, democracy, media and human rights conditions of the general people cannot protect. Democracy deals with executive restraints and free, fair and frequent elections, free media, at least in the short term, are associated with decreased Government respect for physical integrity rights. Short-term watchdog media in an autocracy trigger a repressive response, the long-term results watchdog media merit further study.

Additionally, these cases highlight the importance of the professional environment in shaping media freedom and point to the need for further research into the different effects of partisan and objective media on Government respect for human rights. Moreover, an emerging area of human rights research looks at international influences, in particular foreign aid and international law (Landman & Todd, 2005). Finally, it is imperative to understand how the effects of independent media vary and are dependent on democratic characteristics like political competition and executive constraints that make Governments more accountable and vulnerable to public opinion.

2.9 Research Gap

As per the literature review, legal framework like, Constitution, acts, rule and regulations are in line with the international standards. Court has also formulated new principles to address the present demand and international norms and value to meet the goal of present Constitution of Nepal. Constitution of Nepal has protected these rights with high priority. Preamble of the Nepali Constitution, Constitutional

provisions of Fundamental Rights and other rights relating to Freedom of Expression are concerned to meet universal values of free speech but Nepali parliament is not being able to formulate new laws according to the spirit of the Constitution and need of the society. So, new laws should formulate to address the Constitutional spirit and the need and demand of the society. Researcher has found the gap in the need of the new laws and the institutions to implement these laws and to create the environment of acceptance and implementation of law in Nepal.

Nepali judiciary seems to be very positive towards the fundamental concept of Freedom of Expression and its international value, norms and principles from the review the study has found that court of Nepal has given positive and progressive principles for the protection of Freedom of Expression in Nepal. These decisions has based on the philosophy of natural law, human rights, Fundamental Rights and other international democratic liberal and open norms. The actual problems of this research are to find the implementation aspects of free speech in Nepal. In this context, the role of bureaucracy, political leadership, civil society and media has to identify that is one of the research gaps in this study. Are Nepali institutions enough to implement the Constitutional and legal provisions relating to Freedom of Expression that is also another gap of this study. Constitutional provisions have found in line with international value and norms but the existing acts, rules and regulation can carry the spirit of the Constitution and demand of the society. It is also on of research gap of this study.

Media can be the catalyst to make good practice it in democratic society. Transparency, rule of law and disclosure of information are the prominent elements of democracy. Media is one of the social institutions, so it has the responsibility to give truthful information to people. It has the duty to inform to the people. Well-informed

people can send the right people in right place and that people can implement the good policies for the society that help to lead peace, prosperous and happy environment in the society. It helps to sustain the democratic society. In this context, media should play effective role to protect and implement the Freedom of Expression. This study has found that the role of media is effective or not. That is another gap of the study.

2.10 Theoretical Framework

It is important part of the research. Without prominent theoretical base, investigation and exploration cannot fulfill its desire. So, this study has based on following normative theories, which have directly concerned with democracy, open and responsible Government as well as free press.

2.10.1 Normative Theories of the Press

The normative theories of the press are authoritarian theory, Soviet communist theory, libertarian theory, and social responsibility theory because they have based on the norms and values of a particular society, which vary from one location and one country to another. According to Oluwasola and Omolola (2020), these ideas have a very broad and diffuse impact on how people evaluate the truth, fairness, and reliability of news and current affairs topics in the media. According to their socioeconomic backgrounds, journalistic methods, and roles and functions that are accountable to society, several press specialists have been examining the press theory. Therefore, not all scholars and professionals agree with the notion of press theories. Geographical location, level of education, social structure, treaties, customs, and traditions of the country, as well, as how they are used, all affect press theory principles. However, we may categorize press theories based on the philosophical underpinnings of political systems, historical backdrop of journalistic activities, press

rights and obligations, and acceptable restraints that have applied by different Governments (Peterson at al., 1984).

a) Libertarian Theory

John Milton, Voltaire, Jefferson, Adam Smith, Robert Nozick are supporter of this theory. Libertarian theory is described both in terms of classic struggle for freedom and democracy against various forms of tyranny and Constitutional basis and operation of American media system. Complete freedom or absolute power of media is the tenet of this theory. This theory rejects any form of Government control. Under this theory, truth triumphs over evil at the end. This theory is possible only in liberal, free and market economy (McQuail, 2000).

This theory argues that individual can publish or disseminate whatever they want without any restrictions. This argument influenced colonized country until 19th century. However, it was experimented since 17th century. Under this concept, all human being is independent and conscious by the nature as inherent gift or they can know themselves about what rights and duties are. Right to know the truth is one of the important fundamental rights. Any form of state control and regulations have rejected because people can evaluate what is wrong and what is right. This theory believes that press should reveal the truth that is the duty of the press. Therefore, press must be independent from the control of political and economic matter. However, this is the optimum theory which has no formal application around the world because absolute freedom is not possible anywhere and anytime (Peterson at al., 1984).

b) Social Responsibility Theory

This theory presents a view of ownership as a form of public trust. This notion has conceptualized by Hutchins commission established in 1942 and presented its report in 1947 in America. It evaluated the status of American media. Gradually,

theory of social responsibility has adopted by different country across the globe. Media should focus more on social responsibility than a business profit. This Commission is in favor of media as 'inseparable from right of the press to be free has been the right of the people to have a free press'. However, it has believed that social responsibility will occur with self-control, not by Government intervention (McQuail, 2000). Under this theory, the media have obligation to society and media ownership is a public trust. In that sense, media always should support society and its norms and values. In the absence of truthful, accurate, fair, objective and relevant news and information and agreed code of ethics and professional standard, there will be no social responsibility. Media should be free but self-regulated. However, under some circumstances, Government may intervene media to safeguard the public interest (Uzuegbunam, 2015).

According to the Hutchins (1947), the press has to be responsible towards the people and the society. "The communication reports gave the press a face-saving way of responding to the criticism which was leveled at the economic structure of newspaper operations and reinforced the overall theme of press responsibility. It has insisted to make the media and press for being responsible while exercising the freedom of the speech and expression.

2.10.2 Sociological School of Jurisprudence

Society is dynamic and changeable. It is like living organism. The relations between the individual, society and the state have been changing over the time and situation. In the ancient time, society had governed by customs, which had only a social sanction. Then came the supremacy of religion, after that the secular state emerged and dominated all institutions. As a reaction, the philosophers declared the importance of individual. There were changes like political, social, technological and

cultural etc. There was the industrial revolution in European countries (Makhethe, 2010). The necessity of matching the welfare of the society and individual has realized in the course of time. There was a tendency towards socialization. The approaches made from this point of view have called sociological school approach. Law is a social science. It has closely related with the society. Law is an instrument of social control and balancing of interest. In society, there are so many values and several interests. Values are changing day by day, according to the change in society, social value, norms, politics, economics, natural, universal, and unavoidable social phenomenon.

In the present era of information technology, society is changing very fast. Law is not only a reflection of existing custom; morals but also a potentially instrument of social change. In the process of social change, new law is required. New law comes with change in society. So, we can say that society changes the law and law changes society there is two-way relations between law and society. There are various factors, which determine the rate and direction of social change. Some factors like biological factor, Physical factor, Technological factor, Cultural factor, economical factor and so on. Thus, law is not only the instrument of social control it is the means of social change (Durgalakshmi & Ammu, 2015).

2.10.3 Habermas and Communication Jurisprudence

Communication jurisprudence is minutely highlighted by Habermas by merging normativity and facticity in legal philosophy. Normativity is social phenomenon whereas facticity is communication phenomenon. Habermas (1999) argues that public communication has central role in mass democracy. Discourse is the base of it. So, political communication is more important than individual motivation, rationality and capacity but political communication has to be inclusive, fair and accurate. The state

power transfers only by public communication but communicative power has to support democracy. Under legal domain, there are liberal paradigm and welfare-state paradigm; liberal paradigm approaches free economy and welfare paradigm approaches compensating economy to unequal.

The fusion of these paradigms has resulted procedural paradigm which neither support private client nor welfare bureaucracy rather it endorses participation in public activities that justifies equal treatment (Habermas, 1999). The form and functions of law have determined by face-to-face discourse equally. It finally changes paradigm of law. In the absence of public communication, no democracy survives. The pattern of public communication changes the pattern of law and society as well.

In the primary rule of Hart (1961) is normativity and secondary rule of him is facticity because primary rule has targeted to mass as a whole and secondary rule has targeted to authority in position to maintain law and order. In the absence of proper communication of legal matter, no effective functioning and application of law is possible. So, Hart is aware of the role of communication in legal discipline (Summers, 1963). According to Habermass, philosophy of Kelson, Cruz (2019), Roscoe Pound are good for nothing because they are not based on fact of society i.e. communication jurisprudence. Yet, John Rawls (1971) included right to Freedom of Expression in libertarian basis and Roscoe pound incorporated communication in individual, social and public interest. As state desires its integrity, speech against state is undesirable and it has separate avenues in social interest.

Habermas is not reluctant to reject Platonic and traditional philosophy as they forget to analyze the role of public communication system. Socrates is Socrates in the presence of communication of his philosophy. So is the case for rest of the philosophers as well. Jefferson, Voltaire and Adam Smith are important players to

support Freedom of Expression with liberalized environment. Marx indicates public communication for economic exploitation and his follower implies it as the tools of false consciousness. However, modern public communication is inevitable and is not possible in the absence of social responsibility, social harmony and order. Jefferson opted for media than state if so, is the situation to choose but contemporary legal experts are against unbridled freedom to media.

Neem (2013) asserted the perceptions on free speech of Thomas Jefferson where as he stated the importance of Freedom of Expressions as per the Jefferson's voice. Jefferson said, "The basis of our governments being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a Government, I should not hesitate a moment to prefer the latter. But I should mean that every man should receive those papers & be capable of reading them. Mass media, interpersonal media and special publicity media are tools of public communication and agenda setting.

From the legal point of view, radio and television are widely regulated than newspaper and magazine. Telephone and social sites have less regulated in content but high possibility of regulation in technology. The publication of law and order in Gazette by all country symbolizes the role of communication in society (Orlov et al., 2020).

CHAPTER III

RESEARCH METHODOLOGY

3.1 Research Philosophy

The philosophical basis for the research work must be determined first. Knowledge gained through social research based on a certain scientific philosophy can only gain validity and reliability. The concept, methodology, and even the interpretation of facts are completely influenced by the social reality ontology. It is therefore important to be clear about this at the beginning of the research.

Knowledge acquisition is the main focus of epistemology. Epistemology deals with the nature of knowledge. Although the objective of this research is primarily objective, considering the nature of the research subject, it has been recognized that both objective reality and personal reality exist. While acknowledging the existence of objective reality in order to gain insight into the subject of investigation, it is also acknowledged that there are also certain ambiguities regarding the subject of investigation. The adoption of a flexible interpretive epistemology for research has led to the adoption of a flexible interpretive epistemology. Research is carefully neutral so that the researcher's values don't influence it.

Research has based on different philosophy. Research philosophy can divide in different forms such as epistemology, ontology and axiology. Epistemology is the theory of knowledge, the philosophical study of the nature, origin, and scope of knowledge (Wragg, 2015). Philosophers have tried to formulate information of the nature, origin, and scope of knowledge. Epistemology is the philosophical development of formulating such an explanation of nature. Plato has significant role to insist epistemology to formulate knowledge (Sellars, 1979). It has occupied philosophers at least since the time of Plato, and it continues to provide a central field

of study in contemporary philosophy. It focuses to generate genuine knowledge in the area of inquiry or collecting information. Similarly, it attributes conclusive epistemological significance on the matter of natural sciences, which has given effective perception of natural science.

It also gives epistemological priority over common sense. Sciences begin with common sense notions, such as notions of causation, space, time, and things, but that the sciences often need to eliminate such common notions to achieve their explanatory purposes (Russell, 1957). It has related to the knowledge of individuals to the universe. It depends upon the individual's perspective determined by personal circumstances. Therefore, this research has directed to produce noble knowledge in the field of social science research. It has based on classical and modern knowledge acquired from the different perspectives. The information has gathered here from different primary and secondary data sources that makes this research significant. Its epistemological part is quite important to perceive accurate information, which makes this study valuable.

Ontology, or the 'study of being', which is concerned with what actually exists in the world about which humans can acquire knowledge. Ontology helps researchers recognize how certain they can be about the nature and existence of objects they are researching (Ding & Foo, 2002). Realist ontology relates to the existence of one single reality, which can study, understood and experienced as a 'truth'; a real world exists independent of human experience. Meanwhile, relativist ontology has based on the philosophy that reality has constructed within the human mind, such that no one 'true' reality exists. Instead, reality is 'relative' according to how individuals experience it at any given time and place (Moon & Blackman, 2017).

Various communities have used the term "ontology" in different ways. The most significant distinction is between the computational sense of ontologies, which emerged in recent years in the knowledge in the community, and the philosophical sense, which, of course, has a long history. This definition of ontologies as "explicit specifications of conceptualizations" dates back to an early informal definition (Guarino et al. 2009). Ontology refers to the philosophical study of being in general or of what applies naturally to everything that is real. In the study, it has considered the ideas expressed by the informants to be real as those ideas has based on their own perspectives. This study has applied accurate data gathering techniques and appropriate research instrument to acquire primary and secondary data source.

The term axiology in philosophy that represents the study of the nature of value and survey and the kinds of thing is valuable. Since this research is based on the doctrines available in the study and informants' perspective. It has given these sources of information in the study as a highest value. Axiology conveys ideas about the core of value and a component of metaphysics. The hypothesis has based on understanding nature and debating what the cosmos truly consists of. The goal of fact-finding has referred to as the research field. It explains how research is valued. The study clarifies if one merely attempts to comprehend it (Heron & Reason, 1997). Epistemological and ontological hypothesis have related to axiological concerns. The most significant aspect of the investigation is the art of philosophy, which has been understanding the hidden reality (Abram, 1996). Similarly, Axiology incorporates ethics and aesthetics as well as other forms of value. It has known as the part of value theory, which has broader applicability, but here axiology is the core focus (Deane, 2018). Therefore, this study has maintained the axiological value. It has developed

new perspectives like transparency, openness, liberalism, democracy and human right, good governance of Nepali society about Freedom of Expression in Nepali context.

3.2 Research Design

There are some commonalities in everyone's opinion, even though scholars have different concepts about what research methodology is. Research methodology is a methodical approach to acquiring knowledge (Anderson, 2012). Research methods are strategies for studying any topic, according to Griffey (2012). The research plan is, in other words, the main plan for carrying out the investigation project. Methods like this involve numerous stakeholders. Babbie (2016) states that research methodology involves many decisions, including how many subjects to study, what research methods to use, and so on. The biggest challenge of research design is to create a plan in a rational way to be able to measure and define all the variables (observational), select a representative sample, collect data and analyze the data. According to Neuman (2014), the biggest challenge of research design is to Sociologists employ both quantitative and qualitative approaches for empirical investigation. There are strengths and weaknesses in both methods.

The popular questionnaire method is used to collect data to conduct classroom-based research, according to Griffey (2012). This method is relatively easy, measurable and less expensive than other methods of data collection. Questionnaires can be used to study almost all aspects of teaching and learning, and questionnaires can easily be used to know the exact political transformation situation in a country (Nunan, 1992). Quantitative methods have the merits of being able to replicate the findings of the research in other contexts and to be easily applied to large samples. Qualitative research is the concept of understanding and exploring the meaning of how individuals and groups interpret social and human problems (Creswell &

Creswell, 2018). Qualitative methods basically address the questions of what and how. Qualitative methods include knowledge of the context of the researched topic, its implications and consequences, and its significance to the wider world (Wertz et al., 2011). Qualitative methods involve detailed examination of people's lived experiences and explore social realities and cultural meanings about the researched topic (Smith et al., 2009).

In this method, an opportunity to review the individual's self-evaluation and actions according to a certain socio-cultural context is also available. As argued by Smith (2009), interpretation analysis has been advanced based on the three concepts of philosophy of knowledge- phenomenology, Hermeneutics and Ideography. The descriptive method has been used to analyze the qualitative and quantitative facts obtained from research and research. Generally speaking, both the quantitative and qualitative research traditions that have been brought into vogue have been used in this study. The method used for this research is Quantitative-Qualitative exploratory method (Creswell & Creswell 2018). In the course of this research, a sequential mixed method has been used for the study of communicative work in the classroom. From the initial stage, as mentioned (Babbie, 2016), the research has been accepted as a sub-field of the science of finding facts and the science of knowledge extraction. According to the Newman (2014) quantitative method was used to collect data in the form of numbers and qualitative method was used to collect data in the form of words and pictures.

In this study descriptive and analytical research design are applied. Descriptive research design is used to find the fact on the topic. Researcher has described the Constitutional and legal provision relating to press freedom and analytical research design has used to analyze the legal and Constitutional provision relating to press

freedom and its implementation aspect in the present context. Researcher has analyzed the collected data by using descriptive and analytical method. The data collected from both doctrinal and non-doctrinal method has described and analyzed to find out the legal provision relating to Freedom of Expression and its implementation aspect. Researcher has derived the conclusion of the study through that analysis.

Interpretive Philosophy

Myers (2008) argues that interpretive researchers presume that the social realm can only be accessed through social constructs, such as language. Criticism of positivism in the social sciences fuels the development of interpretivism. This terminology emphasizes qualitative investigation over quantitative approaches. The philosophical position of idealism is closely associated with interpretivism, which includes social constructivism, phenomenology and hermeneutics (Collins, 2010). Objectivism holds that meaning exists in the universe without conscious awareness. This stance suggests that recognizing differences between individuals is crucial for researchers. Interpretivism research philosophy typically focuses on multiple approaches to reflect various social aspects of the issue.

Epistemology and research methodology are followed by ontology. Our beliefs about social reality are influenced by Ontology (Brewer & Hunter, 1989). There are two types of reality: objective and personal. Epistemology is the theory of knowledge that deals with how we know what exists. It is the theory of knowledge that deals with how we know what exists. Two approaches to epistemology exist: positivist and interpretive (Hanson & Grimmer, 2007). To provide insight on how society functions, it depends on actual data, such as that gathered through experiments and statistics. It has founded on empirical discoveries. In social science, research methods

should be the same as those employed in the natural sciences. It must be neutral and sensible. This study has grounded in this philosophy.

3.3 Research Method

This Research has based on philosophy on positivism, which deals with doctrinal and empirical method. Under doctrinal method, prevailing national and international instruments of Freedom of Expression has critically evaluated. It covers International and Regional Conventions, Constitutions and other Acts of House of Representative (Parliament), and Courts' decisions, Law Books, Law Journals, Articles, Newspapers and some other kinds of publications. Similarly, Questionnaire technique, Interview and focus group discussion has implemented to collect empirical information. Prominent experts of law, human rights, communication and journalism had chosen as a respondent. Twenty-one samples have chosen with purposive sampling from legal background, communication and Journalism.

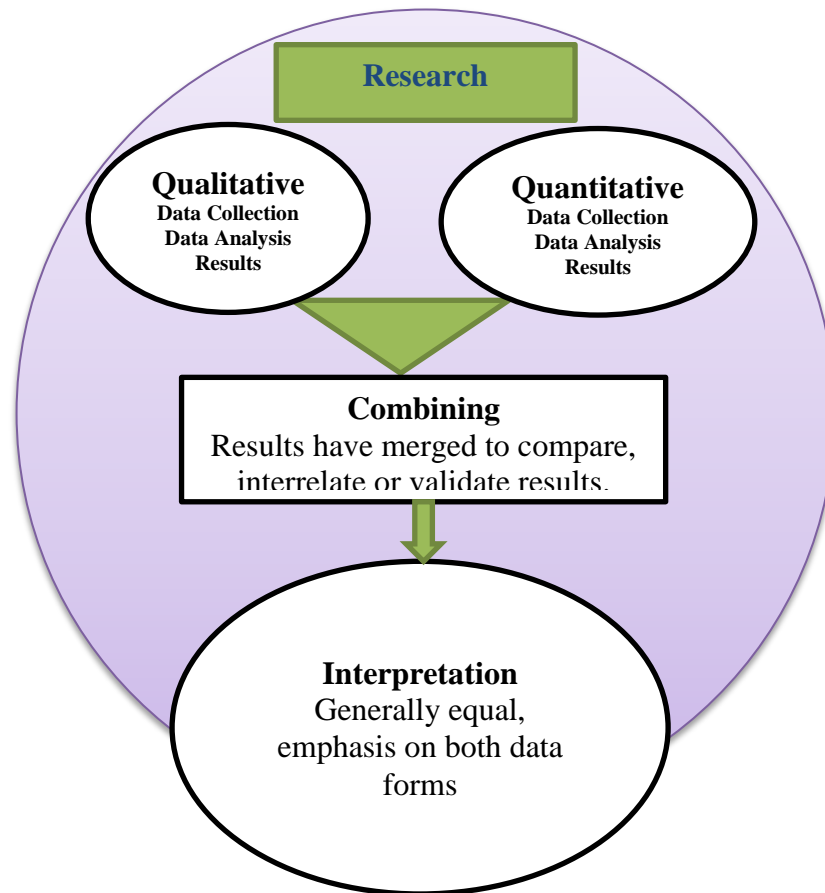
This research study has focused on Legal aspects of Freedom of Expression in Nepal. It also covers the provisions of Constitution, Acts, court decision and International and Regional Conventions on Freedom of Expression. The Fundamental Rights enshrined in the Constitution of Nepal, laws, rule, regulation and court decision relating to the Freedom of Expression and its implementation aspect in the context of Nepal is the area of the study.

The study has specifically centered on the issue of practices of Freedom of Expression in Nepal and tries to identify the perception and knowledge of educated mass, lecturers, doctors, engineers, bankers, students, bureaucrats, media people, Lawyer and political experts in 8 sampled districts of Nepal. They are- Kathmandu, Lalitpur, Bhaktpur, Rupendehi, Kapilbastu, Arghakhanchhi, Bardiya and Morang have taken as sampling district.

This study has focused on three different research questionnaires. On the basis of the research question, questionnaires have designed for further investigation. The literature review shows that the developed country has positive correlation between bureaucracy and the media to show actual status of practices of Freedom of Expression in Nepal. The correlation has identified from the point of view of respondents.

The main purpose of this study is to find out the actual gap on public body to implement the Freedom of Expression in public authorities. In the study both qualitative and quantitative research method has applied and it is descriptive in nature to investigate the condition between mass media, bureaucracy, Judiciary and the common people on the practices. Descriptive research finds out and reports the things as they are and answers the questions of the current status on the matter of study' (Galle et al. 1996).

In the research methods, some questions are open ended. Jackson pointed out that 'the open-ended questions identify varieties of responses from respondents and finds difficulties in processing statistically. Closed-ended questions were used for statistical analysis, but they seriously limit the responses that participants can give. Many researchers prefer to use a Likert-type scale because it's very easy to analyze statistically (Jackson, 2014). Similarly Camille Nebeker said 'It could be said the descriptive research collect information without changing the environment. Sometimes these have referred to as "correlation" or "observational" studies (Nebeker et al., 2016).

Figure 2*Integration of Qualitative and Quantitative Data in Mixed-Methods Research***3.4 Research Procedures**

This study aims to find out the current practices of Freedom of Expression in Nepal with reference to its theories and principles for maintaining democratic culture with open, liberal, transparent, responsible and limited Government. It also focuses on the role of media to promote Freedom of Expression by awaking the people about their fundamental rights. The study has specifically centered around present status, challenge and opportunities on the practices of Freedom of Expression in Nepal.

It is concerned with finding out real practices of Freedom of Expression in the public body and media. It has tried to find out the awareness level during one decade of its practices in Nepal and role of judiciary to protect the Freedom of Expression. By identifying the perception and knowledge of the educated mass, lecturers, students

of journalism, lawyers, industrialists, doctors, engineer and bankers and bureaucrats from center to periphery. There are three different research questions than needs to answer by this research. Based on the research questions research instruments designed to investigate further.

3.5 Unit of Analysis

The major sources of Information had categorically taken from eleven subject areas. These areas include media person, bureaucrats, educationalist, politician, common people, university students, journalist, lawyer, doctor, engineer and general educated people. During the process of data collection, policy makers have also made the part of this research. The areas of data collection include Kathmandu, Lalitpur, Bhaktpur, Rupendehi, Arghakhachhi, Morang, Kapilbastu and Bardiya districts. Basically, this study has focused on the Journalist, Lawyer, Human Right Activist, Politician and Bureaucrats as well as general educated people. A list of subjects has been prepared to ensure the representation of most of the areas. A sample of 333 General people, 246 Journalist, lawyer and Human Rights Activist and 87 political and other experts had selected for this research.

Major sources of Information had categorically taken from 11 subject areas. Those are, Media person, Educationists, Media Expert, Lawyer, Human Right Activists, Bureaucrats, NGOs and INGOs officials, General Police, students, Local Intellectuals/ elite and Lecturer. During the process of data collection- perceptions of the ministries are also added since their views are important to make the policies on Freedom of Expression. The area of data collection includes Kathmandu, Lalitpur, Bhaktpur, Rupendehi, Kapilbastu, Bardiya, Morang and Arghakhanchhi.

3.6 Map of the Study Districts

Figure 3

Map of the Study Districts



Map Source: Google, 2023

3.7 Information of the Population and Sample Size

The population includes journalist, Lawyer, human rights activist, Industrialists and general educated public (who have at least passed Certificate level). The tools for data collection were included for distributing questionnaires and analyzing them and interview from the sampled population. Questionnaires had based on literature review. In addition, Democracy, Transparency, Good Governance, Accountability, Rule of Law, International instruments of Freedom of Expression, Law and Human Rights, Principles and practices of Freedom of Expression in different legal system are key parts for investigative journalism which helped to know present status, key challenges and future of Freedom of Expression etc.

The First part of the questionnaire had formulated to draw information demographically from the respondents. Then after, other questionnaires are

formulated. The questionnaires had categorically developed as per the requirement. During piloting of the questionnaire, it had discovered that some of the respondents are not good enough to understand the questionnaire in English; it raised questions on the language issue. Oribhabor and Anyanwu (2019) reveals 'it was solved by translating the language of understand by the respondents.

3.8 Data Collection Procedures

Questionnaires distributed individually to the people to fill up. In most of the places, the questionnaire returned immediately. The place like Kathmandu, Lalitpur, Bhaktpur, Rupendehi, Kapilbastu, Bardiya, Morang and Arghakhanchhi and other place that are out of valley were visited next day, if possible same day, here and there. In valley, the questionnaire collected after few days. Data collection took 6 months. To get the entire questionnaire returned back, the respondents have given less time but it took a bit longer period than the expected one. Only few places had sent questionnaire to fill up.

3.9 Data Gathering Techniques

Firsthand information was collected from selected media workers, Lawyer, public and private authorities, common people, and relevant stakeholders. Responses were gathered from the media person/journalist, bureaucrats, public and private partners, project authorities, local elites, local people, and employees using different tools of data collection. Secondary data were collected from various organizations through the review of the official records, published and unpublished documents, dissertation, books, research Articles, research journal, Nepal Kanoon Patrika and different websites.

3.10 Tools for Data Collection

The first one includes distribution of questionnaires, analyzing them and the second one includes interview, the third one includes Focus Group Discussion, and another is doctrinal method.

3.11 Tools and Techniques of Data Collections

This study had mostly based on the mixture of qualitative and quantitative techniques and inductive and deductive methods to make it credible and valuable.

3.11.1 Survey

333 General People 246 Journalist and other concerned people from the different fields, 87 political and other experts form 8 districts were participants of survey. This survey has applied to collect background information of the respondents. This method enables the researcher to know about the general characteristics of the respondents as well as the general perception on Freedom of Expression. The survey has based on random sampling methods.

3.11.2 Interviews

The research has also incorporated interviews with 21 people from the different categories of the population. Journalist, Lawyer, Human Rights Activist and Retired judge have the interviewees of this research.

3.12 Sampled Population for Survey

Table 3.1

Sampled Population for Survey

Sector of sampling	Population in sampled areas
Journalist, Lawyer and Human Right Activist (Survey)	246
General educated public (Survey)	333
Political Expert and other concern	87

The population selected based on the random sampling procedure. The questionnaires were distributed in two different modes, the first hand, the people were given questionnaire and they have to return it within the specified time on the other hand, questionnaire were given to them and they have to return it after two three days. 21 people have randomly selected for interview from the selected district of Kathmandu, Lalitpur, Bhaktpur, Rupendehi, Kapilbastu, Bardiya, Morang and Arghakhanchhi.

3.13 Sampled Population for Interview

Table 3.2

Sampled Population for Interview

Sector of samples	Population in sample
Legal Experts	10
Journalists	6
Communications Experts	5
Total	21

Note: The interviewees had randomly sampled from the selected group of people.

3.14 Focus Group Discussion

This method also has applied to collect the information. The method enabled the researcher to collect norms, behaviors, attitudes (Schenul et al., 1999). Different groups of SPAFs, PAFs and the host community members assembled for the discussion to know their attitudes toward implementations of the principles of Freedom of Expression and its global and national practices, its impact and change in overall life style of the people. Altogether 3 FGDs have organized in sampled districts.

3.15 Case Laws

The study has evaluated the case laws to find out the present situation. For this purpose, 32 Case Laws have collected for in-depth information of Judicial Responses about Freedom of Expressions in National and international context.

3.16 Data Processing and Analysis

First of the entire researcher tried to explore the relevant questions to analyze and identify the co-relation of concepts among different group of respondents. There were all together 12 groups of respondents with different background. The questionnaires had coded into MS-EXCEL program and later it had transferred to SPSS computer program; The SPSS version 25 had used. All the questionnaires and their findings tested to look at actual correlation and association. After that it was done to produce actual result by ANOVA test for final result. To do ANOVA test, each set of questionnaires accumulated and it was divided in three different groups as per its objectives.

During the process of analysis, descriptive and inferential statistical methods used to analyze and interpret the data. The questionnaires were coded based on numbers and these numbers had used to analyze it statistically. Percentage, means, standard deviation, and frequencies were used to analyze a) the perception on the development of Freedom of Expression in Nepal and its fundamental practices. b) Correlation used between male and female participants about their knowledge regarding Freedom of Expression. Likewise, awareness level of Freedom of Expression within the bureaucracy, media and information officer had also analyzed.

Ensuring Validity, Confidentiality and Compliance in Research Documentation

All the sections required for research have been included in this study, ensuring the validity and reliability of the research document. Additionally, it includes

annexes for the research instrument (three sets of questionnaires for different respondent groups), the World Freedom House Ranking report 2024, and a list of the key participants for focus group discussions and interviews. The names of the respondents for the focus group and key informant interviews have been kept private for confidentiality reasons, but they are included in the annexes section for authentic research document. Every one of their interviews has been accurately recorded and documented. This study accurately adheres to all APA 7th ed. referencing, citation, and layout guidelines properly.

CHAPTER IV

CONSTITUTIONAL AND LEGAL ASPECTS ON FREEDOM OF

EXPRESSION IN LINE OF GLOBAL VALUE

4.1 Constitutions in Changing Context of Nepal

This concept is accepted by the first Constitution of Nepal "Government of Nepal Act 2004 B.S (1947 AD)". In Article 17 of Interim Government of Nepal Act 2007 B.S (1950 AD)" there is the provision of Freedom of Expression. In Article 7 of Constitution of the Kingdom of Nepal, 2015 B.S (1958 AD), there is the provision of Freedom of Expression but because of social economical, educational and technological reason that provision could not be applicable in practice effectively. There is the provision of Freedom of Expression in Constitution of Nepal, 2019 B.S (1962 AD) in Article 11 because of the restrictive provision relating to political party press freedom could not exercise in practice.

Constitution of Kingdom of Nepal 2047 B.S (1990 AD)

From this point of view, Constitution of the Kingdom of Nepal, 2047 B.S. (1990 AD) is a landmark development. Because of the provision of Constitution and legal provision the sector of media has uplifted after 2047 B.S. (1990 AD), Article 12 (2) a Freedom of Expression, Article 13 Right to Press and Publication, Article 16 Right to Information and Article 22 Right to Privacy are the provisions relating to freedom of expression. In Nepal, for the first time right to information has placed in the Fundamental Rights in Constitution of the Kingdom of Nepal, 2047 B.S. (1990 AD).

Interim Constitution 2063 B.S. (2006 AD)

Constitutional Provisions in Interim Constitution, 2063 B.S. (1990 AD) :
Constitutional provisions regarding communication can enumerate as follows:

- Freedom of Opinion and Expression (Article 12 (3) a)

- Right to Publication, Broadcasting and Printing Press, (Article 15)
- Right to Information (Article 27)
- Right to Privacy (Article 28)
- Right to Constitutional Remedy (Article 32)

Constitution of Nepal 2072 B.S. (2015 AD)

Right to Freedom (Article 17): Right to Communication (Article 19), Right to Information (Article 27) and Right to Privacy (Article 28).

Constitution of Nepal formulated in 2015 B.S. (1958 AD) focuses on Freedom of Expression as following: Article 17. Right to freedom: (1) No person shall be deprived of his or her personal liberty except in accordance with law.

(2) Every citizen shall have the following freedoms :(a) Freedom of opinion and Expression,

Right to Communication (Article 19): (1) No publication and broadcasting or dissemination or printing of any news items, editorials, feature Articles or other reading, audio and audio-visual materials through any means whatsoever including electronic publication, broadcasting and printing shall be censored with reasonable restrictions.

(2) No radio, television, on-line or other form of digital or electronic equipment, press or other means of communication is publishing. Broadcasting or printing any news item, features, editorials, Articles, information or other materials shall be closed or seized nor shall registration thereof be cancelled nor shall such materials be seized by the reason of publication, broadcasting or printing of such materials through any audio, audio-visual or electronic equipment. If nothing contained in this clause shall deem to prevent the making of an Act to regulate radio,

television, online or any other form of digital or electronic equipment, press or other means of communication.

(3) No means of communication including the press, electronic broadcasting and telephone shall interrupt except in accordance with law.

Right to Information (Article 27): Every citizen shall have the right to demand and receive information on any matter of his or her interest or of public interest. No one shall be compelled to provide information on any matter of which confidentiality has to maintain in accordance with law.

Right to Privacy (Article 28): The privacy of any person, his or her residence, property, document, data, correspondence and matters relating to his or her character shall, except in accordance with law, be inviolable.

4.2 Existing Legal Provisions Reflecting the Spirit of Constitution

To make timely provisions on the press and publication, it enacted pursuant to Article 129 of the Constitution of the Kingdom of Nepal, 2047 B.S (1990 AD). Press and Publication Act, 2048 B.S. (1991 AD) stipulates the procedures of obtaining license for operating any publication. Government of Nepal, Public enterprise, University, educational institutions recognized by the Government and associations, institutes, firms, company or any political parties or political associations established under the existing law shall be relieved of necessary registration (Press and Publication Act, 2048 B.S./1991 AD).

Freedom of Expression and public awareness have focused for creating free environment of equality, mutuality and faith to maintain harmony amongst all the tribes, languages, classes, regions and religious people. Imparting economic, social and cultural activities of the country among the people through the broadcasting medium are essentials. It is convenient to make legal provisions for the broadcasting.

Without any obstruction, of the flow of information in order that the general public get informed about impartial as well as authentic news and information taking place at the national and international level, by making the broadcasting media reliable, effective and strong, with the use of modern technology available in the field of information (The National Broadcasting Act, 2049 BS/1992 AD).

It is useful to establish and make arrangement for a Press Council for the development and promotion of healthy, independent and responsible journalism by way of maintaining the highest professional ethics of journalism, therefore, be it enacted by the Parliament (Press council Act 2048 B.S /1991 AD).

Electronic Transaction Act, 2063 B.S. (2006 AD) and Right to Information Act, 2064 B.S. (2007 AD) are the latest development in communication jurisprudence. Main objectives of the Electronic Transaction Act, 2063 B.S. (2006 AD) are legal provisions for authentication and regularization of the recognition, validity, integrity in reliability of general production, processing, storage, communication and transmission system, electronic records. There is a provision to form an Information Technology Tribunal and Appellate Tribunal for hearing the information technology disputes (Electronic Transaction Act, 2063 B.S. (2006 AD)).

Legislature Parliament has enacted an Act named 'Right to Information Act, 2064 B.S. (2007 AD). Main objectives of this Acts are; to make the functions of the state open and transparent in accordance with the democratic system, to make responsible and accountable citizen, to make the access of citizens simple and easy to the information of public importance from public bodies, to protect sensitive information that could make adverse impact on interest of the nation, and for the necessity to have legal provisions to perfect the right of citizen to be well informed and it into practice.

The Act has defined 'Right to Information' as the right to ask for and obtain information of public importance. This Act has guaranteed that every citizen shall have access to information held in public bodies. But some reasonable restrictions are also there, such as information, which can seriously jeopardize the sovereignty, integrity, national security, public peace, stability and international relations of Nepal are restricted.

This Act has established an independent, National Information Commission for the protection, promotion and practice of right to information. Government of Nepal has framed Right to Information Rules, 2065 B.S. (2008 AD) under section 38 of the 'Right to Information Act 2064 B.S. (2007 AD). The Radio Act 2014 B.S. (1957 AD) is the first radio law in Nepal. This law contains a provision that "No person shall possess, manufacture or use any radio equipment without obtaining a license from an agency licensed by the Government of Nepal." For the Act, "The Government of Nepal or an authority designated by the Government of Nepal shall own such radio equipment, determine the number of such radio equipment, own, manufacture or use such radio equipment (Radio Act, 2014 B.S. (1957 AD).

The Gorkapatra Corporations Act 2020 BS (1963AD) is another important law relating to freedom of expression. The purpose of this law is to make the Gorkhapatra (Nepal's oldest newspaper) independent and free it from Government control. The law empowers Gorkapatra to disseminate accurate information, which makes newspapers effective (Gorkhapatra Corporations Act, 2020 B.S. (1963 AD). The law has made provisions for broadcasting and distributing films. According to the law, no film can produce and broadcast without permission from the Nepali Government. The Nepali Government may stop showing films if they violate national security and public order.

This law intends to organize and regulate the motion picture sector and motion picture broadcasting (Film Production and Distribution Act, 2026 B.S./1969 AD).

This law allows private sector to engage in the telecommunications sector, reducing the Government's monopoly over the telecommunications sector and often resulting in a more liberal exercise of the right to freedom of expression. Similarly, the Government of Nepal has formulated various laws and rules such as Gorkhapatra Corporation Act, 2020 B.S. (1963 AD). Radio Communication License Rule 1993, Press and Publication Rule 2049 B.S (1993 AD), National Broadcasting Rule 2052 B.S (1995 AD), Telecommunication Rules 1998 and many others have effectively contributed to the regulation and protection of right to freedom of speech, opinion and expression.

Analysis

In the context of Nepal, this concept is accepted by the first Constitution of Nepal Nepal ko Baidhanik Sasan Bidhan 2004 B.S. (1947 AD). In Article 17 of Nepal ko Interim Sasan Bidhan 2007 B.S. (1951 AD) there is the provision of Freedom of Expression. In Article 7 of Constitution of the Kingdom of Nepal, 2015 B.S. (1958 AD) there was the provision of Freedom of Expression but because of social economical, educational and technological reason that provision could not be applicable in practice effectively. Though there is the provision of Freedom of Expression in Constitution of Nepal, 2019 B.S. (1962 AD) in Article 11, because of the restrictive provision relating to political party press freedom could not exercise in practice.

From this point of view, Constitution of the Kingdom of Nepal 2047 B.S. (1990 AD) is a landmark event. Because of the provision of Constitution and law, the sector of media has uplifted after 2047B.S. (1990 AD). Present Constitution has extended

the provisions so media sector has developed in recent context. Constitutional provision relating to Freedom of Expression in Nepal is very liberal and progressive. It has taken very liberal approach for the protection of Freedom of Expression. In the Preamble of the Constitution there is the provision of Full press freedom. That shows the spirit of Constitution. This Constitution has wider approach for the protection of Freedom of Expression.

Article 17, 19, 27 and 28 of the Constitution has prioritize and given importance for Freedom of Expression. With the experience, the Constitutional provision has made wider liberal and practical provisions relating to this concept. The provision of Constitution of the Kingdom of Nepal 2047 B.S. (1990 AD) in Article 13 had misinterpreted during royal takeover so Article 19 of present Constitution (Right to communication) has given wider protection for the media. After that provision, pre-censorship on the electronic media cannot practice and communication means cannot interrupt.

Another issue in this regard is Constitutional remedy of Article 46, 133, 144 and 151. It has known as writ jurisdiction of the court. It is fast and easy way to implement the fundamental right of the Constitution. Our judiciary is progressive to lay down the principle to implement Freedom of Expression as a fundamental right of the Constitution. Only the Constitutional provision is not sufficient for making environment of Freedom of Expression. The social, political, economic, technological and cultural environment should be favorable to create level of acceptance by the society. It could sum up that a culture of Freedom of Expression would be essential to uphold the Constitutional quest.

Laws Directly /Indirectly Related with Freedom of Expression

Nepal has enacted Printing and Publication Act, 2048 B.S. (1992 AD). National Broadcasting Act, 1949 B.S. (1993 AD), Working Journalist Act, 2051 B.S. (1994 AD), Press Council Act, 2048 B.S. (1991), Gorkhapatra Corporation Act, 2019 B.S. (1962 AD), National News Agency of Nepal Act, 2019 B.S. (1962AD), Communication Corporation Act, 2028 B.S. (1971 AD), Copyrights Act, 2059 B.S. (2002 AD), Radio Act, 2014 B.S. (1957 AD), Long Term Communication Policy, 2059 B.S. (2002 AD), Right to Information Act, 2064 B.S. (2007 AD), Electronic Transaction Act, 2063 B.S (2006 AD) , and Libel and Slander Act, 2016 B.S. (1959 AD). All these laws and regulations directly or indirectly control and regulate Nepali public communication system. Likewise, Telecommunication Act, 2054 B.S (1997 AD), Motion Pictures (Production, Exhibition and Distribution) Act, 2026 B.S (1969 AD), Nepali Language Publication Corporation Act, 2021 B.S. (1964 AD), Postal Act, 2019 B.S. (1963 AD) are also important enactment to regulate communication sector of Nepal.

Existing laws are not sufficient to address the present need of the society. New laws should formulate and existing laws should amend according to the spirit of the Constitution and need of the society to enjoy the Freedom of Expression. New institutions should be established and existing institutions should be strengthening to implement the Constitutional and legal provisions relating the Freedom of Expression in the context of Nepal. With the advancement of information technology, media environment has changed in the context of Nepal. In such environment, laws and policies should formulate to address such environments.

4.3 Case Laws

4.3.1 Judicial Responses Relating to Freedom of Expression in Nepali Context

The supreme court of Nepal has pronounced on right to Freedom of Expression on several occasions. Some cases are purely related to the right to Freedom of Expression.

Cases Relating to Right to Information

In the case, Bal Krishna Neupane v. PM GP Koirala and others, the petitioner's contention was that he had a right to information under Art. 16 of the Constitution on treaties and agreements and pleaded before the court for issuance of an order requiring the Government to give such information. The agreement between the Government of Nepal and India was published in the Gorkhapatra Daily. The Supreme Court ruled that the Constitutional system adopted by Nepal manifests its firm commitment towards the democratic ideals and all acts and conducts of the Government should be essentially transparent. The Supreme Court held that the activities of the Government affect the whole nation, any group, community, or the public directly or indirectly (NKP, 2053 B.S. /1996 AD, p. 210 DN 6160).

It is a public importance, and in such case the Government has duty to inform the people regarding the policies adopted and the decisions reached. The Supreme Court has ordered that Government should give the information about the action plan of the agreement conducted on the date of 2050 /9/ 13 according to the Article 16 of the then Constitution of the Kingdom of Nepal, 2047 (Bal Krishna Neupane v. PM G.P. Koirala and others, NKP, 2053 B.S. /1996 AD), p. 210 DN 6160). Similarly, the writ petition was filed against the GoN that there was no etiquette and fairness and lots of flaws were found in the agreement conducted that time on the Arun Third Project. The circumstances portrayed that whether it was beneficial for the nation was

not taken care into. In this context, to find the factual information relating to the project should be disclosed (NKP, 2051 B.S. /1995 AD, in DN 4895). That was the demand of the applicant. In this case, the Supreme Court gave the verdict in favor of right to information and disclosure. The court declared that this is the issue of public importance so court held strong comment against the Government's role for issuing information regarding public affairs. The Court also issued eight points guidelines for the dissemination of information in the matters of public affairs (Gopal Sivakoti Chintan v. Ministry of Finance et al., NKP, 2051 B.S/ 1995 AD, in 4 DN 4895).

The writ petition was filed to dismiss the decision of the Government of the appointment of the Ambassador of the Spain and Israel (NKP, 2048 B.S./1991 AD/ p 810, DN 989). It rejected the claim for information relating to the privileged communication between PM and the Council of Ministers. The court dismissed the writ and played down the principle that provision of Article 16. Right to information was not unlimited. It had also a limitation so decision of the Government relating to the appointment of the Ambassador was not under the jurisdiction of the court (Radheshyam Adhikari v. HMG, NKP, 2048 B.S. /1991 AD p. 810 DN 989).

Cases Relating to Media Freedom

No Police Office has the power to cancel the registration of a newspaper. So, the decision of Police Office to cancel registration of the newspaper called Sahi Rasta, published in Hindi language is out of power as this power goes to the Government of Nepal (NKP, 2018 B.S. /1961 AD), DN. 161, p. 22-225). If the guarantee of the newspaper as mentioned in the Printing and Publication Act is not demanded by the Government and so cannot be enforced by the Police Office (Baikuntha Prasad Upadhaya v. Sadar Police Office, NKP, 2018 B.S. /1961AD, DN. 161, p. 22-225.23). Similarly, the fine imposed on the weekly named Chetana Weekly and the decision to

cancel its registration is not justifiable because penal action is imposed only on criminal offence conformed by men's reus and actus reus. The content published by these weekly lacks any criminal intentions (Badri Prasad Gupta on behalf of Chetana Weekly v. Chief of Zonal Office, NKP, 2028 B.S. /1971 AD, DN. 604, p. 131-144).

The permission to publish a newspaper is not necessary to receive back again until the registration of it has cancelled by competent authority. There can be a temporary interval for publication (Supreme Court Decision Collection, pp.37-46, Decision date: 2030 B.S./1973 AD, /3/1/6). No permission of republication after the interval of publication is required. However, competent authority may ask for guarantee as mentioned in the law (Chief District Office Kathmandu v. Nirmal Weekly, Supreme Court Decision Collection, p.37-46, Decision date: 2030 B.S. (1973 AD /3/1/6).

No registration of newspapers can cancel by the action against proper jurisdiction and natural justices. Certain procedure has to follow by the competent authority with the means of justifiable work. Jurisdictional fact has to be mentioned in any administrative decision (Madan Mani Dikshit on behalf of Samiksha Weekly v. the Council of Ministers, the Government of Nepal et al., NKP, 2035 B.S. /1978 AD, p.224-234, DN.1191).

Press Council is not an authority to establish legislative intentions behind the provision of rules. Authority prohibited printing press to handover printed copies to Jagaran Newspapers, which is against the established legal provision (Tej Kharel on behalf of Jagaran Newspaper v. the Office of the Bagmati Zonal Office, NKP, 2040 B.S. /1983 AD, p. 225-230, Decision Number 57). Likewise, the decision of unauthorized distribution for Tri-monthly magazine is not applicable for the issues published and distributed prior to the confirmation of unauthorized publication (Ram

Prasad Upadhaya v. Office of DSP, Kathmandu et al.) The order to close the publication without any power under the Press and Publication Act is void. It was the case of Nirbhik Weekly Ram Prasad Upadhaya v. Office of DSP, Kathmandu et al. (NKP, 2045 N.S./1988AD, DN, 3434).

The economic subsidies, advertisement, and other facilities can be closed or halted by the authority if certain numbers of issues are not published as prescribed by the law. However, no authority can suspend a newspaper as a result under-issue publication. This was the case of Nabin Weekly, (Sumitra Gupta v. the Government of Nepal, NKP, 2046 B.S. /1989 AD, DN. 3911)

Section 15(1) of Press and Publication Act, 2048 B.S. (1991) and Section 7 of National Broadcasting Act 2049 B.S. (1993 AD) has provided the Government of Nepal with the power to prohibit the publication or broadcasting of any material or program related to any subject, event, or area considering to nation and national interest not exceeding 6 months at a time by publishing notice in Nepal Gazette. Petitioner Narayan Datta Kandel filed a writ of certiorari arguing that Section 15(1) of the Press and Publication Act, 1991 and Section 7 of the National Broadcasting Act, 1993 had violated his right to Freedom of Expression guaranteed under Article 13 of the Constitution of the Kingdom of Nepal, 2047 BS (1990 AD).

Legislature has given the power to the media to publish any information. Publication houses or media has right to judge whether an information or news is against the national interest. Similarly, the Legislature has also given right to the Government to determine what kind of information or news is against national interest, so that the Government of Nepal can make law to prohibit publication of any news or information if they deem such things to be against (Narayan Datta Kandel v. HMG, Office of the Prime Minister and Council of Ministers, NKP, 2063

B.S. (2006 AD, No. 7, DN. 7726).

Pristhabhumi Saptahreek had published an editorial titled “Tanakpur ko prasnara Nyayapalika” on 26 November 1992. The newspaper had criticized a decision made by Supreme Court of Nepal thus standing in contempt of court. In the editorial, newspaper agency had mentioned that court can also become a dictator if they get an opportunity. So, the petitioner filed the case against the news agency and the editor. Defendant denied the offence and argued that to write an editorial or Article is the use of his right to expression so that the case should not entertain.

Article 86 of the Constitution of the Kingdom of Nepal, 2047 BS (1990 AD) provides for a Supreme Court and places it at the highest level of judiciary. It has acquired the right to prosecute and punish the contempt of its own or subordinate courts or judicial bodies by the prevailing Constitution and law. Using this right does not make the Supreme Court a dictator. Newspaper agencies have right to expression but it is not absolute. No one should cross the limitations of the right to expression. News agencies should give importance to national interest, sovereignty, harmonious relationship between various social groups while publishing any news or Article. News agencies cannot publish any libelous materials from their agency; in such case right to expression cannot be defense (Madan Sharma v. Editor of Pristhabhumi Saptahreek Tara Neupane et al NKP, 2055 B.S. (1998 AD), No. 6, DN.6560).

Nepal Bhasa Patrikahad published an editorial titled “Nepalma Hindu Prathakina” criticizing the majority of the decision taken by the Government in the favor of Hindus. The Government had recently promulgated a law to prohibit the killing of cows. The editorial claimed that the King and the Government had tried

to suppress the minorities, thus making various other blasphemous comments.

Journalism is a very responsible profession of intellectuals. This profession holds a special and important place in today's age. Clean journalism can lead both the society and the Government towards welfare. At the same time, the mistake or error of a journalist can prove to be equally harmful against the interest of the country. Hence, the need for legal control of media is felt. Section 5(1h). Now here near the reasonable restrictions provides the statements made in the editorial, thus Nepal Bhasa Patrika has disturbed the public order and morality, disrespected the dignity and religion of other and are subjected to sanction (Phatte B. Singh v. Kathmandu Magistrate NKP (2015 B.S. / 1958), No. 2, Decisionno.5).

The writ petition was filed to challenge the directive of Information and Communication Ministry related with the censorship of news and information of electronic media. The National Broadcasting Act, 2049 B.S. (1993AD) had been enacted to protect and promote the Freedom of Expression and the right to information of the people guaranteed by the Constitution of the Kingdom of Nepal, 2047 B.S. (1990 AD). The Ministerial Decision of the Ministry of Information and Communications lay down various operating conditions in the name of Frequency Modulation (FM) radio broadcasting companies which were not reasonable, nor were they compatible with Section 7 and Section 11 of the National Broadcasting Act, 1993. Thus, Advocate Madhav Kumar Basnet filed a writ in the Supreme Court, for the restoration of right to freedom of speech violated by them in its trial decision. That was violated the Constitutional right to Freedom of Expression so this right should be quashed and interim order should be given by the court. In this case the Court had quashed the decision of the Ministry of Communication and Information which was related with the censorship on any news item, and information given by electronic

media on the basis of contrary with the Constitution, National Broadcasting Act 2049 B.S. (1992) and National Broadcasting Regulation Act, 2052 B.S. (1996) or unreasonable restrictions. It is true that Article 3 of the National Broadcasting Act, 1993 provides that His Majesty's Government shall have the right to formulate a policy for the supervision and operation of broadcasting programs within the Kingdom of Nepal, but any Ministerial Decision or a departmental action cannot override the right guaranteed by the Constitution.

When analyzing the cases discussed above, it is found that the Supreme Court has maintained the utmost respect for right to freedom of speech and its limitations. The people have often violated the limitations set by the then existing laws or Constitution, so has the Government by introducing directives or other departmental action that have set unreasonable limitations. However, the Supreme Court through its decisions has upheld the prerequisites of democracy (Madhav Kumar Basnet v. Ministry of Information and Communication et al., NKP 2058 B.S./ 2001 AD in Issue 7, DN 7018).

The writ petition was filed to make the provision of National Broadcasting Act 2049, Sec. 8 contradicts Constitutional provisions of Article 12(2) and 13 (1) so it should be Null and void. This provision of National Broadcasting Act, 2049 B.S./ 1992, AD Sec. 8 has related with to cancel the license of Broadcast media. The court made this provision null and void. In this case, court gave the verdict in favor of Constitutional provision of Freedom of Expression (Narayan Dutta Kandel v. Government of Nepal (Decision Relating to information and communication, Freedom Forum, 2069).

Cases Relating to Contempt of Court

A case was filed on the issue of cartoon published in the Bimarsha Weekly. This cartoon presented the Chief Justice of the Supreme Court as a monkey in a tree carrying the file of Tanakpur in his hand. The leaders of different political parties from ruling as well as the opposition standing under the tree seemed to be asking to throw the file at them. The petition of contempt of court had filed on that issue. In such an issue, the court is by nature forgivable in pronouncing the verdict (NKP 2049 B.S./ 1992 AD/ P.44 DN 4604). It does not wish to continue the contention and make it lengthy. It has found by the court in the past. In the Court's realization, the defendant wished to justify that it was right for the publication of the Cartoon in the newspaper. However, he begged for an apology for publishing the Cartoon, but actually, he had not realized that he had committed a mistake from his inner heart. The court declared that such type of realization could not be accepted and made a decision to punish defendant Harihar Birahi, according to the Supreme Court Act, 2048 B.S. (1991 AD) Sec. 7(1). The punishment was seven days imprisonment and 500 rupees fine (Thir Prasad Pokharel v. Bimarsha Weekly, NKP 2049 B.S./ 1992 AD/ P.44 DN 4604).

The writ petition was filed by Advocate Toyanath Dhungana on the issue that the news published on 2074/10/27 in The Kantipur Daily was about the contempt of court and the news was about Chief Justice Gopal Parajuli. The headline of the news was ' Four Types of Citizenship of the Chief Justice'. The petitioner stated that the news miss-informed the public. So, to protect the goodwill of the Court, the defendant should be punished in the charge of the contempt of court, according to the Law of Justice Administration Act, 2073, Sec. (7), sub sec (4)).

In the issue of the second question, the decision was made by citing a number of cases relating to contempt of court decided previously. Though the court seemed to be rigid in the case of Bimarsha Weekly but our Judiciary is flexible and liberal. It established that the court should be patient, liberal a forgivable as far as possible. (NKP 2078 B.S./ 2021 AD in 2/3DN 10639).

While addressing the third question, the Court gave the verdict by pointing out if there is not any peril or harm to the society, Freedom of Expression should be controlled. By citing the quote of Justice Holmes "The question in every case is whether the words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about substantive evil that the congress has a right to prevent. Court does open hearing so it should be open".

By addressing the fourth question, the Court gave the verdict that to disseminate the fair and truthful news is not the contempt of court. In this case the court adhered to the open and liberal principle relating to the Freedom of Expression and its Practice (Advocate Toyanath Dhungana v. KantipurPublication, NKP 2078 B.S./ 2021 AD in 2/3DN 10639).

Ganesh Kumar Pokharel, a member of the National Panchayat while addressing the National Panchayat said that only those having access to power and resources were Likewise to get justice. He further went on to say that even the Supreme Court is influenced by the power and bargaining power of the rich. The President of the Nepal Bar Association, Senior Advocate Sarwagya Ratna Tuladhar filed a petition in the Supreme Court invoking Article 68(2) of the Constitution of Nepal, 1962 and Section 6 of the Supreme Court Act, 1962, stating that Ganesh Kumar Pokharel was in contempt of court. Ganesh Kumar Pokharel further went onto clarify that he did not mention Supreme Court while addressing the National

Panchayat but said everything in accordance with the right to freedom of opinion and expression. The National Panchayat formed a special committee and supported Ganesh Kumar Pokharel and also filed a case, citing the violation of special rights of the National Panchayat, against the President of the Nepal Bar Association, for discussing the matters of the National Panchayat in the Bar Association.

Ganesh Kumar Pokharel made contemptuous allegations against the judiciary and claiming that there is complete freedom of speech within the premises of the National Panchayat, no court action can be taken in this regard. In this case, just because the word "absolute" is added to the freedom of speech privilege does not mean that the privilege is unlimited or inaccessible. In fact, the court does not have to say that no freedom, speech, is unlimited. Duty is also linked to rights or freedoms. When freedom is unlimited, it turns into arbitrariness and ultimately destroys itself. Also, the case filed against the President of Nepal Bar Association was concluded to be unconstitutional (*Sarwagya Ratna Tuladhar v. Honorable Chairman of National Panchayat, NKP (2035 B.S./ 1978 AD), No. 1, DN.1197*).

4.3.2 Analysis of Judicial Responses Relating to Freedom of Expression in National Context

Constitution is a substantive law. It gives the right and duties for the citizen in the different provision under the fundamental rights. To implement these rights, Acts has to formulate for proper Constitutional remedy. The current Constitution of Nepal 2072 BS (2015 AD), Article 46, 133, 144 and 151 provides fast track for the Constitutional remedy. If Constitutional right is violated than every citizen can go to the court for protecting their rights. It is also known as writ jurisdiction of the court. That is fast and easy way to implement the fundamental right of the Constitution. Our judiciary is progressive to lay down the principle to implement Freedom of

Expression as a fundamental right of the Constitution. It is also active to lay down the principle relating to Freedom of Expression. It has given wider protection to the Freedom of Expression through the different decisions.

4.3.3 Judicial Responses Relating to Freedom of Expression in Global Context

Turning from Mill and 19th century England to early 20th century America, it is the Supreme Court dissenting opinions of Justices Holmes and Brandé is writ first, quarter of the 20th century that have captured the imagination of contemporary liberals. Holmes dissents in the *Abram* and *Gitlow* cases along with Brandé is dissent in *Whitney* have been hailed as the highpoint to Democratic Liberal is man used as the starting point for the elaboration of a legal doctrine on Freedom of Expression in the United States. The most eloquent of these statements appeared in the dissenting opinion in the *Abrams* case *Abrams v. U.S.*, 250 U.S. 616 (1919). Persecution for the expression of opinions seems to me perfectly logical. If you have no doubt of your premises or your power and want a certain result writ hall your heart you naturally express your wishes in law and sweep away all opposition. To allow opposition by speech seems to indicate that you think the speech impotent, as when a man says that he has squared the circle, or that you do not care whole-heartedly for the result, or that you doubt either our power or your premises. When people realize that time has shaken many struggling faiths, they can believe that the ultimate good of the ideal has better achieved through the free exchange of ideas than the basis of their own actions. May-this is the best test of truth. The power of thought to compete in the market, and this truth is the only basis on which their desires have safely carried out. At least that is the theory of four Constitutions (Justice Holmes dissenting in *Abrams v. U.S.*, 250 U.S. 616 (1919 AD)).

Although it is subject to interpretation, the Supreme Court through opinion sit issues has made the general underlying principles of US media law clear. The fundamental principle of freedom of speech and press had very well expressed in the bedrock case. “We have a profound national commitment to the principle that debate on public issues should be an inhibited, robust, and wide-open, and that it may well include achievement, caustic, and sometime sun pleasantly sharp attack son Government and public officials (New York Times v. Sullivan, 1964 AD).

In Bennet Coleman v. Union of India, Indian supreme court emphasized that every freeman has an undoubted right to lay what sentiments he pleases be low public; to forbid this is to destroy the freedom of the press but if he publishes improper, mischievous so legal, he must take the consequence of his own. The faith of activities is that political wisdom and virtue will sustain themselves in the market of ideas so long as the channels of communication are left open.

The liberty of the press remains in every democracy. Steel delivers products made of steel. Then newsprint will be what man thought it would be. Newspapers make suggestions. People are free to figure out which ideas are correct. Press freedom should the reform been richer by removing page limit restrictions and allowing new editions or new newspapers. If the noun to of news print available does not all now additional newspaper quotas to give to different editions. Within a fairly fixed quota, it is up to the newspaper to decide on pages, editions, and the new edition itself.

Goodwin was an apprentice journalist who received information from sources who wished to remain anonymous. Information relating to a company's financial situation that appears to come from confidential business plans. The company has obtained an order to stop Goodwin from disclosing confidential information and to identify its sources. When he refused, he had fined for contempt of court and Goodwin took the

matter to the European Court of Human Rights, claiming a violation of the Article 10 on the right to freedom of expression. Because it had already served an injunction to release the information, the court did not have to disclose the source of the information, and the company's interest in finding out whom the source of the information was an extension of the free will that governs a democratic society. It had judged that the public interest in reporting exceeded. The potential "deterrent effect" that journalists' disclosure of sources can have would seriously undermine the journalist's role as a "public keeper" and the free flow of information (*Goodwin v. The United Kingdom*, 1996 AD).

Lingens was a journalist and editor for the Austrian magazine *Profile*. He published two of his Articles on Austria's involvement in atrocities committed during World War II. Published shortly after the Austrian general election, these Articles accused one of his politicians, Peters, of being involved in atrocities and criticized the then-resigned prime minister for protecting Peters. Lingens was convicted of defamation and argued before the European Court of Human Rights which said that the allegations violated his freedom of expression. The prime minister argued that such violations were necessary to protect his reputation. The Supreme Court has ruled that protecting the privacy of public figures is narrower than protecting the privacy of individuals, especially when that information relates to the public's right to information on political issues. The court concluded that defamation charges were unnecessary in a democratic society and violated Lingens's right to freedom of expression (*Lingens v. Austria*, 1986 AD).

During the Salvadoran Civil War (1980-1991 AD), six farm workers were arrested by the Salvadoran army during a military operation in a rural area of San Salvador. A complaint filed with the Inter-American Commission on Human Rights,

alleging that the farmers were tortured in custody, result in gin two deaths. The petitioner asked the IACHR to declare the state responsible for the deaths of his two farmers and to implement legislation to that effect. Leaving a crime unpunished violates Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection). The Supreme Court has not only failed to do so while the state has an obligation to properly investigate these crimes, but also has an obligation to respect the collective "rights" of victims' families and society as a whole. Determined that there is All individuals and societies have the right to “know the complete and complete public truth about events that have taken place under specific circumstances and who took part in them.

The court found that the State of El Salvador violated the right of victims, their families and society to know the truth (Lucio: da cea, et al v. El Salvador, 1998). Robert Faurisson was a French academic who denied the existence of extermination gas chambers in Nazi concentration camps during World War II. In 2047 BS (1990 AD), France passed the Gaysot Act, making it a punishment for denying the existence of certain crimes against humanity. The Human Rights Commission of the ICCPR is not in their prerogative to assess the effectiveness of the laws enacted by France, but believes that whether and to what extent restrictions on Freedom of Expression are provided by law are necessary and justifiable. Said to find out whether the commission found that Faurisson had the right to express and express his opinion, but in this case expressing his opinion violated the rights and reputation of others.

This restriction went against the respect given to allowing the Jewish community to live without fear of an anti-Semitic atmosphere (Faurisson v. France, 1996 AD).

In this case, the European Court of Human Rights (ECOHR) had to consider whether the injunction against the newspaper constituted a necessary and

proportionate restriction on freedom of expression. The Sunday Times wrote an article about marketing thalidomide, a treatment for morning sickness. Many pregnant women who later gave birth took thalidomide to deformed children. The state obtained an injunction barring the publication of the Article because the matter was before the court. He argued that restricting free speech was justified to preserve the authority and impartiality of the judicial system and represented a social emergency. The court concluded that the facts of the case did not support this (*Sunday Times v. The United Kingdom*, 1979 AD).

Analysis

Court is the sources of Law according to the realist school of thought. Common legal system developed through the judicial decisions of the judge of United Kingdom. In the course of the history, the court of the different country in the world has given the landmark decisions by laying down the principles in the favor of speech and expression. That helps to develop the communication jurisprudence in these fields. History of Freedom of Expression has taken as the history of struggle for the freedom movement in the world. In that course, the above discussed decisions became milestone to make principle of Freedom of Expression.

International Law

Protecting Freedom of Expression: United Nations Treaties

Various United Nations treaties protect the right to freedom of expression. International human rights treaties signed by States Parties set out how their governments should act to respect, protect, monitor and enforce the human rights and fundamental freedoms outlined in the treaty. It's an agreement. However, signature only means that the contracting parties have agreed in principle and intend to be bound by the treaty. To be binding, the contracting states must also ratify the treaty,

but procedures vary from state to state. Nepal follows both a centralized system in which ratified treaties are immediately enforceable as part of domestic law, and a dual system of amending domestic law to include provisions of international treaties (Nepal Treaty Act, 2047 B.S /1990 AD), 9(1), (2) of Section (9)1 deals with monism and (9)2 with dualism. Parties may also make" reservations. A reservation is a unilateral declaration that a contracting party makes when it becomes a contracting party. It is a declaration that a contracting party ratifies the treaty subject to the exclusion or modification of certain provisions relating to the application of the treaty to that country. For the purposes of this introduction, the UN-based treaties below apply only to those countries that have signed and ratification.

A. International Covenant on Civil and Political Rights (1966)

The right to Freedom of Expression has to express in Article 19 of the International Covenant on Civil and Political Rights (ICCPR, 1966) under the same general terms as the 1948 Universal Declaration of Human Rights. Article 19 of the ICCPR (1966) includes the right to receive information as well as the right to express opinions and ideas (ICCCPR, 1966).

Article 19 States

1. Everyone has freedom of expression.
2. Everyone has the right to freedom of expression. This right includes the freedom to seek, receive and communicate information and ideas of all kinds, whether orally, in writing, in print, in the form of art or in any other medium of your choice, regardless of national borders.
3. The exercise of the rights set out in Clause 2 of this Article entails in obligations and responsibilities.

Accordingly, certain limitations may apply, But Only limitations stated and required by law apply.

(a) To respect the rights or reputation of others;

(b) To protect national security or public order;

The ICCPR (1966) has been largely ratified by 168 Parties worldwide. ICCPR (1966) requires the State party to report to the United Nations Commission on Human Rights within one year of its entry into force, and thereafter whenever the Commissions or requests, on the progress made in realizing the rights contained therein obliged to do so. The UN Secretary-General will forward it to the Commission on Human Rights. The reports, according to Article 40(2) of the ICCPR, “shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.”⁹ States that do not comply with their reporting obligations will be subject to the Committee's procedure, which allows the Committee to consider the State's status of implementation of the ICCPR (1966) in lieu of a formal report (ICCPR, 1966).

The ICCPR includes an Optional Protocol, which enables individuals to launch complaints to the UN Human Rights Committee. By signing and ratifying the Optional Protocol, States recognize the jurisdiction and competence of the Human Rights Committee to receive and consider complaints from individuals who claim that the State has violated their rights under the Convention (ICCPR1966). The Second Optional Protocol of the ICCPR is aimed at the abolition of the death penalty; signatories agree to take measures to eliminate the death penalty in their States (ICCPR1966).

Each of the treaty bodies (for example, the Human Rights Committee for the ICCPR (1966) or the Committee on Economic, Social and Cultural Rights for the

International Covenant on Economic, Social and Cultural Rights (ICESCR)) publish “general comments” or “general recommendations,” which are an authoritative (though not technically binding) interpretation of the provisions within each respective treaty. General Comment No is a document adopted by the UN Human Rights Committee in July 2011 that gives States more specific guidance on the proper interpretation of Article 19 of ICCPR (1966 AD).

General Comment No.34 strengthens the protection of this fundamental human right by outlining the right to Freedom of Expression in practice. It provides authoritative interpretations of freedom of speech, opinion, opinion and media, rights of access to information, Freedom of Expression and political rights, as well as specific applications of Articles and their restrictions. The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to Freedom of Expression under Article 15(3). "The States Parties to this Covenant undertake to respect the freedoms essential to scientific research and creative activity. ICESCR has signed and ratified by 163 States Parties. According to ICESCR, the state must submit her report in two parts: The first is a common core document containing general information on the reporting status and related frameworks for the implementation and promotion of human rights. The second is a treaty-specific document containing specific information on the implementation of Articles 1 to 15 of the ICECR (ICESCR, 2009). Parties shall submit reports within one year of the entry into force of the Covenant in accordance with a program established in consultation between the Economic and Social Council and the Parties.

**B. International Convention on the Elimination of all Forms of Racial
Discrimination, 1965**

The International Convention on the Elimination of all Forms of Racial Discrimination (ICERD, 1965) expresses the right to freedom of expression under Article 5(d) (vii) and (viii) as their rights to freedom of thought, conscience, and religion, respectively. In accordance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and eliminate racial discrimination in all its forms and guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (d) Other civil rights, in particular (vii) the right to freedom of thought, conscience, and religion; (viii) the right to freedom of opinion and expression (ICERD, 1965).

C. Convention on the Rights of the Child, 1989

The Convention on the Rights of the Child (1999) protects the freedom of expression of children under Article 12 and Article 13.21. The parties shall ensure that the child who is capable of forming his or her own views has the right to express those views freely in all matters affecting the child. The views of the child shall be given due weight in accordance with their age and maturity. To achieve this objective, children shall be provided with the opportunity to participate in judicial and administrative proceedings affecting them, either directly or through representatives or appropriate bodies, in accordance with the procedural requirements of national law.

Article 13 States

1. Children have the right to freedom of expression. This right includes the freedom to seek, receive and impart information and ideas of all kinds, whether orally, in

writing, in print, in art former through any other medium the child chooses, regardless of national borders.

2. The exercise of this right can be subject to certain restrictions, which are prescribed and required only by law.
 - (a) Respect the rights or reputation of others;
 - (b) To protect national security or public order or public health or morality; CRC has two optional protocols. The first Optional Protocol provides additional protection for children involved in armed conflict (2000). States that have signed and ratified this Protocol have committed to ensure that children under the age of 18 are not involved in armed forces or directly involved in hostilities. The Second Optional Protocol prohibits the sale of children, child prostitution and child pornography (2000).

D. International Convention for the Protection of the Rights of All Migrant Workers and their Families (2047 B.S /1990 AD)

The International Convention for the Protection of All Migrant Workers and Their Families (ICMW) protects Freedom of Expression under Article 13.

Article 13 states

1. The migrant worker and her family are entitled to express their opinions without any interference.
2. Migrant workers and their families possess the right to freedom of expression. This right includes the freedom to seek, receive, and impart information and ideas of any kind, regardless of national borders.
3. Exercising the rights set out in thin Section 2 of this Article carries certain obligations and responsibilities. Therefore, it is possible to subject it to certain restrictions.

E. European Convention on Human Rights

Regional intergovernmental organizations include the Organization of American States (OAS), the Council of Europe (COE) 2014, the African Union (AU), and the Arab League. Each charter shares the human rights principles and basic protections enshrined in the UDHR (1948) and the United Nations Charter, including the right to freedom of expression. Each of the bodies serves as reporting units and/or judicial or quasi-judicial mechanisms that specifically address human rights concerns.

F. American Convention on Human Rights (1969)

The American Convention on Human Rights (ACHR) is the OAS' multilateral human rights treaty. Article 13 defines the right to freedom of thought and expression including the freedom to seek, receive and impart information of all kinds, regardless of borders or medium. Paragraphs 2 to 5 outline the permissible scope of this right.

Article 13 of the American Convention on Human Rights states:

1. Everyone has the right to freedom of thought and expression. This right includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of national borders, whether orally, in writing, in print, in the form of art or in any other medium of your choice.
2. Exercising the above rights: Graphics are not subject to prior censorship, but are subject to sub censorship expressly provided for by law to the extent necessary to ensure that:
 - (a) Respect the rights or reputation of others; Also
 - (b) Protecting national security, public order, public health or morality; the right to Freedom of Expression does not apply in directly, such as through abuse of Governmental or private control over newsprint, radio frequencies, or devices used to disseminate information, or other means that may impede it. Shall not be

infringed by any method or means; Dissemination of ideas and opinions is restricted, notwithstanding the provisions of paragraph 2 above, public entertainment can be subject to prior censorship by law for the sole purpose of regulating children's and young people's access to moral protection.

War propaganda and national, racial or religious incitement to unlawful violence or other similar actions against individuals or groups of people on the grounds of their race, color, religion, language, or national origin; Advocating for public chartered is considered a crime.

Taking in to account the principles of Article 13, in 2000 AD the Inter-American Commission on Human Rights (IACHR, 2000 AD) issued a Statement of Principles on Freedom of Expression. This statement sets out the elements and limitations of this right, including data protection laws, confidentiality from journalistic sources, and ownership and control of media sources. As Article 61 states, only Contracting States and the IACHR may bring an action before the Inter-American Court of Human Rights (IACHR). Approval of a claim must meet the requirements of Section 46, which states: (a) all domestic remedies must exercise first, and (b) the claim or notice must file by the victim within six months of the date on which he made the final determination. (c) The matter is not pending in another international proceeding; and (d) the complaint contains relevant personal data of the individual or legal representative filing the complaint.

G. European Convention on Human Rights 1950

The Council of Europe (1950) oversees the European Convention on Human Rights (ECHR). The Convention recognizes the right to Freedom of Expression as set out in Article 10. This includes the right to hold opinions, the right to receive and

communicate ideas and information freely across borders, and the obligations and restrictions imposed on those rights.

Article 10 of the European Convention on Human Rights states:

- a. Everyone has freedom of expression. This right includes Freedom of Speech, Expression, and the freedom to receive and communicate information and ideas without interference from public authorities, regardless of national borders. This provision does not prevent the states from requiring licenses for radio, television, or film companies.
- b. The exercise of these freedoms entails duties and responsibilities, and therefore, in the forms, conditions and restrictions prescribed by law and required in a democratic society for the territorial security, integrity or public interest of a state, or can be subject to penalties. Such as safety, prevention of civil unrest and crime, protection of health and morality, protection of the reputation and rights of others, prevention of disclosure of confidentially received information, and maintenance of judicial authority and impartiality.
- c. The ECHR has established the European Court of Human Rights (ECHR), which, together with the Council of Europe (1953), monitors compliance with the provisions of her ECHR by States Parties (States Parties to her ECHR that have signed and ratified the ECHR).
- d. Any Party may refer to her ECHR Real legations of violations of her ECHR's Articles and Protocols by other States Parties. The ECHR may also accept applications from individuals or groups of individuals or non-Governmental organizations claiming to be victims of violations by one of the Contracting States of their rights enshrined in the ECHR. However, the ECHR will only consider cases where all domestic remedies have exhausted and the matter has brought

before the Court of Justice within six months of the final decision by the national court.

H. African Charter on Human and Peoples Rights (1981)

The African Charter on Human Rights, adopted in 1981 and entered into force in 1986, articulates the right to freedom of expression under Article 9. All individuals have the right to information. 2) Every individual has the right to express and disseminate their opinions within the parameters of the law.

In 2002, the 32nd session of the ACHPR adopted a Statement of Principles on Freedom of Expression, which affirmed and elaborated on the rights enshrined in Article 9. These encompass the right to Freedom of Expression and the promotion of diversity within the household, freedom of expression, freedom of information, the attitudes of private and public broadcasters, regulators, and the print media, as well as a range of policies for media professionals. Her ACHPR has been signed and ratified by 53 countries.

The Statute of the African Court of Justice and the Protocol on Human Rights bring together the African Court of Human Rights and People's Rights with the African Union Court of Justice. The African Justice and Human Rights Court has signed and ratified the Protocol, ACHPR, the African Committee of Experts on Child Rights and Welfare, African intergovernmental organizations accredited by the authorities' agencies, African national human rights institutions, and accredited individuals or relevant NGOs. All instances alleging violations of human rights protected by ACHPR shall be notified to the Registrar through written requests, who shall notify all parties affected and her Chair of ACHPR. Potrivit to Article 46 of the Protocol, all decisions of the African Court of Justice are binding on all parties.

I. Arab Charter of Human Rights (2004 AD)

The Arab Charter of Human Rights was adopted in 2004 and entered into force in 2008 by the Arab League, a regional organization of Arab countries in the Middle East and North Africa. It reaffirms the principles of the UDHR, ICCPR, and the Cairo Declaration on Islamic Human Rights. Article 32 guarantees the right to Freedom of Expression, this Charter guarantees the right to information, freedom of opinion and expression, and the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries. 2. These rights and freedoms shall be exercised in accordance with the fundamental values of society and subject only to those restrictions necessary to ensure respect for the rights or reputation of others, or the protection of national security, public order and public health.

Freedom of Expression is a basic human right of all citizens for the civilized world. It reflects the values of a democratic society. It must be guaranteed in the Constitution as a basic right of the people. The United Nations Convention (UDHR, 1948), the European Convention, the American Bill of Rights, and the African Charter to provide the best international environment for people around the world have also amended it.

It has to maintain in a democratic society. Nonetheless, there is a disturbing global trend of Governments unduly restricting Freedom of Expression and targeting journalists, protesters, and those perceived to oppose the Government's views. Even in Western democracies, laws limit protests and threaten press freedom and Freedom of Expression through mandatory meta data retention systems. Vigilance by civil society around the world is essential to defending freedom of expression. This is necessary to improve people's lives, build, and maintain strong and healthy democratic societies.

In general, the United Nations and regional systems have developed a great deal of jurisprudence on how this right should be exercised and guaranteed by States, and the criteria for limiting this right. It should be noted that international law obliges countries to fully comply with their human rights obligation whereas domestic law provides lower levels of protection or deviates from international standards.

The right to Freedom of Expression has broadly protected under international law. However, this right must balance with other rights, particularly the right to privacy and the right not to discriminate. States have an obligation to protect freedom of expression, protect the individual's right to privacy, and protect media professionals from work-related harm. However, it is required to pass the three-part limit test described in Article 19 or in case of a national emergency under Article 4 of the ICCPR.

Analysis

Various United Nations treaties protect the right to freedom of expression. Sovereign states sign international treaties and deposit them with the United Nations. International human rights treaties signed by States Parties set out how their governments should act to respect, protect, monitor and enforce the human rights and fundamental freedoms outlined in the treaty. It is a declaration that a contracting party ratifies the treaty subject to the exclusion or modification of certain provisions relating to the application of the treaty to that country. For the purpose of this introduction, the UN-based treaties below apply only to those countries that have signed and ratified, and have not made reservations, specific provisions protecting the freedom.

The right to Freedom of Expression has expressed in Article 19 of the International Covenant on Civil and Political Rights (ICCPR, 1966) under the same

general terms as the 1948 Universal Declaration of Human Rights. Article 19 of the ICCPR (1966) includes the right to receive information as well as the right to express opinions and ideas (ICCPR, 1966). This right includes the freedom to seek, receive and communicate information and ideas of all kinds, whether orally, in writing, in print, in the form of art or in any other medium of your choice, regardless of national borders.

ICCPR (1966) requires the State party to report to the United Nations Commission on Human Rights within one year of its entry into force, and thereafter whenever the Commission so requests, on the progress made in realizing the rights contained therein obliged to do so. The ICCPR includes an Optional Protocol, which enables individuals to launch complaints to the UN Human Rights Committee. By signing and ratifying the Optional Protocol, States recognize the jurisdiction and competence of the Human Rights Committee to receive and consider complaints from individuals who claim that the State has violated their rights under the Convention (ICCPR, 1966).

Each of the treaty bodies (for example, the Human Rights Committee for the ICCPR (1966) or the Committee on Economic, Social and Cultural Rights for the International Covenant on Economic, Social and Cultural Rights (ICESCR)) publish “general comments” or “general recommendations,” which are an authoritative (though not technically binding) interpretation of the provisions within each respective treaty. General Comment is a document adopted by the UN Human Rights Committee in July 2011, that gives States more specific guidance on the proper interpretation of Article 19 of the ICCPR (ICCPR, 1966). It has strengthened the protection of this fundamental human rights by outlining the right to Freedom of Expression in practice. It provides authoritative interpretations of freedom of speech,

opinion and media, rights of access to information, Freedom of Expression and political rights, as well as specific applications of Articles and their restrictions. International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to Freedom of Expression under Article 15(3). "The States Parties to this Covenant undertake to respect the freedoms essential to scientific research and creative activity."

The ICESCR has signed and ratified by 163 States Parties. According to ICESCR, the state must submit her report in two parts: The first is a common core document containing general information on the reporting status and related frameworks for the implementation and promotion of human rights. The second is a treaty-specific document containing specific information on the implementation of Articles 1 to 15 of the ICESCR, 2009. The concept of freedom of expression, as a branch of human rights and as universal values, has greatly provisioned in the Constitution of Nepal.

It has originated from Natural school of jurisprudence, everyone is entitled to enjoy right to hold their own opinions, and the right to get, analyze and share information and ideas. It is not only the right of journalist but it is the right of every citizen. For journalists, this right is essential to collect the fact, analyze the fact and share the free, fair and independent news. Without this freedom, we cannot get information from public officials. Journalist cannot make people aware so this right is important in democratic society. Media freedom and democracy are interrelated and interconnected to each other.

Article 19 of UDHR (1948) declares the general principle on the right to freedom of information and expression to all individuals without any interference. This includes the right to get, analyze and share information and ideas through media

across the world. (Art 19 of UDHR) Article does not impose any limitations in the exercising of this freedom. Article 29(2) and (3) covers the general limitations for all rights and freedoms contained in UDHR including the freedom of expression. It is Article 19 of ICCPR that precisely put out this freedom together with limitations. Everyone shall have the right to hold opinions without any interference. It includes freedom to search, analyze and share information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any means. The right can be subject to certain limitation for example National security, law and order, official secrecy, contempt of court, defamation and copy Right.

The ICCPR also establishes the Human Right Committee, which monitors the implementation of rights found under the Covenant (Part IV of ICCPR). The concept of freedom of speech was originated from natural school of jurisprudence. It was later expanded gradually by Magna Carta (1215), the United States Bill of Rights, and the French Declaration of the Rights of Man and the Citizen 1789. These declarations reshaped the principle of Freedom of Expression in the era of United Nations from 1946 till 1948 when finally, it was agreed and the provision of Freedom of Expression was included in the UDHR of 1948.

4.4 Protection of Freedom of Expression in Nepali Legal System

Nepal has the provision of written Constitution, which is the reception of Civil law. Like in Civil law system Nepal also has special courts. Acceptance of precedent and adversarial system are the influences of common law system. Socialist law influences rules concerning state owned enterprises, cooperatives. To protect Freedom of Expression there should be some restrictions. All political parties that were together for the promulgation of the latest Nepali Constitution are advocating for socialism. That is how legal system has directed with the eye of sociologist. They are

not obliged to disclose sources of their information if the informer desires not to be disclosed. There is mixture of all theories, but Nepal has been guided by a social responsibility theory.

4.5 Freedom of Speech and the Value of Legal Right

Freedom of Expression has clearly mentioned in the Constitution of Nepal as the legal right. These include freedom to live with dignity, Freedom of Expression, religious and cultural freedom, right against untouchability etc. Freedom of speech and expression as our Constitutional rights have recognized as a human right under Article 19 of the Universal Declaration of Human Rights. It comes under the Fundamental Rights of the Constitution.

4.6 People's Perceptions on International Instruments of Freedom of Expression

Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice. Freedom of Expression has become universal right. Universal declaration of human rights and United Nations made provisions related to freedom of speech. It is a global phenomenon in the present global order institutionalized by international laws. The right to Freedom of Expression has been recognized as a human right in the Universal Declaration of Human Rights and international human rights law by the United Nations. Many countries have Constitutional law that protects free speech. Freedom of Speech is human and legal rights.

4.6.1 Judicial Responses Relating to Freedom of Expression

The right to freedom of speech allows individuals to express themselves without Government interference or regulation. The Supreme Court requires the Government to provide substantial justification for the interference with the right of free speech where it attempts to regulate the content of the speech. Government requires providing substantial justification for the interference with the right of free speech where it attempts to regulate the content of the speech. Press and other media, should respect fundamental Constitutional rights such as the right to a fair trial, a perspective which may require the courts to balance that right against freedom of speech and of the press. Judiciary must be opened to Freedom of Expression. As now, if we observe, judiciary seems to be a little narrower than other sectors.

In Nepal, the Government has on a number of occasions attempted to restrict the fundamental rights to freedom of expression. They seem positive on many occasions. But the political interferences often hinder citizens from enjoying such freedoms. Freedom of Expression is widely recognized as a framework right, one which is important in its own right but which also serves to underpin respect for all other rights. When respect for the right to Freedom of Expression comes under attack, all rights are at risk. Judiciary is found to be playing a great role.

“Judicial responses are pathetic. It cannot protect the privacy of people”, stated a participant from Lalitpur

When people's Freedom of Expression is violated, then judicial responses will have established laws and principles. Freedom of speech is not absolute. The Court has upheld restrictions on defamatory and obscene speech, as well as speech that incite violence or law breaking. It is trying to create a balance in the society. A judicial response does not seem to apply strictly. It is needed to apply in reality. If

court is free from any external force, it does well, but if it has been manipulated by influential forces, it just goes in accordance with that force. That is prevailing in our country.

4.6.2 Legal Provisions on Fundamental Rights Relating to Freedom of Expression

The Constitution of Nepal guarantees the Fundamental Rights of citizens, including the freedom of expression. That supports the freedom of an individual or a community. The right to Freedom of Expression includes the freedom of opinion and thought in every source, case, such as freedom to hold opinions, freedom to receive information and ideas; and freedom to impart information and ideas. Everyone has the right to freedom of opinion and expression.

4.7 Social Strata of Freedom of the Press

The Constitution of Nepal guarantees the Freedom of Expression in media; media should not be subject to direct censorship. Freedom of the press or freedom of the media is the fundamental principle. Communication and expression through various media including printed and electronic media, especially published materials, should consider a right to be exercised freely. The right to report news or circulate opinion without censorship from the freedom and speech is fundamental human rights, legal and neutral rights Complete Press Freedom is guaranteed in the preamble of the Constitution of Nepal. It safeguards the Right to Freedom of Expression with Constitutional provision. Freedom of speech is the fundamental human right. It has not been included in basic fundamental right. The situation of the freedom to speech has maintained in Nepal.

Press must have the independent thought and clear vision of content without any suppression and biasness. Provided by law, as all citizens can demand information

related to their personal or public concerns, journalists are free of availing information from the concerned parties. As the press is part of society, every right has the connections with press freedom. The right to publish newspapers, magazines, and other printed matter without Governmental restrictions and subject only to the laws of libel, obscenity, and sedition are the key areas for study.

4.7.1 Nepali Legal System to Protect Freedom of Expression

Nepal has the provision of written Constitution, which is the reception of Civil law. Like in Civil law system, Nepal also has special courts. Acceptance of precedent and adversarial system are the influences of common law system. Socialist law influences rules concerning state owned enterprises, cooperatives. To protect Freedom of Expression there should be some restrictions. All political parties that were together for the promulgation of the latest Nepali Constitution are advocating for socialism. Legal system has directed from sociological perspectives, as they are not compelled to disclose sources of their information if the informer desires not to disclose.

4.7.2 Legal Issues about Media on Court

Some of the participants said "Normally, they follow the laws, but they ignore legal provisions when their interests clash with such cases. Sometimes we can feel that, media person cannot apply their rights because of their right to privacy. It depends up on the situation".

4.7.3 Limitations of Freedom of Expression

Cautious restrictions are required in some issues like nationality, about head of state, libel, offensive, discriminatory, prejudice, defamation, privacy, and public order-related issues. But such restrictions should not go beyond the democratic norms and values. We have right of equality and right of freedom of speech. But sometimes

we should face the limitations because of right of privacy. It should be based on the citizens' rights and responsibilities.

Except the acute national interests there should not be any restrictions in any kind of information. Life, liberty and property are the main things so out of these, it is necessary. Absolute freedom harms. Freedom and responsibility are two wheels that must not be discrete. Journalists should understand freedom of press and responsibility are two parts of the same coin. They should not over enjoy and maintain harmony on various principles and should not discard that citizen's rights to be informed. It will be better if fruitful laws are designed.

Freedom of Expression should not be used to assassinate someone's character for no reason. This should strictly come under the ambit of punishment. The use of media, so called YouTube channels, these platforms must be regulated by law. Anyone with a YouTube channel is becoming a journalist and reporting haphazardly. This must also be regulated. It plays a major role in the state. There should be criteria that are objective, realistic and do not harm humanity. Freedom of speech should be accepted by society and expression should follow state law.

Freedom of Expression is not an absolute right and certain types of limitation should be attached before exercising such right. The limitation could be on the matters of defamation, contempt of court, decency and morality, security issues, maintenance of peace and order, and matters relating to the sovereignty and integrity of Nepal. Freedom of Expression is vital but there also must be limitations to the extent that should not hamper to the national security, public order, socio-ethnic harmony. The provisions mentioned in the Constitution should follow sincerely.

Freedom of the press is not absolute. There are genuine limitations on press freedom considering people's individual rights and public, social and national

interests. To limit the press freedom for these reasons, in democracies no censorship is practiced. If media published or broadcasted materials beyond the limitation, legal action has taken but the media is never banned. In dictatorships, censorship has imposed on media, which forbids certain types of contents from publication or broadcast.

The present Constitutional and legal provision on limitations is sufficient. There is a lack of implementation. Ensuring philosophical and legal rights to Freedom of Expression is essential to maintain the section of powers and the rule of law. The current Constitution of Nepal has guaranteed it. Apart from the common citizens, the media have been able to enjoy freedom of speech and freedom of the press. However, this alone cannot consider completely.

Table 4.1

Freedom of Expression in Nepal

N=21

S.N.	Answers	Frequency	%
1	Current Constitution of Nepal is comparatively regressive than the Constitution of 2047 of Nepal	9	42.85
2	14th Limitations for free speech are there in present Constitution	18	85.71

Note : % adds more than 100 due to the multiples responses.

Survey, 2022

This study has found that majority 85.71 (percent) of respondents said that 14th Limitations for free speech are there in present Constitution. 42.85(percent) respondents think that Current Constitution of Nepal has regressive than the Constitution of 2047 of Nepal.

This study found that majority 85.71% of respondents say that 14th Limitations for free speech are there in the present Constitution. Whereas, 42.85 (percent)

respondents think about Current Constitution of Nepal is comparatively regressive than the Constitution of 2047 of Nepal.

Table 4.2

Constitutional Provision in the Article 17 (2) A in Nepal *N=21*

S.N.	Answers	Frequency	%
1	It has given high priority	19	90.47
2	Sufficient rights for the press	20	95.23
3	Practically is has to focus on its free practices	18	85.71

Note : % adds more than 100 due to the multiples responses. *Survey, 2022*

This study shows that majority 95.23 (percent) respondents think that Constitutional provision in the Article 17 (2) (A) in Nepal has given sufficient rights for the Freedom of Expression. Similarly, 90.47 (percent) respondents believe that it has given a high priority to the Freedom of Expression. In such away, 85.71 (percent) respondents think that practically it has to focus on its free practices.

This study shows that majority 95.23 (percent) respondents think that Constitutional provision in the Article 17 (2) (A) in Nepal has given sufficient rights for the Freedom of Expression. Similarly, 90.47 (percent) respondents believe that it has given high priority to the Freedom of Expression. In such away, 85.71(percent) respondents think that practically it has to focus on its free practices.

Table 4.3*Freedom of Expression and Democracy**N=21*

S.N.	Answers	Frequency	%
1	Fundamental of democracy	20	95.23
2	It is preconditions of democracy	20	95.23
3	Media watches executive, judiciary and parliament.	18	85.71
4	Accuracy, Balance and Credibility.	14	66.66
6	Indispensable	20	95.23
7	Two side of a coin	20	95.23
8	Rule of law	17	80.95
9	Disclose the information relating to public concern	15	71.42

Note : % adds more than 100 due to the multiples responses.

Survey, 2022

This study shows that majority 95.23 (percent) respondents believe that Freedom of Expression and democracy are two sides of a coin. In the same 95.23 (percent) respondents think that Freedom of Expression is Fundamental of democracy, it is also the preconditions and indispensable for democracy. Likewise, 85.71 (percent) respondents believe that media watches executive, judiciary and parliamentary democratic system so it is called the fourth state of the Government. Equally, 80.95 (percent) respondents think that Freedom of Expression helps to maintain the Rule of law which is the component of democracy. In the same way, 71.42 (percent) respondents have given the view that Freedom of Expression helps to disclose the information related to public concern. Likewise, 66.66 (percent) respondents say that Accurate, Balance and Credible information help to develop the democratic culture.

This study shows that, majority (95.23 percent) respondents believe that Freedom of Expression and democracy are two sides of a coin. In the same vein, 95.23

(percent) respondents think that Freedom of Expression is fundamental of democracy. It is also the preconditions and indispensable for democracy. Likewise, 66.66 percent respondents say that Accurate, Balance and Credible information helps to develop the democratic culture.

4.8 Constitutional Aspects of Freedom of Expression in Nepal

Constitutional aspect has to understand for the people regarding Freedom of Expression. Liberal environment for the people of a nation always gives full liberty of the people to protect their human rights which have to protect from their national and international laws. The study explores that every people has right to get information about the public concern. Journalism has aware the people to give accurate information about the society which also helps people to strengthen democratic norms and values. So, Constitutional provision relating to freedom of expression in Nepal is very progressive and liberal.

4.8.1 Demographic Analysis of the Political and Other Experts

Demographic analysis is most important part of the research. Quantitative analysis is the key information management system to know facts from the field in empirical research. So, in this study, the researcher has concentrated to incorporate the findings in this process. In this study, the researcher has conducted survey among the Political and other Experts to know exact information and awareness of Freedom of Expression with the help of closed questionnaire to know their knowledge on Freedom of Expression.

Table 4.4*Demographic Characteristics of Respondents (Gender and Age Group)* *N=87*

Gender			
S.N.	Sex	Frequency	Percent
1	Male	51	58.62
2	Female	37	41.38
Total		87	100.0

<i>Age group</i>			
S.N.	Age group	Frequency	Percent
	25-40	18	20.7
	41-60	45	51.7
	Above 60	24	27.6
Total		87	100.0

Source: Survey, 2022

Out of 87 political expert and other concerned respondents, 58.62 % were male and rests of the respondents 41.38 % respondent were female. Majority 51.7% of the respondents were between the age group of 41 and 60. Similarly, 21.6 % participants were above 60 ages and only 20.7% respondents were from 25 to 40 age group.

Table 4.5*Academic Qualifications of the Respondents* *N=87*

S.N.	Academic Qualifications	Frequency	Percent
1	PhD	18	20.7
2	Master	66	75.9
3	Bachelor	3	3.4
Total		87	100.0

Source: Survey, 2022

The respondents who had participated from the political and other experts were from different educational background. Among them, more than 3 out of four respondents were completed their master degree. Similarly, 20.7% of the respondents have completed PhD degree and only 3.4% of the respondents have done their bachelor degree.

Table 4.6

Frequency of Responses from Respondents

N=87

S.N.	Responses	Frequency	Percent
	Mostly	21	24.1
	Sometimes	66	75.9
	Total	87	100.0

Source: Survey, 2022

More than 3 out of fourth (75.9%) of the respondents supported that sometimes media outlets' news and information content determined by the Government or a particular partisan interest.

Table 4.7

Access to Official or Unofficial Sources Generally Controlled

S.N.	Responses	Frequency	Percent
	Mostly	30	34.5
	Sometimes	51	58.6
	Never	3	3.4
	Rarely	3	3.4
	Total	87	100.0

Source: Survey, 2022

The study shows that majority (58.6%) respondents believe that sometimes access to official or unofficial sources has generally controlled in the context of

Nepal. Similarly, 34.5% respondents believe that mostly access to official or unofficial sources is generally controlled. Likewise, 3.4% respondents never believe and same percent of the respondents rarely believe the condition.

The study shows that majority (58.6%) respondents assert that sometimes access to official or unofficial sources is generally controlled in the context of Nepal. Likewise, 3.4% respondents never believe and same percent of the respondents rarely believe the condition

Table 4.8

Official or Unofficial Censorship

S.N.	Responses	Frequency	Percent
	Mostly	9	10.3
	Sometimes	51	58.6
	Rarely	27	31.0
	Total	87	100.0

Source: Survey, 2022

There should not be official and unofficial censorship in the media. Majority of the respondents (58.6%) says that sometimes there is official or unofficial censorship of media content in Nepal. 31% respondents rarely believe the situation. Least 10.3% respondents mostly believe the situation of censorship in the context of Nepal.

There should not be official and unofficial censorship in the media. Majority of the respondents (58.6%) say that sometimes there is official or unofficial censorship of media content in Nepal. Least 10.3% respondents mostly believe the situation of censorship in the context of Nepal.

Table 4.9*Journalists Practice Self-Censorship*

S.N.	Responses	Frequency	Percent
	Mostly	12	13.8
	Sometimes	24	27.6
	Never	6	6.9
	Rarely	45	51.7
	Total	87	100.0

Source: Survey, 2022

The study shows that majority (51%) respondents believe that rarely journalists practice self-censorship in Nepal. 27.6% respondents say that sometimes journalists practice self-censorship. 13.8% respondents say that mostly journalists practice self-censorship. In other way, 6.9% respondents think that journalist never practice self-censorship.

The study shows that majority (51%) respondents opine that rarely journalists practice self-censorship in Nepal. In other way, 6.9% respondents think that journalist never practice self-censorship.

Table 4.10*People's Access to Media Coverage*

S.N.	Responses	Frequency	Percent
	Mostly	18	20.7
	Sometimes	60	69.0
	Rarely	9	10.3
	Total	87	100.0

Source: Survey, 2022

Two third of the majority (69%) of the respondents that sometimes people had an access to media coverage and a range of news and information that was robust and reflects a diversity of viewpoints. 20.7% of the respondents showed proper commitment on most of the cases. Similarly, 10.3% of the respondents said the people had an access to media coverage and a range of news and information that was robust and reflected a diversity of viewpoints in rare cases.

Two third of the majority (69%) of the respondents supported that sometimes people have access to media coverage and a range of news and information that is robust and reflects a diversity of viewpoints. Similarly, 10.3% of the respondent said people have access to media coverage and a range of news and information that is robust and reflects a diversity of viewpoints in rare case it was happened.

Table 4.11

Competence of Local and Foreign Journalists in News Coverage

S.N.	Responses	Frequency	Percent
	Mostly	18	20.7
	Sometimes	51	58.6
	Rarely	18	20.7
	Total	87	100.0

Source: Survey, 2022

Majority (58.6%) of the respondents says in terms of harassment and physical access local and foreign journalist had been sometimes able to cover the news freely. Similarly, 20.7% respondents had ticked on the option on "mostly" and in a same ratio of the respondents supported in that particular option "rarely".

Majority (58.6%) of the respondents said in terms of harassment and physical access local and foreign journalist had able to cover the news freely sometimes. Similarly, 20.7% respondents supported in that particular option "rarely".

Table 4.12*Journalists, Bloggers, or Media Outlets*

S.N.	Responses	Frequency	Percent
	Mostly	3	3.4
	Sometimes	51	58.6
	Never	3	3.4
	Rarely	30	34.5
	Total	87	100.0

Source: Survey, 2022

Majority (58.6%) of the respondents said that sometimes journalist, bloggers, or media outlets had subjected to extralegal intimidation or physical violence by state authorities or any other actor. One third of the respondents had ticked option "rarely". Similarly, 3.4% of the respondents equally ticked the option "mostly and never".

Majority (58.6%) of the respondents said sometimes journalist, bloggers, or media outlets were subjected to extralegal intimidation or physical violence by state authorities or any other actor. Similarly, 3.4% of the respondents equally ticked the option "mostly and never".

Table 4.13*Media Ownership Transparent, thus Allowing Consumers*

S.N.	Responses	Frequency	Percent
	Mostly	6	6.9
	Sometimes	39	44.8
	Never	12	13.8
	Rarely	30	34.5
	Total	87	100.0

Source: Survey, 2022

44.8% of the respondents averred that sometimes media ownership was transparent. Similarly, 34.5% of the respondents said in rear case it happened. Likewise, 13.8% of the respondents said it never happened. 6.9% of the respondents said in most of the cases it ensued.

44.8% of the respondents have committed that sometimes media ownership is transparent. 6.9% of the respondents said in most of the cases it used to be happened.

Table 4.14

Ownership of the Media and its Impact Variety of Content

S.N.	Responses	Frequency	Percent
	Mostly	33	37.9
	Sometimes	30	34.5
	Rarely	24	27.6
	Total	87	100.0

Source: Survey, 2022

Media ownership was highly concentrated to influence the diversity of content. 37.9% of the respondents had strongly supported this perception. Likewise, 34.5% of the respondents had ticked option "sometimes". Only 27.6% of the respondents had ticked option "Rarely".

Media ownership was highly concentrated to influence diversity of content. 37.9% of the respondents had strongly supported on this perception. Only 27.6% of the respondents had ticked option "Rarely".

Table 4.15*Restrictions on the Means of News Production and Distribution*

S.N.	Responses	Frequency	Percent
	Mostly	6	6.9
	Sometimes	36	41.4
	Never	12	13.8
	Rarely	33	37.9
	Total	87	100.0

Source: Survey, 2022

41.4% of the respondents said there were restrictions on the means of news production and distribution of news contents sometimes. Similarly, one third of the respondents (37.9%) of the respondents said it happened rarely. Likewise, 13.8% of the respondents had ticked option "Never" and only 6.9% of the respondent's ticked option "Mostly".

41.4% of the respondents said there were restrictions on the means of news production and distribution of news contents sometimes. Only 6.9% of the respondent's ticked option "Mostly".

Table 4.16*States or other Actors Role in Controlling the Media*

S.N.	Responses	Frequency	Percent
	Mostly	18	20.7
	Sometimes	33	37.9
	Never	3	3.4
	Rarely	33	37.9
	Total	87	100.0

Source: Survey, 2022

Above table shows, more than one third (37.9%) of the respondents said state or other actors try to control the media rarely. Similarly, same number of the respondent has said, state or other actors try to control the media sometimes. Only, 20.7% of the respondent has said that mostly state or other actors try to control the media. Only small number (3.4%) of the respondents has said never its use to happen.

37.9% of the respondents said state or other actors try to control the media rarely. Similarly, same percentages (37.9%) of the respondents have agreed that sometimes state or other actors try to control the media.

Table 4.17

State's Domination on Country's Information System

S.N.	Responses	Frequency	Percent
	Sometimes	30	34.5
	Never	9	10.3
	Yes	33	37.9
	No	15	17.2
	Total	87	100.0

Independent or Opposition Print Media Outlets

S.N.	Responses	Frequency	Percent
	Sometimes	15	17.2
	Yes	51	58.6
	No	21	24.1
	Total	87	100.0

Source: Survey, 2022

The study shows that, 37.9% respondents say that the state dominates the country's information system. Similarly, 34.5% respondents believe that sometimes

state dominates the country's information system. Whereas, 17.2% respondents thought that state was able to dominate country's information system. In the same way, 10.3% respondents never thought so.

Most of the respondents (58.6%) said there were independent or opposition print media outlets in Nepal to exercise Freedom of Expression. Similarly, 24.1% respondents had negative responses on these issues. Likewise, 17.2% of the respondents said sometimes there were independent or opposition print media outlets.

The study shows that, 37.9% respondents say that the state dominates the country's information system. In the same way, 10.3% respondents never thought so. Most of the respondents (58.6%) said there was independent or opposition print media outlets in Nepal to exercise Freedom of Expression Likewise, 17.2% of the respondents said sometimes there were independent or opposition print media outlets.

Table 4.18

Existence of State Monopoly of TV and Radio

S.N.	Responses	Frequency	Percent
	Sometimes	3	3.4
	Yes	42	48.3
	No	42	48.3
	Total	87	100.0

Privately owned News Radio Stations that Broadcast News Reports

S.N.	Responses	Frequency	Percent
	Never	6	6.9
	Yes	69	79.3
	No	12	13.8
	Total	87	100.0

Source: Survey, 2022

For and against, equally (48.3% of the respondents) said there was state monopoly on TV and Radio exist. Only 3.4% of the respondents said it use to happen sometimes. Two third (79.3) of the respondents had positive responses. 13.8% of the respondents said there were privately owned news radio stations that broadcast substantial, serious news reports. Similarly, 6.9% of the respondents said it never happened.

For and against, equally (48.3% of the respondents) said there was state monopoly on TV and Radio exist. Two third (79.3%) of the respondents had positive responses. Similarly, 6.9% of the respondents said it never happened.

4.9 Press Freedom and Democracy

Democracy enhances the freedom of the press in each case. Democratic system needs to guarantee press freedom. Press is the watchdog of the democracy. So, they are both interrelated. If there is a restriction over press there is no democracy indeed. Media democracy uses journalism as a means to improve the quality of public life and promote democratic forms. It serves as a glue to hold community together. And it also enhances the ability and desire to listen to others. In the name of press freedom, others' rights should not be encroached.

Press Freedom and Democracy

Media democracy uses journalism as a means to improve the quality of public life and promote democratic forms. It serves as a glue to hold community together. And it also enhances the ability and desire to listen to others. In the name of press freedom, others' rights should not be encroached. To have a true democracy, press freedom is a must. Democratic system needs to guarantee press freedom. If there is a restriction over press there is no democracy indeed. Press Freedom and Democracy

are the two wheels of the cart. Press is the watchdog of the democracy. Democracy enhances the freedom of the press in each and every case. They are both interrelated.

4.9.1 Freedom of Expression to Protect Democratic Norms

In a democracy, everyone has the right to respect everyone and get information about everything. Media can play an effective role in democratic society by raising voice of voice less, by informing people. If people know that Government has done something, people will be aware about it. Information and transparency are a key for democracy. It enables the free exchange of ideas, opinions and information and thus allows members of society to form their own views on issues of public importance. Freedom of speech creates people's faith on Government and democracy.

Democratic norms and values may deteriorate if Government becomes too strict. Every citizen can express what they think and feel about Governmental decision and situation that is why Freedom of Expression is a major instrument which will preserve democratic norms and values. With Freedom of Expressions people can voice their opinions. Happiness rank of people of any country make sure their democratic norms and values are better or not and this thing only happen when Freedom of Expression is achieved in a good way.

Freedom of Expression guarantees everyone's right to speak and write openly without state interference, including the right to criticize the injustices. For equity in development, people must have freedom of expression. It enables the free exchange of ideas, opinions and information and thus allows members of society to form their own opinions on issues of public importance. It provides right to people to express their views on public activities. It facilitates to debate, raise voice, express opinion, suppress the nonviolent expression, create platform equally for all citizens etc. These are the lifeblood of democracy which is carried out by freedom of expression.

Independent people speak unbiased words. Freedom of Expression plays the cardinal component role for democracy. Free expression of informed people enhances and strengthens democracy. It helps to establish people's rights. If the people have Freedom of Expression, then it explores thoughts, beliefs, and other related issues. Due to democratic values, we have been able to give our speech freely without any hurdles. When people bring many voices to the forefront Government is compelled to discharge its duty appropriately and promptly and by so, the nation gets strengthened. There is no democracy if there is no freedom of expression. Freedom of Expression is also a participatory approach to democracy. It provides justice to the society. Freedom of Expression is an important human right which is essential for a society to be democratic. It enables the free exchange of ideas, opinions and information and thus allows members of society to form their own opinions on issues of public importance. In democracy, every voice is heard and that is only possible if there is freedom of speech.

4.9.2 The Reliance of Freedom of Expression Depends on the Quality of Governance

Good governance can be realized only if there is awareness if there is awareness in the stakeholders. Good governance will always drive a good system and execution. Awareness brings changes in mentality of the society. Democratic Government knows the value and importance of equality well. It might bring a change in policy. Higher the awareness level the better will be the good governance the answer is in question. That is the main responsibility of Government to provide this freedom. Well informed people can solve many problems. High aware social consciousness can raise the question to official's wrong doings. If people are aware only then they can raise

their opinions. Peaceful and lawful governance will create harmony in a country and society.

Good governance automatically enhances people's satisfactory level. Freedom of Expression is one of the elements of good governance. Transparency is maintained and will have less possibility of abuse of authority. Conscious people can compel the Government to act rightly and promptly. It supports to seek the citizens right. For the good governance awareness, motivation and participation of every citizen is necessary. Conscious people are free to vote for a good candidate, which leads a good Government. Those who are applying good governance norms require better knowledge. It will create more trust of Government among citizens.

4.9.3 Freedom of Expression Relating to Transparency

According to the participants, there are clear linkages between Freedom of Expression and the maintenance of transparency and good governance of a Nation. Freedom of Expression is constitutionally protected. It helps to maintain good governance of the country. Freedom is the foundation for transparency and good governance. We have Constitutional Article 19 and 27, Communication Act and so many provisions related to media and communication. Freedom of Expression helps to share any information regarding the issues that inform people and enable them to decide what is wrong and what is right. This also helps maintain accountability. It is freedom of soul of democracy. It fosters equality and empowerment.

Freedom of Expression also means freedom to question the Government, ask for their accomplishments. This definitely ensures transparency and good governance. Freedom of Expression is set in the Constitution of Nepal as fundamental right. The characteristics of good governance are people's participation and right to speech and expression. The right to information at the right time makes a citizen well informed.

Well-informed citizens are the pillars of good governance, transparency and good democratic culture. The Freedom of Expression helps ensure transparency and it can make the society more transparency and good governance due to its helps to decrease the corruption and other things. Right to information Act is covered by it. Freedom is guaranteed and it helps for good governance. Transparency and good governance are inextricably linked to Freedom of Expression.

“There is an undeniable linkage between Freedom of Expression, right to information with the transparency and good governance. If people are given the freedom to express their opinions along with the right information, it leads to the advancement of good governance” stated a participant of Kathmandu.

“The right information at the right time makes a citizen well informed. Well-informed citizens are the pillars of good governance, transparency and good democratic culture”, remarked a participant of Bardiya.

“Transparency and good governance are inextricably linked to Freedom of Expression”, noted a participant of Kapilbastu.

4.9.4 Rights for Maintaining Section of Power and Rule of Law

It helps to establish the rule of law in Nepal. Media is a strong power of good governance. In Nepali context it is the fourth organ of Government. That is why the content of media should be so clear, no more sensitive and based on fact. Otherwise, there would be a negative impact. Rule of Law has directly related to the good governance and the civic rights. That is why hassles free access to information helps in better system. It has helped to maintain democratic society. It minimizes impunity. There is an outstanding provision in laws but seen lacking into practice. Citizens can warn, check, and balance about the abuse of power by any of the organs of the Government via help of these rights.

People getting to use their Fundamental Rights ensured by Constitution always refer the exercise of the rule of the law. It helps to make Nepali strong. Section of power keeps check and balance among the state organs whereas good coherence is indeed in participatory democracy. These rights guarantee the right to information, right to expression and speech. One is always ready to influence and overtake other but section of power is slowly working. There is a strong impact. Somehow there is a balance in decision making however, rule of law is yet to be enforced in most of the cases.

Table 4.19

Role of Judiciary to Protect Freedom of Expression in Nepal

N=21

S.N.	Answers	Frequency	%
1	Court is more liberal than Nepali society	15	71.42
2	Nepali press and judiciary are equally moving ahead	17	80.95
3	Judiciary should move as per the spirit of the people	10	47.61
4	People have right about Freedom of Expression that should be protected by the court.	15	71.42
5	There should be good intentions in the practice of Freedom of Expression.	10	47.71
6	Conscious about the contempt of court	16	76.19

Note : % adds more than 100 due to the multiples responses.

Survey, 2022

This study shows that, majority of respondents (80.95 percent) say that Nepali press and judiciary are equally moving ahead to protect the Freedom of Expression in the context of Nepal. Similarly, 76.90 percent respondents have given the opinion that Nepali Press is also conscious about the contempt of court while practicing Freedom of Expression. Likewise, 71.42 percent respondents think that Court is more liberal

than Nepali society for the protection of Freedom of Expression and that is the duty of court. Such as, 47.61percent respondents give the response that Judiciary should move as per the spirit of the people and there should be good intentions while practicing Freedom of Expression.

This study shows that, majority of respondents 80.95 percent say that Nepali press and judiciary are equally moving ahead to protect the Freedom of Expression in the context of Nepal. Such as, 47.61percent respondents give the response that Judiciary should move as per the spirit of the people and there should be good intentions while practicing Freedom of Expression.

4.9.5 Court as a Guardian of Media

Nepali court is a guardian of Nepali press. Judges are not adequately educated in Nepal. They are not in favor of free speech due to the lack of education. Media should be concerned about the contempt of court. In fact, Nepali judiciary seems progressive for protecting free speech from 2007 onwards. Court preserved media many times to disseminate people's voices in favor of the country. Court ordered Government to release the media person and the media to conduct democratic journalism in the country many times.

“Nepali Supreme Court is always positive for Freedom of Expression”, stated a participant of Lalitpur.

“Judiciary should move as per the spirit of the people. It has to fulfill the responsibility towards the Nepali society”, noted a participant of Bhaktapur.

Table 4.20*Responses of Freedom of Expression from Executive*

N=21

S.N.	Answers	Frequency	%
1	It is not positive for the press	18	85.71
2	Nepali authority has been taking free speech as a unnecessary burden	15	71.42
3	It has to implement the law properly	10	47.61
4	It should amend the law as per the conditions with the help of parliament	13	61.9
5	It has to disclose the information on people's concerns	17	80.95
6	it is fulfilling the interest of their parties	16	76.19
7	It has been hiding the information on peoples concerned.	17	80.95
8	Lack of knowledge on this right	15	71.42
9	Irresponsible to the democratic norms and values	18	85.71

Note : % adds more than 100 due to the multiples responses.

Survey, 2022

This study shows that, majority (85.71 percent) respondents realize that executive is not positive for the press freedom in the context of Nepal and it is irresponsible to the democratic norms and values. Similarly, 80.95 percent respondents think that, Executive has to disclose the information on people's concerns but it has been hiding the information on peoples concerned. Equally, 76.19 percent respondents say that it is fulfilling the interest of their parties in Nepal. Similarly, 71.42 percent respondents say that Nepali authority has been taking free speech as an unnecessary burden and they do not have sufficient knowledge relating to Freedom of Expression. Likewise, 61.9 percent respondents believe that executive should amend the law as per the

conditions with the help of parliament. As well, 47.61 percent respondents accept that executive has to implement the law properly.

This study shows, majority (85.71 percent) respondents realize that executive is not positive for the press freedom in the context of Nepal and it is Irresponsible to the democratic norms and values. Likewise, 61.9 percent respondents believe that executive should amend the law as per the conditions with the help of parliament. As well, 47.61 percent respondents accept that executive has to implement the law properly.

Conclusion

In the context of Nepal, there is the provision of Freedom of Expression in the Constitution and laws. The history of written law starts from 1910 BS in Nepal. With the history of Muluki Ain, the history of Constitutionalism and rule of law starts in Nepal. Though, the first Constitution was formulated in 2004 BS. There were the provisions of Freedom of Expression in the Constitution. The implementation aspect was different according to political situation. Present Constitution seems very open and liberal regarding the provision of Freedom of Expression. These provisions are in line with global value and principle of Constitutionalism. Constitutionalism is the philosophical basis of Constitution and it covers rule of law, supremacy of law, separation of power, check and balance, independent judiciary, human rights and so on. But, the legal provisions of Nepal are not able to address the spirit of Constitution and social need.

According to the sociological school of thought, society changes faster than law. So, law should be changed according to the need of the society. In the present context, society has changed politically, economically, socially, culturally and technologically. The technological demand is to formulate new law and amend existing law, which are

not appropriate in the present context. Laws like Print and Publication Act, 2048 BS (1991 AD), National Act, 2049 BS (1992 AD), Press Council Act, 2048 BS (1991 AD), Working Journalist Act, 2051 BS (1993 AD) should be amended according to the need of the society and spirit of the Constitution. From the same token, public service Broadcasting Act, Communication act, Cyber Act has to formulate.

Some of the respond has purposed about the new law to regulate new media, social media and digital media. Accordingly, Right to Information Act, 2064 B.S. (2007 AD) and Right to Privacy Act, 2075 B.S. (2018 AD) has to be implemented properly. Our judiciary is very progressive in the case of the protection of Freedom of Expression. It has given liberal and progressive decision for the protection of Freedom of Expression.

The rule of the conventions and treaty becomes binding for the member country. According to the Treaty Act, 2047 B.S. (1990 AD), there are two ways to apply the international value in Nepal. One is to become a party of the convention and another is to formulate the new law and amend the existing laws. From the analysis, it has found that the legal and Constitutional provisions are in line with global value and the principle of Constitutionalism.

CHAPTER V

PRACTICES OF FREEDOM OF EXPRESSION IN NEPALI MEDIA

5.1 Demographic Analysis of the Media Persons, Lawyers and Human Rights

Activists

This study has focused to know the awareness and knowledge status of media persons, lawyers and human rights activist on Freedom of Expression. As much as the research is concerned, this study stresses on finding the exact demographic study of media persons, lawyers and human rights activist to provide their knowledge on Freedom of Expression and its exact practices in the context of Nepal. In this study, there were 246 respondents who took part of this research in media persons, lawyers and human rights activist section. As we know that media persons, lawyers and human rights activists are the best key informant group to provide actual information to the concerned subject to understand awareness level of freedom of speech as guaranteed by our National Constitution 2015.

Table 5.1

Gender, Age and Provinces

S.N.	Sex	Frequency	Percent
	Male	159	64.64
	Female	87	35.36
	Total	246	100.0

S.N.	Age group	Frequency	Percent
	25-50	225	91.5
	50 years above	21	8.5
	Total	246	100.0

S.N.	Areas	Frequency	Percent
1	Bagmati	150	61.0
2	Gandaki	18	7.3
3	Lumbini	48	19.5
4	Madhesh	3	1.2
5	Koshi	18	7.3
6	Sudurpashchim	9	3.7
	Total	246	100.0

Source : Survey, 2022

Out of 246 respondents two third (64.64%) of the respondent were male and only 35.36% of the respondent were female participants. They were from different areas like educational qualifications, age and sex. Similarly, the age group was divided into two sub-groups. 91.5 (187) percent respondents were between 25-50 age groups. Only 8.5 (21) percent people were from more than 50 age groups.

Empirical data was collected from six Provinces (Bagmati, Koshi, Madhesh, Gandaki, Lumbini and Sudurpachim) of Nepal. The above table shows that most of the data were collected from Bagmati. 61% (150) respondents were from Bagmati Province, 19.5% (48) respondents were from Lumbini Province, 7.3% (18) respondents were from Gandaki and Koshi equally, 3.7% (9) respondents were from Sudurpachim Province and only 1.2 % (3) respondents from Madhesh Province actively participated in this research work.

Table 5.2*Respondents from Different Professions*

S.N.	Respondents group	Frequency	Percent
1	Journalist	150	61.0
2	Lawyer	87	35.4
3	Human Right Activist	9	3.7
Total		246	100.0

Source: Survey, 2022

Similarly, the respondents also belonged to different professional fields (Journalism, Law and Human Rights) actively. Majorities (61%) of the respondents were journalists; more than one third (35.4%) respondents were lawyers and only 3.6% respondents were human right activists.

Table 5.3*Enforcement of the Constitution Relating to Free Speech*

S.N.	Responses	Frequency	Percent
1	Rarely	15	6.1
2	Sometimes	60	24.4
3	Yes, Most of the cases	171	69.5
Total		246	100.0

Source: Survey, 2022

The study shows that, majority, 69.5 percent respondents have experienced that the Constitution or other basic laws contain provisions designed to protect freedom of the press and Freedom of Expression are enforced. In the same way, 24.4 percent respondents believe that sometimes only the Constitution or other basic laws contain provisions designed to protect freedom of the press and Freedom of Expression are

enforced. Only the 6.1 percent respondents think that Constitution or other basic laws contain provisions designed to protect freedom of the press and Freedom of Expression are enforced rarely.

This study shows that majority (69.5%) of the people believes that Nepali Constitution and other laws relating with press freedom and Freedom of Expression have been protected fully. Only less percentage (6.1%) of the respondents thought that they did not fully agree.

Table 5.4

Support of the Supreme Court to Ensure Free Speech in Nepal

S.N.	Responses	Frequency	Percent
1	Rarely	12	4.9
2	Sometimes	78	31.7
3	Yes, most of the cases	153	62.2
4	Never	3	1.2
	Total	246	100.0

Judiciary Obstructs to Implement the Existing Laws

S.N.	Responses	Frequency	Percent
1	Rarely	59	24.0
2	Sometimes	105	42.7
3	Yes, Most of the cases	42	17.1
4	Never	40	16.3
	Total	246	100.0

Source: Survey, 2022

The study shows that majority (62.2 percent) respondents believe that the Supreme Court, Attorney General, and other representatives of the higher judiciary

bodies support these rights in most of the cases. Likewise, 31.7 percent respondents represented the Supreme Court, Attorney General, and other representatives of the higher judiciary support these rights. Similarly, 4.9 (percent) respondents believe that the Supreme Court judges, Attorney General, and other representatives of the higher judiciary rarely support these rights. Among them the least of the respondent 1.2 percent believe that the Supreme Court judges, Attorney General, and other representatives of the higher judiciary support these rights.

The study shows that, majority (42.7%) of the respondents believe that sometimes the judiciary obstructs the implementation of laws designed to uphold these freedoms. Similarly, 24% respondents think that the judiciary obstructs the implementation of laws designed to uphold these freedoms rarely. Likewise, 17.1% respondents realize that in most of the cases judiciary obstructs the implementation of laws designed to uphold these freedoms. In the same footing 16.3% respondents have given the view that judiciary never obstruct the implementation of laws designed to uphold these freedoms.

The study shows that majority, (62.2 percent) respondents opine that the Supreme Court, Attorney General, and other representatives of the higher judiciary body support these rights in most of the cases. Least of the respondents (1.2 percent) believe that the Supreme Court judges, Attorney General, and other representatives of the higher judiciary support these rights.

The study shows that, majority (42.7%) of the respondents express the view that sometimes the judiciary obstructs the implementation of laws designed to uphold these freedoms. In the same footing 16.3% respondents have given the view that judiciary never obstructs the implementation of laws designed to uphold these freedoms.

Table 5.5*Crimes that Threaten Press Freedom Prosecuted from Authorities*

S.N.	Responses	Frequency	Percent
1	Rarely	66	26.8
2	Sometimes	108	43.9
3	Yes, Most of the cases	66	26.8
4	Never	6	2.4
Total		246	100.0

Impunity for Those Who Commit Crimes against the State

S.N.	Responses	Frequency	Percent
1	Rarely	73	29.7
2	Sometimes	89	36.2
3	Yes, Most of the cases	63	25.6
4	Never	21	8.5
Total		246	100.0

Source: Survey, 2022

The study shows that, majority (43.9%) respondents view those crimes that threaten press freedom prosecuted vigorously by the authorities. Similarly, 26.8% respondents think that crimes threaten press freedom prosecuted vigorously by authorities, whereas, 26.8% respondents think that in most of the cases crimes threaten press freedom prosecuted vigorously by the authorities. In the same manner, the least of the respondents (2.4%) think that crimes never threaten press freedom prosecuted vigorously by the authorities.

The study shows that 36.2% respondents opine that there is implicit impunity for those who commit crimes against the state. Likewise, 29.7% respondents believe that

there is an implicit impunity for those who commit crimes against the state. Similarly, 25.6% respondents believe that in most of the cases there is implicit impunity for those who commit crimes against state. It has been found that only 8.5% respondents never believe so.

The study shows that, majority (43.9%) respondents feel that crimes that threaten press freedom prosecuted vigorously by authorities. Only least of the respondents (2.4%) think that crimes never threaten press freedom prosecuted vigorously by authorities. The study shows that 36.2% respondents believe that there is implicit impunity for those who commit crimes against the state. Only 8.5% respondents do not believe it.

Table 5.6

Ethnic or Religious Issues, National Security

S.N.	Responses	Frequency	Percent
1	Rarely	32	13.0
2	Sometimes	96	39.0
3	Yes, Most of the cases	106	43.1
4	Never	12	4.9
Total		246	100.0

Penalties for 'Irresponsible Journalism' Applied Widely

S.N.	Responses	Frequency	Percent
1	Rarely	118	48.0
2	Sometimes	67	27.2
3	Yes, Most of the cases	34	13.8
4	Never	27	11.0
Total		246	100.0

Source: Survey, 2022

The study shows that, majority (43.1%) of the respondents realize that laws restrict reporting on ethnic or religious issues, national security, or other sensitive topics. Similarly, 39% respondents believe that sometimes laws restrict reporting on

ethnic or religious issues, national security, or other sensitive topics. Likewise, 13% respondents realize that laws restrict reporting on ethnic or religious issues, national security, or other sensitive topics.

The study shows that, majority (48%) respondents believe that penalties for ‘irresponsible journalism’ are applied rarely. Similarly, 27.2% respondents believe that sometimes penalties for ‘irresponsible journalism’ applied. Furthermore, 13.8% respondents think that in most of the cases penalties for ‘irresponsible journalism’ are applied. In the same manner, 11% respondents realize that penalties for ‘irresponsible journalism’ are never applied.

The study shows that, majority (43.1%) of the respondents consider that laws restrict reporting on ethnic or religious issues, national security, or other sensitive topics. Moreover, 13% respondents realize that laws restrict reporting on ethnic or religious issues, national security, or other sensitive topics.

The study shows that, majority (48%) respondents perceive those penalties for ‘irresponsible journalism’ are applied. In the same manner, 11% respondents realize that penalties for ‘irresponsible journalism’ are never applied.

Table 5.7

Restrictions of Media Freedom

S.N.	Responses	Frequency	Percent
1	Narrowly	106	43.1
2	Closely defined	92	37.4
3	Proportional	30	12.2
4	Circumscribed	18	7.3
	Total	246	100.0

Source: Survey, 2022

The study has found that, 43.1% respondents believe that restrictions of media freedom are narrowly circumscribed. Accordingly, and 37.4% respondents believe that restrictions of media freedom are closely defined. In the same way, 12.2% respondents think that restrictions of media freedom are proportional to the legitimate objective. Likewise, 7.3% respondents think that restrictions of media freedom are narrowly circumscribed.

The study found that, 43.1% respondents have the perception that restrictions of media freedom are narrowly circumscribed. Likewise, 7.3% respondents think that restrictions of media freedom are narrowly circumscribed.

Table 5.8

Authorities Restrict or Otherwise Impede Legitimate Press Coverage

S.N.	Responses	Frequency	Percent
1	Rarely	39	15.9
2	Sometimes	144	58.5
3	Yes, Most of the cases	63	25.6
	Total	246	100.0

Journalists Regularly Prosecuted or Jailed as a Result of What they write

S.N.	Responses	Frequency	Percent
1	Rarely	138	56.1
2	Sometimes	66	26.8
3	Yes, Most of the cases	16	6.5
4	Never	26	10.6
	Total	246	100.0

Source: Survey, 2022

The study shows that, majority of the respondents (58.5%) agree that sometimes the authorities restrict or otherwise impede legitimate press coverage in the name of national security interests. Similarly, 25.6% respondents believe that in most of the case the authorities restrict or otherwise impede legitimate press coverage in the name

of national security interests. Likewise, 15.9% respondents think that the authorities rarely restrict or otherwise impede legitimate press coverage in the name of national security interests.

The study shows that majority (56.1%) respondents have given their opinions that journalists rarely prosecuted or jailed because of what they write. Similarly, 26.8% respondents believe that journalists sometimes are prosecuted or jailed because of the content they have written. Likewise, 10.6% respondents think that journalists never prosecuted or jailed as a result of what they write correspondently, 6.5% respondents realizes that in the most of the case journalists prosecuted or jailed as a result of what they write in the context of Nepal.

The study shows that, majority of the respondents (58.5%) believe that sometimes the authorities restrict or otherwise impede legitimate press coverage in the name of national security interests. Likewise, 15.9% respondents think that the authorities rarely restrict or otherwise impede legitimate press coverage in the name of national security interests. The study shows that majority (56.1%) respondents have given the view that journalists rarely prosecuted or jailed as a result of what they have written. Correspondently, 6.5% respondents realizes that in the most of the case journalists prosecuted or jailed as a result of what they write in the context of Nepal.

Table 5.9

Imprisonment or Other Legal Sanctions

S.N.	Responses	Frequency	Percent
1	Rarely	93	37.8
2	Sometimes	112	45.5
3	Yes, Most of the cases	23	9.3
4	Never	18	7.3
	Total	246	100.0

Excessive Pressure on the Reveal Sources, Resulting in Punishments

S.N.	Responses	Frequency	Percent
1	Rarely	78	31.7
2	Sometimes	103	41.9
3	Yes, Most of the cases	28	11.4
4	Never	37	15.0
	Total	246	100.0

Source: Survey, 2022

The study shows that majority (45.5%) of the respondents have given the view that sometimes writers, commentators, or bloggers subject to imprisonment or other legal sanctions as a result of accessing or posting material on the internet. In the same way, 37.8% respondents have rarely given the view that writers, commentators, or bloggers subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet. Likewise, 9.3% respondents believe that in most of the cases writers, commentators, or bloggers are never subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet. Correspondently, 7.3% respondents think that writers, commentators, or bloggers never be subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet in the context of Nepal.

Most of the respondents (41.9%) were found to have agreed, “There are excessive pressures to reveal sources, resulting in punishments such as jail sentences, fines, or contempt of court charges to the concerned authorities.” Similarly, 31.7 % respondents said there a rare case to give high pressures to the concerned. 15% respondents had absolutely opposed on these perceptions. In most of the cases, concerned authorities were found giving undue pressures. 11.4% of the respondents have agreed on this statement.

The study shows that majority of the respondents (45.5%) have given the view that sometimes writers, commentators, or bloggers subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet.

Correspondently, 7.3% respondents think that writers, commentators, or bloggers are never be the subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet in the context of Nepal. Most of the respondents were (41.9%) were found to have agreed, “There are excessive pressures to reveal sources, resulting in punishments such as jail sentences, fines, or contempt of court charges to the concerned authorities.” 11.4% of the respondents have agreed on this statement.

Table 5.10

Public Officials Protect the Act under Insult or Defamation Laws

S.N.	Responses	Frequency	Percent
1	Rarely	48	19.5
2	Sometimes	135	54.9
3	Yes, Most of the cases	48	19.5
4	Never	15	6.1
Total		246	100.0

Insult Laws Routinely Used to Shield Officials

S.N.	Responses	Frequency	Percent
1	Rarely	55	22.4
2	Sometimes	146	59.3
3	Yes, Most of the cases	33	13.4
4	Never	12	4.9
Total		246	100.0

Source: Survey, 2022

Public officials have to protect under insult or defamation laws to provide justice practically. As much as the study is concerned, majority of the respondents (54.9%) have said public officials have to protect under insult or defamation laws sometimes to provide justice. 19.5% of the respondents have said, most of the cases, public officials have to protect under insult or defamation laws to provide justice. In a same manner 19.5% of the respondents have agreed that public officials have to protect under insult or defamation laws to provide justice. Only 6.1% of the respondents supported it, "Public officials have to protect under insult or defamation laws to provide justice".

Majority of the respondents (59.3%) said insult laws were used routinely to shield officials' conduct from public scrutiny sometime. Likewise, 22.4% of the respondents said insult laws routinely used to shield officials' conduct from public scrutiny rarely. 13.4 % respondents said, in most of the cases insult laws routinely used to shield officials' conduct from public scrutiny. Only 4.9% of the people strongly oppose these perceptions.

Public officials have to protect under insult or defamation laws to provide justice practically. This is the fundamental principle of public official. As much as the study concerned, majority of the respondents (54.9%) said public officials have to protect under insult or defamation laws to provide justice sometimes. Only 6.1% of the respondents supported, "Public officials have to protect under insult or defamation laws to provide justice".

Majority of the respondents (59.3%) said libel laws routinely were used to shield officials' conduct from public scrutiny sometime. Only 4.9% of the people strongly oppose these perceptions.

Table 5.11*Legally Mandated 'Right of Reply'*

S.N.	Responses	Frequency	Percent
1	Rarely	48	19.5
2	Sometimes	103	41.9
3	Yes, Most of the cases	51	20.7
4	Never	44	17.9
Total		246	100.0

Libel Made a Criminal Rather than a Civil Offense

S.N.	Responses	Frequency	Percent
1	Rarely	48	19.5
2	Sometimes	112	45.5
3	Yes, Most of the cases	57	23.2
4	Never	29	11.8
Total		246	100.0

Source: Survey, 2022

The study shows that, majority (41.9%) respondents believe that sometimes there is a legally mandated 'right of reply' that overrides independent editorial control. Likewise, 20.7% respondents believe that in most of the cases there is a legally mandated 'right of reply' that overrides independent editorial control. In the same way, 19.5% respondents assert that rarely there is a legally mandated 'right of reply' that overrides independent editorial control. Accordingly, 17.9% respondents never believe that there is a legally mandated 'right of reply' that overrides independent editorial control in the context of Nepal.

In the context of Nepal libel is criminal offence according to the law. In the study, majority of the respondents (45.5%) affirm that sometimes libel is found a criminal rather than a civil offense. Similarly, 23.2% respondents believe that in most of the cases libel is found making a criminal offense. Likewise, 19.5% respondents

think that libel is made a criminal offense. Accordingly, 11.8% respondents never think that libel is made a criminal offense.

The study shows that, majority 41.9% respondents believe that sometimes there is a legally mandated ‘right of reply’ that overrides independent editorial control. Accordingly, 17.9% respondents never believe that there is a legally mandated ‘right of reply’ that overrides independent editorial control in the context of Nepal.

In the context of Nepal, libel is a criminal offence according to the law. In the study, majority of the respondents (45.5%) believe that sometimes libel makes a person criminal rather than a civil offense. Accordingly, 11.8% respondents never think that libel is made a criminal offense.

Table 5.12

Journalists Regularly Prosecuted and Jailed for Libel or Defamation

S.N.	Responses	Frequency	Percent
1	Rarely	108	43.9
2	Sometimes	99	40.2
3	Yes, Most of the cases	9	3.7
4	Never	30	12.2
Total		246	100.0

Fines Routinely Imposed on Journalists or Media

S.N.	Responses	Frequency	Percent
1	Rarely	79	32.1
2	Sometimes	111	45.1
3	Yes, Most of the cases	12	4.9
4	Never	44	17.9
Total		246	100.0

Source: Survey, 2022

Defamation is one of the limitations of press freedom. 43.9% of the respondents have said that journalists or bloggers have rarely prosecuted and jailed for libel or defamation. Similarly, 40.2% of the respondents have said it use to happen sometimes. 12.2% of the respondents did not have supports on the above perceptions. Likewise, 3.7% of the respondents said journalists or bloggers use prosecute and jailed for libel or defamation in most of the cases.

More than two out of five (45.1%) of the respondents have said there are provisioned fines are sometimes imposed on journalists or media outlets in civil libel cases in a partisan with the intention of bankrupting the media outlet or deterring future criticism. Similarly, 32.1% of the respondents said there are fines which are rarely imposed on journalists or media outlets in civil libel cases in a partisan or prejudicial manner, with the intention of bankrupting the media outlet or deterring future criticism. 17.9% of the respondents have absolutely disagreed on the statement. Only 4.9% respondents have said it is in practice in most of the cases to the journalist.

More than two out of five (45.1%) of the respondents have said there are provisions of fines imposed routinely on journalists or media outlets in civil cases in a partisan with the intention of bankrupting the media outlet or deterring future criticism. 17.9% of the respondents absolutely have disagreed on the statement. Only 4.9% respondents have said it has happened in most of the cases to the journalists.

Table 5.13*Members of the Judiciary Subject to Excessive Pressure*

S.N.	Responses	Frequency	Percent
1	Rarely	52	21.1
2	Sometimes	143	58.1
3	Yes, Most of the cases	39	15.9
4	Never	12	4.9
	Total	246	100.0

Rights to Freedom of Expression and Judiciary

S.N.	Responses	Frequency	Percent
1	Rarely	9	3.7
2	Sometimes	75	30.5
3	Yes, Most of the cases	156	63.4
4	Never	6	2.4
	Total	246	100.0

Source: Survey, 2022

Members of the judiciary are subject to excessive pressure from the executive branch. Majority (58.1%) of the respondents supported this notion. Likewise, 21.1% respondents said, "Members of the judiciary are subjected to excessive pressure from the executive branch." 15.9% respondents have said in most of the cases it has been seen in the market. Only 4.9% of the respondents totally disagreed on the above perceptions.

More than two third (63.4%) respondents have said rights to Freedom of Expression and information have recognized among members of the judiciary in most of the cases. 30.5% of the respondents said it has found to happen sometimes.

Similarly, 3.7% respondents express, it does not usually happen. Only 2.4% of the respondents did not support this perception.

Members of the judiciary are subject to excessive pressure from the executive branch. Majority (58.1%) of the respondents were found to have supported this notion. Only 4.9% of the respondents totally disagreed on the above perceptions.

More than two third (63.4%) respondents have maintained their rights to Freedom of Expression and information have recognized among members of the judiciary in most of the cases. Only 2.4% of the respondents were not found to have supported this perception.

Table 5.14

Improper Use of Legal Action or Summonses against Journalists

N=246

S.N.	Responses	Frequency	Percent
1	Rarely	102	41.46
2	Sometimes	106	43.08
3	Yes, Most of the cases	26	10.56
4	Never	12	4.87
Total		246	100.0

Journalists Ability to Secure Public Records

S.N.	Responses	Frequency	Percent
1	Rarely	66	26.8
2	Sometimes	104	42.3
3	Yes, Most of the cases	67	27.2
4	Never	9	3.7
Total		246	100.0

Source: Survey, 2022

The study shows that, in the context of Nepal, 43.08% respondents believe that sometimes the improper use of legal action or summons against journalists or media outlets subjected to false charges and arbitrary tax audits. Accordingly, 41.46% respondents think that there are improper uses of legal actions or summons against journalists or media outlets. Likewise, 10.56% respondents think that in the most of the cases are improper to take a legal actions or summonses against journalists or media outlets. Correspondently, the least of the respondents 4.87% never think that in the most of the case they are improper to take a legal action or summonses against journalists or media outlets.

In the context of Nepal, there are the Constitutional and legal provisions to protect the right to information. The study shows that 42.3% respondents believe that sometimes journalists are able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost. Similarly, 27.2% respondents think that sometimes journalists are able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost. One-fourth (26.8%) respondents have said the journalists are rarely able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost. 3.7% of the respondents strongly opposed on these perceptions.

The study shows that, in the context of Nepal, 43.1% respondents believe that sometimes their improper use of legal action or summonses against journalists or media outlets (e.g. being subjected to false charges, arbitrary tax audits etc. The least of the respondents (4.9%) never think that there is improper use of legal action or summonses against journalists or media outlets.

In the context of Nepal there are the Constitutional and legal provisions to protect the right to information. The study shows that 42.3% respondents believe that

sometimes journalists are able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost. 3.7% of the respondents strongly opposed on these perceptions.

Table 5.15

Public Officials Subject to Prosecution

S.N.	Responses	Frequency	Percent
1	Rarely	64	26.0
2	Sometimes	102	41.5
3	Yes, Most of the cases	62	25.2
4	Never	18	7.3
Total		246	100.0

Security Laws Restricted Reporting and Punish Journalists or Bloggers

S.N.	Responses	Frequency	Percent
1	Never	12	4.9
2	Yes	115	46.7
3	No	119	48.4
Total		246	100.0

Source: Survey, 2022

More than two out of five (41.5%) respondents supported that public official subject to prosecution sometimes if they illegally refused to disclose state documents. 26% of the respondents respond that it used to happen rarely. 25.2% respondents have opined that most of the cases public officials subject to prosecution if they illegally refuse to disclose state documents. Only 7.3% respondents did not support the above notion.

48.4% respondents did not support that security laws, or any other laws have restricted reporting and punish journalists or bloggers. Likewise, 46.7% respondents

strongly supported above perception. Only, 4.9% respondents have negative marking on this.

More than two out of five (41.5%) respondents supported that public official subject to prosecution if they illegally refused to disclose state documents. Only 7.3% respondents did not support above notion. 48.4% of the respondents did not support security laws, or any other laws that restricted reporting and Punish journalists or bloggers. Only, 4.9% of the respondents have negative marking on this.

Table 5.16

Restrictive Press Laws

S.N.	Responses	Frequency	Percent
1	Never	9	3.65
2	Yes	87	35.36
3	No	150	61.97
Total		246	100.0

Freedom of Information Legislation and Journalist's Ability

S.N.	Responses	Frequency	Percent
1	Never	6	2.4
2	Yes	183	74.4
3	No	57	23.2
Total		246	100.0

Source: Survey, 2022

Nepal has liberal press law because of the democratic republic country. 61.97% respondents opined that there were not any restrictive press laws in Nepal. 35.36% respondents seemed that they do not have knowledge on the present legal system of Nepal relating with press law. 3.65% of the respondent said Nepal has not restrictive press law.

The study shows that Majority (74.4%) of the respondents have given the view that there is Freedom of Information legislation and journalist's ability to make use of it in Nepal. Contrary to the 23.2% respondents do not think that there is Freedom of Information legislation and journalist's ability to make use of it in Nepal. Similarly, 2.4% respondents never believe that there is Freedom of Information legislation and journalist's ability to make use of it in Nepal.

Nepal has liberal press law because of the democratic republic country. 61% respondents said that there are not any restrictive press laws in Nepal. 3.7% of the respondent said Nepal has never restrictive press law.

The study shows that Majority 74.4% respondents have given the view that there is Freedom of Information legislation and journalist's ability to make use of it in Nepal. Similarly, 2.4% respondents never believe that there is Freedom of Information legislation and journalist's ability to make use of it in Nepal.

Table 5.17

Laws Guaranteeing Access to Government Records and Information

S.N.	Responses	Frequency	Percent
1	Never	6	2.4
2	Yes	186	75.6
3	No	54	22.0
	Total	246	100.0

Restrictions to the Right of Access to Information

S.N.	Responses	Frequency	Percent
1	Never	6	2.43
2	Yes	127	51.62
3	No	113	45.93
	Total	246	100.0

Linkages of Freedom of Expression Good Governance

S.N.	Responses	Frequency	Percent
1	Never	5	2.0
2	Yes	187	76.0
3	No	54	22.0
Total		246	100.0

Source: Survey, 2022

More than two third majority (75.6%) respondents affirm that their laws guaranteeing access to Government records and information but 22% respondents do not believe that. Accordingly, 2.4% respondents believe that there are never such laws in Nepal.

Freedom of Expression is not unlimited. It has some limitations. Majority (51.62%) respondents agree with that view but 45.93% respondents do not believe so. Accordingly, 2.43% respondents never think so.

The study shows that, majority (76%) respondents agree that there is a linkage of Freedom of Expression with the transparency and good governance. But, 22% respondents do not agree with that. Only, 2% respondents never agree with it.

More than two third majority 75% respondents believe that their laws guaranteeing access to Government records. Accordingly, 2.4% respondents believe that there are never such laws in Nepal. Freedom of Expression has not unlimited. It has some limitations. Majority 51.6% respondents agree with that view. Accordingly, 2.4% respondents never think so.

The study shows that, majority 76% of the respondents agree that there is a linkage of Freedom of Expression with the transparency and good governance. Only, 2% respondents never agree with that.

5.2 Practices of Freedom of Expression

The Right to Freedom of Expression implies that every citizen has the rights to express his/her views, opinions, belief, and convictions freely by writing, printing and orally or through other methods. All citizens have the right to express their views and opinions freely through published Articles, television or radio broadcasting works of art, the internet and social media. Freedom of Expression includes freedom to seek, receive and impart the information. On the other hand, it has been practicing by: publishing Articles, books, leaflet etc. We can speak unless it personally harms other. People have become able to present our thoughts freely regarding the ongoing political aspects. People can express their opinions on Governmental and public issues in the context of Nepal. Freedom of Expression has found satisfactory in Nepal.

Civilized society can protect Freedom of Expressions in democratic country. The Constitution of Nepal guarantees the Fundamental Rights of citizens, including the freedom of expression. People are privileged able to provide opinions and suggestions on local developmental work. Freedom of Expression has clearly been mentioned in Constitution of Nepal, but there are some restrictions on reasonable ground. People are taking Freedom of Expression for grant. People's privacy is breached and there is jeopardy in the legal systems. Cyber law is found being misused by government to control social site and social content dissemination. So powerful people are practicing widely and normal people still do not have to access on media.

Freedom of speech is the legal rights, which has been endorsed by the Constitution of Nepal. It allows for the self-fulfillment of an individual and protects his individuality in a democracy. Freedom of speech is the principle that supports the freedom of an individual or a community to articulate their opinions and ideas without

fear. It is an integral part of democratic process. We can raise voices against any sort of ills and against the Government too. The Freedom of Expression is the right to express opinions without any interference and restrictions. In actual practice, it can include written and oral communications, the media, broadcasting, and commercial advertising. The right to speech and expression is, however, not absolute. It comes with special responsibilities, and can be restricted on several circumstances. There is a misuse of this right in present context for personal benefits instead of public.

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Theoretically, it is a strong provision relating to Freedom of Expression but practical aspect is weak in the context of Nepal. Every person has the right of communication views. Freedom of Expression is not only the right of an individual but rather the right of community to hear and inform. Right to express of our own conviction and opinions freely by means of words through like writing, speaking, printing and picture or other means.

In our context, due to the lack of literacy and optimum use of social site, it seems that we are misusing Freedom of Expression and speech. We are crossing our limitation in the name of Freedom of Expression and also instability of politics has also helped to escape from judicial provisions in different places and different ways of practices. Many people do not know about their freedom of speech, many are found misusing it. Only a few people are using their right in a proper way. However, Nepali people are provided the right to Freedom of Expression and how we people are practicing it depends on various aspects. Mostly freely practiced but sometimes media people are threatened by some powerful people. People have practiced the freedom of speech but it is not implemented by the authority. Media have vital role to protect

Freedom of Expression. Time and again repeatedly media provokes the slogan "voice of the voiceless" but practically it is not found enhanced on the behavioral aspect.

This concept has not completely been developed so far now in the context of Nepal. In the name of Freedom of Expression, right to privacy has been exploited. It has been misused. The actual practices of Freedom of Expression are to articulate their opinion and ideas without fear. The Constitution of Nepal guarantees the Fundamental Rights of citizens, including the freedom of expression. The right to freedom of expression, it includes the freedom of opinion and thought no matter what a source is. In reality freedom of speech has practical limitations. Knowingly and unknowingly practiced actual practice of freedom of speech is not so good. There are many bottlenecks.

5.2.1 People's Suggestions for Protecting Freedom of Expression

According to the respondents, laws have to be followed strictly. The Constitution of Nepal guarantees the Fundamental Rights of citizens, including the freedom of expression, which need to have proper system, law and rules, and the stable government. The exercise of these freedoms, since it carries with it duties and responsibilities in rape and murder cases, they have to be categorized and strict law is required in Nepal. Rules and regulations regarding these issues should be implemented properly. All voices should be heard equally. There should not be nepotism in government services. Laws need to be clear, fair and proper. Strict practice of law is necessary equality in the eye of law. Government should make a new law to reduce the misuse of cyber law. There should be the proper implementation of laws and acts to improve people's knowledge.

People should be provided education to make them aware of Freedom of Expression across the country, equally replacement of current politicians by youth is

necessary. Effective performance by bureaucrats, free and fair media, positive and awareness for freedom and speech are the requirement of the present time. Proper implementation of law is greatly required. People must be aware, especially about their rights. Barriers of people's rights should be eradicated.

Limitations based on time, place, and manner apply to all speeches, regardless of the views expressed. There are generally restrictions are intended to balance other rights or a legitimate Government interest. Media law practices must be strong. Strong law should enact and actual practice must be strong.

5.2.2 Hindrances to Use the Right to Freedom of Expression

Due to the lack of rules and law, every individual is confused to deal with the law in favor of the right of Freedom of Expression in Nepal. Some of the people say that they have been facing some difficulties while using this right yet. Nepali society is deeply divided in political ideology every meaning gets twisted. Particularly, due to political interventions, there are the cases of interventions in people's Freedom of Expression and speech.

“Sometimes, I'm afraid to express my opinion in fear of being isolated from the group's organization”, stated a participant from Bhaktapur.

5.2.3 Media Coverage and its Effectiveness to Provide the Information of Events

Media have a good coverage of events in the context of Nepal. As media are popular these days, media have covered most information of events. In the present situation, due to the self-interest sometimes information is hidden by media. It focuses and covers mainly in Kathmandu and other big cities and other parts of Nepal. Media has not covered the events` properly. It seems bias in news; media houses are also influenced by political groups. Media seems covering almost every aspect of information of events. Media in general are not as effective as they should be. Media

are labeled as the manifesto of the political party. It is found that they have limited knowledge of media ethics.

Nepal's media covers these types of information but they still need to focus on rural areas. The term media coverage is used to refer to all blog Articles, RSS feeds, video content or other types of digital content (produced by individuals or organizations other than your own company) where your brand, products or services are discussed or shown. This instantly target for a larger audience. It is getting improved more than before. Despite some biases and weaknesses, one of the participants from Kathmandu said, “Nepali media have covered the information of events effectively in Nepal.”

The participants of Bardiya said, “It gives misinformation in technical field. Apart from some, they are all making all of us fool in the name of the fourth estate of nation. Awareness and workshops training for media covered the information of event.” It is not as adequate. Ineffective coverage of media about the events of public concern cause lacking in informed consent, only focused on negative things, media coverage is not so much effective. The media have covered the information of events in a delicate way.

5.2.4 Information Delivered to the Concerned Parties for Exercising Freedom of Expression

Everyone has the rights to speak based on exercising Freedom of Expression right to express your views. Freedom is the legal right and expression is personal right. This is part of people's practices and they have made people gain knowledge and information about their rights in village. Freedom of Speech supports the freedom of an individual or a community to articulate their opinions and ideas without fear of retaliation, censorship, or legal sanction. The ability to express our opinion and speak

freely is essential to bring about changes in society. So, information should be real and factual. Freedom of speech is one of the core pillars upholding the democratic process. Freedom of speech and the right to Freedom of Expression applies to ideas of all kinds including those that can be deeply offensive, they are encouraged to exercise. Tried and trying in a better way is best to make them aware about exercise of Freedom of Expression.

5.2.5 Social Awakening about the Rights of Citizens

Ideas has created and implemented only after everyone has expressed his/her opinion. In democratic countries, people know their rights, and they utilize to this. All will get a chance to express their opinions, which support others about their rights in society. Freedom of Expression makes people awakened. Freedom of Expression is an important human right which is essential for a society to be democratic. The right to speak your mind freely on important issues in society, access to information and hold the powers that be accountable, when legal instrument guarantee this right, every citizen of the nation would be able to express their views. So, legal instrument of Freedom of Expression will develop social awakening about the rights amongst the citizens. Legal instruments will instill the belief that our voices are heard. And gradually they will be awakening. Freedom of Expression can only make our society peaceful and also social awakening. It includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty. It allows pluralist dialogue and creates a secure platform for critical voices. Because People speak openly about their own views and opinions, it helps to develop social sectors, communities who are scared before. If there are legal instruments people feel more secure to demand. Human is a

social animal. If the environment is favorable to share the opinion, it supports to enhance the socialization. Freedom of Expression paves the way for other rights. It gives voices to them.

5.2.6 News Values for the Journalist and Media

The news value of a story, if defined in terms of the interest it carries for an audience is determined by the degree of change it contains and the relevance that change has for the individual or group. Timeliness event is more newsworthy it has reported immediately. Proximity events are more newsworthy the closer they are to the community reading about them. News values are not universal and can vary among different cultures. Material, cognitive, moral and ethical standard pose the news values for the journalist or for news media. It poses their information and their interest.

The participants explain why a story interests its audience; and how editors and other journalists decide that one piece of information is news while another is not. Elements of news are truth and impartial information, impact, timeliness, close to home, conflict, unexpected, current and human interest, significant change, impact, timeliness, oddity, relevance, impact, proximity, conflict, oddity, progress, etc. It is the soul of media.

5.2.7 Threat of Media and People for Utilizing this Right

The actual threat to the media and people for utilizing this right are capital, political pressure, fake news and misguidance. Journalists can face violence and intimidation for exercising their fundamental right to freedom of expression. Journalists and the news media industry as a whole face unprecedented threats in the changing information environment economic and market challenges, increasing distrust and denigration of their work, and new forms of digital repression, that are

often overlooked in today's regulatory conversations limitation of time, content, speaker's message and so on. Sometimes media persons can target. Threats of legal actions against journalists, sources of news outlets are often used as a way to silence reporting. Fake news, misinformation and defamation are seen to be the actual threat to the media and people for utilizing this right.

People's privacy can violate Journalists face countless threats every day, ranging from kidnapping, torture and arbitrary detention to disinformation campaigns and harassment, especially on social media. Women journalists are at particular risk. Political and economic pressure political influence is interrelated to the political parties. Poverty, corruption and party press are the threats.

5.3 Expert's Opinions on Freedom of Expression

Expert's notions are the most important information for this study. During the study period, the researcher has taken different expert's opinion on the issues which has significant impact on the study. The experts have said that people and Government are equally responsible to protect Freedom of Expression.

5.3.1 Media Influence, Control and Diversity of Views

According to the respondents, media is used to control by the government in some of the cases in the name of protecting the financial ownership and rigorous legal restrictions even in the democratic society. Government has considerable control over the media, as they own same them too. In many instances, influences reflect the diversity of viewpoints. But it applies in few cases in the context of Nepal

Freedom in the World, 2024 Report of Freedom House

Nepal's politics has resulted in less pressure being placed on journalists and an increase in the authorities' tolerance for peaceful assembly. The political, administrative, and legal systems are still plagued by corruption, and occasionally

violent demonstrations are tainted. Nepal is ranked Partly Free in the Freedom in the globe 2024, an annual survey by Freedom House on civil liberties and political rights across the globe. Nepal has scored 62 out of 100 among the countries in the world according to the Freedom House report.

Table 5.18

Nepal's Freedom Rank as per the Freedom House Report, 2024

Rights	Frequency		Status
Political Rights	28	out of 40	Partly free
Civil Liberties	34	out of 60	
Total	62	100	

Source: Freedom House Report, 2024

5.3.2 Qualitative Analysis

A. Uses of Freedom of Expression with the Values of Principles

National sovereignty, national integrity, and national unity have guaranteed by these provisions. There are some limitations, like national security, social harmony among the castes or ethics, morality etc. The political transformation of Nepali society in 2005 brought certain changes to the political and ruling structures of the country. Those preserved democratic values. There is not proper practice of Freedom of Expression. The Government has to provide an open and liberal environment for providing rights for people. There are alternative thoughts for every citizen. So, it has to match with the present context to make a liberal and democratic society with a certain social responsibility.

“Mass media create mainstream agendas, but social media create alternative agendas in modern society”, stated a participant from Bardiya District.

“Social media are more effective for protecting Freedom of Expression”, noted a participant from Kathmandu District.

“The Government has to provide a free and open environment for protecting Freedom of Expression Constitutionally, legally, ethically and practically in practice”, remarked a participant from Rupendehi District.

“Every citizen has their civil, political, cultural and solidarity rights. They have to enjoy these rights without any hindrances”, commented a participant from Kapilbastu.

“The Nepali court defined the press as the four organs of the state”, stated a participant from Lalitpur District.

"The current Constitution of Nepal is comparatively more regressive than the Constitution of 2047 of Nepal", remarked a participant from Arghakhachhi District.

B. Misuses of Information of Social Concerned in Social Media

There are misuses of information of social concern in social media. Some of the social media seem to be protecting anarchism in their content in society. Social media like face book and twitter have emerged with the development of internet. It has made easier to the people to connect in global level, but it has also misused in various ways. Sometimes, it disseminates false and fake information. It violates privacy of the people.

Table 5.19

Practice of Freedom of Expression in Nepal

N=21

S.N.	Answers	Frequency	%
1	There are some problems	4	19.04
2	Basically, there are security concerns	11	52.38
3	Sometime media use to misuse these rights to defame the people	17	80.95
4	Political leaders are manipulating the people in wrong way	19	90.47
5	Limited practices	13	61.9
6	Social media are easy media for disseminating people's voice	18	85.71

Note : % adds more than 100 due to the multiples responses.

Source: Survey, 2022

This study has found that, majority of respondent 90.47 percent said that Political leaders are manipulating the people in a wrong way. Similarly, 85.71 percent respondents have given the view that social media is easy media for disseminating people's voice. In the same way, 80.95 percent respondents view that Sometime media use to misuse this right to defame the people. Whereas, 61.9 percent respondents think that there are limited practices of Freedom of Expression. In this way, 52.38 percent respondents have given the view that basically there is a security concern for journalist to practice Freedom of Expression. Minority of the respondent's 19.4 percent respondents think that there is the problem in the practice of Freedom of Expression.

This study has found that, majority of respondents (90.47) percent feel that Political leaders are manipulating the people in a wrong way. Minority of the respondent's 19.4 percent respondents think that there is the problem in the practice of Freedom of Expression.

C. Freedom of Expression and Social Responsibility

Freedom of Expression is not the part of anarchism. It is the part of social development between and among the groups. Political leader has to be responsible with the people. Media should disseminate factual contents to large number of people. "Free speech, Protect, respects and fulfill has to be done by the Government for protecting free speech", stated a participant of Baktapur.

"Big scandal uses to be treated with media trail", remarked a participant of Bardiya

Table 5.20*Challenges in the Practice of Freedom of Expression in Nepal**N= 21*

S.N.	Answers	Frequency	%
1	It is weak	8	38.09
2	There are big challenges to disseminate about the provision of Freedom of Expression provisions to the people	10	47.61
3	Sometimes misuse of this right gives negative impact	11	52.38
4	bad effects on the case proceeding in the court	5	23.8
5	Right to privacy	12	57.14
6	Structural challenges for exercising it	8	38.09

Note : % adds more than 100 due to the multiples responses. Source: Survey, 2022

This study has found that, Majority of the respondent's 57.4 percent have viewed that it is a great challenge to protect the right to privacy of the people which is also the fundamental right of the people. Similarly, 52.38 percent respondents say that sometimes misuse of this right gives negative impact. For example, 47.61 percent respondents say that there are big challenges to disseminate the proper knowledge about the provision of Freedom of Expression provisions to the people. In another way, 38.9 percent respondents think that practice of Freedom of Expression are weak and there is a structural challenge for exercising bad effects on the case preceding in the court it. In this study, 23.8 percent respondents have given the opinion that misuse of Freedom of Expression creates bad effects on the case proceeding in the court.

This study has found that, majority of the respondent 57.4 percent have given the view that it is a great challenge to protect right to privacy of the people which is also the fundamental right of the people. In this study, 23.8 percent respondents have given

the opinion that misuses of Freedom of Expression create bad effects on the case proceeding in the court.

D. Media Literacy and Freedom of Expression.

Media literacy is an essential part. It is also a challenge to make aware about some of the provisions of Freedom of Expression. People are hesitating to give their opinions about the matter of social concern. They are scared of public and social authority. It is a big challenge. Government has tried to make limited environment to provide rights to the people and press while amending and making legal provisions or the laws. Another challenge is to follow media ethics. There are not big problem and challenges in Nepali law

E. Media Credibility

It has to provide proper remedies for its misuse. Big questions are raised in the Nepali media about not caring about their responsibility and credibility to disseminate their contents. Some of the media are protecting hate speech. It is not a good thing. It has to protect the rights of personal privacy of people.

“Artificial intelligence will be the main challenge for future prospects”, noted a participant of Bardiya.

“Media has been monitoring as a judge. It is used to disseminate pre information about the court and the cases, it has negative influences on the activities of the cases of the court”, stated a participant of Rupendehi.

“Major pillar of democracy is known as free press and the media. So, it has highly practiced Freedom of Expression in Nepal”, remarked a participant of Kathmandu.

F. Curtailment of the Free Speech from the Government

Government has tried to control the press for fulfilling its interest in so often. Government’s nature seems to curtail the rights of the press. There is an extensive

conflict between media and executive. The primary duty of the executive is to respect the opinions of the people.

“It is not proactively supportive for the media”, stated a participant from Kathmandu

“It has to disclose the information on people's concerns. But it has bad intentions with the media and people for disclose information on people concerned”, remarked a participant from Rupendehi.

“There is a huge gap and the questions about the role of judiciary and its authority for implementing these rights”, stated a participant from Bardiya.

“Sometimes it controlled the press. As per the people's responses, it uses to provide rights”, noted a participant from Kapalbastu.

Table 5.21

Media Practices on Freedom of Expression

N=21

S.N.	Answers	Frequency	%
1	Understanding level of Nepali mass media is very weak	9	42.85
2	They do not have the knowledge on the limitations of free speech	12	57.14
3	All the perceptions have to be transparent	14	66.66
4	Media persons are not full academic for protecting the values of free speech	13	61.9
5	Mass media has to be the best platform for protecting free speech and expression	18	85.71
6	freedom has been defined as per the interest of the Government	10	47.61

Note : % adds more than 100 due to the multiples responses.

Source: Survey, 2022

This study shows majority (85.71) percent respondents have given the view that Mass media has to be the best platform for protecting free speech and expression.

Similarly, 66.66 percent respondents have given the opinion that. All the perceptions of the media have to be transparent. Likewise, 61.9 percent respondents believe media

persons are not full academic for protecting the values of free speech in the context of Nepal. Correspondingly, 57.14 percent respondents accept that media persons do not have the knowledge on the limitations of free speech. Equally, 47.61 percent respondents take that freedom has defined as per the interest of the Government in the context of Nepal. In the same way, 42.85 percent respondents realize, that Understanding level of Nepali mass media is very weak.

This study shows that, majority (85.71) percent respondents have opined that mass media has to be the best platform for protecting free speech and expression. Similarly, equally, 47.61 percent respondents take that freedom has defined as per the interest of the Government in the context of Nepal. In the same way, 42.85 percent respondents realize, that Understanding level of Nepali mass media is very weak.

5.3.3 Media Credibility

It is necessary to do check the facts. Media should disseminate rational and opinion-based information. It has to represent opinions of all people. Media should not lose its credibility.

“Editor cannot understand about the right to Freedom of Expression”, noted a participant from Lalitpur.

“Freedom has been defined as per the interest of the Government”, commented a participant from Bhaktapur.

5.3.4 Accountability of Media

Media has to be accountable and responsive towards society. There is a good relationship between press freedom and the judiciary. Government has to provide open space for public hearing to protect Freedom of Expression. It has to be responsive. Democracy depends on the free thoughts of the people.

“Freedom of Expression is fundamental of democracy”, stated a participant from Bhaktapur

“It is not meant that responsibility and accountability is the part of autocracy. It is the pure and factual thing which helps to drag the society in a positive way”, noted a participant from Lalitpur.

“Public participation is the base of rule of law,” remarked a participant from Kathmandu.

“Democracy is guided by the right of free speech and expression”, commented a participant from Kapilbastu.

5.4 Freedom of Expression and Global Values and Principles

In a focus group discussion, a senior journalist from Kathmandu expressed different opinions on this remark. Nepal is signatory of the international conventions like UDHR and ICCPR. So, it has included these global values and norms in the Constitutions and laws of Nepal. Theoretically, it is a very good provision but the practice is not according to the spirit of international values, norms and national laws. It is making limited in many cases in practice, for examples, online directives and license process of journalist. In recent years, no one has claimed their personal rights in the court. That shows there is not the proper practice and utilization of Constitutions and legal provisions in the context of Nepal. From the Government side, different regulatory mechanisms have formulated to limit the Constitutional provisions.

Freedom of Expression means, right to seek, right to receive and right to impart the information. From those perspectives, in FGD another popular legal expert of Nepal said “Nepali Constitution has highly recognized the global values and norms of Freedom of Expression in one hand. On the other hand, we are not sensitive about right to privacy, media trail, and national security and D-notice.” Government makes more regulatory mechanisms to control the freedom, so institutional mechanism,

technological infrastructures and culture should be reformed to enjoy the Constitutional and legal provisions relating to Freedom of Expressions.

In FGD, former information commissioners said, “constitutional and legal provisions relating to Freedom of Expressions in Nepal is the best in the world but practical aspect depends on the attitudes of ruler in the context of Nepal, the practical aspect is weak.” So, it can be said that only the legal provision is not enough. Its implementation aspect has totally depended on the attitudes of the ruler.

In FGD, another participant (media expert) from the Arghakhanchi district of Nepal said, “Freedom is what and where that has to be listened which is not wanted to listen.” Nepali Constitutional provisions have incorporated the global values and norms of Freedom of Expressions. In that sense, Constitutional provision is précised in Nepal. But in practice Government wants to hide the information for its benefits. We do not have practice to classify the information.

“Constitutional provisions are good, there are the provisions of full press freedom in preamble but Government is rigid to give such freedom”, remarked a participant from Nepal Press Council.

Legal provisions are sufficient after 2047 BS (1990 AD), but challenges in practice”, stated a participant from Tribhuvan University.

5.4.1 Spirit of Constitutional Provisions and Constitutionalism Principles

Constitutionalism means, supremacy of law and rule of law, equality before law. No one is superior to the Constitution. Everything should be regulated according to the spirit of the Constitution. Constitutionalism eternalizes the principles of limited Government, section of power, rule of law, participation, human rights, inclusion etc. Nepali Constitution has given open rights relating to Freedom of Expression in different Articles of the Constitution under fundamental rights. These provisions have

followed the spirit of Constitutionalism. The basic thing is freedom which was incorporated through the history from Magna Carta (1215 AD), French revolution (1779 AD) and UDHR (1948), ICCPR (1966) etc. In FGD a participant from Kapilbastu district of Nepal said, “Nepali Constitution has eternalized the concepts of Constitutionalism in the provision of Freedom of Expression.”

5.4.2 Implementation Aspect of Legal Provisions

Laws relating to Freedom of Expression are sufficient in the context of Nepal, but the uses of the law have not properly implemented. In a discussion, a participant said, “The laws like contempt of court, tort and compensations are not fully sufficient and not practically utilized.” Laws like Cyber law is misinterpreted in Nepali context. Regulatory law should be corrected. Another participant said, “There is no need of new law relating to Freedom of Expression. But the existing laws should be implemented properly.” In a discussion, another participant (legal expert) said, “There is a sufficient legal provision relating to Freedom of Expression but infrastructures and technologies are not enough.” Because of the lengthy process in Nepali bureaucracy, legal practice is very weak. Parliament also amends the existing law like protecting the privacy of written document act properly for providing benefit to the people.

A. Practices of Nepali Media on Freedom of Expression

In FGD (2022, Oct. 5) participant from Kathmandu district said, “Some media may have few mistakes, but in mass level Nepali media is practicing Freedom of Expression very well.” Media can be regulated according to the law. Nepali media is practicing these rights if there are any mistakes it can be corrected in course of time without any study; we cannot make any opinion about the media. Another expert said, “There are freedom of press in Nepal, but media person is not qualified, educated,

professional and somehow guided by interest” (FGD, 2022, Sept. 13). Nepali mainstream professional media are using Right to information Act (RTI) is to get proper and accurate information but most of the media cannot use this right from different reasons. A participant from Kathmandu district said, “There is the problem to dig out the fact and truth because the systematic practice is weak in the media field in Nepal. In another way, information provider is also ignoring” (FGD, 2022, Sept. 1). Freedom is misused by new journalists. Some are biased even if they are matured. Political and economic aspects have influenced the media. Partisan press has also been found in practice. In that context, editors are not making fully responsible with their publications and the readers. Social media has misrepresented real images of the media in practical way. In this context a strong regulatory body should be made in Nepal. There is lack of professionalism in media house and the media persons. Another participant from Morang said, “Journalists are divided into different political ideology groups. So, media has been unable to disseminate the facts and truth, this right has not been implemented properly” (FGD, 2022, Sept. 1). Nepali media is crossing the limitation of Freedom of Expression, Code of conduct is found to have violated. Right to privacy of accused is violated. Some Nepali Media have been found giving the judgment before the court themselves which is beyond the jurisdiction and ethics.

B. Role of Judiciary to Protect the Right to Freedom of Expression

Nepali judiciary has been playing active, proactive and reactive role for protecting Freedom of Expression. In some cases, it has given open, liberal and farsighted decisions to protect the Freedom of Expression. Nepali court seems to be scared of media trial and other circumstances. In such conditions, it is unable to protect the right of the people and deliver the justice. A participant from Kapalbastu

said, “Nepali Court has given a very good decision in favor of Freedom of Expression in majority cases” (FGD, 2022, Sept. 1). According to the participant, Nepali court is liberal in the case of press freedom and human right. There are many cases where court has given the landmark decisions. It has formulated the principles relating to Freedom of Expression. In the case of Harihar Birahi, Thir Prasad Pokhrel Vs. Bimarsha Weekly, NKP 2049 P. 44. DN 4604), the court was found a little bit rigid in the degree of punishment but in the case of Gobinda K.C (Toyanath Dhungana Vs. Kantipur Publishion, NKP 2078, DN. 10639), full bench of Supreme Court has given very liberal decisions. Another participant in FGD said, "Court has become unable to protect the right to freedom but in many cases, it has protected the right relating to freedom” (FGD, 2022, Sept. 13).

C. Freedom of Expression with Democratic Values and Norms

There is a close relation between Freedom of Expression in democracy. It is the preconditions of democracy. If there is democracy in any country, there should be Freedom of Expressions. In FGD, a participant from Bardiya district said, “In democracy, the rights of the Freedom of Expression should not be misused. In the context of Nepal, media is creating a kind of terror through media trail. In such conditions, court is also being unable to deliver the justice” (FGD, 2022, Oct. 5).

“Beautiful part of democracy is Freedom of Expression and transparency”, stated a participant from Morang district.

“Freedom of Expression is majoring tool of democracy”, remarked a participant from Kathmandu.

Freedom of Expression is the base of democracy. There are two types of rights, one is right to ascend and descend. (FGD, 2022, Sept. 13). The environment of descend is also a part of freedom which should be exercised in democracy. In the

political party, any member can descend with the leadership. If such environment is found within any political party, that shows the practice of internal democracy. Same, situation will happen. In FGD a participant from Lalitpur said, “If there is not the environment of descend, it creates spiral of silence.” In the context of Nepal, in the name of freedom, privacy of person and nation has violated and media also being unable to disseminate useful information but it is disseminating harmful information for the society and country.”

“In Nepal, there is not an excessive freedom. But the management of the freedom is weak”, stated a participant from Arghakhachhi.

“Freedom of Expression gives the environment of criticism. That should be taken positively”, remarked a participant from Lalitpur.

D. People’s Understanding on Freedom of Expression

People think that this right is the right for the journalist and lawyer. They do not think that it is the right of the people. Government is also not serious about these rights. According to participants in FGD, it should be proactive disclosure from the Government side. But they wait for inquiry from people. In the context of Nepal, people are aware about the Freedom of Expression. A participant from the Kathmandu district said, “People are responsible citizens in last thirty years, they have been trying to practice but government is found to be rigid.” (FGD, 2022, Oct. 5). There is a demand, supply and regulation in the process of information dissemination. People are related with demand side. If demand side becomes active, automatically, supply and regulation become active. In the context of Nepal, educated people are aware about this right but all the people do not have awareness about this right. Another participant from Kapalbastu said, “This generation has not grown up with

these laws relating to the Freedom of Expression. So, authority also cannot become liberal and people do not think these laws are for them”.

Conclusion

Media has been taken as fourth organ of the state. It is also known as the watchdog of the Government and lapdog of the people. It should play the role of the voice of the voiceless people. Media gives accurate balance and credible information to the people. It makes people aware by providing concrete information which makes the people well informed. Conscious and well-informed citizens can make right decisions in the right time. They can send right people in right places. That helps to create good governance, rule of law and service delivery to the people. It leads towards the peace and prosperity. It helps to strengthen the democratic practice. So, in democracy, Freedom of Expression is one of the important components. Media practices this right as a representative of the people. Modern technology and access to the source helps media to practice the Freedom of Expression. After the formulation of democratic Constitution 2047 BS (1990 AD), media sector has been elevated in Nepal. Media is found to be enhancing the professionalism day by day. In this context, media pluralism has flourished in open and liberal environment.

There is pluralism in media and content but the quality of the contents and credibility of Nepali media still raises question mark. It is found that research show that Nepali media is not able to fulfill its duty. The study shows that media practice is neither negative nor satisfactory. In the coming days, media needs to be more professional and it should serve the interest of the people which is the characteristic of media. Within which all norms and values are incorporated. Healthy and robust media professionalism is the need of the hour and from all sectors, efforts should be made for accuracy, balance and credibility of media by overcoming all the lacunas; through

all these things freedom of speech is strengthened. In this way, there will be the reflections of the spirit of freedom of speech in healthy journalism. It is the original quality of the media.

CHAPTER VI

IMPLEMENTATION OF FREEDOM OF EXPRESSION IN NEPAL

6.1 Demographic Analysis of the General People

Demographic analysis is the most important part of the research. Quantitative analysis is the key information management system to know facts from the field in empirical research. So, in this study, the researcher has concentrated to incorporate the findings in this process. The researcher has conducted survey among the general people to know the exact information and awareness of Freedom of Expression with the help of closed questionnaire to know their knowledge on Freedom of Expression.

Table 6.1

Respondent as Per the Gender, Age and Provenance

S.N.	Responses	Frequency	Percent
1.	Male	228	68.5
2.	Female	105	31.5
Total		333	100.0

Age group of the Respondents (General people)

S.N.	Responses	Frequency	Percent
1	Below 25	57	17.1
2	26-40	213	64.0
3	41-60	63	18.9
Total		333	100.0

Source: Survey, 2022

This table shows, there were 333 total general people who asked to fill up the questionnaire. Among them, more than two third majorities of the respondents (228) were male and rest of the respondents (105) were female participant in this study. All the respondents were taken from different age groups.

In the study, two fourth (64%) of the majority of the general people participated from 26 to 40 age group. In a same token, 18.9% respondents were from 41 to 60 age group and only 17.1% of the respondents participated from below 25 age group.

The above table shows that out of 333 respondents, 68.5 % of the respondents were male participants and the rest of the respondents were female. Similarly, in the study, two fourth (64%) of the majority of the general people participated between 26 to 40 age group.

Table 6.2

Respondent from the Different Provinces

S.N.	Responses	Frequency	Percent
1	Bagmati	165	49.5
2	Gandaki	21	6.3
3	Karnali	6	1.8
4	Lumbini	84	25.2
5	Madhesh	12	3.6
6	Koshi	18	5.4
7	Sudurpachim	27	8.1
	Total	333	100.0

Respondent from the Different Profession

S.N.	Responses	Frequency	Percent
1	Teacher	87	26.12
2	Student	84	25.22
3	Farmer	3	0.9
4	Others	96	28.82
5	Bureaucrats	63	18.91
	Total	333	100.0

Source: Survey, 2022

Correspondingly, the respondents were from different professions and designations. In the study, 28.82 percent (96) were other groups of respondents,

Similarly, 26.12 percent (87) respondents were academic group (teachers), 25.22 percent (96) respondents were students, 18.91 percent (63) were bureaucrats, 0.9 percent (3) were farmers.

All the respondents actively participated from all the provinces (Bagmati, Gandaki, Karnali, Lumbani, Madhesh, Sudharpachhim and Koshi) of Nepal. Out of them, nearly half (49.5%) of the respondents belonged to Bagmati Province. Similarly, one out of fourth (25.2%) respondents participated from Lumbini Province. Likewise, 8.1% of the respondents were from Suderpachim Province, 6.3% of the respondent were from Gandaki Province, 3.6% from Madhesh Province and only 1.8% respondents participated from Karnali Province.

Correspondingly, the respondents were from different professions and designations. In the study, 28.82 percent (96) were others group of respondents and all the respondents actively participated representing from all the provinces (Bagmati, Gandaki, Karnali, Lumbani, Madhesh, Sudharpachhim and Koshi) of Nepal. Out of them, nearly half (49.5%) of the respondents belonged to Bagmati province.

Table 6.3

Awareness on the Concept of Freedom of Expression

S.N.	Responses	Frequency	Percent
1	Yes	321	96.4
2	No	12	3.6
Total		333	100.0

Source: Survey, 2022

Among the participants, less than hundred percent (96.4%) respondents said they found good awareness level on the provision of Freedom of Expressions. Only less

(3.6%) respondents did not have the knowledge on the provisions of Freedom of Expression.

Among the participants, less than hundred percent 96.4% respondents did have good awareness level on the provision of Freedom of Expression s. Only less 3.6% respondents had the knowledge on the provision of Freedom of Expression.

Table 6.4

Knowledge about the Legal Provisions Relating to Freedom of Expression

S.N.	Responses	Frequency	Percent
1	Yes	263	79.0
2	No	70	21.0
Total		333	100.0

Awareness about any of the Legal Provisions on Fundamental Rights Relating

Freedom of Expression

S.N.	Responses	Frequency	Percent
1	Yes	231	69.4
2	No	102	30.6
Total		333	100.0

Source: Survey, 2022

This study shows that, Majority of the respondents (79) percent have the knowledge of laws relating to Freedom of Expression but 21 percent respondents do not have the knowledge of legal instrument in Nepal.

This study shows, that Majority (69.4 percent) 231 of the respondents are aware of about legal provisions on Fundamental Rights relating Freedom of Speed and expression whereas 30.6 percent respondents are not aware of legal provisions on Fundamental Rights relating to Freedom of Expression.

This study shows that, Majority of the respondent 79 percent have the knowledge of laws relating to Freedom of Expression but 21percent respondents do not have the knowledge of legal instrument in Nepal. This study shows that Majority 69.4 percent 231 the respondents are aware of legal provisions on Fundamental Rights relating to Freedom of Expression.

Table 6.5

Divisions of Freedom of the Press

S.N.	Responses	Frequency	Percent
1	Fundamental Right	178	53.5
2	Human Right	62	18.6
3	Legal Right	66	19.8
4	Natural Right	27	8.1
Total		333	100.0

Source: Survey, 2022

The study has focused to explore the knowledge on Freedom of Press among the people. More than clear majority (53.5%) respondents said that the freedom of information use to be known as fundamental rights. Similarly, 19.8 percent of the respondents said that they knew about the legal rights. Freedom of the press is also known as basic human rights. Whereas, 18.6 % of the respondents have supported this perception fully. Likewise, only 8.1% of the respondents said, “this is natural rights”.

The study focused to explore the knowledge on Freedom of Press among the people. More than clear majority 53.5% respondents said that they knew freedom of information as fundamental rights. Likewise, only 8.1% of the respondents said “this is a natural right”.

Table 6.6*Environment for Freedom of Expression in Nepali Legal System*

S.N.	Responses	Frequency	Percent
1	Liberal Democracy	167	50.2
2	Social Responsibility	140	42.0
3	Sociologist	21	6.3
4	Authoritarian	5	1.5
Total		333	100.0

Source: Survey, 2022

The study shows that more than half of the respondents (50.2 percent) 167 respondents think that there is liberal democratic system in Nepal. 42 percent respondents think that there is the environment of Social Responsibility in Nepal. 6.3 Percent respondents think that sociologist theory guides the environment of Nepal. Only the 1.5 percent respondents think that there is authoritarian system in Nepal.

The study shows that more than half of the respondents 50.2 Percent 167 respondents think that there is a liberal democratic system in Nepal. Only the 1.5 percent respondents think that there is an authoritarian system in Nepal.

Table 6.7*Relationship between Press Freedom and Democracy*

S.N.	Responses	Frequenc	Percent
1	Freedom and democracy are interrelated	142	42.64
2	Without press freedom, democracy and democratic norms and values can't be flourished	122	36.63
3	Democracy enhances the freedom of the press in each and every case	69	20.72
Total		333	100.0

Source: Survey, 2022

From the above table, 42.64 (142) percent of the respondents have supported that freedom and democracy are interrelated with each other. Similarly, 36.63 (122) percent of the respondents said, without press freedom, democracy and democratic norms and values cannot be flourished. 20.72 % respondents believe that Democracy enhances the freedom of the press in each and every case So, we have to focus on it.

Democracy and freedom are interrelated. 42.64 (142) percent of the respondents have supported that freedom and democracy are interrelated with each other. Similarly, 20.72 % respondents believe that Democracy enhances the freedom of the press in each and every case. So, we have to focus on it.

Table 6.8

Freedom of Expression to Develop Present Social System

S.N.	Responses	Frequency	Percent
1	Positive	244	73.3
2	Normal	40	12.0
3	Meditative	40	12.0
4	Negative	9	2.7
Total		333	100.0

Source: Survey, 2022

The study shows that majority (73.3 percent) of the respondents have given the view that Freedom of Expression can play a positive role to develop the present social system in Nepal. 12 percent respondents think that Freedom of Expression can play a normal and positive role to develop the present social system in Nepal. In other way 2.7 percent respondents think that Freedom of Expression can play a negative role in the context of Nepal.

The study shows that majority (73.3 percent) of the respondents have given the view that Freedom of Expression can play a positive role to develop the present social

system in Nepal. In other way 2.7 percent respondents think that Freedom of Expression can play a negative role in the context of Nepal.

Table 6.9

Freedom of the Press for the Existence of Democratic Society

S.N.	Responses	Frequency	Percent
1	Civilized	126	37.83
2	Uncivilized	40	12.01
3	Liberal	140	42.04
4	Fully Social Responsibility	27	8.10
Total		333	100.0

Source: Survey, 2022

The study shows that, majority (42.04 %) of the respondents have given the opinion that Nepali society has become liberal with consequences of freedom of press. Likewise, 37.83 percent respondents think that Nepali society has become civilized with consequences of freedom of press. In other way 12.01 percent respondents think that Nepali society has become uncivilized with consequences of freedom of press. 8.10 percent respondents think that Nepali society has become fully responsible with the consequences of freedom of press.

The study shows that, majority (42.04 %) of the percent respondents have given the opinions that Nepali society has become liberal with consequences of freedom of press. 8.10 percent respondents think that Nepali society has become fully responsible with the consequences of freedom of press.

Table 6.10*Future Prospects of Freedom of Expression in Nepal*

S.N.	Responses	Frequency	Percent
1	Normal	102	30.63
2	Bright	126	37.83
3	Pessimistic	24	7.20
4	Cannot be predicated	81	24.32
Total		333	100.0

Source: Survey, 2022

The study shows that, majority (37.83 percent) of the respondents feel that future prospects of Freedom of Expression in Nepal are bright. Whereas, 30.63 percent respondents have given the view on the future prospect of Freedom of Expression in Nepal is Normal. 24.32 percent respondents believe that future prospects of Freedom of Expression in Nepal cannot be predicted. A Few of the respondent 7.20 percent are pessimistic about the future prospects of Freedom of Expression in Nepal.

The study shows that, majority (37.83 percent) of the respondents say that future prospects of Freedom of Expression in Nepal are bright. Few of the respondent 7.20 percent are pessimistic about the future prospects of Freedom of Expression in Nepal.

Table 6.11*Knowledge of the Freedom of Expression as a Legal Right*

S.N.	Responses	Frequency	Percent
1	Yes	290	87.1
2	No	43	12.9
Total		333	100.0

Source: Survey, 2022

The study shows that, majority (87.1 percent) respondents are aware about Freedom of Expression as a legal right. Other then, 12.9 percent respondents are unaware about Freedom of Expression, a legal Right.

The study shows that, majority 87.1 Percent respondents are aware about Freedom of Expression as a legal right.

Table 6.12

Information Provided by Media to the People

S.N	Responses	Frequency	Percent
1	Good	279	83.8
2	Very Good	15	4.5
3	Bad	39	11.7
Total		333	100.0

Present Information System of the Media is:

S.N.	Responses	Frequency	Percent
1	Good	270	81.1
2	Very Good	15	4.5
3	Bad	48	14.4
Total		333	100.0

Source: Survey, 2022

The study found that, majority (83.8 percent) of the respondents feel Information provided by the media to the people good whereas 11.7 percent respondents think that information provided by the media to the people bad. A Few 4.5percent respondents opine that information provided by the media to the people very good.

The study found that, majority (81.1 percent) of the respondents has given the view that present information system of the media is good. But 14.4 percent respondents have given the view that Present information system of the media is bad.

Whereas, 4.5 percent respondents think that Present information system of the media is very good.

The study found that, majority (83.8 percent) respondents believe that information provided by the media to the people good. A few 4.5 percent respondents feel Information provided by the media to the people very good.

The study found that, majority (81.1 percent) of the respondents have given the view that Present information system of the media is good whereas, 4.5 percent respondents think that Present information system of the media is very good.

Table 6.13

Impact of Media Content

S.N.	Responses	Frequency	Percent
1	Good	258	77.5
2	Very Good	21	6.3
3	Bad	54	16.2
Total		333	100.0

The Role of Media to Bring Social and Cultural Changes:

S.N.	Responses	Frequency	Percent
1	Good	256	76.9
2	Very Good	45	13.5
3	Bad	32	9.6
Total		333	100.0

Source: Survey, 2022

The study shows that, majority (77.5 percent) 258) of the respondents think that impact of media content was good. In the contrary to that 16.2 percent (54) respondents think that impact of media content was bad. Accordingly, 6.3 percent (21) respondents think that Impact of media content was very good.

The study shows that, majority of the respondents (76.9%) think that there is a good role of media to bring social and cultural changes. Accordingly, 13.5% respondents believe that there is a very good role of media to bring social and cultural changes. But 9.6% respondents think it bad.

The study shows that, majority 77.5 percent (258) of the respondents think that impact of media content was good. Accordingly, 6.3 percent (21) respondents think that impact of media content was very good. Likewise, 16.2 percent (54) respondent say, impact of media content is bad.

The study shows that, majority of the respondent 76.9 percent (256) think, there is a good role of media to bring social and cultural changes. But 9.6 percent (32) respondents think it bad.

Table 6.14

Freedom of Expression Relating to Fundamental Rights

S.N.	Responses	Frequency	Percent
	Satisfactory	248	74.5
	Excellent	43	12.9
	Poor	42	12.6
	Total	333	100.0

Press and Government to Create Free Environment for Exercising

S.N.	Responses	Frequency	Percent
1	Satisfactory	210	63.1
2	Excellent	22	6.6
3	Poor	101	30.3
	Total	333	100.0

Source: Survey, 2022

The study shows that, majority 74.5 percent (248) of the respondent's feel that quality of Freedom of Expression of in Nepal provided to the people as the

Fundamental Rights is satisfactory. Accordingly, 12.9 percent (43) respondents feel that quality of Freedom of Expression in Nepal provided to the people as the Fundamental Rights is excellent. In the same footing, 12.6 percent (42) respondents feel that quality of Freedom of Expression in Nepal provided to the people as the Fundamental Rights is poor.

The study shows that, majority (63.1 percent) of the respondents resizes that role of the press and Government to create free environment for exercising this right is satisfactory. Likewise, 30.3 percent respondents think that Role of the press and Government to create free environment for exercising this right is poor. Least of the respondent 6.6 percent say that role of the press and Government to create free environment for exercising this right is excellent.

The study shows that, majority 74.5 percent (248) of the respondent feel that quality of Freedom of Expression of in Nepal provided to the people as the Fundamental Rights is satisfactory. 12.6 percent (42) respondents feel that Quality of Freedom of Expression in Nepal provided to the people as the Fundamental Rights is poor.

The study shows that, majority (63.1 percent) of the respondents resizes that role of the press and Government to create a free environment for exercising these rights is satisfactory. The respondent 6.6 percent says that Role of the press and Government to create free environment for exercising this right is excellent. From the same door, 12.6 percent (42) respondents feel that Quality of Freedom of Expression in Nepal is poor.

Table 6.15*Overall Experiences Freedom of Expression*

S.N.	Responses	Frequency	Percent
1	Satisfactory	254	76.3
2	Excellent	19	5.7
3	Poor	60	18.0
	Total	333	100.0

Role of Media to Disseminate News, Views and Opinion

S.N.	Responses	Frequency	Percent
1	Satisfactory	236	70.9
2	Excellent	9	2.7
3	Poor	88	26.4
	Total	333	100.0

Source: Survey, 2022

The study shows that, 76.3 percent respondents have experienced the of right to Freedom of Expression as satisfactory. 18 percent respondents feel that experience of right to Freedom of Expression is poor. At least, 5.7 percent of the respondents think that their experience of right to Freedom of Expression is excellent.

The study shows that, majority (70.9 percent) of the respondents say that role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is satisfactory. Whereas, 26.4 percent respondents say that role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is poor. Accordingly, 2.7 percent respondents say that Role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is excellent.

The study shows that, 76.3 percent respondents found that experience of Right to Freedom of Expression is satisfactory. The 5.7 percent of the respondents found that experience of Right to Freedom of Expression is excellent. Only 18 percent (60) respondent's overall experience of freedom of expression is poor.

The study shows that majority of 70.9 percent respondents say that Role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is satisfactory. Accordingly, 2.7 percent respondents say that role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is excellent.

Table 6.16

Major Instruments which will Preserve Democratic Norms and Values

S.N.	Responses	Frequency	Percent
1	Yes	272	81.7
2	No	61	18.3
Total		333	100.0

Awareness Level and Social Consciousness on Freedom of Speech

S.N.	Responses	Frequency	Percent
1	Yes	282	84.7
2	No	51	15.3
Total		333	100.0

Legal Instrument of Freedom of Expression

S.N.	Responses	Frequency	Percent
1	Yes	279	83.8
2	No	54	16.2
Total		333	100.0

Source: Survey, 2022

The study shows that, majority (84.7 percent) of the respondents believe that higher the awareness level betters the good governance. Correspondently, 15.3 percent respondents do not believe in higher the awareness level better will be the good governance.

The study shows that, 83.8 percent respondents believe that legal instrument of Freedom of Expression will develop social awakening about the rights amongst the citizens. Only the 16.2 percent respondents do not believe that legal instrument of

Freedom of Expression has developed social awakening about the rights amongst the citizens.

The study shows that, majority (81.7 percent) of the respondents have opined that Freedom of Expression is a major instrument, which has to preserve democratic norms, and values whereas 18.3 percent respondents do not believe that Freedom of Expression is a major instrument, which will preserve democratic norms and values.

The study shows that, majority (81.7 percent) of the respondents have given the view that Freedom of Expression is a major instrument, which will preserve democratic norms and values. The study shows that, majority (84 percent) of the respondent's view that higher the awareness level betters the good governance. The study shows that, 83.8 percent respondents believe that legal instrument of Freedom of Expression will develop social awakening about the rights amongst the citizens.

Table 6.17

Awareness on Laws Relating to Freedom of Expression

S.N.	Responses	Frequency	Percent
1	Yes	186	55.9
2	No	147	44.1
Total		333	100.0

Role of Media do Disseminate Accurate, Balance and Credible Content

S.N.	Responses	Frequency	Percent
1	Yes	293	88.0
2	No	40	12.0
Total		333	100.0

Source: Survey, 2022

The study shows that, majority (59.9 %) of the respondents have given the recommendation to improve the laws relating to Freedom of Expression in Nepal.

Less than half (44.1 percent) of the respondents do not recommend improving the laws relating to Freedom of Expression in Nepal.

The study shows, those 88 percent respondents think that Media has to utilize this right fully to disseminate accurate, balance and credible content for strengthening democracy in Nepal. But 12 percent respondents do not think that Media has to utilize this right fully to disseminate accurate, balance and credible content for strengthening democracy in Nepal.

The study shows that, majority (55.9%) of the respondents have given the recommendation to improve the laws relating to Freedom of Expression in Nepal. The study shows, those 88 percent respondents opine that Media has to utilize this right fully to disseminate accurate, balance and credible content for strengthening democracy in Nepal

6.2 Awareness on Freedom of Expression

According to the respondents, Nepali Constitution guarantees the Fundamental Rights of citizens, including the Freedom of Expression of an individual or a community. The Constitution of Nepal guarantees the Fundamental Rights of citizens, including the freedom of expression. The right to Freedom of Expression includes the freedom of opinion and thought in every source case, such as freedom to hold opinions. It also includes freedom to receive information and ideas and freedom to impart information and ideas. All citizens shall have the right to Freedom of Expression as per the Article 17, that is the right granted as 1st clusters of right to freedom. There are other provisions like Right to Equality, Right to Freedom, right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights. Right to Constitutional Remedies in the Constitution is a fundamental right, Article 17 (2) of the Constitution of Nepal guarantees the Freedom of Speech, Expression and

opinion. It is also related to freedom to live with dignity, Freedom of Expression, religious and cultural freedom and right against discrimination.

Freedom of speech is the Constitutional right provided by Constitution. Everyone has the right to freedom of expression, which includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority. The Constitution of Nepal 2072 guarantees the right of speech and expression as a fundamental right. Article 17 (Constitution of Nepal 2015) says, "every citizen has right to freedom of opinion & expression". Interim Constitution 2063: Part 3 Article 12 (2, a) 2) Constitution of Nepal, 2072 Part -3, Article 17 (2, a). Article 16 to Article 46 of the Nepali Constitution guarantees 31 Fundamental Rights to Nepali people, including freedom to live with dignity, Freedom of Expression, religious and cultural freedom, right against discrimination etc.

6.3 People's Familiarity on Freedom of Press

Freedom of Expression is a natural right, fundamental right, human rights and legal rights too. The Constitution of Nepal guarantees the Freedom of Expression in media; media should not be subject to direct censorship, Freedom of the press or freedom of the media is the fundamental principle that communication and expression through various media, including printed and electronic media, especially published materials, has to consider a right for free exercise. Press has the right to report news or circulate opinion without censorship from the Government. Complete Press Freedom has been guaranteed in the Preamble of Constitution of Nepal. It safeguards the Right to Freedom of Expression with Constitutional provision. The situation of the freedom to speech has pretty much maintained in Nepal.

Press must have the independent thought and clear vision of content without any suppression and biased. Provided by law, as all citizens can demand information

related to their personal or public concerns. Journalists are free of availing information from the concerned parties. As the press is part of the society every right is linked with press freedom that basically includes the right to publish newspapers, magazines, and other printed matter without Governmental restriction and subject only to the laws of libel, obscenity, sedition etc.

6.3.1 Freedom of Expression to Develop Social System in Nepal

Freedom of Expression gives special rights and duties to the media. The media inform society on matters of public interest and create an important platform for public debate, scrutiny and reflection. It gives Positive feeling for freedom and speech. Press has become the pawn of political parties

6.3.2 Future Prospects of Freedom of Expression in Nepal

'Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds to enjoy Freedom of Expression. We must understand the concept of duty and Government should be open, liberal and transparent. It will create transparency, good governance liberal and democratic Government.' It will help to practice Constitutionalism, section of power rule of law, independent judiciary and limited Government. It will help to create democratic values and norms.

According to some respondents, political situation is unpredictable in Nepal, which influences the media. It has not predicted about the future prospect practically because of media ownership, instability of political environment, lack of media literacy, manipulation of mind due to poverty by the higher class, lack of discipline in all civil sectors like leaders, bureaucrats while practicing democracy. Nepal is an under developed country so there can be unique situation.

Freedom of Expression have been excessively applied in Nepal, sometimes it is practiced out of code of conduct (Specially with the advent of online platforms) so some legal provisions might be necessary to take action against those activities which is unpredictable. As newer laws are going to make and people awareness are in increased so there is bright future.

6.3.3 Freedom of Speech and Privacy

According to the respondents, the relation between Freedom of Expression and privacy is interrelated. They are two sides of the same coin. There should be mutual and positive relationships between the right to privacy and freedom of expression. In order to practice true freedom of speech, particularly online, privacy is also required. Individuals who lack privacy are unable to think and talk freely, as well as develop their voices. Individuals would be unable to build their sense of independence without freedom of expression. As you increase freedom, you increase security and privacy and when you decrease freedom, you put security and privacy at risk

Freedom of speech should not concern with the privacy of people. Without privacy, individuals lack the space to think and speak without intrusion and to develop their own voice. Without freedom of expression, individuals would be unable to develop their sense of self. Privacy must make protected. A clear line must draw between these two. Speech relates with presenting the opinion freely. Privacy of people is more important than freedom of speech.

It depends on the issues of privacy and the consent either given or not given. Their saying "Freedom of Speech has ended, and the Right to Privacy has begun". Therefore, there is an interrelated relationship between them. The freedom should not violate other's rights or privacy. One should not put obstacles to others right to privacy saying he/she have right to Freedom of Expression. Freedom of speech should

limit to the privacy of people. However, there can be some restrictions in relation to national security. It must strengthen the justice and judiciary. Freedom of speech and privacy' considers the human rights that have built-in limitations.

The thrust of international human rights law for these rights is that limitations to rights must be justified by reference to pre-existing accessible laws that allow for proportionate action necessary to achieve a legitimate aim such as national security, public order, or the rights of others.

Without privacy, individuals lack the space to think and speak without intrusion and to develop their own voice. Without freedom of expression, individuals would be unable to develop their sense of self. Increase in freedom increases security and privacy and decrease in freedom will put security and privacy at risk. Both freedom of speech and privacy of people is fundamental right. Freedom of speech does not mean that one has right to interfere with one's privacy. Thus, people should enjoy the freedom of speech without disturbing the privacy of the people.

Freedom of speech and privacy is as important as the tip and ink for a pen. It depends on social condition with dignity of every individual. There must be an unbreakable relation between these two. Both of these two have guaranteed by Constitution. Both have considered as the foundation of democracy.

Before we use our freedom of expression, people should be aware of privacy. These are two sides of the same coin. Freedom of speech should not interrupt the right to privacy and in the name of right to privacy freedom of speech should curtailed. Privacy of individual should respect if it does not harm public. Private life and social life are different, so freedom of speech must be there in social life but not in private. The people have right to express our feelings without violating others' right, and

confidentiality. Protection of the source plays a very important role to enhance freedom of speech and privacy of the people.

Government has to respect the individual's privacy as well as to create the proper environment for entertaining press freedom. Unlimited freedom is not good to protect the right of privacy of the citizen. Everyone should be responsible and serious on the privacy right while, they are using the freedom of speech. While utilizing the right to Freedom of Expression, one's privacy should breach unnecessarily, it is inviolable in accordance with law.

6.3.4 Weaknesses in Existing Law for Protecting Freedom of the People

In the case of Nepal, the rule of law has declined due to prolonged political instability even after the periodic elections and formation of a majority Government at the center as well as in the provinces. Some laws are too much flexible in regard with violence, rape and murder case. Priority is given for personal benefit becoming voice of lower people are not heard, must be a celebrity to have a right to get what falls under one's rights. We are not being able to set the limitation. Laws are more ambiguous, no proper implementation of prevailing laws, difficult terminologies to understand by common people.

6.3.5 Participant's Feedback to Receive Information from Authority

Bureaucracy should efficient which has needed to improve the expression and true concept with the public. They need to take "right to information" seriously. Authorities try to give information lately to the public, especially official decision made by the Government. It depends upon many things. Much work has to do. Nowadays with the help of digital governance, information is accessible but needs more focus on illiterate people. Receiving timely information from the authority is not that easy in Nepal. They are not much cooperative. They need to share any kind of

good messages from social media or phone messages. They should be much more responsible and accountable than they are now. It is very difficult to get information from the authority. The authority feels supreme and is reluctant in discharging its duty. They are reactive and slow.

6.3.6 Problems and Challenges while Obtaining the Required Information

Government authorities are sometimes delaying in action and try to hide information. It takes a long, difficult and procedural system. The officials do not seem much interested in sharing information with the journalists. They often neglect those matters when one reaches to their doorsteps seeking some information. First of all, to get a right person for required information itself the biggest challenges while getting the required information. Primarily it is issues of trusts. We have to go for more than one media to trust any content. Mostly, it is correct but sometimes they just copy and paste and correct wrong information. Apart from this, we have to complete some procedures to get information. There is a lack of cooperation with authority and rigid behavior. They are mechanisms of Government Control over the Media, Criminal Defamation, Violence against Journalists, Limits on the Right to Information, Discrimination in the Enjoyment and Right to Freedom of Expression.

There is no access of internet and online information in village site of Nepal. Especially when the information has hidden by the interest groups, it is hard to achieve them. Government officials are serious to give and response information about the public concerned. There were no such problems and challenges while getting the necessary information. Media are bias and working as mouthpiece of political party. Same news has positively delivered in one media while it is delivered negatively in another. The main challenge is to which media we need to trust.

Less coverage, more than enough fake news, disinformation, misinformation, distortion of facts; lapdog media, city centric media are some of the problems which are found to be practicing Yellow Journalism. Government bodies are reluctant, confusion regarding who is supposed to disclose information. We have to develop the culture of information sharing system in each institute. Due to overload of information, it is Likewise to lead people to misinformation.

6.3.7 Status of Existing Administrative Systems and Procedures

People can easily express their opinions and they can take part everywhere in every competition. Administrative system even does not provide the information to the common people easily. In that context, we cannot think of administrative system creating space for preserving this right. Procedures have encouraged citizens to take part in Government activities like development and planning. However, the implementation part is not up to the mark. Now websites and social media pages are playing a satisfactory role for preserving this right. All Government offices have citizen charters and information officers to provide information and make easy procedures for service seekers. Going through the written provisions in the Constitution, it is good, but while going through practically, it is not as good as still majority are unaware of Freedom of Expression. Even in one family, out of 8 members hardly 2 members know about this. Out of two, second member just knows little bit. This means majority of people still cannot complain about misuse of Freedom of Expression to the Government administration or related body. People have right to express their opinion regarding the decision of the Government.

6.3.8 Successes and Challenges on the Freedom of Expression

The I increase of the number of media people through its enhancing the awareness level. There are also because of the challenge political influence. Current

human rights issues include poverty (particularly in rural areas), education disparities, gender inequality, health issues, and child rights violations allowing society to develop and progress and challenges. Article 16 to Article 46 of the Nepali Constitution guarantees 31 Fundamental Rights to Nepali people. These include freedom to live with dignity, Freedom of Expression, religious and cultural freedom, right against discrimination etc.

Article 48 describes duties of Nepali people. The core problems affecting the media in Nepal, as identified in the International Mission's report, are the inadequate legal guarantees for press freedom and access to information, as well as the climate of violence against journalists and the authorities' failure to bring perpetrators of attacks against journalist. The Constitution of Nepal has guaranteed the Fundamental Rights of citizens including freedom of expression.

Challenge is that Government and other entities try to put pressure for not publishing news and not to publish anything against them. Success is that now many people are aware of this right. Different political changes occur in Nepal are all because of the support of media. Right to Freedom of Expression as fundamental right and unavoidable rights are some successes whereas proper in fair use of this right. There is a broader expansion on this right to bring this right even to the grass root level's citizens are challenges. Constitution ensures Freedom of Expression as a fundamental right. Government bodies are not serious to ensure this right as a fundamental right and legal guarantees for press freedom and access to information. Constitution of Nepal has guaranteed Freedom of Expression in Nepal. This is a kind of success but its implementation is the challenge in Nepal.

People put their Facebook profile picture black to protest women violence. There is no difference on media and social media. Media scenario has developed. People can

easily express their opinions in a fearless, self-awareness manner. Challenges sometime it has personal impact, sometimes some privacy issues arise and remote areas people are still silent Because of the lack of literacy. Mentioned 'Complete Press Freedom' and several other provisions regarding freedom of information are the success. Improper implementation is the most challenging and there are many other. Media is effective to protect it but a still political party who is/are in power or their sister wings and some groups having access in criminality are some threats or challenges.

The Constitution of Kingdom of Nepal, 2047B.S (1990 AD), had guaranteed FOE and it had been applied practically. It poses the breach of privacy, which is one of the probable challenges of it. People can publish contents without any prior censorship challenges - maintaining code of conduct of journalism. The Freedom of Expression issues is of serious concern, as would be the introduction of any new media ordinance, decision or ruling that would alter or override existing media-related legislation. People's judgments and YouTube journalist and TikTok destroy the truth and freedom of expression. People have access to information and are the platform to speak like YouTube Facebook TikTok besides newspaper and radio. Success people are aware of challenge monitoring the online media.

6.3.9 Implementations of the Principles of Freedom of Expression

Table 6.18

Implementation of the Principles of Freedom of Expression

N=21

S.N.	Answers	Frequency	%
1	We cannot ignore the principles of ICCPR and other international conventions for free speech	20	95.23
2	We are committed for international Law	18	85.71
3	National laws are more controlled than present Constitution of Nepal	14	66.66
4	It has passes through long struggle	17	80.95
5	Now, it is more liberal environment	15	71.42
6	Right to hearing should be protected	8	82.05
7	Political transformation brings certain changes in political and ruling systems of the Government.	13	61.90

Note : % adds more than 100 due to the multiples responses.

Survey, 2022

This study has been found, majority (95.23 percent) of respondents said that the people have not fully ignored the principles of ICCPR and other international conventions free speech to implement Freedom of Expression. Similarly, 85.71 percent of the respondents have completed, Nepal has ratified international law relating to Freedom of Expression. So, we have to implement it properly. 82.05 percent of the respondents said, we have to protect “right to hearing” in our legal instrument properly to implement this right. Also, 80.95 percent of the respondents said, to get this right in our National Constitution, we had struggled many times, so, we cannot ignore it. 71.42 percent of the respondents have agreed to feel liberal environment to implement this right. Likewise, 66.66 percent of the respondents said, it is so hard to implement this right because National laws are more controlled than present Constitution of Nepal. Similarly, 61.90 percent of the respondents said that political transformation brings certain changes in political and ruling systems of the Government to ascertain this right.

This study has found, majority (95.23 percent) of respondents say that the people cannot fully ignore the principles of ICCPR and other international conventions for free speech to implement Freedom of Expression. Likewise, 66.66 percent of the respondents say, it has so hard to implement this right because National laws have more controlled than the present Constitution of Nepal. Similarly, 61.90 percent of the respondents said that political transformation brings certain changes in political and ruling systems of the Government to ascertain this right.

Table 6.19

Future in the practice of Freedom of Expression in Nepal

N=21

S.N.	Answers	Frequency	%
1	There will not be the representatives to raise their voice before the concerned authority	8	38.09
2	Everybody can express from their own media	14	66.66
3	Every human being will play the vibrant role	12	57.14
4	Future technology will determine it	18	85.71

Note : % adds more than 100 due to the multiples responses.

Survey, 2022

This study has found that, majority (85.71 percent) of the respondents believe that technology will determine the future practice of Freedom of Expressions. Similarly, 66.6 percent respondents have given the view that everybody can express form their own media in the future. Likewise, 57.14 percent respondents think that every human being will play a vibrant role in the future by using the Freedom of Expression. Equally, 38.9 percent respondents have given the view that there will not be the representatives to raise their voice before the concerned authority because everyone can raise their voice oneself.

This study has found that, majority (85.71 percent) of the respondents believe that technology will determine the future practice of Freedom of Expression. Equally, 38.9 percent respondents have given the view that there will not be the representatives to raise their voice before the concerned authority because everyone can raise their voice oneself.

Conclusion

Freedom of Expression has based on the philosophy of libertarian and social responsibility theory. It is also related with communication jurisprudence of Habermas. It has related with participatory law-making process. Concept of right to information has also related with this philosophy. This philosophy has related with transparency, rule of law, good governance, democracy, openness, liberalism, human right and so on. Libertarian theory only deals with liberty and freedom. There is no space for restriction on libertarian theory but social responsibility theory deals the freedom with responsibility. That is the philosophical base of Freedom of Expression. From the study, the implementation aspect of law relating to Freedom of Expression has not found satisfactory in the context of Nepal.

This philosophy has included in the Constitution and Law. However, the implementation aspect has found weak in Nepal. The law implementation body is also not efficient and positive towards the implementation aspect of this philosophy. People are not aware about their right properly.

There are difficulties in expanding this right to include citizen at the most basic levels. Although it is a success in certain ways, Nepal has difficulties in placing it into practice. Social media and media do not vary from one another. Among the various difficulties, improper implementation is the most difficult. One of its most Likewise difficulties is that it violates people's privacy. Even the administrative

system struggles to make information accessible to the public. People have the right to voice their opinions in relation to Governmental decisions.

According to the respondents, the relation between Freedom of Expression and privacy are interrelated. There should be mutual and positive relationships between the right to privacy and freedom of expression. Freedom of speech should not be concerned with the privacy of people. Without privacy, individuals lack the space to think and speak without intrusion and to develop their own voice.

The thrust of international human rights law for these rights is that limitations to rights must be justified by reference to pre-existing accessible laws that allow for proportionate action necessary to achieve a legitimate aim such as national security, public order, or the rights of others. Without privacy, individuals lack the space to think and speak without intrusion and to develop their own voice. Freedom of speech does not mean that one has the right to interfere with one's privacy.

Freedom of speech and privacy are as important as the tip and ink for a pen. These are two sides of the same coin. Freedom of speech should not interrupt the right to privacy and in the name of the right to privacy; freedom of speech should be curtailed. The Government has to respect the individual's privacy as well to create the favorable environment for entertaining press freedom. Unlimited freedom is not good for protecting the right of privacy of the citizens.

is 23.59. Its p -value is $0.033 < 0.05$ and p -value is $P=0.001 < 0.05$ shows significant relation.

Table 6.21

Association and Correlation between Concept of Freedom of Expression with Present Laws relating to Free Speech

Correlations between q1 and q24					N=333			
Questions	Mean	Std. Deviation	P	=Value		Value	df	Asymptotic Significance (2-sided)
q1	1.04	0.187	Pearson Correlation	.120*	Pearson Chi-Square	4.807 ^a	1	0.028
q24	1.44	0.497	Sig. (2-tailed)	0.028	Likelihood Ratio	4.891	1	0.027
			N	333	Linear-by-Linear Association	4.792	1	0.029
						N of Valid Cases	333	

$p=0.029 < 0.05$ shows significance relation between q1 and q24 and chi square test,

$P=0.028 < 0.05$ shows that the test between q1 and q24 is significant.

This research has directed to analyze within the Association and Correlation between Concept of Freedom of Expression with the people's recommendation to improve present laws relating free speech, the above table shows that it is significantly associated with each other. In this table, q1 and q24 significantly correlated with each other as per the mean value of Pearson correlation, it means Nepali people can provide good suggestions to improve present laws relating with Freedom of Expression in Nepal. Its p -value is $0.029 < 0.05$ and p -value is $P=0.028 < 0.05$ shows significant relation.

Table 6.22

Association and Correlation between Press Freedom and Democracy with the Role of the Press and Government to Create Free Environment for Exercising this Right

Correlations between q6 and q16								N=333
Questions	Mean	Std. Deviation		P=Value		Value	Df	Asymptotic Significance (2-sided)
q6	27.78	0.766	Pearson Correlation	.139*	Pearson Chi-Square ^a	14.062	4	0.007
q16	16.67	0.911	Sig. (2-tailed)	0.011	Likelihood Ratio	18.029	4	0.001
			N	333	Linear-by-Linear Association	6.374	1	0.012
						N of Valid Cases	333	

p=0.011 < 0.05 shows significance relation between q6 and q16 and In chi square test, P=0.007 < 0.05 shows that the test between q6 and q16 is significant.

The above table clearly shows significant relationship between the press and democracy in Nepal. Association and Correlation between press freedom and democracy relating to the role of the press and Government to create free environment for exercising this right the above-mentioned table shows it has significantly associated with each other. According to the table, q6 and q16 Pearson correlation with significant values, it means political system and environment to practice Freedom of Expressions are interrelated. Its $p=0.011 < 0.05$ and, $P=0.007 < 0.05$ shows significant relation.

Table 6.23

Association and Correlation between Present Social System and the Role of Media to Bring Social and Cultural Changes

Correlations between q7 and q14							N=333		
Question	Mean	Std. Deviation		P=Value	Value	df	Asymptotic Significance (2-sided)		
q7	30.44	0.807	Pearson Correlation	.127*	Pearson Chi-Square	24.684 ^a	6	0.000	
q14	13.33	0.643	Sig. (2-tailed)	0.020	Likelihood Ratio	23.884	6	0.001	
			N	333	Linear-by-Linear Association	5.357	1	0.021	
						N of Valid Cases	333		

p=0.020 < 0.05 shows significance relation between q7 and q14 and chi square test,

P=0.000 < 0.05 shows that the test between q7 and q14 is significant

While analyzing the Association and Correlation between, present social system and the role of media to bring social and cultural changes in Nepal, the above table shows it is significantly associated with each other. According to the table, q7 and q14 Pearson correlation provides significant values, it means present social system and the role of media to bring social and cultural changes are interrelated in Nepal. Its $p=0.020 < 0.05$ and, $P=0.000 < 0.05$ shows significant relation.

Table 6.24

Association and Correlation between Impact of Media Content and General Public is Informed about the Appropriateness of Decisions Taken by the Government on Time

Correlations between q13 and q20								N=333
Questions	Mean	Std. Deviation		P=Value		Value	d	Asymptotic
								Significance (2-sided)
q13	13.39	0.751	Pearson Correlation	.118*	Pearson Chi-Square	16.267 ^a	2	0.000
q20	1.59	0.493	Sig. (2-tailed)	0.032	Likelihood Ratio	16.871	2	0.000
			N	333	Linear-by-Linear Association	4.593	1	0.032
					N of Valid Cases	333		

p=0.032 < 0.05 shows significance relation between q13 and q20 and chi square test,

P=0.000 < 0.05 shows that the test between q13 and q20 is significant.

While analyzing within the Association, Correlation and relationship between the impact of media content and general public has informed about the appropriateness of decisions had taken by the Government on time, the above table shows it is significantly associated with each other. According to the table, q13 and q20 Pearson correlation with significant values, it means, impact of media content and general public is informed about the appropriateness of decisions taken by the Government on

time are interrelated. Its $p=0.032 < 0.05$ and, $P=0.000 < 0.05$ shows significant relation.

Table 6.25

Association and Correlation between Information System of the Media Relating to Accurate, Balanced and Creditable Information

Correlations between q12 and q18							N= 333		
Questions	Mean	Std. Deviation		P=	Value	df	Asymptotic Significance (2-sided)		
q12	13.33	0.716	Pearson Correlation	.135*	Pearson Chi-Square	92.803 ^a	4	0.000	
q18	16.56	0.882	Sig. (2-tailed)	0.014	Likelihood Ratio	41.952	4	0.000	
			N	333	Linear-by-Linear Association	6.071	1	0.014	
						N of Valid Cases	333		

$p=0.014 < 0.05$ shows significance relation between q12 and q18 and chi square test,

$P=0.000 < 0.05$ shows that the test between q12 and q18 is significant.

While analyzing within the Association and Correlation and relationship between, Present information system of the media and Rate the Role of media to disseminate news, views and opinion to the people for providing accurate, balanced and credible information, the above table shows it is significantly associated with each other. According to the table, q12 and q18 Pearson correlation with significant values, it means, Present information system of the media and Rate the Role of media

to disseminate news, views and opinions to the people for providing accurate, balance and credible information is interrelated. Its $p=0.014 < 0.05$ and, $P=0.000 < 0.05$ shows significant relation.

Table 6.26

Association and Correlation between Quality of Freedom of Expression in Nepal and Laws Relating to Freedom of Expression in Nepal

Correlations between q15 and q24								N=333
Quest ions	Mean	Std. Devia tion		P=valu e		Value	d f	Asympt otic Signific ance (2-sided)
q15	16.38	0.700	Pearson Correlati on	.121*	Pearson Chi-Square	8.240 ^a	2	0.016
q24	1.44	0.497	Sig. (2-tailed)	0.028	Likelihood Ratio	8.224	2	0.016
			N	333	Linear-by-Linear Association	4.831	1	0.028
					N of Valid Cases	333		

$p=0.028 < 0.05$ shows significance relation between q15 and q24 and In chi square test, $P=0.016 < 0.05$ shows that the test between q15 and q24 is significant.

While analyzing within the Association, correlation and relationship between quality of Freedom of Expression in Nepal has provided to the people as the Fundamental Rights and recommendation to improve the laws relating to Freedom of Expression in Nepal. The above table shows it is significantly associated with each other. According to the table, q15 and q24 Pearson correlation with significant values, it means, quality of Freedom of Expression in Nepal has provided to the people as the

Fundamental Rights and recommendations to improve the laws relating to Freedom of Expression in Nepal are interrelated. Its $p=0.028 < 0.05$ and $P=0.016 < 0.05$ shows significant relation.

Table 6.27

Association and Correlation between Access to Official or Unofficial Sources and Media Ownership

Correlations between q2 and q9						N=87		
Questi ons	Mea n	Std. Devia tion		P= Value	Value	d	Asymptot ic Significan ce (2- sided)	
q2	9.76	0.681	Pearson Correlation	.220*	Pearson Chi-Square ^a	33.181	6	0.000
q9	10.17	1.212	Sig. (2- tailed) N	0.041 87	Likelihood Ratio Linear-by- Linear Association N of Valid Cases	41.679 4.157	6 1	0.000 0.041

$p= 0.041 < 0.05$ which shows significance relation between q2 and q9 and In chi square test, $P=0.000 < 0.05$ shows that the test between q2 and q9 is significant.

Access to official or unofficial sources is generally used to control by media owners. Media ownership is highly concentrated and it influences diversity of content to influence the people. From the above table shows, it is significantly associated with each other. According to the table, q2 and q9 Pearson correlation with significant values, it means, access to official or unofficial sources generally controlled and

media ownership highly concentrated and influence diversity of content, are interrelated. Its $p = 0.041 < 0.05$ and, $P = 0.000 < 0.05$ shows significant relation.

Table 6.28

Association and Correlation between Access to Media Coverage and Extralegal Intimidation by State Authorities

Correlations between q5 and q7								
N=87								
Question	Mean	Std. Deviation		P=		Value	d	Asymptotic Significance (2-sided)
q5	10.00	0.792	Pearson Correlation	.222*	Pearson Chi-Square	23.726	6	0.001
q7	10.69	0.992	Sig. (2-tailed)	0.039	Likelihood Ratio	28.407	6	0.000
			N	87	Linear-by-Linear Association	4.235	1	0.040
					N of Valid Cases	87		

$p = 0.039 < 0.05$ which shows significance relation between q5 and q7 and chi square test, $P = 0.001 < 0.05$ shows that the test between q5 and q7 is significant.

While analyzing within the association, correlation and relationship between, access to media coverage and a range of news and information with journalists, bloggers, or media outlets are subjected to extralegal intimidation or physical violence by state authorities or any other actor. The above table shows it is significantly associated with each other. According to the table, q5 and q7 Pearson correlation with

significant values, it means, access to media coverage and a range of news and information with journalists, bloggers, or media outlets subject to extralegal intimidation or physical violence by state authorities or any other actor are interrelated. Its $p = 0.039 < 0.05$ and $P = 0.001 < 0.05$ shows significant relation.

Table 6.29

The State or other Actors' Attempts to Regulate the Media through the Distribution of Advertising Content are Linked to Both Official and Informal Censorship

Correlations between q3 and q11								N=87
Que stion s	Mea n	Std. Deviasi on		P= Value		Value	Df	Asympt otic Signific ance (2- sided)
q3	10.52	1.044	Pearson Correlation	.257*	Pearson Chi-Square	21.487 ^a	6	0.001
q11	10.59	1.196	Sig. (2- tailed)	0.016	Likelihood Ratio	22.066	6	0.001
			N	87	Linear-by- Linear Associatio n	5.687	1	0.017
					N of Valid Cases	87		

$p = 0.016 < 0.05$ which shows significance relation between q3 and q11 and in chi square test, $P = 0.001 < 0.05$ shows that the test between q3 and q11 is significant.

While analyzing within the association, correlation and relationship between, official and unofficial censorship with the state or other actors try to control the media through allocation of advertising contents. The above table shows it is significantly associated with each other. According to the table, q3 and q11 Pearson correlation

with significant values, it means official and unofficial censorship with the state or other actors try to control the media through allocation of advertising contents are interrelated. Its $p = 0.016 < 0.05$ and $P = 0.001 < 0.05$ shows significant relation.

Table 6.30

Association and Correlation between Constitution or other Basic Laws and Press Freedom

Correlations between q1 and q5								N=246
Question	Mean	Std. Deviation		P=	Value	D	Asymptotic	
				Value			Significance (2-sided)	
q1	9.63	0.596	Pearson Correlation	.149	Pearson Chi-Square	21.436	0.002	
q5	9.05	0.796	Sig. (2-tailed)	0.019	Likelihood Ratio	22.706	0.001	
			N	246	Linear-by-Linear Association	5.4751	0.019	
					N of Valid Cases	246		

$p = 0.019 < 0.05$ shows significance relation between q1 and q5 and in chi square test,

$P = 0.002 < 0.05$ shows that the test between q1 and q5 is significant.

While analyzing within the association, correlation and relationship between Constitution or other basic laws contain provisions designed to protect freedom of the press and Freedom of Expression, and they are enforced with crimes that threaten press freedom prosecuted vigorously by authorities, above table shows it is

significantly associated with each other. According to the table, q1 and q5 Pearson correlation with significant values, the Constitution or other basic laws contain provisions designed to protect Freedom of the Press and Freedom of Expression, and they are enforced with crimes that threaten Press Freedom Prosecuted vigorously by the authorities, are interrelated. Its $p=0.019 < 0.05$ and $P=0.002 < 0.05$ shows significant relation.

Table 6.31

Association and Correlation between Constitution and other Basic Laws and Access to Government Records and Information

Correlations between q1 and q28								N=246
Questi ons	Mea n	Std. Deviat ion		P= Valu e		Value	f	Asymptoti c Significanc e (2-sided)
Q1	9.63	0.596	Pearson Correlation	.157*	Pearson Chi-Square	52.29 1 ^a	4	0.000
Q28	16.10	0.907	Sig. (2- tailed)	0.014	Likelihood Ratio	42.42 8	4	0.000
			N	246	Linear-by- Linear Association	6.025	1	0.014
					N of Valid Cases	246		

$p=0.014 < 0.05$ shows significance relation between q1 and q28 and in chi square test, $P=0.000 < 0.05$ shows that the test between q1 and q28 is significant.

While analyzing within the association, correlation and relationship between Constitution or other basic laws contain provisions designed to protect freedom of the press and Freedom of Expression, and they are enforced with laws guaranteeing access to Government records and information. Above table shows it is significantly

associated with each other. According to the table, q1 and q28 Pearson correlation with significant values, the Constitution and other basic laws contain provisions designed to protect Freedom of the Press and Freedom of Expression which have enforced with laws to guarantee the access to Government records and information, are interrelated. Its $p=0.014 < 0.05$ and $P=0.000 < 0.05$ shows significant relation.

Table 6.32

Association and Correlation between the Supreme Court and Excessive Pressure from the Executive Branch

Correlations between q2 and q20					N=246			
Questi ons	Mea n	Std. Deviation		P= Value		Value	Df	Asympto tic Significa nce (2- sided)
Q2	9.60	0.603	Pearson Correlatio n	.130*	Pearson Chi-Square	26.440 ^a	9	0.002
Q20	9.04	0.752	Sig. (2- tailed)	0.042	Likelihood Ratio	25.466	9	0.002
			N	246	Linear-by- Linear Association	4.129	1	0.042
					N of Valid Cases	246		

$p=0.042 < 0.05$ shows significance relation between q2 and q20 and in chi square test, $P=0.002 < 0.05$ shows that the test between q2 and q20 is significant.

While analyzing within the Association, correlation and relationship between the Supreme Court, Attorney General, and other representatives of the higher judiciary support these rights, the members of the judiciary subject to excessive pressure from the executive branch, above table shows it is significantly associated with each other.

According to the table, q2 and q20 Pearson correlation with significant values, the Supreme Court, Attorney General, and other representatives of the higher judiciary support these rights that are the members of the judiciary subject to excessive pressure from the executive branch are interrelated. Its $p=0.042 < 0.05$ and $P=0.002 < 0.05$ shows significant relation.

Table 6.33

Association and Correlation between Journalists and Public Officials Subject to Prosecution

Correlations between q23 and q24									
N=246									
Ques	Mea	Std.		P=		Value	D	Asympt	
tions	n	Deviation		Value			f	otic	
								Significa	
								nce (2-	
								sided)	
q23	9.08	0.827	Pearson	.141*	Pearson	68.330 ^a	9	0.000	
			Correlation		Chi-Square				
q24	9.14	0.888	Sig. (2-	0.027	Likelihood	51.537	9	0.000	
			tailed)		Ratio				
			N	246	Linear-by-	4.871	1	0.027	
					Linear				
					Association				
					N of Valid	246			
					Cases				

$p=0.027 < 0.05$ shows significance relation between q23 and q24 and in chi square test, $P=0.000 < 0.05$ shows that the test between q23 and q24 is significant.

While analyzing within the Association, Correlation and relationship on journalists, they are able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost public officials subject to prosecution if they illegally refuse to disclose state documents, the above table shows

it is significantly associated with each other. According to the table, q23 and q24 Pearson correlation with significant values, journalists are able to secure public records through clear administrative procedures in a timely manner and at reasonable cost public officials subject to prosecution if they illegally refuse to disclose state documents, are interrelated. Its $p=0.027 < 0.05$ and $P=0.000 < 0.05$ shows significant relation.

6.4 Analysis from ANOVA

Comparison of within and between the group 1 (legal Aspect on Freedom of Expression in Line of global Context) with Group 2 (*Constitutionalism Aspect of Freedom of Expression in Nepal*) on the basis of Group 3 (*Implementation Status of Freedom of Expression with the Uses of Mass Media in Nepal*)

During the time of data collection, this study has found issues on gender biasedness to perceive information. This result is based on the participants who were taken for the study including general people, journalists, lawyers, human rights activists and political and other expert groups for collecting the accurate information. To know the actual findings of ANOVA test, three sets of the questions were divided equally into three different groups as per research objectives.

Table 6.34

ANOVA Analysis to Know Association and Correlations between and among the Groups

ANOVA (Between Group1 and Group 2 on the basis of group3)						
		Sum of Squares	Df	Mean Square	F	Sig.
group1	Between Groups	977400.954	51	19164.725	1529.598	0.000
	Within Groups	3520.721	281	12.529		
	Total	980921.676	332			
group2	Between Groups	799992.709	51	15686.132	415.393	0.000
	Within Groups	10611.153	281	37.762		
	Total	810603.862	332			

P=0.000 <0.05, test is significance between group 1 and group 2 at 5% level of significance. This shows that mean between group 1 and group 3 are different.

(Note: Group 1 = Legal Aspects on Freedom of Expression in Line of Global Context, Group 2 = Constitutionalism Aspect of Freedom of Expression in Nepal & Group 3 = Evaluate the Implementation Status of Freedom of Expression with the Uses of Mass Media in Nepal)

These repeated measures (ANOVA) on Group 1 and Group 2 have conducted on the basis of Group 3. From the above table, there Nepali Constitutional provisions of Freedom of Expression have been protected as per the international norms of open, liberal, transparent, plural democratic principles, which is the part of basic human rights of the people. Similarly, Constitutionalism aspect of Freedom of Expression has made the responsible, accountable, liberal, inclusive, transparent and lawful Government which is quietly related with the principles of

rule of law, equity, equality, good governance, full press freedom and human rights. As per the above table shows it is significant between group 1 and group 3 for group 1. There is 19164.725 mean value of between groups and 15.737 mean values of within groups. Whereas, its p=0.000. This shows that mean between group 1 and group 3 are different. Similarly, there is 15686.132 mean value of between groups and 37.762 mean values of within groups. Whereas, its p=0.000 for group 2 on the basis of group 3.

Table 6.35

Comparison within and between the Group 3 and Group 1 on the Basis of Group 2

ANOVA (Between Group3 and Group 1 on the basis of Group 2)						
		Sum of Squares	Df	Mean Square	F	Sig.
group3	Between Groups	1958095.348	80	24476.192	1555.324	0.000
	Within Groups	3965.733	252	15.737		
	Total	1962061.081	332			
group1	Between Groups	978126.310	80	12226.579	1102.216	0.000
	Within Groups	2795.365	252	11.093		
	Total	980921.676	332			

P=0.000 <0.05, test is significance between group 3 and group 1 at 5% level of significance. This shows that mean between group 1 and group 3 are significant, quite different with group 2.

(Note: Group 1 = Legal Aspects on Freedom of Expression in Line of Global

Context, Group 2 = Constitutionalism Aspect of Freedom of Expression in Nepal &

Group 3 = Evaluate the Implementation Status of Freedom of Expression with the Uses of Mass Media in Nepal)

These repeated measures (ANOVA) on Group 3 and Group 1 have conducted on the basis of Group 2. From the above table, there is a good and open environment for flourishing media freedom in Nepal. Nepali media are more credible to flow the accurate information to the people. That has created the aware citizens of the country. It has elected the right people in right place. That helps to create responsible and responsive Government. Constitutionalism aspect of Freedom of Expression use to make accountable and liberal Government. As per the above table shows there is significance between group 1 and group 3 for group 1. There is 24476.192 mean value of between groups and 15.737 mean values of within groups. Whereas, its p-value is 0=000. This shows that mean between group 3 and group 2 are different. Similarly, there is 12226.579 mean value of between groups and 11.093 mean values of within groups. Whereas, its p-value is 0=000 for group 1 on the basis of group.

Table 6.36

Comparison within and between the Group 2 and Group 3 on the Basis of Group 1

ANOVA (Between Group2 and Group 3 on the basis of Group 1)						
		Sum of Squares	Df	Mean Square	F	Sig.
group 2	Between Groups	798880.657	46	17366.971	423.686	0.000
	Within Groups	11723.205	286	40.990		
	Total	810603.862	332			
group 3	Between Groups	1956980.683	46	42543.058	2394.953	0.000
	Within Groups	5080.398	286	17.764		
	Total	1962061.081	332			

P=0.000 <0.05, test is significance between group 2 and group 1 at 5% level of significance. This shows that mean between group 2 and group 3 are significant with quite different with group 1.

(Note: Group 1 = Legal Aspects on Freedom of Expression in Line of Global Context, Group 2 = Constitutionalism Aspect of Freedom of Expression in Nepal & Group 3 = Evaluate the Implementation Status of Freedom of Expression with the Uses of Mass Media in Nepal)

These repeated measures (ANOVA) on Group 3 and Group 2 have been conducted on the basis of Group 1. Constitutionalism is the pillar of democracy. It protects basic rights of the people. Media can enjoy freedom as per the social norms. It protects press freedom and human rights constitutionally. From the above table, Nepali media have been fully protected legally and practically. Constitutionalism aspect of Freedom of Expression is used to make accountable, responsible and liberal Government and to develop democratic culture. As per the above table shows there is significance between group 1 and group 3 for group 2. There is 17366.971 mean value of between groups and 40.990 mean values of within groups. Whereas, its p-value is 0=000. This shows that mean between group 3 and group 2 are different. Similarly, there is 42543.058 mean value of between groups and 17.764 mean values of within groups. Whereas, its p-value is 0=000 for group 2 on the basis of group 1.

CHAPTER VII

FINDINGS, CONCLUSION AND RECOMMENDATIONS

7.1 Findings

Findings based on objective 1. (Nepali Legal and Constitutional Aspects on Freedom of Expression in line with Accepted Norms)

In the context of Nepal, this concept is accepted by the first Constitution of Nepal '*Nepal ko Baidhanik Sasan Bidhan, 2004 B.S.*' In Article 17 of *Nepal ko Interim Sasan Bidhan 2007*, there is the provision of Freedom of Expression. In Article 7 of Constitution of the Kingdom of Nepal 2015, there was the provision of Freedom of Expression but because of social economic, educational and technological reasons that provisions could not come into practice effectively. Though there are the provisions of Freedom of Expression in Article 11 in Constitution of Nepal 2019, because of the restrictive provisions relating to political party, press freedom could not be exercised properly.

From this point of view, Constitution of the Kingdom of Nepal, 2047 was a landmark document. Because of the provision of Constitution and legal provision, the sector of media has uplifted after 2047B.S. On the foundation of Constitution of the Kingdom of Nepal 2047, present Constitution has extended the provisions, so media sector seems to be flourishing in recent context. Constitutional provision relating to Freedom of Expression in Nepal is very liberal and progressive. It has taken very liberal approach for the protection of Freedom of Expression. In the Preamble of the Constitution, there is the provision of full press freedom. That shows the spirit of Constitution. This Constitution has wider approach for the protection of Freedom of Expression.

Article 17, 19, 27 and 28 of the Constitution has prioritized and given importance for Freedom of Expression. With the experience, the Constitutional provision has made wider liberal and practical provisions relating to this concept. The provision of Constitution of the Kingdom of Nepal, 2047 in Article 13 has misinterpreted during the royal takeover. So, Article 19 of present Constitution (Right to communication) has given wider protection for the media. After that provision, pre-censorship on the electronic media is not imposed and communication means cannot interrupt.

Another issue in this regard is Constitutional remedy of Article 46, 133, 144 and 151 of present Constitution of Nepal. It has known as writ jurisdiction of the court. It is fast and easy way to implement the fundamental right of the Constitution. Our judiciary is progressive to lay down the principle to implement Freedom of Expression as a fundamental right of the Constitution. Only the Constitutional provision is not sufficient for making the environment of Freedom of Expression. The social, political, economic, technological and cultural environment should be favorable to create level of acceptance by the society. It could sum up that a culture of Freedom of Expression would be essential to uphold the Constitutional quest.

Nepal has enacted Printing and Publication Act, 1992, National Broadcasting Act, 1993, Working Journalist Act, 1993, Press Council Act, 1992, Gorkhapatra Corporation Act, 1963, National News Agency of Nepal Act, 1962, Communication Corporation Act, 1972, Copy Rights Act, 2002, Radio Act, 1957, Long Term Communication Policy, 2002, Right to Information Act, 2007, Electronic Transaction Act, 2006, and Libel and Slander Act, 1959. All these laws and regulations directly or indirectly control and regulate Nepali public communication system. Likewise, Telecommunication Act, 1997, Motion Pictures (Production, Exhibition and

Distribution) Act, 1969, Nepali Language Publication Corporation Act, 1964, Postal Act, 1963 are also important enactments to regulate the communication sector of Nepal.

Existing laws are not sufficient to address the present need of the society. New laws should be formulated and existing laws should be amended according to the spirit of the Constitution and the need of the society to enjoy the Freedom of Expression. New institutions should be established and existing institutions should be strengthened to implement the Constitutional and legal provisions relating the Freedom of Expression in the context of Nepal. With the advancement of information technology, media environment has changed tremendously in the context of Nepal. In such environment, laws and policies should formulate to address such environments.

Various United Nations treaties protect the right to freedom of expression. Sovereign states sign international treaties and deposit them with the United Nations. International human rights treaties signed by States Parties set out how their governments should act to respect, protect, monitor and enforce the human rights and fundamental freedoms outlined in the treaty. It is a declaration that a contracting party ratifies the treaty subject to the exclusion or modification of certain provisions relating to the application of the treaty to that country. For the purposes of this introduction, the UN-based treaties below apply only to those countries that have signed and ratified, and have not made reservations, specific provisions protecting the freedom.

The right to Freedom of Expression is stated in Article 19 of the International Covenant on Civil and Political Rights (ICCPR, 1966) under the same general terms as the 1948 Universal Declaration of Human Rights. Article 19 of the ICCPR (1966) includes the right to receive information as well as the right to express opinions and

ideas (ICCPR, 1966). This right includes the freedom to seek, receive and communicate information and ideas of all kinds, whether orally, in writing, in print, in the form of art or in any other medium of your choice, regardless of national borders.

ICCPR (1966) requires the state party to report to the United Nations Commission on Human Rights within one year of its entry into force, and thereafter whenever the Commission so requests, on the progress made in realizing the rights contained therein obliged to do so. The ICCPR includes an Optional Protocol, which enables individuals to launch complaints to the UN Human Rights Committee. By signing and ratifying the Optional Protocol, states recognize the jurisdiction and competence of the Human Rights Committee to receive and consider complaints from individuals who claim that the State has violated their rights under the Convention (ICCPR1966).

Each of the treaty bodies (for example, the Human Rights Committee for the International Covenant on Civil and Political Rights (1966) or the Committee on Economic, Social and Cultural Rights for the International Covenant on Economic, Social and Cultural Rights (ICESCR)) publish “general comments” or “general recommendations,” which are an authoritative (though not technically binding) interpretation of the provisions within each respective treaty. General Comment is a document adopted by the UN Human Rights Committee in July 2011 that gives States more specific guidance on the proper interpretation of Article 19 of the ICCPR (ICCPR1966). General Comment No. 34 strengthens the protection of this fundamental human right by outlining the right to Freedom of Expression in practice. It provides authoritative interpretations of freedom of speech, opinion, opinion and media, rights of access to information, Freedom of Expression and political rights, as well as specific applications of Articles and their restrictions.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to Freedom of Expression under Article 15(3), "The States Parties to this Covenant undertake to respect the freedoms essential to scientific research and creative activity."

The ICECR has signed and ratified by 163 States Parties. According to ICESCR, the state must submit her report in two parts: The first is a common core document containing general information on the reporting status and related frameworks for the implementation and promotion of human rights. The second is a treaty-specific document containing specific information on the implementation of Articles 1 to 15 of the ICECR (ICESCR, 2009). The concept of freedom of expression, as a branch of human right and as universal values, is greatly provisioned in the Constitution of Nepal.

It has originated from Natural school of jurisprudence, everyone is entitled to enjoy right to hold their own opinions, and the right to get, analyze and share information and ideas. It is not only the right of journalist. It is the right of every citizen. For journalists, this right is essential to collect the fact, analyze the fact and share the free, fair and independent news. Without this freedom, we cannot get information from public officials. Journalist cannot aware without it, people so this right is important in democratic society. Media freedom and democracy are interrelated and interconnected to each other.

Article 19 of UDHR declares the general principle on the right to freedom of information and expression to all individuals without any interference. This includes the right to get, analyze and share information and ideas through media across the world, (Art 19 of UDHR) Article does not impose any limitations in the exercising of this freedom. Article 29 (2) and (3) covers the general limitations for all rights and

freedoms contained in UDHR including the freedom of expression. It has Article 19 of ICCPR that precisely put out this freedom together with limitations. Everyone shall have the right to hold opinions without any interference. It includes freedom to search, analyze and share information and ideas of all kinds, orally, either in writing or in print, in the form of art, or through any means. The right can be subject to certain limitation for example national security, law and order, official secrecy, contempt of court, defamation and copy right.

The ICCPR also establishes the Human Right Committee, which monitors the implementation of rights found under the Covenant (Part IV of ICCPR). The concept of freedom of speech originated from natural school of jurisprudence. It has later expanded gradually by Magna Carta, the United States Bill of Rights, and the French Declaration of the Rights of Man and the Citizen 1789. These declarations reshaped the principle of Freedom of Expression in the era of United Nation from 1946 till 1948 when finally, it was agreed and the provision of Freedom of Expression was included in the UDHR of 1948.

Court is the sources of Law according to the realist school of thought. Common legal system developed through the judicial decisions of the judge of United Kingdom. In the course of the history, the court of the different countries in the world has given the landmark decisions by laying down the principles in the favor of speech and expression. That helps to develop the communication jurisprudence in these fields. History of Freedom of Expression has taken as the history of struggle for the freedom movement entire world. In that course, the above discussed decisions became the milestone to make principle of Freedom of Expression.

This research has looked at the actual status of the Freedom of Expression and its implementation part. According to this survey, among the participants, less than

hundred percent (96.4%) respondents have found hearing good awareness level on the provision of Freedom of Expressions. Only less (3.6%) respondents do not have the knowledge on the provision of Freedom of Expression. Similarly, majority of the respondent 79 percent have the knowledge of laws relating to Freedom of Expression but 21 percent respondents do not have the knowledge of legal instrument in Nepal. Study shows that Majority (69.4%) of the respondents are aware about legal provisions relating to Fundamental Rights.

The study has explored the knowledge on Freedom of Press among the people. More than clear majority (53.5%) respondents have said that they use freedom of information to be known as fundamental rights. Likewise, only 8.1% of the respondents said “this is natural rights”. Accordingly, more than half of the respondents (50.2 %) think that there is a liberal democratic system in Nepal. Only the 1.5 % respondents think that there is an authoritarian system in Nepal. Democracy and freedom are the most important parts of Freedom of Expression. 42.6 (142) percent of the respondents have supported that freedom and democracy are interrelated with each other. Similarly, 20% respondents believe that Democracy enhances the freedom of the press in each case so; we have to focus on it.

The study shows that, majority (73.3 %) respondents have given the view that Freedom of Expression can play a positive role to develop the present social system in Nepal. Likewise, 2.7 % respondents think that Freedom of Expression can play a Negative role in the context of Nepal. Similarly, majority (42 percent) respondents have given the opinions that Nepali society has become liberal with consequences of freedom of press. 8.1 % respondents think that Nepali society has become fully responsible with consequences of freedom of press. Similarly, majority (37.8 percent) respondents say that future prospect of Freedom of Expression in Nepal is bright. A

few respondents (7.2%) have been pessimistic about the future prospects of Freedom of Expression in Nepal. Majority (87.1%) respondents are aware about Freedom of Expression as a legal Right.

The study has found that, majority (83.8%) respondents feel information provided by the media to the people as good. Few 4.5% respondents feel Information provided by the media to the people very good; majority (81.1%) respondents have given the view that present information system of the media is good. Whereas, (4.5%) respondents think that current information system of the media has been found very good. Majority (77.5%) respondents think that impact of media content was good. Accordingly, 6.3% respondents think that impact of media content was very good. Likewise, majority of the respondents (76.9%) have thought that there is good role of media to bring social and cultural changes. Nevertheless, 9.6% respondents have opposed to it.

The study shows that, majority (74.5%) respondents feel that Quality of Freedom of Expression has provided to the people as the Fundamental Rights is satisfactory. 12.6% respondents feel that quality of Freedom of Expression in Nepal provided to the people as the Fundamental Rights is poor. Conversely, majority (63.1%) respondents realize that Role of the press and Government to create free environment for exercising this right is satisfactory. Least of the respondents (6.6%) say that role of the press and the Government to create free environment for exercising this right is excellent. The study shows that, 76.3% respondents found that experience of right to Freedom of Expression is satisfactory. Least (5.7%) of the respondents found that experience of Right to Freedom of Expression is excellent. Majority (70.9%) respondents say that Role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is

satisfactory. Accordingly, 2.7% respondents say that Role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is excellent.

The study shows that, majority (56.5%) respondents think that the existing administrative systems and procedures offer enough opportunities to the citizens to participate in Government activities for preserving this right. Majority 58% respondents believe that the public has been informed about the appropriateness of decisions taken by the Government on time. Majority (81.7%) respondents have given the view that Freedom of Expression is a major instrument to preserve democratic norms and values. Equally, 83.8% respondents believe that legal instrument of Freedom of Expression will develop social awakening about the rights amongst the citizens. Study shows that, majority of the respondents have recommended improving the laws relating to Freedom of Expression in Nepal. 88 % respondents think that Media have to utilize this right fully to disseminate accurate, balance and credible content for strengthening democracy in Nepal.

The study shows that majority (69%) of the people believes that Nepali Constitution and other laws relating to Press Freedom and Freedom of Expression has been protected fully. Only 6.1% of the respondents did not fully agree. Majority (62.2%) respondents believe that the Supreme Court, Attorney General, and other representatives of the higher judiciary body support these rights in most of the cases.

Least of the respondents (1.2 percent) believe that the Supreme Court, Attorney General, and other representatives of the higher judiciary support these rights. In the same way, 42.7% of the respondents believe that sometimes the judiciary obstructs the implementation of laws designed to uphold these freedoms. In the same footing 16.3% respondents have given the view that judiciary never obstruct

the implementation of laws designed to uphold these freedoms. 43.9% respondents believe that crimes that threaten press freedom prosecuted vigorously by authorities. Only 2.4% respondents think that crimes, which have threatened press authorities, should control freedom vigorously. The study shows that 36.2% respondents believe that there is an implicit impunity for those who commit crimes against state. Only 8.5% respondents never believe so. 43.1% of the respondents realize that laws restrict reporting on ethnic or religious issues, national security, or other sensitive topics. Likewise, 13% respondents realize that laws restrict reporting on ethnic or religious issues, national security, or other sensitive topics rarely. Study shows that, majority (48%) respondents believe that penalties for ‘irresponsible journalism’ are applied rarely. In the same manner, 11% respondents realize that penalties for irresponsible journalism are never applied. As per the findings of this study, 43.1% respondents believe that restrictions of media freedom, narrowly circumscribed. Majority of the respondents said the authorities restrict or impede legitimate press coverage in the name of national security interests. 56.1% respondents have emphasized that journalists rarely prosecuted or jailed on the basis of their writing. Correspondently, 6.5% respondents realize that in the most of the cases journalists prosecuted or jailed as a result of what they write in the context of Nepal

The study shows that majority of the respondents (45.5%) are of different perceptions about the writers, commentators, or bloggers subject to imprisonment or other legal sanctions because of accessing or posting material on the internet. There are excessive pressures to reveal sources, resulting in punishments such as jail sentences, fines, or contempt of court charges to the concerned authorities. 41.9% were committed in these notions. Public officials have to protect insult or defamation laws to provide justice practically. These are the fundamental principles of public

officials. As much as the study is concerned, majority of the respondents (54.9%) feel that public officials have to protect the slander or defamation laws to prevent from misusing the freedom. Only 6.1% of the respondents are supported. Half of the respondents (50.3%) said defamation laws routinely are used to shield officials' conduct from public scrutiny sometime. Only 4.9% of the people were found strongly opposing these perceptions.

As per the findings of this study, 41.9% respondents believe that sometimes there is a legally mandated 'right of reply' that overrides independent editorial control. Accordingly, 17.9% respondents never believe that there is a legally mandated 'right of reply' that overrides independent editorial control in the context of Nepal. In the context of Nepal Libel is a criminal offence, according to the law. In the study, majority of the respondents (45.5%) believe that libel is a criminal rather than a civil offense. Accordingly, 11.8% respondents never think that libel is a criminal offense.

Defamation is one of the limitations of press freedom. 43.9% of the respondents have said that journalists or bloggers have rarely prosecuted and jailed for libel or defamation. Likewise, 3.7% of the respondents said journalists or bloggers used to be prosecuted and jailed for libel or defamation in most of the cases. More than two out of five (45.1%) of the respondents said there are provisions of which are fines routinely imposed on journalists or media outlets in civil libel cases in a partisan with the intention of bankrupting the media outlet or deterring future criticism. 17.9% of the respondents absolutely disagreed on the statement. Only 4.9% respondents say it happens in most of the cases to the journalist. Members of the judiciary are subject to excessive pressure from the executive branch. Majority (58.1%) of the respondents supported this notion. Only 4.9% of the respondents totally disagreed on the above

perceptions. More than three out of five (63.4%) respondents say rights to Freedom of Expression and information has recognized as important among members of the judiciary in most of the cases. Only 2.4% of the respondents do not support this view. In the context of Nepal, 43.1% respondents believe that sometimes their improper use of legal action or summonses are against journalists or media outlets (e.g. being subjected to false charges, arbitrary tax audits etc. The least of the respondents (4.9%) never think that in the most of the cases. It has been found the improper use of legal action or summonses against journalists or media outlets.

There are Constitutional and legal provisions to protect the right to information. The study shows that 42% respondents believe that sometimes journalists are able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost. 3.7% of the respondents strongly opposed on these perceptions. More than two out of five (41.5%) of the respondents supported that public officials subject to prosecution if they illegally refuse to disclose state documents. Only 7.3% respondents were found not to have supported the above-mentioned notion. 48.4 percentage of the respondents did not support that security laws, or any other laws have restricted reporting and sanction journalists or bloggers. Only, 4.9% of the respondents have negative marking on this. Nepal has liberal press law because of the democratic republic country. 61% of the respondents have said that there are not any restrictive press laws in Nepal. 3.7% of the respondents have said Nepal has not restrictive press law.

Findings based on objective 2. (Practices of Freedom of Expression in Nepali Media)

The study shows that Majority (74.4%) respondents have given the view that there is Freedom of Information legislation and journalist's ability to make use of it in

Nepal. Similarly, 2.4% respondents never believe that there is Freedom of Information legislation and journalist's ability to make use of it in Nepal. More than two third majority (75%) respondents believe that there are laws guaranteeing access to Government records. Accordingly, 2.4% respondents believe that there are never such laws in Nepal. Freedom of Expression is not unlimited. It has some limitations. Majority (51.6%) respondents agree with that view.

Accordingly, 2.4% respondents never think so. Majority (76%) of the respondents agree that there is a linkage of Freedom of Expression with the transparency and good governance. Only, 2% respondents never agree with that. More than 3 out of fourth (75.9%) of the respondents support that sometimes media outlets' news and information content determined by the Government or a particular is of partisan interest.

The study shows that Majority (58.6%) respondents believe that sometimes access to official or unofficial sources is generally controlled in the context of Nepal. Likewise, 3.4% respondents never believe and same percent of the respondents rarely believe it. They opine that there should not be official and unofficial censorship in the media. Majority of the respondents (58.6%) say that sometimes there is official or unofficial censorship of media content in Nepal. Least (10.3%) respondents mostly believe the situation of censorship in the context of Nepal. Majority (51%) respondents believe that rarely journalists practice self-censorship in Nepal. In other words, 6.9% respondents think that journalist never practice self-censorship. Two third of the majority (69%) of the respondents have supported that sometimes people have access to media coverage and a range of news and information that is robust and reflects diversified views.

Similarly, 10.3% of the respondents have said people have access to media coverage and a range of news and information that is robust and reflects a diversity in their views but in rare cases it has happened. Majority (58.6%) of the respondents have said in terms of harassment and physical access local and foreign journalist are sometime able to cover the news independently. Similarly, 20.7% respondents supported in that particular option "rarely".

Majority (58.6%) of the respondents say sometimes journalist, bloggers, or media outlets are subjected to extralegal intimidation or physical violence by state authorities or any other actor. Similarly, 3.4% of the respondents have ticked in the same way into the option "mostly and never". 44.8% of the respondents have committed that sometimes media ownership seems transparent. 6.9% of the respondents said in most of the cases it used to happen. Media ownership is highly concentrated to influence the diversity of content. 37.9% of the respondents had strongly supported on this perception. Only 27.6% of the respondents have ticked option "Rarely". 41.4% of the respondents said there were sometimes the restrictions on the means of news production and distribution of news contents. Only 6.9% of the respondent's ticked option "Mostly". 41.4% of the respondents said there were the restrictions on the means of news production and distribution of news contents sometimes. Only 6.9% of the respondent's ticked option "Mostly".

The study shows that, 37.9% respondents say that the state dominates the country's information system. In the same vein, 10.3% respondents never think so. Most of the respondents (58.6%) said there were independent or opposition print media outlets in Nepal to exercise Freedom of Expression. Likewise, 17.2% of the respondents said sometimes there were independent or opposition print media outlets. For and against (48.3% of the respondents) equally said there were state monopoly on

TV and Radio exist. Two third (79.3%) of the respondents have positive responses. Similarly, 6.9% of the respondents said it never happened.

Everyone has the right to Freedom of Expression that includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority. Freedom of speech is ensured by the present Constitution through Fundamental Rights of the Citizens. The Constitution of Nepal guarantees the Freedom of Expression in media; media should not be subject to direct censorship, Freedom of the press or freedom of the media is the fundamental principle that communication and expression through various media, including printed and electronic media, especially published materials should consider a right to exercise freely. There are several theories but Nepal is guided by social responsibility theory. Press Freedom and Democracy are the two wheels of the cart. To have a true democracy; press freedom is a must. Democracy enhances the freedom of the press in each case. Democratic system needs to guarantee press freedom. Press is the watchdog and third eye of democracy. So, they are both interrelated. The media informs society on the matters of public interest and creates an important platform for public debate, scrutiny and reflection.

Freedom of Expression has been excessively applied in Nepal. Sometimes it is practiced out of code of conduct (especially with the advent of online platforms) so some legal provisions might be necessary to take action against those activities, which are unpredictable. As newer laws are going to make people more aware so, there is a bright future

Findings based on objective 3. (Evaluation of implementation of Legal guarantee of Freedom of Expression in Nepal)

A clear line must be drawn between implementation of legal guarantee and Freedom of Expression in Nepal. Speech relates with presenting one's opinion freely whereas privacy is a choice in which an individual gets to choose what not to speak about or share about them. In the name of freedom of speech personal privacy need not to be hindered. Privacy of people is more important than freedom of speech.

Theoretically, it is a strong provision relating to Freedom of Expression but practical aspect is weak in the context of Nepal. In reality, freedom of speech has practical limitations. Knowingly or unknowingly practiced of freedom of speech is not that good. There are many bottlenecks. People should be provided education to make aware Freedom of Expression across the nation in equitable manner, replace current politician by youth, effective performance by bureaucrats, free and fair media etc. In order to bring positive, the awareness of freedom of speech, There should be the necessary efforts from the concerned bodied so that people will be conscious of their rights.

Media have good coverage of events in the context of Nepal. As media are popular these days, media cover most information about events. In the present context due to conflict-of-interest media seems to have concealed the information which is to be media coverage is mainly found to have disseminated covered Kathmandu and other main cities. Media have not covered the events` properly. The situation of the freedom to speech has pretty much maintained in Nepal. Press must have independent thought and clear vision of content without any suppression and biasness. So that there may be the free flow of information provided by law, as all citizens can seek information related to their personal or public concerns,

journalists are free of availing information from the concerned parties. It is very difficult to get information from the authority. The authority feels supreme and is reluctant in discharging his/her duty. They are reactive and slow. Information has not been provided in time and sometimes even fabricated. The information has to provide timely by the authority so that the public would be vigilant.

All citizens can express what they think and feel about Governmental decision and context. So, Freedom of Expression is a major instrument, which will preserve democratic norms and values. With Freedom of Expression, people can voice their opinions. Good governance can consider only if there is awareness in people. Good governance will always drive a good system and execution. Awareness brings changes in mentality of the society. Democratic Government knows well the value and importance of equality. It might bring change in policy. Higher the awareness level better is the sign of good governance.

The actual threat to the media and people for utilizing this right are capital, political pressure, fake news and misguidance. Journalists can face violence and intimidation for exercising their Fundamental Rights to freedom of expression. Threats of legal action against journalists, sources, of news outlets are often used as a way to silence reporting. Fake news, misinformation and defamation have seen to be the actual threat to the media and people for utilizing this right. There is also threatening and intimidation by illegal armed group. People's privacy should not be violated, journalists face countless threats every day, ranging from kidnapping, torture and arbitrary detention to disinformation campaigns and harassment, especially on social media. Women journalists are at high risk. Political parties give undue pressure. Media outlets will be in their favor. The induce and intimidate the

journalist, so that they will be used in their favor and not go against them. Poverty, corruptions and party press are always the threats for healthy journalism.

According to the participants, there are clear linkages between Freedom of Expression and maintenance of transparency and good governance. Freedom of Expression has protected constitutionally. It helps to maintain good governance of the country. Freedom is the foundation for transparency and good governance. We have provision in laws, Constitution (Article 19 and Article 27 respectively) communication act and so many provisions are related to media and communication. Freedom of Expression helps to share the information regarding right to inform people and enable them to decide what is wrong and what is right.

The characteristics of good governance are participation and right to speech and expression. The right to information at the right time makes a citizen well informed. Well-informed citizens are the pillars of good governance, transparency and good democratic culture. The Freedom of Expression helps to ensure transparency. Freedom of Expression makes the society more transparent and leads towards good governance. That leads towards peace, prosperity and happiness in the society. It helps to reduce corruption and helps in good public service delivery.

It helps to establish the rule of law in Nepal. Media is the strong power of good governance. In the context of Nepal, it is a fourth organ of the Government. That is why the content of media should be so clear, no more sensitive and should be based on fact. Otherwise, there would be negative impact. Rule of law is directly related to the good governance and the civic rights. That is why, hassle free access to information helps in better system. It has helped to maintain democratic society. It minimizes impunity. There is an outstanding provision in laws but seen lacking

into practice. Citizens can warn and check & balance about the abuse of power by any of the organ of the Government via help of these rights.

Cautious restrictions are required in some issues like nationality, about head of state, libel, offensive, discriminatory, prejudice, defamation, privacy, and public order-related issues. However, such restrictions should not go beyond the democratic norms and values. We have right to equality, right to freedom of speech. Nevertheless, sometimes we should face the limitations because of right to privacy. It should be founded on the citizens' rights and responsibilities.

Freedom of Expression should not be used to affect in someone's character for no reason. This should strictly come under the ambit of punishment. The use of media, so called you tube, channels, these platforms must be regulated by law.

This study has found, majority (95.23) percent of respondents said that the people could not fully ignore the principles of ICCPR and other international conventions on free speech to implement Freedom of Expression. Likewise, 66.66 % of the respondents said, it is so hard to implement this right. Similarly, 61.90 % of the respondents say that political transformation brings certain changes in political and ruling systems of the Government to ascertain this right.

There is not proper practice of Freedom of Expression. The Government has to provide an open and liberal environment for providing rights for people. There are alternative thoughts for every citizen. This study has found that, majority (85.71 %) of respondents have that 14th Limitations for free speech are there in present Constitution. Whereas, 42.85 % respondents think about Current Constitution of Nepal is comparatively regressive than the Constitution of 2047 of Nepal. Majority of respondents (90.47 %) have said those Political leaders are manipulating the people in wrong way. Minority of the respondents (19.4%) think that there is a problem in the

practice of Freedom of Expression. Similarly, majority of the respondents (57.4 %) have given their views that it is a great challenge to protect right to privacy of the people, which is also the fundamental right of the people. In this study, 23.8 % respondents have given the opinion that misuses the Freedom of Expression, which creates bad effects on the case proceeding in the court.

As per the finding of the study, majority (85.71 %) of the respondents believe that technology will determine the future practice of Freedom of Expression. Equally, 38.9 percent respondents have given the view that there will not be the representative to raise their voice to the concerned authority because everyone can raise their voice oneself. Majority of respondents (80.95%) says that Nepali press and judiciary are equally moving ahead to protect the Freedom of Expression in the context of Nepal. Such as, 47.61% respondents give the response that Judiciary should move as per the spirit of the people and there should be good intentions while practicing Freedom of Expression. Majority of (85.71 percent) respondents realize that executive is not positive for the press freedom in the context of Nepal and it is irresponsible to the democratic norms and values. Likewise, 61.9 percent respondents believe that executive should amend the law as per the conditions with the help of parliament. As well, 47.61 percent respondents accept that executive has to implement the law properly.

The study shows that, majority of (85.71%) respondents have realized that Mass media has to be best platform of protecting free speech and expression. Similarly, equally, 47.61% respondents define freedom as per the interest of the Government in the context of Nepal. In the same way, 42.85% respondents realize, that Understanding level of Nepali mass media is very weak. In the same way, majority (95.23%) respondents think that Constitutional provision of Article 17 (2)

(A) has sufficient rights for the Freedom of Expression in Nepal. Similarly, 90.47 percent respondents believe that it has given high priority to the Freedom of Expression. In such a way, 85.71 percent respondents think that practically it has to focus on its free practices.

Media has to be accountable and responsive towards the society. There is a good relationship between press freedom and judiciary. Government has to provide open space for public hearing to protect Freedom of Expression. It has to be responsive. Democracy is depended on the free thoughts of the people.

Discussions

Freedom of Expression is a major right in democratic countries to provide independent environment to the press and the people. This study finds that among the participants, almost hundred percent (96.4%) respondents have found in good awareness level regarding the provision of Freedom of Expressions. Only fewer (3.6%) respondents did not have the knowledge on the provision of Freedom of Expression. Majority of the respondent 79 percent have the knowledge of laws relating to Freedom of Expression, but 21 percent respondents do not have the knowledge of legal instrument in Nepal. Similarly, most of the respondents (69.4%) out of 233 respondents are aware about legal provisions on Fundamental Rights. This study also focuses to explore the knowledge on Freedom of Press among the people. More than clean majority (53.5%) respondents said that they use freedom of information to be known as fundamental rights. Likewise, only 8.1% of the respondents said “this is natural rights”.

The study shows that more than half of the respondents 50.2 Percent 167 respondents think that there is liberal democratic system in Nepal. Only the 1.5 percent respondents think that there is authoritarian system in Nepal. Democracy and

freedom are the most important parts of Freedom of Expression. 42.6 (142) percent of the respondent, supported that freedom and democracy are interrelated with each other. Similarly, 20% respondents believed, democracy enhances the freedom of the press in each case. Majority (73.3 percent) respondents have given the view that Freedom of Expression can play a positive role to develop the present social system in Nepal. In another way, 2.7 percent respondents think that Freedom of Expression can play a negative role in the context of Nepal. The study shows that, majority (42 percent) respondents have given the opinion that Nepali society has become liberal with consequences of freedom of press. 8.1 percent respondents think that Nepali society has become fully responsible with the consequences of freedom of press. The study shows that, majority (37.8 percent) respondents say that future prospects of Freedom of Expression in Nepal are bright. A Few of the respondents (7.2 percent) are pessimistic about the future prospects of Freedom of Expression in Nepal. The study shows that, Majority (87.1Percent) respondents are aware about Freedom of Expression as a legal Right.

The study has found that, majority (83.8 percent) respondents feel information provided by the media to the people good. A few (4.5 percent) respondents feel information provided by the media to the people very Good. The study found that, majority 81.1 percent respondents have given the view that present information system of the media is good. Whereas, 4.5 percent respondents think that Present information system of the media is Very good. Similarly, majority (77.5 percent) respondents think that impact of media content is good. Accordingly, 6.3 percent respondents think that impact of media content was very good. The study shows that, majority of the respondent (76.9%) have thought, there is a good role of media to bring the social and cultural changes. Nevertheless, 9.6% respondents do not think so.

The study shows that, majority (74.5 percent) respondents feel that quality of Freedom of Expression in Nepal provided to the people as the Fundamental Rights is satisfactory. 12.6 percent the of respondents feel that quality of Freedom of Expression in Nepal provided to the people as the Fundamental Rights is poor.

The study shows that, majority (63.1 percent) respondents realize that role of the press and Government to create free environment for exercising this right is satisfactory. Least number of the respondents (6.6 percent) says that Role of the press and Government to create free environment for exercising this right is excellent. The study shows that, 76.3 percent respondents found that experience of right to Freedom of Expression is satisfactory. Fewest (5.7 percent) of the respondents have found that experience of Right to Freedom of Expression is excellent. The study shows that, majority (70.9 percent) respondents say that role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is satisfactory. Accordingly, 2.7 percent respondents say that Role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is excellent.

The study shows that, majority (56.5 percent) respondents think that the existing administrative systems and procedures offer enough opportunities to the citizens to participate in Government activities for preserving their rights. The study shows that, majority (58 percent) respondents believe that the public have informed about the appropriateness of decisions taken by the Government on time. The study shows that, majority (81.7 percent) respondents have given the view that Freedom of Expression is a major instrument, which will preserve democratic norms and values. The study shows that, Majority (84 percent) respondents believe that higher the awareness level better will be the good governance. The study shows that 83.8 percent

respondents believe that legal instrument of Freedom of Expression will develop social awakening about the rights amongst the citizens. The study shows that majority of the respondents have given the recommendation to improve the laws relating to Freedom of Expression in Nepal. The study shows, those 88 % respondents think that Media has to utilize this right fully to disseminate accurate, balance and credible content for strengthening democracy in Nepal.

This study shows that majority (69%) of the people has believed that Nepali Constitution and other laws relating with press freedom and Freedom of Expression have been protected fully. Only less percentage (6.1%) of the respondent has thought that did not fully agree. Majority (62.2 percent) respondents believe that the Supreme Court, Attorney General, and other representatives of the higher judicial body support these rights in most of the cases. Least of the respondent (1.2 percent) believes that the Supreme Court, Attorney General, and other representatives of the higher judiciary support these rights. The study shows that, majority (42.7%) of the respondents believe that sometimes the judiciary obstructs the implementation of laws designed to uphold these freedoms. In the same footing 16.3% respondents have given the view that judiciary never obstruct the implementation of laws designed to uphold these freedoms. The study shows that, majority (43.9%) respondents believe that crimes that threaten press freedom prosecuted vigorously by authorities. Only least of the respondents (2.4%) think that crimes that threaten press freedom prosecuted vigorously by authorities.

The study shows that 36.2% respondents believe that there is an implicit impunity for those who commit crimes against the state. Only 8.5% respondents never believe so. The study shows that, majority (43.1%) of the respondents realize that laws restrict reporting on ethnic or religious issues, national security, or other

sensitive topics. Likewise, 13% respondents realize that laws restrict reporting on ethnic or religious issues, national security, or other sensitive topics rarely.

The study shows that, majority (48%) respondents believe that penalties for ‘irresponsible journalism’ have applied rarely. In the same manner, 11% respondents realize that penalties for ‘irresponsible journalism’ applied never. The study found that, 43.1% respondents believe that restrictions of media freedom, narrowly circumscribed. Likewise, 7.3% respondents think that restrictions of media freedom are narrowly circumscribed. The study shows that, majority of the respondents (58.5%) believe that sometimes the authorities restrict or otherwise impede legitimate press coverage in the name of national security interests. Likewise, 15.9% respondents think that the authorities restrict or otherwise impede legitimate press coverage in the name of national security interests rarely.

The study shows that majority (56.1%) respondents have given the opinion that journalists rarely prosecuted or jailed, as result of what they write. Correspondently, 6.5% respondents realize that in most of the case journalists prosecuted or jailed as result of what they write in the context of Nepal. The study shows that majority of the respondents (45.5%) has given the view that sometimes writers, commentators, or bloggers subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet. Correspondently, 7.3% respondents think that writers, commentators, or bloggers never be subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet in the context of Nepal. Most of the respondents (41.9%) agreed, “There are excessive pressures to reveal sources, resulting in punishments such as jail sentences, fines, or contempt of court charges to the concerned authorities.” 11.4% of the respondents had agreed on this statement. Public officials have to protect under

insult or defamation laws to provide justice practically. This is the fundamental principle of public official. As much as the study is concerned, majority of the respondents (54.9%) say public officials have to protect under insult or defamation laws to provide justice sometimes. Only 6.1% of the respondents supported, “Public officials have to protect under insult or defamation laws to provide justice”.

Majority of the respondents (50.3%) sometimes have said that insult laws have routinely used to shield officials’ conduct from public scrutiny. Only 4.9% of the people strongly oppose these perceptions. The study shows that majority (41.9%) respondents believe that sometimes there is a legally mandated ‘right of reply’ that overrides independent editorial control. Accordingly, 17.9% respondents never believe that there is a legally mandated ‘right of reply’ that overrides independent editorial control in the context of Nepal. In the context of Nepal, libel is criminal offence according to the law. In the study, majority of the respondents (45.5%) believe that sometimes libel has made a criminal rather than a civil offense. Accordingly, 11.8% respondents never think that libel has made a criminal offense. Defamation is one of the limitations of press freedom. 43.9% of the respondents have said that journalists or bloggers have rarely prosecuted and jailed for libel or defamation. Likewise, 3.7% of the respondents have said journalists or bloggers use to prosecute and jailed for libel or defamation in most of the cases.

More than two out of five (45.1%) of the respondents have said there are provision of fines routinely imposed on journalists or media outlets in civil libel cases in a partisan with the intention of bankrupting the media outlet or deterring future criticism. 17.9% of the respondents absolutely disagreed on the statement. Only 4.9% respondents have said it use to happen most of the cases to the journalist. Members of the judiciary are subject to excessive pressure from the executive branch. Majority

(58.1%) of the respondents supported this notion. Only 4.9% of the respondents totally disagreed on the above perceptions. Majority (63.4%) respondents said rights to Freedom of Expression and information have recognized as important among members of the judiciary in most of the cases. Only 2.4% of the respondents did not support this perception. The study shows that, in the context of Nepal, 43.1% respondents believe, sometimes government has their improper use of legal action or summons against journalists or media outlets. The lowest number of the respondents (4.9%) never think that in the most of the case their improper use of legal action or summonses against journalists or media outlets.

In the context of Nepal, there are the Constitutional and legal provisions to protect the right to information. The study shows that 42% respondents believe that sometimes journalists are able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost. 3.7% of the respondents strongly opposed on these perceptions. More than two out of five (41.5%) of the respondents supported that public officials subject to prosecution if they illegally refuse to disclose state documents. Only 7.3% respondents did not support above notion. 48.4% of the respondents did not support that security laws, or any other laws have restricted reporting and punish journalists or bloggers. Only, 4.9% of the respondents have negative marking on this.

Nepal has liberal press law because of the democratic republic country. 61% of the respondents have said that there are not any restrictive press laws in Nepal. 3.7% of the respondents said Nepal has not restrictive press law. The study shows that Majority 74.4% respondents have given the view that there is Freedom of Information legislation and journalist's ability to make use of it in Nepal. Similarly, 2.4% respondents never believe that there is Freedom of Information legislation and

journalist's ability to make use of it in Nepal. More than two third majority (75%) respondents believe that there are laws guaranteeing access to Government records. Accordingly, 2.4% respondents believe that there are never such laws in Nepal. Freedom of Expression has not unlimited. It has some limitations. Majority (51.6%) respondents agree with that view. Accordingly, 2.4% respondents never think so.

The study shows that, majority (76%) of the respondents agrees that there is a linkage between Freedom of Expression and the transparency and good governance. Only, 2% respondents never agree with that. More than 3 out of fourth (75.9%) of the respondents supported that sometimes media outlets' news and information content determined by the Government or a particular partisan interest. The study shows that majority (58.6%) respondents believe that sometimes access to official or unofficial sources has generally controlled in the context of Nepal. Likewise, 3.4% respondents never believe and same percent of the respondents rarely believe the condition. There should not be official and unofficial censorship in the media. Majority of the respondents (58.6%) says that sometimes there is official or unofficial censorship of media content in Nepal. Least (10.3%) respondents mostly believe the situation of censorship in the context of Nepal. The study shows that majority (51%) of respondents believe that rarely journalists practice self-censorship in Nepal. In other way, 6.9% respondents think that journalist never practice self-censorship.

Two third of (69%) the respondents have feel that sometimes people have access to media coverage and a range of news and information that is robust and reflects a diversity of viewpoints. Similarly, 10.3% of the respondents said people have access to media coverage and a range of news and information that is robust and reflects a diversity of viewpoints in rare case it was happened. Majority (58.6%) of the respondents said in terms of harassment and physical access local and foreign

journalist have been able to cover the news freely sometimes. Similarly, 20.7% respondents supported in that particular option "rarely". Majority (58.6%) of the respondents said sometimes journalist, bloggers, or media outlets subject to extralegal intimidation or physical violence by state authorities or any other actor. Similarly, 3.4% of the respondents equally agreed with the option "mostly and never". 44.8% of the respondents have asserted that sometimes media ownership transparent. 6.9% of the respondents said in most of the cases it used to be happened.

Media ownership is highly concentrated to influence diversity of content. 37.9% of the respondents had strongly supported on this perception. Only 27.6% of the respondents had have favored with the option "Rarely". 41.4% of the respondents have said there were the restrictions on the means of news production and distribution of news contents sometimes. Only 6.9% of the respondent's ticked option "Mostly". The study shows that, 37.9% respondents say that the state dominates the country's information system. In the same way, 10.3% respondents never think so. Most of the respondents (58.6%) said there were independent or opposition print media outlets in Nepal to exercise Freedom of Expression. Likewise, 17.2% of the respondents said sometimes there were independent or opposition print media outlets. For and against, equally (48.3% of the respondents) said there were state monopoly on TV and Radio. Two third (79.3) of the respondents have positive responses. Similarly, 6.9% of the respondents said it never happened.

This research finds, majority (95.23 percent) of respondents say that people cannot fully ignore the principles of ICCPR and other international conventions free speech to implement Freedom of Expression. Likewise, 66.66 percent of the respondents said, it is so hard to implement this right because National laws are more controlled than present Constitution of Nepal. Similarly, 61.90 percent of the

respondents said that political transformation brings certain changes in political and ruling systems of the Government to ascertain this right. This study found that, majority (85.71 %) of respondents said that 14th Limitations for free speech are there in present Constitution. Whereas, 42.85 percent respondents think about current Constitution of Nepal is comparatively regressive than the Constitution of 2047 of Nepal. This study found that, majority of respondent (90.47 percent) said that political leaders are manipulating the people in wrong way. Minority of the respondents (19.4 percent) respondents think that there is the problem in the practice of Freedom of Expression.

According to the research result, majority of the respondents (57.4 percent) have given the view that it is great challenge to protect right to privacy of the people which is also the fundamental right of the people. In this study, 23.8 percent respondents have given the opinion that misuse of Freedom of Expression creates bad effects on the case proceeding in the court. This study has found that, majority (85.71 Percent) of the respondents believe that technology will determine the future practice of Freedom of Expression. Equally, 38.9 percent respondents have given the view that there will not be the representative to raise their voice to the concerned authority because everyone can raise their voices oneself. This study shows that, majority of respondents (80.95 percent) say that Nepali press and judiciary are equally moving ahead to protect the Freedom of Expression in the context of Nepal. Such as, 47.61 percent respondents give the response that Judiciary should move as per the spirit of the people and there should be good intentions while practicing Freedom of Expression.

The research result shows, majority (85.71 percent) respondents realize that executive is not positive for the press freedom in the context of Nepal and it is

irresponsible to the democratic norms and values. Likewise, 61.9 percent respondents believe that executive should amend the law as per the conditions with the help of parliament. As well, 47.61 percent respondents accept that executive has to implement the law properly. This study shows that, majority (85.71 percent) respondents have given the view that Mass media has to be best platform for protecting free speech and expression. Similarly, equally, 47.61 percent respondents take that freedom has been defined as per the interest of the Government in the context of Nepal. In the same way, 42.85 percent respondents realize, that Understanding level of Nepali mass media is very weak. This study shows that, majority (95.23 percent) respondents think that Constitutional provision in the Article 17 (2) (A) in Nepal has sufficient rights for the Freedom of Expression. Similarly, 90.47 percent respondents believe that it has given high priority to the Freedom of Expression. In such away, 85.71 percent respondents think that practically it has to focus on its free practices.

As per the finding of the study, majority (95.23 percent) respondents think that Constitutional provision in the Article 17 (2) (A) in Nepal has sufficient rights for the Freedom of Expression. Similarly, 90.47 percent respondents believe that it has given high priority to the Freedom of Expression. In such away, 85.71 percent respondents think that practically it has to focus on its free practices. This study shows that, majority (95.23 percent) respondents believe that Freedom of Expression and democracy are two sides of a coin. In the same way, 95.23 percent respondents think that Freedom of Expression is fundamental of democracy; it is also the preconditions and indispensable for democracy. Likewise, 66.66 percent respondents say that accuracy, balanced and credible information helps to develop the democratic culture in Nepal.

7.2 Conclusion

Freedom of Expression is a crucial right in every democratic country. It helps to provide independent environment to the press. People will feel happy to enjoy to use this right in their daily lives independently. This study has explored it, Nepali people have had knowledge and awareness to use this right legally and practically. This study has found out that majority of the respondents have the knowledge of laws relating to Freedom of Expression. Most of the people have Freedom of Expression which is known as the part of fundamental right provisioned in Nepali Constitution. Freedom and democracy are interrelated with each other. Freedom of Expression can play a positive role to develop the present social system in Nepal. Nepali society has become liberal with consequences of freedom of press. Some of respondents have been found quite optimistic for the future of Freedom of Expression in Nepal. They have said that future of Freedom of Expression in Nepal is bright.

Majority of the respondents feel the information provided by the media to the people is trust worthy and genuine. They think that present information system of the media is favorable. Similarly, impact of media content is also robust. Majority of the respondents think positively that there is a good role of media to bring social and cultural changes.

The study exposed that the existing administrative systems and procedures offer enough opportunities to the citizens to participate in Government activities for preserving this right. The study has found that the public has informed about the appropriateness of decisions taken by the Government on time. It has proved by the study that the Freedom of Expression is a major instrument, which will preserve democratic norms and values. The study shows that higher and better the awareness level among the people is the sign of good governance. Likewise, legal instrument of

Freedom of Expression will develop social awakening about the rights amongst the citizens and there is a need to improve the laws relating to Freedom of Expression in Nepal. It is a great opportunity for the media to utilize this right fully to disseminate accurate, balanced and credible content for strengthening democracy in Nepal. This study has found that majority of respondents said have expressed that the people cannot fully ignore the principles of ICCPR and other international conventions free speech to implement Freedom of Expression. Likewise, some of the respondents have said, it is so hard to implement this right because National laws are found to be rigid than present Constitution of Nepal. Similarly, in the opinion of the respondents, political transformation brings certain changes in political and ruling systems of the Government to ascertain this right.

Universal Declaration of Human Rights and United Nations have made provisions related to freedom of speech. There is the provision of Freedom of Expression in Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Civil and Political Rights, International Covenant on Economic, Social, and Cultural Rights. It is a global phenomenon in the present global order institutionalized by international laws. In Nepal, the Government has on a number of occasions attempted to restrict the fundamental right to freedom of expression. They seem positive in many occasions. But the political interferences often hinder citizens from enjoying such freedoms. Freedom of Expression is widely recognized as a framework right, one which is important in its own right but which also serves to underpin respect for all other rights. When respect for the right to Freedom of Expression comes under attack, all rights are at risk. Judiciary has played a great role to overcome the bottlenecks. The ability to express our opinion and speak freely is essential to bring about changes in society.

Information should be real and genuine. Freedom of speech is one of the core pillars upholding the democratic process.

In the context of Nepal, there are the Constitutional and legal provisions to protect the right to information in this context. Some of the respondents believe that sometimes journalists are able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost; public officials are subject to prosecution if they illegally refuse to disclose state documents. Nepal has liberal press law; it is because of the democratic republic country. The study shows that Majority of the respondents have given the view that there is Freedom of Information legislation and journalist's ability to make use of it in Nepal.

Majority of the people believe that Nepali Constitution and other laws relating with Press Freedom and Freedom of Expression have protected fully. The Supreme Court, Attorney General, and other representatives of the higher judiciary body support these rights in most of the cases. Some of the respondents believe that sometimes the authorities restrict or otherwise impede legitimate press coverage in the name of national security interests, journalists rarely prosecuted or jailed as a result of what they write. Correspondently, sometimes writers, commentators, or bloggers subject to imprisonment or other legal sanction as a result of accessing or posting material on the internet. Public officials have to protect libel or defamation laws to provide justice practically. This is the fundamental principle of public official.

This study has found that there are limitations in free speech that in present Constitution. Whereas, some of the respondents think that Current Constitution of Nepal is comparatively regressive than the Constitution of 2047 of Nepal. This study has found those political leaders are manipulating the people in a wrong way.

Majority of the respondents think that constitutional provision in the Article 17 (2) (A) in Nepal has Sufficient rights for the Freedom of Expression. Majority of the respondents believe that Freedom of Expression and democracy are two sides of a coin, fundamental of democracy, preconditions and indispensable for democracy. Likewise, Accuracy, Balanced and Credible information helps to develop the democratic culture.

Nepali Constitution guarantees the Fundamental Rights of citizens, including the freedom of expression. That supports the freedom of an individual or a community. The Constitution of Nepal guarantees the Fundamental Rights of citizens, including the freedom of expression; the right to Freedom of Expression includes the freedom of opinion and thought in every source case, such as freedom to hold opinions. It also includes Freedom to receive information and ideas and freedom to impart information and ideas. All citizens shall have the right to Freedom of Expression in Article 17. Press must have the independent thought and clear vision of content without any suppression and biasness. All citizens can seek information related to their personal or public concerns; journalists are free of availing information from the concerned parties. As the press is the part of the society every right is linked with press freedom that basically includes the right to publish newspapers, magazines, and other printed matter without Governmental restriction and subject only to the laws of libel, obscenity, sedition, etc.

Nepal has the provision of written Constitution, which is the reception of Civil law. Like in civil law system, Nepal also has special courts. Acceptance of precedent and adversarial system are the influences of common law system. To protect Freedom of Expression there should be some restrictions. All political parties that were together for the promulgation of the latest Nepali Constitution are

found to have been advocating for socialism. That is how legal system has directed to be socialist. They are not compelled to disclose sources of their information; there is the mixture of the all the theories but basically, Nepal has guided by social responsibility theory.

All citizens shall have the right to Freedom of Expression. Right to Equality (Article 14-18) Right to Freedom (Article 19-22), Right against Exploitation (Article 23-24) Right to Freedom of Religion (Article 25-28) Cultural and Educational Rights (Article 29-30) Right to Constitutional Remedies (Article 32). Article 17: All citizens shall have the right to freedom of opinion and freedom of expression that is the right granted as 1st clusters of right to freedom; Article 17 (2) of the Constitution of Nepal guarantees the Freedom of Expression and opinion. Freedom to live with dignity, Freedom of Expression, Religious and Cultural Freedom and Discrimination are the part of human right also. It has considered as human right and if someone is found violating human right, concerned organizations would fight for guarantee.

However, Nepali people have the right to Freedom of Expression. It depends in various aspects. Mostly freely practiced but sometimes media people have threatened by some powerful people. Media have vital role to protect Freedom of Expression. Repeatedly, media uses the slogan "voice of the voiceless" but practically it has not been found enhanced on the behavioral aspect. Laws are more ambiguous, no proper implementation of prevailing laws, difficult terminologies to understand by common people. Practice of law must be strong. Strong law should be enacted and actual practice must be strong.

To have true democracy, press freedom is necessary. Democratic system needs to guarantee press freedom. If there is a restriction over press, there is no

democracy indeed. Press Freedom and Democracy are the two wheels of the cart. Press is the watchdog of the democracy. Democracy enhances the freedom of the press in each and every case. They are both interrelated.

In the context of Nepal there is more fake news, disinformation, misinformation, distortion of facts, lapdog media, city centric media scenario have found. Government bodies are reluctant, confusion regarding who is supposed to disclose information. We have to develop the culture of information sharing system in each institute. Due to overload of information, it is Likewise to lead people to misinformation. Limited library opening hours, unstable internet access, insufficient physical facilities (reading space), inadequate library collections, inadequate computer facilities feel incomplete.

Media can play an effective role in a democratic society by raising voice of voiceless; by informing people free expression of informed people enhance and strengthen democracy. Good governance automatically enhances people's satisfactory level. Freedom of Expression is one of the elements of good governance. Transparency has maintained and will have less possibility of abuse of authority. People who are aware can compel the Government to act the things in a right way and promptly. It supports to seek the citizens right. It allows pluralist dialogue and creates a secure platform for critical voices. People can express openly about own views and opinions openly. It helps to develop social sectors, communities who are scared before. There is a wide expansion on this right. Bring this right even to the grass root level's citizens are challenges. Journalists and the news media industry as a whole face unprecedented threats in the changing information environment economic and market challenges, increasing distrust and

denigration of their work, and new forms of digital repression, that are often overlooked in today's regulatory conversations

People getting to use their Fundamental Rights insured by Constitution always refer the exercise of the rule of the law. It helps to make Nepali people strong. Separation of power keeps check and balance among the state organs whereas good coherence is indeed in participatory democracy. The limitation could be on the matters of defamation, contempt of court, decency and morality, security issues, maintenance of peace and order, and matters relating to the sovereignty and integrity of Nepal. Freedom of Expression is vital but there also must be limitations to the extent that should not hamper to the national security, public order, socio-ethnic harmony. The provisions mentioned in the Constitution should follow truly.

Though the first Constitution was formulated in 2004 BS (1947 AD), but, the legal provisions of Nepal are not able to address the spirit of Constitution and social need. According to the sociological school of thought, society change faster than law. So, law should be changed according to the need of the society. Some of the respondents have purposed about the new law to regulate new media, social media and digital media. The rule of the conventions and treaty becomes binding for the member country. It has found that the legal and Constitutional provisions are in line with global value and the principle of Constitutionalism. The philosophy of Freedom of Expression is related with liberalization, openness, transparency, rule of law, separation of power, democracy, and independent judiciary, rule of law, right to information, good governance and human rights. From the study, the implementation aspect of law relating to Freedom of Expression has not found satisfactory in the context of Nepal. Even the administrative system struggles to make information accessible to the public. People have the right to voice their opinions in relation to

Governmental decisions. Freedom of speech should be limited to the privacy, defamation, contempt of Court and National Security of people. Media is taken as the fourth organ of the state. It helps to strengthen the democratic practice. In the coming days, media needs to be more professional and it should serve interest of the people.

Most of the respondents feel that quality of Freedom of Expression in Nepal provided to the people as the Fundamental Rights is satisfactory as per the international legal norms. Majority of the respondents realize that role of the press and Government is acceptable to create free environment for exercising the right. In the same way, majority of the respondents have found that experience of Right to Freedom of Expression is pleasing. The study found, majority of the respondents have said that Role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information is reasonable. The study shows that executive is not positive for the press freedom in the context of Nepal and it is Irresponsible to the democratic norms and values. Likewise, executive should amend the law as per the conditions with the help of parliament. As well, it has to implement the law properly. The study has found that mass media has to be best platform for protecting free speech and expression. Equally, that freedom has defined as per the interest of the Government in the context of Nepal. Some of the respondents realize, that Understanding level of Nepali mass media is very weak.

In the context of Nepal, libel is a criminal offence according to the law. In the study, majority of the respondents believe that sometimes libel has said to be criminal offence rather than a civil offense. Accordingly, Defamation is one of the limitations of press freedom. Journalists or bloggers have rarely prosecuted and jailed for libel or defamation in the context of Nepal. Members of the judiciary are subject to excessive pressure from the executive branch. More than two third of the respondents have been

found quite positive about rights to Freedom of Expression and information which are recognized as of great significant among members of the judiciary in most of the cases. In the context of Nepal, some of the respondents believe that sometimes there is an improper use of legal action or summonses against journalists or media.

Nowadays, digital governance information is accessible but requires giving more focus for illiterate people. Receiving timely information from authority is not that easy in Nepal. They are not much cooperative. They need to share any kind of good messages from social media or phone messages. They should be much more responsible and accountable than they are now. There is lack of cooperation with authority and rigid behavior. They are mechanisms of Government control over the Media, criminal defamation, violence against Journalists, limits on the Right to Information, discrimination in the enjoyment, Right to Freedom of Expression and commercial pressures.

It has found that there is a lack of implementation. Ensuring philosophical and legal rights to Freedom of Expression is essential to maintain the separation of powers and the rule of law. The current Constitution of Nepal has guaranteed it. Apart from the common citizens, the media have been able to enjoy freedom of speech and freedom of the press. This study has found that, it is a great challenge to protect right to privacy of the people, which is also the fundamental right of the people. In this study, some of the respondents have given the opinion that misuse of Freedom of Expression creates bad effects on the case proceeding in the court. The study has found that technology will determine the future practice of Freedom of Expression. Equally, there will not be the representatives to raise their voices to the concerned authority because everyone can raise their voice oneself. The study shows that, Nepali press and judiciary are equally moving ahead to protect the Freedom of

Expression in the context of Nepal. Such as, Judiciary should move as per the spirit of the people and there should be good intentions while practicing Freedom of Expression.

Media democracy uses journalism as a means to improve the quality of public life and promote democratic norms. It serves as a glue to hold community together. And it also enhances the ability and desire to listen to others. In the name of press freedom others' rights should not be encroached.

According to some respondents, political situation is unpredictable in Nepal, which also influences the media. It cannot be predicted future prospect practically because of media ownership, instability of political environment, lack of media literacy, manipulation of mind due to poverty by higher class, lack of discipline in all civil, leaders, bureaucrats, leaders while practicing democracy. Since, Nepal is an under developed country there can be unique situations.

It depends on the issues of privacy and the consent either given or not given. There is a saying "Freedom of Speech has ended, and the Right to Privacy has begun". So, there is an interrelated relationship between them. The freedom should not violate other's rights or privacy. One should not put obstacles to others right to privacy saying he/she has right to Freedom of Expression. Freedom of speech should limit to the privacy of people. However, there is some restrictions. It does not cause harm to public. Private life and social lives are different so freedom of speech must be there in social life but not in private. We have right to express our feelings without violating others right and should maintain confidentiality.

From the communication jurisprudence and social responsibility theory perspective, Nepali media and people have enjoyed freedom of expression theoretically and constitutionally. The practical and implementation aspects of

freedom of expression are quite different. It has found that there are some lacunas in its implementation process. Ensuring philosophical and legal rights to Freedom of Expression, it has essentially needed to maintain the rule of law, good governance, and transparent, accountable and responsive Government. Free exchange of information and idea makes people aware, vigilant and well informed. Aware citizen always makes conscious decision. They can send right people in right place on right time. It helps to practice democratic values. So, it leads toward peace, prosperity and happiness in Nepali society.

Contribution to Knowledge

Constitutional aspect of Freedom of Expression in Nepal is in the line of its accepted values. The existing laws cannot address the spirit of Constitutionalism, legal and philosophical aspect of Freedom of Expression in the context of Nepal. Therefore, there is the need to formulate new laws and amend existing laws according to the spirit of the Constitution and need of the society. In the present context, new institutions should establish and existing institutions has to be strengthened to implement the legal provision relating to Freedom of Expression. The implementation aspect of Constitution and legal provision relating to Freedom of Expression is not found satisfactory in Nepal. Insufficient laws, weak institutions and lack of climate of acceptance create such environment.

The era of pluralism, professionalism and institutionalism of media have started after (2047 BS (1990 AD)). The base to create environment is open, liberal and transparent in Nepal. In contemporary situation, media is playing the role of watchdog of the Government and lap dog of the people. It is also playing the role of the representation of the voice of the voiceless people.

Constitutionalism is related with rule of law, supremacy of law and equality before law. Constitutionalism aspect of Freedom of Expression is good in Nepal. Nepali media has been practicing this right as a Constitutional and legal right. In this context, Nepali media has played the role to aware the people by giving accurate information to the people. In democratic practice, aware people send right people in right place as their representative. It helps to strengthen the democratic value, norms and culture. It also helps to practice rule of law, separation of power, check and balance, independent judiciary, limited Government, human right, transparency, good governance and so on. That leads towards peace, prosperity and happiness of the society and people. It is the aim of the civilized and democratic society. Nepali practice of Freedom of Expression is not found mature and satisfactory. Nepali media has started this practice but this practice is not found satisfactory.

7.3 Recommendations

Further Areas of Research

- Right to Information as a Constitutional Right in Nepal
- Right to Communication in the Constitution of Nepal
- Right to Privacy in the Constitution of Nepal and Its Practical Implementation in Nepal
- Freedom of Expression as a Constitutional Right in Nepal
- Transparency and discloser as fundamentals of Democracy in Nepal
- Constitutional aspect of Freedom of Expression in Nepal
- Democratic norms and values in line with media in Nepal

ANNEXES

Annex 1

Global Index of Freedom of Expression

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
Abkhazia*	39 Partly Free	17	22
Afghanistan	6 Not Free	1	5
Albania	68 Partly Free	28	40
Algeria	32 Not Free	10	22
Andorra	93 Free	38	55
Angola	28 Not Free	10	18
Antigua and Barbuda	85 Free	33	52
Argentina	85 Free	35	50
Armenia	54 Partly Free	23	31
Australia	95 Free	38	57
Austria	93 Free	37	56
Azerbaijan	7 Not Free	0	7
Bahrain	12 Not Free	2	10
Bangladesh	40 Partly Free	15	25
Barbados	94 Free	37	57
Belarus	8 Not Free	2	6
Belgium	96 Free	39	57
Belize	87 Free	34	53
Benin	61 Partly Free	19	42

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
Bhutan	63 Partly Free	30	33
Bolivia	66 Partly Free	27	39
Bosnia and Herzegovina	51 Partly Free	17	34
Botswana	72 Free	28	44
Brazil	72 Free	30	42
Brunei	28 Not Free	7	21
Bulgaria	78 Free	32	46
Burkina Faso	27 Not Free	3	24
Burundi	14 Not Free	4	10
Cabo Verde	92 Free	38	54
Cambodia	23 Not Free	4	19
Cameroon	15 Not Free	6	9
Canada	97 Free	39	58
Central African Republic	5 Not Free	1	4
Chad	15 Not Free	1	14
Chile	94 Free	38	56
China	9 Not Free	-2	11
Colombia	70 Free	31	39
Comoros	42 Partly Free	16	26
Costa Rica	91 Free	38	53
Crimea*	2 Not Free	-2	4
Croatia	83 Free	34	49

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
Cuba	12 Not Free	1	11
Cyprus	92 Free	38	54
Czechia	94 Free	36	58
Côte d'Ivoire	49 Partly Free	19	30
Democratic Republic of the Congo	19 Not Free	4	15
Denmark	97 Free	40	57
Djibouti	24 Not Free	5	19
Dominica	93 Free	37	56
Dominican Republic	68 Partly Free	27	41
Eastern Donbas*	2 Not Free	-1	3
Ecuador	67 Partly Free	29	38
Egypt	18 Not Free	6	12
El Salvador	53 Partly Free	21	32
Equatorial Guinea	5 Not Free	0	5
Eritrea	3 Not Free	1	2
Estonia	95 Free	38	57
Eswatini	17 Not Free	1	16
Ethiopia	20 Not Free	10	10
Fiji	66 Partly Free	27	39
Finland	100 Free	40	60
France	89 Free	38	51

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
Gabon	20 Not Free	2	18
Gaza Strip*	8 Not Free	3	5
Georgia	58 Partly Free	22	36
Germany	93 Free	39	54
Ghana	80 Free	35	45
Greece	85 Free	35	50
Grenada	89 Free	37	52
Guatemala	46 Partly Free	17	29
Guinea	30 Not Free	7	23
Guinea-Bissau	43 Partly Free	17	26
Guyana	73 Free	30	43
Haiti	30 Not Free	11	19
Honduras	48 Partly Free	22	26
Hong Kong*	41 Partly Free	9	32
Hungary	65 Partly Free	24	41
Iceland	94 Free	37	57
India	66 Partly Free	33	33
Indian Kashmir*	26 Not Free	6	20
Indonesia	57 Partly Free	29	28
Iran	11 Not Free	4	7
Iraq	30 Not Free	16	14
Ireland	97 Free	39	58

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
Israel	74 Free	34	40
Italy	90 Free	36	54
Jamaica	80 Free	33	47
Japan	96 Free	40	56
Jordan	33 Not Free	11	22
Kazakhstan	23 Not Free	5	18
Kenya	52 Partly Free	22	30
Kiribati	90 Free	37	53
Kosovo	60 Partly Free	28	32
Kuwait	38 Partly Free	14	24
Kyrgyzstan	27 Not Free	4	23
Laos	13 Not Free	2	11
Latvia	88 Free	37	51
Lebanon	42 Partly Free	13	29
Lesotho	66 Free	30	36
Liberia	64 Partly Free	30	34
Libya	9 Not Free	1	8
Liechtenstein	90 Free	33	57
Lithuania	89 Free	38	51
Luxembourg	97 Free	38	59
Madagascar	58 Partly Free	24	34
Malawi	66 Partly Free	29	37

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
Malaysia	53 Partly Free	22	31
Maldives	44 Partly Free	21	23
Mali	26 Not Free	6	20
Malta	87 Free	35	52
Marshall Islands	93 Free	38	55
Mauritania	39 Partly Free	15	24
Mauritius	85 Free	35	50
Mexico	60 Partly Free	27	33
Micronesia	92 Free	37	55
Moldova	61 Partly Free	26	35
Monaco	82 Free	25	57
Mongolia	84 Free	36	48
Montenegro	69 Partly Free	27	42
Morocco	37 Partly Free	13	24
Mozambique	44 Partly Free	14	30
Myanmar	8 Not Free	0	8
Nagorno-Karabakh*	-3 Not Free	-3	0
Namibia	77 Free	31	46
Nauru	77 Free	34	43
Nepal	62 Partly Free	28	34
Netherlands	97 Free	39	58
New Zealand	99 Free	40	59

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
Nicaragua	16 Not Free	4	12
Niger	33 Partly Free	6	27
Nigeria	44 Partly Free	20	24
North Korea	3 Not Free	0	3
North Macedonia	67 Partly Free	28	39
Northern Cyprus*	76 Free	27	49
Norway	98 Free	39	59
Oman	24 Not Free	6	18
Pakistan	35 Partly Free	14	21
Pakistani Kashmir*	29 Not Free	9	20
Palau	92 Free	37	55
Panama	83 Free	35	48
Papua New Guinea	61 Partly Free	22	39
Paraguay	63 Partly Free	26	37
Peru	66 Partly Free	27	39
Philippines	58 Partly Free	25	33
Poland	80 Free	33	47
Portugal	96 Free	39	57
Qatar	25 Not Free	7	18
Republic of the Congo	17 Not Free	2	15
Romania	83 Free	35	48
Russia	13 Not Free	4	9

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
Rwanda	23 Not Free	8	15
Samoa	84 Free	32	52
San Marino	97 Free	39	58
Saudi Arabia	8 Not Free	1	7
Senegal	67 Partly Free	28	39
Serbia	57 Partly Free	18	39
Seychelles	79 Free	34	45
Sierra Leone	60 Partly Free	24	36
Singapore	48 Partly Free	19	29
Slovakia	90 Free	37	53
Slovenia	96 Free	39	57
Solomon Islands	75 Free	28	47
Somalia	8 Not Free	2	6
Somaliland*	43 Partly Free	17	26
South Africa	79 Free	33	46
South Korea	83 Free	33	50
South Ossetia*	12 Not Free	3	9
South Sudan	1 Not Free	-3	4
Spain	90 Free	37	53
Sri Lanka	54 Partly Free	22	32
St. Kitts and Nevis	89 Free	35	54
St. Lucia	92 Free	38	54

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
St. Vincent and the Grenadines	90 Free	36	54
Sudan	6 Not Free	-3	9
Suriname	79 Free	34	45
Sweden	99 Free	40	59
Switzerland	96 Free	39	57
Syria	1 Not Free	-3	4
São Tomé and Príncipe	84 Free	35	49
Taiwan	94 Free	38	56
Tajikistan	5 Not Free	0	5
Tanzania	36 Partly Free	12	24
Thailand	36 Partly Free	12	24
The Bahamas	91 Free	38	53
The Gambia	50 Partly Free	22	28
Tibet*	0 Not Free	-2	2
Timor-Leste	72 Free	33	39
Togo	42 Partly Free	15	27
Tonga	81 Free	31	50
Transnistria*	17 Not Free	5	12
Trinidad and Tobago	82 Free	33	49
Tunisia	51 Partly Free	16	35
Turkey	33 Not Free	17	16
Turkmenistan	2 Not Free	0	2

Country Sort descending	Total Score and Status	Political Rights	Civil Liberties
Tuvalu	93 Free	37	56
Uganda	34 Not Free	10	24
Ukraine	49 Partly Free	21	28
United Arab Emirates	18 Not Free	5	13
United Kingdom	91 Free	38	53
United States	83 Free	33	50
Uruguay	96 Free	40	56
Uzbekistan	12 Not Free	2	10
Vanuatu	82 Free	32	50
Venezuela	15 Not Free	1	14
Vietnam	19 Not Free	4	15
West Bank*	22 Not Free	4	18
Western Sahara*	4 Not Free	-3	7
Yemen	10 Not Free	1	9
Zambia	54 Partly Free	23	31
Zimbabwe	27 Not Free	10	17

Annex 2

Questionnaires on

“Practices of Freedom of Expression in Nepal : Media Perspectives”

To Be Filled in by the Citizens, Nepal

For office use:

Note for interviewer/supervisors:

Please introduce yourself and the objective of the baseline survey properly and openly to your respondent before you start questioning. Establish a good relationship with your respondent. This survey is expected to contribute to the improvement of the planning, monitoring and evaluation of delay in project construction.

- When answering the questions, one need not disclose his/her name.
- All answers to the questions in the questionnaire should be true and sincere.
- All information provided by the respondent will be treated with strict confidentiality.

Researcher: _____

Name of Supervisor: _____

Signature: _____

Signature: _____

Date : _____

Name of Respondents: _____

Name of area : _____

Ward No: _____

VDC/Municipality: _____

Full Permanent Address: _____

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Informed Consent

You are invited to be a part of Research Study **“Practices of Freedom of Expression in Nepal: Media Perspectives”** conducted by Mr. Shashi Nath Marasini PhD student affiliated Tribhuvan University. This questionnaire is requested to be filled up by you; which will be useful for me. The information, results, and issues gathered will be used for researcher’s personal purpose of teaching and learning only. It will be kept confidential.

If you agree to be a part of the research study, you will be given questionnaire with choice of answers which may take 20 – 25 minutes to solve. Participating in this study is completely voluntary. Even if you decide, you may change your mind, may not answer specific questions, and stop at any time. You may choose not to answer question for any reason.

If you have any questions about this research study, you may contact to the Researcher I agree to participate in the study.

Agree

Yes

No

Signature

A. Profile of Respondent

1. Name (Optional): _____ 2. Contact No. (Optional): _____

3. Gender: Male () Female () 4. Age: Below 25 () 26-40 () 41- 60 ()

Above 60 ().

5. Designation: _____ 6. Qualification: Undergraduate () Graduate ()

Post- Graduate () PhD ().

B. Awareness about Freedom of Speech and Expression :

S.N	AWARENESS CRITERION	YES	NO	Code/Skip
1.	Do you know about the concept of Freedom of Speech and Expression			
2.	Do you Know about the legal provisions relating to freedom of speech and expression?			
3.	Are you aware about any of the legal provisions on Fundamental Rights relating Freedom of Speech and Expression?			
	If yes, Please mention some of them			
4.	What types of freedom is known as the Freedom of the press? 1. Natural Rights 2. Fundamental Right 3. Human Rights 4. Legal Right 5. All the above			
	If you have any remarks. Please give your			

	perceptions			
5	<p>What types of environment are there in Nepali legal system to protect freedom of speech and expression?</p> <ol style="list-style-type: none"> 1. Liberal Democracy 2. Social Responsibility 3. Authoritarian 4. Socialist 			
	If you have any remarks. Please give your perceptions			
6.	<p>What are the relationship between press freedom and democracy?</p> <ol style="list-style-type: none"> 1. Interrelated 2. No. relations 3. Without press freedom, democracy and democratic norms and values cannot be flourished 4. Democracy enhances the freedom of the press in each and every cases 			
	If you have any remarks. Please give your perceptions			
7.	<p>What kinds of role should play for the development of present social system with the help of freedom of speech and expression?</p> <ol style="list-style-type: none"> 1. Positive 			

	<ul style="list-style-type: none"> 2. Normal 3. Negative 4. Meditative 5. Others 			
	If you have any remarks. Please give your perceptions			
8.	<p>Which types of societies are existed in Nepal with consequences of freedom of press?</p> <ul style="list-style-type: none"> 1. Civilized 2. Uncivilized 3. Liberal 4. Fully Social Responsibility 			
9.	<p>What will you see for the future prospects of Freedom of Speech and Expression in Nepal?</p> <ul style="list-style-type: none"> 1. Bright 2. Normal 3. Pessimistic 4. Cannot be predicated 			
10.	If you have any comments, please give your perceptions			
11.	What types of relationship has to be there between freedom of speech and privacy of the people?			
12.	Write about the actual practices of freedom of speech and expression.			
13.	What are the weaknesses in existing law for			

	protecting freedom of the people?			
14.	Give some the suggestion on this concerning issues			
15.	Did you face any difficulties to use the right of freedom of speech and expression?			
16.	Do you know the freedom of speech and expression as a legal Right?			
17	Do you know the existence of international instrument of freedom of speech and expression?			
18	What do you think about judicial responses relating to freedom of speech and expression?			
19.	How effectively have media covered the information of events?			
20.	What kinds of information did you deliver to the concerned parties for exercising freedom of speech and expression?			
21.	Do you have any comments for receiving timely information from authority?			
22.	Information provided by the media to the people was: Very good <input type="checkbox"/> Good <input type="checkbox"/> Bad <input type="checkbox"/> Worse <input type="checkbox"/>			
23.	Present information system of the media is: Very good <input type="checkbox"/> Good <input type="checkbox"/> Bad <input type="checkbox"/> Worse <input type="checkbox"/>			
24.	Impact of media content was: Very good <input type="checkbox"/> Good <input type="checkbox"/> Bad <input type="checkbox"/> Worse <input type="checkbox"/>			
25.	What are the role of media to bring social and cultural changes was: Very good <input type="checkbox"/> Good <input type="checkbox"/> Bad <input type="checkbox"/> Worse <input type="checkbox"/>			
26.	Please mention the problems and challenges encountered while getting the required information?			

S.N.	Ratings Criterion	Excellent	Satisfactory	Poor	Na	
27.	Quality of freedom of speech and expression in Nepal provided to the people as the fundamental rights.					
28.	Role of the press and government to create free environment for exercising this right.					
29.	Rate the overall experience of analyzing Right to freedom of speech and expression.					
30.	Rate the Role of media to disseminate news, views and opinion to the people for providing accurate, balance and creditable information.					
S.N	OPINION CRITERION			YES	NO	
31.	The existing administrative systems and procedures offer enough opportunities to the citizens to participate in government activities for					

	preserving this right.			
	If yes, give your opinion			
32.	The general public is informed about the appropriateness of decisions taken by the government on time.			
33.	Freedom of expression is a major instrument which will preserve democratic norms and values.			
	If yes....how			
34.	Awareness level and social consciousness on Freedom of Speech and Expression depends on the quality of governance i.e. Higher the awareness level better will be the good governance.			
	If yes give your opinion.			
35.	Do you believe that legal instrument of freedom of speech and expression will develop social awakening about the rights amongst the citizens?			
	If yes give your opinion.			
36.	Do you have any recommendation to improve the laws relating to freedom of speech and expression in Nepal?			
37.	Name some of the legal instruments of freedom of expression, accepted internationally.			
38.	What poses the news values for the journalist or for news media?			

39.	Media has to utilize this right fully to disseminate accurate, balanced and credible content to strengthen democracy in Nepal.			
40	What are the notable “successes” and “challenges” on the freedom of expression in Nepal?			
41	What are the actual threat to the media and people for utilizing this right?			

Annex 3

For office use:

Note for interviewers/supervisors:

Please introduce yourself and the objective of the baseline survey properly and openly to your respondent before you start questioning. Establish a good relationship with your respondent. This survey is expected to contribute to the improvement of the planning, monitoring and evaluation of delay in project construction.

- When answering the questions, one need not disclose his/her name.
- All answers to the questions in the questionnaire should be true and sincere.
- All information provided by the respondent will be treated with strict confidentiality.

Researcher: _____

Name of Supervisor: _____

Signature: _____

Signature: _____

Date :

Name of Respondents:

Name of area :

Ward No:

VDC/Municipality:

Full Permanent Address:

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Informed Consent

You are invited to be a part of Research Study On “**Practices of Freedom of Expression in Nepal : Media Perspectives**” conducted by Mr. Shashi Nath Marasini PhD student affiliated to Tribhuvan University. This questionnaire is requested to be filled up by you; which will be useful for me. The information, results, and issues gathered will be used for researcher’s personal purpose of teaching and learning only. It will be kept confidential.

If you agree to be a part of the research study, you will be given questionnaire with choice of answers which may take 20 – 25 minutes to solve. Participating in this study is completely voluntary. Even if you decide, you may change your mind, may not answer specific questions, and stop at any time. You may choose not to answer questions for any reason.

If you have any questions about this research study, you may contact to the Researcher I agree to participate in the study.

Agree

Yes

No

Signature

A. Legal Environment

S.N.	Statements	Yes, Most of the cases	Sometimes	Rarely	Never
1.	Does the constitution or other basic laws contain provisions designed to protect Freedom of the press and freedom of speech and expression, and are they enforced?				
2.	Do the Supreme Court, Attorney General, and other representatives of the higher judiciary support these rights?				
3.	Does the judiciary obstruct the implementation of laws designed to uphold these freedoms?				
4.	Do other high-ranking state or government representatives uphold protections for media freedom, or do they contribute to a hostile environment for the press?				
5.	Are crimes that threaten press freedom prosecuted vigorously by authorities?				
6.	Is there implicit impunity for those who commit crimes against				

	journalists?				
7.	Do laws restrict reporting on ethnic or religious issues, national security, or other sensitive topics?				
8.	Are penalties for ‘irresponsible journalism’ applied widely?				
9.	Are restrictions of media freedom closely defined, narrowly circumscribed, and proportional to the legitimate aim? A. closely defined B. Narrowly C. Circumscribed, D. Proportional				
10.	Do the authorities restrict or otherwise impede legitimate press coverage in the name of national security interests?				
11.	Are journalists regularly prosecuted or jailed as a result of what they write?				
12.	Are writers, commentators, or bloggers subject to imprisonment or other legal sanction as a result of accessing or posting material on the				

	internet?				
13.	Is there excessive pressure on journalists to reveal sources, resulting in punishments such as jail sentences, fines, or contempt of court charges?				
	Penalties for libeling officials or the state				
14.	Are public officials especially protected under insult or defamation laws?				
15.	Are insult laws routinely used to shield officials' conduct from public scrutiny?				
16.	Is there a legally mandated 'right of reply' that overrides independent editorial control?				
17.	Is libel made a criminal rather than a civil offense?				
18.	Are journalists or bloggers regularly prosecuted and jailed for libel or defamation?				
19.	Are fines routinely imposed on journalists or media outlets in civil libel cases in a partisan or				

	prejudicial manner, with the intention of bankrupting the media outlet or deterring future criticism?				
	Role of judiciary concerning the media impartially.				
20.	Are members of the judiciary subject to excessive pressure from the executive branch?				
21.	Are the rights to freedom of expression and information recognized as important among members of the judiciary?				
22.	Is there improper use of legal action or summonses against journalists or media outlets (e.g. being subjected to false charges, arbitrary tax audits etc.)?				
23.	Are journalists able to secure public records through clear administrative procedures in a timely manner and at a reasonable cost?				
24.	Are public officials subject to prosecution if they illegally refuse to disclose state documents?				

B. Legal Status

S.N.	Questions	Yes	No	Never
	Security laws, or any other laws restrict reporting and Punish journalists or bloggers.			
1.	Are there restrictive press laws?			
	Is there Freedom of Information legislation and journalist's ability to make use of it?			
2.	Are there laws guaranteeing access to government records and information?			
3.	Are restrictions to the right of access to information expressly and narrowly defined?			
4.	Are there any linkages of freedom of speech and expression with the transparency and good governance?			
5.	If yes, give your opinion			

C. When judging cases concerning the media, do authorities act in a lawful and non-arbitrary manner on the basis of objective criteria?

D. What types of impact of these rights for maintaining separation of power and rule of the law of the government system in Nepal?

E. What types of limitations should be there in freedom of speech and expressions?

Annex 4

“Practices of Freedom of Expression in Nepal : Media Perspectives”

For office use:

Note for interviewers/supervisors:

Please introduce yourself and the objective of the baseline survey properly and openly to your respondent before you start questioning. Establish a good relationship with your respondent. This survey is expected to contribute to the improvement of the planning, monitoring and evaluation of delay in project construction.

- When answering the questions, one need not disclose his/her name.
- All answers to the questions in the questionnaire should be true and sincere.
- All information provided by the respondent will be treated with strict confidentiality.

Researcher: _____

Name of Supervisor: _____

Signature: _____

Signature: _____

Date :
 Name of Respondents:
 Name of area :
 Ward No:
 VDC/Municipality:
 Full Permanent Address:

Questionnaire

Informed Consent

You are invited to be a part of Research Study On “**Practices of Freedom of Expression in Nepal : Media Perspectives**” conducted by Mr. Shashi Nath Marasini PhD student affiliated to Tribhuvan University. This questionnaire is requested to be filled up by you; which will be useful for me. The information, results, and issues gathered will be used for researcher’s personal purpose of teaching and learning only. It will be kept confidential.

If you agree to be a part of the research study, you will be given questionnaire with choice of answers which may take 20 – 25 minutes to solve. Participating in this study is completely voluntary. Even if you decide, you may change your mind, may not answer specific questions, and stop at any time. You may choose not to answer question for any reason.

If you have any questions about this research study, you may contact to the Researcher I agree to participate in the study.

Agree

Yes

No

Signature

I. Political Environment

S.N	OPINION CRITERION	Mostly	Sometimes	Rarely	Never	Code/Skip
1.	To what extent are media outlets' news and information content determined by the government or a particular partisan interest?					
2.	Is access to official or unofficial sources generally controlled?					
3.	Is there official or unofficial censorship?					
4.	Do journalists practice self-censorship?					
5.	Do people have access to media coverage and a range of news and information that is robust and reflects a diversity of viewpoints?					
6.	Are both local and foreign journalists able to cover the news freely in terms of harassment and physical access?					

7.	Are journalists, bloggers, or media outlets subject to extralegal intimidation or physical violence by state authorities or any other actor?					
8.	Are media ownership transparent, thus allowing consumers to judge the impartiality of the news?					
9.	Is media ownership highly concentrated and does it influence diversity of content?					
10.	Are there restrictions on the means of news production and distribution?					
11.	Does the state or other actors try to control the media through allocation of advertising or subsidies?					

II. To what extent are media owned or controlled by the government and does this influence their diversity of views?

S.N.	Questions	Yes	No	Never
1.	Does the state dominate the country's information system?			
2.	Are there independent or opposition print media outlets?			
3	Does a state monopoly of TV or radio exist?			
4	Are there privately owned news radio stations that broadcast substantial, serious news reports?			

Annex 5

Participant for FGD	Participant for KII
<p>Group A</p> <p>Dr. Ram Krishna Timilsina</p> <p>Deepak Khanal (Sect. Nepal Press Council)</p> <p>Mahaprasad Khatiwada (Journalist)</p> <p>Prakash Acharya (Journalist)</p> <p>Jagat Nepal (Journalist)</p>	<p>Prof. Prabal Raj Pokhrel</p> <p>Narayan Prasad Shrestha (Former Judge)</p> <p>Hom Nath Dahal (Journalist)</p> <p>Senior Adv. Yog Prasad Baral</p> <p>Adv. Pimala Poudel</p> <p>Taranath Dahal (Journalist)</p> <p>Dr. Mahendra Bista (Media Expert)</p> <p>Dr. Suman Acharya (Expert)</p> <p>Dr. Bijaya Podel (MP)</p>
<p>Group B</p> <p>Senior Adv. Mukuda Sharma Poudel</p> <p>Dharmandra Jha (Journalist)</p> <p>Kiran Pokhrel (Information Commissioner)</p> <p>Raju Shrestha (RTI Practionar)</p> <p>Adv. Lokendra Oli</p>	<p>Adv. Bashudev Gyawali</p> <p>Adv. Kamal Pandey</p> <p>Dev Raj Aryal</p> <p>Madhav Tiwari (Journalist)</p> <p>Bhawaniswhor Gautam (Journalist)</p> <p>Senior Adv. Tej Prasad Kandel</p>
<p>Group C</p> <p>Adv. Hom Bhahadur Kunwar</p> <p>Adv. Hom Nath Pandey</p> <p>Adv. Chandra Bahadur Khadka</p> <p>Adv. Jivanath Marasini</p> <p>Adv. Tuk Bahadur Thapa</p>	<p>Adv. Bhoj Raj Acharya</p> <p>Sanjay Gautam (Former Minister)</p> <p>Ram Prasad Bhattarai (Bureaucrats)</p> <p>Lila Rana Magar (MP)</p> <p>Adv. Sabina Karki</p> <p>Binod Baral (Educationalist)</p>

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