

Part One

1.1. Background of the study

1.1.1 Introduction of law and press law

Law is social obligation, norms, values and ethics accepted by society and legalize it by government of any nation. So various nation have various law and regulation. Likewise law and regulation composed for media sector to make it as controlling mechanism is consisted within the framework of press law. Although it has already proved that tyrannical and autocrat government can't help to thrive the media sector and always want to use media as a mouthpiece and medium of propaganda but democratic government helps to flourish and endorse the media sector to pave the way for better future of nation and to avoid all kinds of evil thing of society. However various legal expert and school of thought have given the definition of law in various ways. For example: -

i. Positive school of thought;

According to this School of thought," Law is the command of sovereignty." To be law, legislator has to ratify it to legalize any provision. Nor it can't be any legal provision.

ii. Historical school of thought;

According to this thought," law isn't made but found." Man doesn't create Law but man codifies an issue existent in given society historically to monitor society including establishment of peace, order and justice in society.

iii. Sociological thought;

According to this thought, "law is the social engineering". Law is completely social value, norms, order, and ritual, which are evolved for social monitoring purpose.

Iv. Socialist concept;

According to this concept, "law is the instrument of exploitation". Here, Fedual people are used to make law only for the exploitation of Proletarian people. This concept is evolved on the basis of Marxism.

v. *Naturalist concept;*

According to this concept, "law is the dictate of reason". Law is the command of nature or god or this concept is based on religious perspective. Nature determines what to do and what not to do itself.

vi. *Realist school;*

According to this concept, "law is the practice of court". It accepts the role of all body of democratic society like executive, legislative and judiciary body equally. It follows the judiciary autonomous and rule of law. No other body can disturb court in its own decision on the basis of existent law.

So press law is the branch of law to regulate and govern the press. That includes all constitution, act, regulation, bill, ordinance, order etc. that are made to restrict the press like other branches of law. So press law is the standard of measurement of basic human right

1.1.2 World history of press law

The press law of the world is started in Britain like other democratic law. Generally the press law refers to show the situation of press freedom that is censored by government for social responsibility. So the press law is the branch of press freedom. Magna Carta -1215, the first individual freedom as the civil liberty, had ascertained by the British king.

By that time, the conception of general law and fundamental right, started to issue in various continent. Although Henry VIII issued the list of prohibitory book to ban those book which were unfavorable to the British government. Licensing act-1662 was made by British government to regulate the press. In that very time, John Milton, advocated the press freedom as "give me the liberty to know, to utter and to argue freely according to conscience, above all other liberties." The legal expert and other human right activist started to raise the question to ascertain the press freedom legally. However it was dismissed in 1695 and applied the stamp tax to sell the

newspaper. The cost of newspaper became very high and growths of newspapers were stagnated which was finally withdrawn by government in 1855. Nowadays Britain is one of the best countries for press freedom legally but there is no written constitution, other law, code and order are used to regulate the press.

United States, the advocate of the world press freedom, granted the absolute press freedom in 1791 by the amending the Virginia bill of Right appeared in 1776 as "congress shall make no law abridging the freedom of speech and expression including press....." but there is various law like defamation, obscene, privacy, official secrecy that are used to impose reasonable restriction for social responsibility. However the state of the US has given absolute or relative right for press freedom more or less than federal government.

Although the communist nations of the world have defined press freedom in their own context but there is no press freedom from an occidental view. The United States and its specialized agencies are advocating now the American dominated press freedom, which is widely accepted. Universal declaration of human right of UN asserts: *"everyone has the right of freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers"*. This article is accepted by majority of nations by theoretically but not in practically.

Now various democratic nations have guaranteed the press freedom in constitution like Nepal, India, Bangladesh, Philippines, Thailand etc but majority nations of the world are very good in statutory law or theoretically but practically there is no press freedom as mentioned in constitution. Now the "freedom House" measures the world press freedom on the basis of following issues: -

- I. Laws and regulations that influence media content: - The standard of these criteria includes all forms of substantial and procedural law like

constitution, various acts, bills and other regulations including quasi-judicial decision.

- II. Economic influences over media content: - The standard of these criteria includes all forms of advertisement, its ownership and their intention to get profit, which also determines the practice of journalism.
- III. Repressive actions: - The interference from administration and other restriction by government has also significant positive and negative influences on media including journalism within this standard.
- IV. Political pressures and controls over media content: - The bias of political party and their direct influence on media has also curtailed media practices. Threaten, indirect influence, all are included in this standard.

1.1.3 History of press law in Nepal

The issuance of 'Sanad' was one unforgettable breakthrough in the history of Nepali press world, which was seemed as the base of all other restriction and regulation mechanism. However authoritative press law in Rana regime influenced the overall status of press and publication world. So there was no rule of law instead of conditional order and command of head of the state except the 'Gorkha Bhasha prakasaani Samiti', and constitutional government act (Nepalko Baidhanic Kanun-2004) and some other act. Democratic duration of one decade from 1951 to 1960 was rejuvenated liberalized and socially responsible press law when press of Nepal enjoyed somehow open and free environment but it became only ephemeral enjoyment. While king Mahendra took over the ruling power in 1960, the dark night of the press was commenced which was seemed as a stagnation period with tough legal system. Until the referendum period, the authoritative press law clouded over the sky of Nepali press world that was hindering the growth of newspaper and other

publication. After the referendum Nepali press faced transition period as tough and free both situation until reestablishment of democracy in 1990.

In conclusion, history of press law in Nepal seems the history of struggle. With the transformation of political system, the constitutional provision, law, regulation and ordinances have also changed radically. This transformation seems the by-product and aftermath of continuous struggle. According to the differences in the political scenario, the constitutional principle also changing which seems on the basis of advanced concepts about rule of law that lead the constitution towards the concept of civil rights. That concept leads the liberal constitution, which lead towards the liberal press laws and regulation. Although the constitution provision before 1990 was liberal but applicability of press law like act and bill was seemed far from reality because of undemocratic culture.

After the restoration of democracy, Nepalese press world has enjoyed extremely free environment until 2058 BS. Since 2058 BS the Nepali press world has been doing practices under freedom-phobic government that is stagnating and threatening the expansion and accessibility of press sector. It is still continuing. As a result we can say that different kinds of the press law is amending and imposing to thwart the media in the tenure of the distinctive government to make favorable environment to them for autocratic ruling system.

The pluralistic system after the reestablishment of democracy in Nepal has further created the pathway for the Nepali media until the transition period of time appeared in 2001 when emergency was declared to thrash the liberty of the people. The draconian era of the Nepali media spattered over the Nepali press world. The enthusiasm of the Nepali press started to be tumbled down. As a result, the glimpse of the thread of freedom has been worsened even after the royal takeover in February 1st, 2005 after the imposition of tough order, ordinance and other explicit and implicit control by threatening, intimidating, killing and imprisoning the journalist.

1.2. Problem identification

Nepalese media sector which emerged as an industry after 1990 A.D has been fighting for its survival following the royal move of February 1, 2005. In response to the deteriorating press freedom and freedom of expression in Nepal following the Royal Coup, various international organizations including UN agencies, global media associations, advocated freedom of expression and media development in Nepal. International Federation of Journalist undertook a mission to the country from 10 to 16 July 2005. This mission reflected its serious concern with which the international community views the press freedom and freedom of expression in the country. However, Nepalese press, one of the best for constitution enshrined press freedom, has been turned into ruin when the state of emergency was imposed on 26 November 2001. However the root of deteriorating the press freedom was seeded shortly after the declaration of constitution of Nepal when the rebel, Maoist group, commenced their insurrection and insurgency in 2052 BS. However, The Printing and Publication Act, National Broadcasting Act and other Act have emerged on the basis of Nepal constitution. As a result, the boom in media sector made possible with free economical system and enhancement policy to the private sector of the government. Both printing sector and broadcasting sector have taken its acceleration to the world's sophisticated society with advance technology. The output of FM radio has become 56 numbers of stations and half a dozen of TV stations as well as hundreds of newspapers as the industrialization of media sector. But the fate of the Nepali press has morphed into the bad one with royal massacre in 2058. The development of media industries after the restoration of multiparty democracy has been endangered after the declaration of state of emergency that is still deteriorating the practices of principle of journalism like press freedom, accuracy, ethics, fairness, watchdog etc while insurgency group of Nepal attacked and torched the dozen of barrack of military person and checkpoint of the police stations killing many of them on the crossway firing. Going on tough restrictions have become the backwardness of Nepali media world. The emergency had suspended various article of the constitution of 1991 publishing orders in 'Rajpatra'.

February 1, 2005, was taken now as one of the second dark night after the 2001, for press world of Nepal. The imposition of state of emergency has been still making deep negative impact on practicing the principle of journalism that is resulting suppression of press freedom and fundamental right of the people as legal system than ever before in the history of Nepali press world. The freedom of speech and expression, right to printing and publication, the right to information, the right to privacy except habeas corpus and other some fundamental right are suspended. As a result the government that became the illative of basic fundamental right of the people crushes the Nepalese press. The order declared in Rajpatra and Ordinance declared in gazette after the withdrawn of the state of emergency has still being deteriorating the media world. In October, The axe has fallen again on Nepal's press when the king has promulgated the media ordinance that journalist have been protesting for reinstating the ban on FM radio news broadcasts.

It has placed limits on ownership that seem specifically to target kantipur, the nation's largest independent media group, codified restrictions on criticizing the king and the royal family; and increased the maximum penalty for defamation to two years in prison. King Gyanendra has got criticism from international society, including Donor Association that became helpful to withdraw emergency in 100 days but the king was silent on the status of press restriction.

1.3. Objective of the study

This study has focused on following topics

- i. To analyze the situation of press law during royal takeover
- ii. To compare the order and ordinance with freedom of press
- iii. To study the impact of the movement on practicing the media freedom

1.4. Importance of the study

There is no freedom without the freedom of press - the quotation of the UNESCO, Mc Bride commission, is still reasonable which is based on the universal declaration of human right of united Nation but the nations of the world are ravaging by the conflict, both armed and peaceful. As a result, the first target of the government of concerned nations can be suspension of press freedom. So, primary function of the government can be limiting the legal provision to constrain the practices of journalism to make it favorable to the nation especially for the government.

Likewise, the Nepali press is also bed-ridden nowadays because of the above-mentioned reason. Nevertheless the condition is worsening after the February 1st movement. So the study will be useful to know and understand the condition of press law, which reflects the reality of press freedom after this movement. It is also useful those person who are going to rejuvenate the good legal system and preservation of basic human right of people. This study will also depict the role of democracy and pluralism for the advancement, development and modernization of media sector.

"There can be no press freedom if journalists exist in condition of corruption, poverty or fear", mentions the International Federation of Journalist. Here in Nepal, there is no guarantee of press freedom after royal takeover on the basis of IFJ standard, because there has been continuous psychological pressure to the journalists. Local administrations have been calling journalists dozen of time for inquiry and intimidation on the ground of news writing. Editors, publishers and correspondents from the places outside the valley are so much tortured that they are losing capability to write fair news regarding the activities of local security and administrative affairs. Consequently, it has been diminishing the capacity of Nepali press to write and disseminate news free and fairly. The fear of government interference has resulted self-control over professional journalism. Media professionals across the country have been hesitant to disseminate news fairly on issues like security, administration and governance. Journalists are working under constant psychological and unseen fear. Therefore, this study is useful who want to get the information after the royal takeover in terms of press system.

1.5. Limitation or scope

Limitation of the study is marked being concern to time, financial resource and material. To make the study more valuable and reliable, the limitation of the study will be following: -

1. The study has been focused on press law after February 1, 2005
2. This study has compared the law after the movement to previous statutory law (mainly basic fundamental right related to press)
3. The study has taken content of Kantipur, The Himalayan times, Samacharpatra and Gorkhapatra related to the issue of press law specially order of the government and the ordinance
4. The term press law has focused on 'order and ordinance' after the political movement of February 1, 2005 correlating it to the basic fundamental right
5. The focus of the study is Katmandu
6. The sample of study will be random which includes 100 journalists

1.6. Hypothesis

- a. Media content is curtailed by order of the government
- b. Killing, intimidation, detention, extortion etcetera of the journalists on the duty of reporting and commenting are common
- c. The ordinance declared by government is stagnating media world
- d. The media world is obliged to self-censorship over the coverage of government and conflict
- e. Internet is the best alternative media for Nepalese crisis situation.
- f. There is lack of media freedom after the royal takeover both theoretically and practically

Part Two

Literature review

2.1. Definitions of the press freedom in the world and practices of it in Nepal after royal takeover in 2005

A lot of books related to the press law have been publishing over the decade. But there is no book and other research is found on the basis of royal political movement on feb.1, 2005. . However, the books related to the world press freedom are proliferated in the markets that have close relationship to their political movement. Although degree of media freedom is measured by independent status of the media, diversity of supply, access to the channel of the audience, journalistic access to the news sources, and reliability of the media. So media freedom depends widely on legal, ethical controlling provision. Indeed, all constitution, act, regulation, bill, ordinances, order, ethical standard are the benchmark of the press freedom because *“The right of the people to speak out through a free press is a hallmark of a democratic society. The press and government are natural adversaries with different functions, and each must respect the role of the other.”*¹

The current conception of press freedom isn't evolved with the attempt of handful experts and not appeared suddenly but it is evolved and developed through continuous struggle of the journalist as a whole. This concept is notably possessed to the western society, greatly the united State and some other country but now it is the necessity of each and every democratic country around the world. Before the Second World War, the freedom of press was no taken as global affairs, the war maniac country used to misuse it for propaganda purpose without considering the media freedom, using media willfully, shunning the responsibility to the public. In those times, the voice of the press freedom was merely the local, and measured within the country. Now, these scenarios are quite different. Media freedom is the global affairs, which exists with social responsibility. The global institution like UNESCO, Reporters Without Border, International Journalist Federation etc. are fighting

globally for the global press freedom through pressing the international government to revoke the tough law and regulation and supporting the poorest country for fighting press freedom.

Generally when the United Nations declared the press freedom including it in article 19 in 1948, mentioning -"*everyone has the right of freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers*"², the attempts to establish the bud of press freedom globally through various organization were sowed.

The practice of freedom of press is not same around the world. So, "*The freedom of the press is one of the greatest bulwarks of liberty, and can never be restrained but by despotic governments*"³. The quotation of Mason of press freedom is quite applicable in Nepalese perspective of press freedom too. After the royal takeover in Nepal, the condition of press freedom both legally and practically muzzled. As a result, the contemporary government of Nepal seems autocratic, tyrannical and bogeys for the Nepali press freedom. UNESCO, Reporters Without Boarder, and other human right organization have also accepted the freedom of speech and expression including freedom of press for the protection of other fundamental human right. So, they agree with contemporary buzzword '*there is no freedom without the freedom of press*'⁴.

Not only the political system of any nation fetters the press freedom but also organizational structure and its all socio-political background gag the media practices. In the word of Hannen Swaffer, "*Freedom of the press in Britain is freedom to print such of the proprietor's prejudices as the advertisers don't object to*"⁵. Mcquail also supports the quotation of Hanmen. According to the Mcquail, the element of media freedom as follows; -

- ii. *Structural conditions (especially the legal freedom to transmit or publish)*

- iii. *Operating conditions (real independence from economic and political pressures and relative autonomy for journalists and other communicators within media organizations)*
- iv. *Opportunities for voices in society to gain access to channels*
- v. *And benefits of quality of provision for receivers – according to criteria of relevance, diversity, reliability, interest, originality and personal satisfaction.*⁶

Freedom of the press in Nepal is the main concern of our topics, although we have mentioned the global press freedom. We can envisage following statement for defining the meaning of freedom of press; *"Liberty (freedom), right of individuals, is to act as they choose. In this sense, it is frequently called individual liberty. The term is also employed in connection with the achievement of sovereignty by a people; when so used, it is called national liberty. Although in these traditional senses liberty may be specifically civil or political, the modern concept further connotes a generalized body of rights, such as the right to economic opportunity and education."*⁷ The measurement of this statement of freedom of press is rare in current political scenario of Nepal. In reality there is no freedom of press that is depicted by the current situation and practices of media. Feather-cut freedom of Nepali press has been muddled up with the pseudo-freedom as the restriction from the government and grave highhandedness of security forces after royal takeover. There is no aura of practicing the freedom as mentioned in above statement, with the cause of wary intimidating eye of the administration. This is the sign of the bad mascot of future Nepali press freedom.

In reality, the Nepali press enjoyed great press freedom after the restoration of democracy in 1991 than ever before in Nepali press history unless the political transitional phase was veered round in 2001. Shortly after the declaration of emergency, the bad fate for Nepali press freedom was started. The imposition of emergency in 2001 became popular for attack, raid, illegal search, censor, close by force, transmission jam and alike of news organization of Nepal that followed by royal takeover in 2005. *"King Gyanendra Bir Bikram Shah Dev seized direct power on*

February 1, dealing an unprecedented blow to press freedom. He cut all the telephone lines, blocked Internet service, and sent the army to major media outlets to censor the news line by line. Hundreds of political leaders, civil activists, and journalist were detained. The king dismissed his multiparty government and declared the state of emergency, which lasted three months." "While some of this restrictions were temporary, others were not, A draconian media ordinance issued in October codified much of the king's censorship as law, making a return to democracy under the monarch appear increasingly unlikely."⁸

However, constitutionally Nepalese people have the right to enjoy the press freedom. In reality the practices in procedural law are almost absent to reinvigorate the press freedom on the basis of substantial law. Though, no nation of the world has pledged the absolute right to the press. Unrestricted press freedom creates the social chaos but press should be restricted only for the social responsibility." *Because completely unrestricted freedom of action would make peaceful human existence impossible, some restraints on freedom of action are necessary and inevitable. Virtually all codes of action recognize that basic limitation. Liberty is defined in such codes as the right of individuals to act without restraint as long as their actions do not interfere with the equivalent rights of others; acts that do violate the rights of others are rejected as license."⁹* Here in Nepal, under the name of relative press freedom, there is no exact law to define press freedom or no exact measurement of press freedom after and before the royal takeover suspending the right of the people. It is worsening after royal takeover in 2005.

So, "Freedom of the Press is immunity of the communications media—including newspapers, books, magazines, radio, and television—from government control or censorship. Freedom of the press is regarded as fundamental to individual rights. Without free media, a free society and democratic self-government would not be possible. By recognizing the right to dissent, democratic governments encourage peaceful and orderly social and political change."¹⁰ After the royal takeover there is no possibility of democratic government in Nepal. As a result, there are no good practices of freedom of press too.

"Freedom of the press, however, is not absolute. The principle has long been established that the press may not be used in circumstances that would create a "clear and present danger" of bringing about serious consequences to some significant interest that the government has a right or duty to protect. For example, during World War I (1914-1918), restrictions were placed on the direct advocacy of treason and on criticism of the government, conscription, or the American flag."¹¹ Like this, Nepali government has also right to impose various laws and regulation in emergency period but the government shouldn't uproot the right of the people or government as of the people, to the people and by the people according to the essence of Abhram Lincoln.

On the word of Kashiraj Dahal, press freedom means, - *"Within the framework of press freedom, right to get information, right to print without prior restrain, rights to print without fear or duress, access to essential material related to information and facilities, without the government interferences, are included."*¹² But in the perspective of Nepal, it is only the fairytale after the royal takeover. *"As long as we are ruled by others we shall lay our mistakes at their door, and our sense of responsibility will remain dulled. Freedom brings responsibilities, and our experience can be enriched only by the acceptance of these responsibilities."*¹³ Now we (Nepali) are completely ruled by the government. So the government makes and ascertains the duty of journalists, there is no chance of good practices of press freedom.

On the other hand, Kishwor Nepal, had written book on 'Nepalese press and emergency' that focused on first emergency of Nepal but no coverage on 2nd emergency and its order and ordinance. This ordinance is taken now as unfavorable to the Nepalese press. That is not mentioned by Kishwor Nepal. Another book of Nepal entitled 'press under the shadow of violence' has also coverage of the situation of press freedom outside the capital of Nepal but no coverage of press freedom on legal perspective after royal takeover.

We can understand the present scenario of Nepali media by following statement of Binod Bhattarai too. *"The emergency order suspended at least seven constitutional articles and clauses, guaranteeing civil liberties, including the freedom of opinion and expression, peaceful assembly without arms, and unrestricted movement within country. The order also suspended the press and property rights, and the right to seek constitutional remedy, excepting habeas corpus. The state of emergency was accompanied by the promulgation of a new Anti terrorism law, The Terrorist and disruptive activities (prevention and control) Ordinance 2001, giving sweeping powers to security officials to search, arrest and detain suspects. This ordinance allowed for the detention of suspects without trial for 90 days, and also broadened the definition of terrorist to include anyone found aiding the Maoists in any way."*¹⁴ The survey of Binod Bhattarai about 'Nepali press under emergency', has described on the influences of emergency on content that has close relative nature to the re-emergency but it is limited on post-emergency (1st) analysis of the coverage based on the available clipping which is mainly focused on conflict and content.

The practice of fettering the press in crisis situation is not new around the world. The complete unfettered and unbridled practice of freedom of press is rare throughout the world too but it is measured only by the degree of the freedom in comparison to the western democratic country. The Pakistani press also faced the serious problem when General Pervaz Musharaff took over the national ruling system declaring himself the president of Pakistan like the situation of Nepal in February 1, 2005 by king Gyanendra. Mushraff also closed the entire foreign channel, national telephone system and imposed strong order to regulate the press declaring the state of emergency in October 1999. so there is also no good press freedom in Pakistan. Gunartne and Shelton mentions the Pakistani press freedom as *"The press, however, still faces the challenges of working with nascent democratic institutions that have not yet developed the fundamental democratic tenet of tolerance for opposing viewpoints. Pakistan returned to military rule in October 1999. The state of emergency allows the country's chief executive to curtail media freedom."*¹⁵

All the governments having despotic nature always want to suppress the media freedom to impose their one-way view and to thwart the mass liberty. Likewise Hutchins commission of USA mentions as "*Freedom of the press to appeal to reason may always be construed as freedom of the press to appeal to public passion and ignorance, vulgarity and cynicism as freedom of the press is always in danger. So it is always dangerous. The freedom of the press illustrates the commonplace that if we are to live progressively, we must live dangerously*"¹⁶. So, we should fight for our liberty against government aiming complete press freedom even in Nepal.

Many commissions around the world are forming to monitor the freedom of press. If there is no freedom, there is no possibility of onus government to the people because "*Freedom of the press means freedom from and freedom for. The press must be free from the menace of external compulsions from whatever source. To demand that it be free from pressures, which might warp its utterance, would be to demand that society should be empty of contending forces and beliefs. But persisting and distorting pressures – financial, popular, clerical, and institutional – must be known and counterbalanced.*"¹⁷ Nowadays, the government of Nepal has wrong-footed the Nepali freedom of press, misusing the entire press world by intimidation, threaten, manhandle and alike. As a result the journalists of Nepal have been fighting for complete press freedom.

'I have no doubt that even if the government dislikes the liberties taken by the press and considers them dangerous, it is wrong to interfere with the freedom of the press' Jawaharlal Nehru says addressing All India Newspapers Editors in 1950. He further says "*I would rather have a completely free press with all the dangers involved in the wrong use of that freedom than a suppressed or a regulated press*" However, the condition of Indian press in emergency was also too menacing. Viswanath and Karan describes the Indian press in emergency as "*the country, as well as the press, faced a traumatic development in June 1975 when Prime Minister Indira Gandhi declared the political emergency, suspended civil rights, and imposed restrictions on free speech and the press. During the 19-month long emergency, her government, among other acts, detained 253 journalists, expelled seven foreign*

correspondents, muzzled the press, and dissolved the press council. This period also witnessed an effective yet spirited struggle by some in the press"¹⁸ same conditions have been occurred after 2001 while emergency is declared in Nepal.

The government owned media couldn't preserve and protect press freedom. The government wants always constrain the freedom of the people on the name of various crisis of the nation. So it is strongly necessary to endorse and expand the private ownership rather than public media. On the saying of the Mankekar mentioned on his book, there are following unique reality of free press.

- a. That a free press, while being vital public utility, must remain privately owned*
- b. That since a newspaper enterprise is as much as a private property as any other industry, the proprietor has a legitimate and legal right to decide how and in what form that property shall be run, and by whom.*
- c. That a newspaper enterprise is big business in the sense it involve heavy initial capital outlay and there after an inordinately long gestation period – a minimum of 5 years, though often much longer*
- d. That only the viable and prosperous newspaper can exercise the freedom granted to it by a democratic society and constitution.*

Mankekar further mentions about freedom of press as *"The government's publicity operators noted that they had only to accuse a newspaper of being anti-government to get its column thrown open to government policy"¹⁹*

2.2 Press freedom under current constitution of Nepal as fundamental right

1. Right to Freedom: (Article 12 of part 3 of constitution 2047 BS)

(1) No person shall be deprived of his personal liberty save in accordance with law, and no law shall be made which provides for capital punishment.

(2) All citizens shall have the following freedoms:

(a) Freedom of opinion and expression;

(b) Freedom to assemble peaceably and without arms;

(c) Freedom to form unions and associations;

(d) Freedom to move throughout the Kingdom and reside in any part thereof; and

(e) Freedom to practice any profession, or to carry on any occupation, industry, or trade.

Provided that -

(1) Nothing in sub-clause (a) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities, or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act which may be contrary to decent public behavior or morality;

(2) Nothing in sub-clause (b) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act, which may undermine the sovereignty, integrity or law and order situation of the Kingdom of Nepal;

(3) Nothing in sub-clause (c) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act, which may undermine the sovereignty and integrity of the Kingdom of Nepal, which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities, which may instigate violence, or which may be contrary to public morality;

(4) Nothing in sub-clause (d) shall be deemed to prevent the making of laws which are in the interest of the general public, or which are made to impose reasonable restrictions on any act, which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities;

(5) Nothing in sub-clause (e) shall be deemed to prevent the making of laws to impose restriction on any act which may be contrary to public health or morality, to confer on the State the exclusive right to undertake specified industries, businesses or services; or to impose any condition or qualification for carrying on any industry, trade, profession or occupation.

2. Press and publication right :(Article 13 of part 3 of constitution 2047)

(1) No news item, article or any other reading material shall be censored.

Provided that nothing shall prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities; or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act against which may be contrary to decent public behavior or morality.

(2) No press shall be closed or seized for printing any news item, article or other reading material.

3) The registration of a newspaper or periodical shall not be canceled merely for publishing any news item, article or other reading material

3. Right to Information: (Article 16 of part 3 of constitution 2047)

Every citizen shall have the right to demand and receive information on any matter of public importance; Provided that nothing in this Article shall compel any person to provide information on any matter about which secrecy is to be maintained by law.

4. Right to Privacy: (Article 22 of part 3 of constitution 2047)

Except as provided by law, the privacy of the person, house, property, document, correspondence or information of anyone, is inviolable.

4. Right to Constitutional Remedy: (Article 23 of part 3 of constitution 2047)

The right to proceed in the manner set forth in Article 88 for the enforcement of the rights conferred by this Part is guaranteed. However, the article 115 has given the right to impose emergency in crisis situation but the government of Nepal has been misusing and misinterpreting it from time to time after the first emergency imposed in 2001. Our constitution clearly states that "if a grave emergency arises in regard to the sovereignty or integrity of the kingdom of Nepal or the security of any part thereof, whether by war or disarray, his Majesty may, by proclamation, declare or order a state of emergency in respect of the whole of the kingdom of Nepal or of any specified part thereof." Even in the absence of the emergency, the government of Nepal has been misused constitutional enshrined press freedom on the various fake and counterfeit issues by cheating, and deceiving the Nepali people.

The entire Act, Bill, Regulation are formulated according to these Article for censor press freedom reasonably till 2001, before imposition of emergency in Nepal. After the imposition of emergency in 2001 for the first time in Nepal after reestablishment of democracy, press freedom is gradually deteriorating and it has got its apex point of deterioration after royal takeover in 2005 with emergency, second time after the restoration of democracy in the history of Nepali press freedom

Almost all the fundamental right including press freedom is suspended during the state of emergency in Nepal. According to the theory of **Juries Prudence**, "if there is no fundamental right, there is no rule of law".²⁰ So during the emergency, there is only the autocratic dictum to rule the nation because of the suspension of fundamental right in Nepal. As a result, there is no usage of the constitutionality during those periods.

2.3 Press freedom and Continents

The constraint of press freedom through attacking the press is worst in the year of 2005 around the world. Especially the world's most murderous countries of the

journalists are Philippines, Iraq, Colombia, Bangladesh and, Russia in this year. However, the freedom system in African continent is quite mixture of various systems. The government ownership in media is rampant among African nations. The freedom of the press is determined in Asia by two system of the world; one is African system and another is American system. Within the rubric of American system, there are good atmosphere for private media too and within the African system there is quite tough legal system for private media. The freedom of the press in South American countries is radically different than other continent because the government and majority media are run by private sector run some media. The law and regulation related to the press are reasonable and open than other continent. However North American countries have good press freedom than other one, typically United State of America is better in press freedom to be practiced. Basically the European nations have also very good practices of press freedom. The laws related to media are very common to promote freedom with mild restriction in those countries.

Generally the nations of the world are used to control the press freedom through both overt and covert control like arresting the journalists, censoring the media content. Especially, in the political subversion or transitional period, many countries around the world are used to attack, raid or illegal search of media organization. On the other hand, closing the media by force, confiscating the media property, censoring the media content on the presence of administrative authority, suing wrongfully the media for libel or defamation, jamming the transmission of electronic media are rampant to curtail the press freedom as well as imposing strong legal obligation to the media practitioner.²¹ In South Asian Countries, there is no resemblance in media control provision. Bhutan and Maldives have authoritarian system, where the order and desire of the head of the state is law for controlling the media. Pakistan has also the same condition like current Nepal. The military president Musharaf has imposed strong legal provision including oblique restrictions on press after 1999. So the press system of Pakistan is guided by Muslim philosophy. There is extremely cultural and political constraint for practicing freedom of press as alternative of the freedom of western desired press-system. Shrilankan are also suffered of Tamil Tiger group and government atrocity that making the press world

sandwich between them like Nepal. Bangladesh, one of the most murderous countries in south Asian country is also suffered of mainly criminal gang and onerous government.

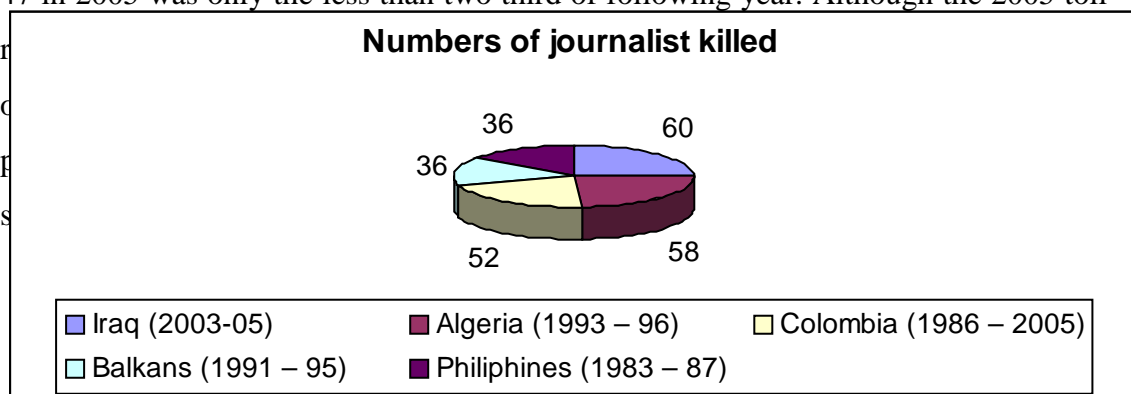
2.4. *Journalists killed in 2005 across the world*

Conflict, one of the prominent parts of construing freedom of press is the cause of killing the journalists too. The CPJ has enlisted the following five deadliest conflicts in 24-year history of the press world.

Table no. 1: Distribution of journalist murder

Country	Number of journalist killed
Iraq (2003-05)	60
Algeria (1993 – 96)	58
Colombia (1986 – 2005)	52
Balkans (1991 – 95)	36
Philippines (1983 – 87)	36

47 journalists are killed in the year 2005, more than three quarters of whom were murdered to silence them or to punish them for their work. In comparison to the year 2004 when 58 journalists were killed, the toll of journalist killing as the number 47 in 2005 was only the less than two third of following year. Although the 2005 toll



The report has documented Nepal's grim history of violating human rights and freedom of speech. Nepalese journalists have been under intense pressure over the last ten years during the CPN (Maoist) bloody struggle to establish a "people's republic" and abolish Nepal's constitutional monarchy and the state's attempt to control the movement. Eight journalists and one media worker have been killed since May 2002 and hundreds more threatened and attacked here in Nepal.

2.5. Condition of Journalists in jail across the world in 2005

According to the report of the committee to protect journalists, China is the one of the topmost journalist imprisoned country. In 2005, China has imprisoned 32 journalists. Like this Cuba has 24 numbers of imprisoned journalists, Eritrea has 15 and all other countries have only the 41 journalists for a long time. The journalist who disappear or are abducted by non-state entities such as criminal gangs, rebels, militant groups are not included in this list. The attacks from such kinds of group across the world have also the dire problem of the world press freedom. Anti-State allegations like divulging the state secret, acting against the state interest, including in the state subversion are common among them. According to the report, Uzbekistan is fifth, and U.S. and Burma are also along with fifth position. Iraq, one of the most violation-ridden countries, is included in the leading journalist imprisoned country by the military person of world's freedom advocate. Afghan journalists are also in grave peril with the highhandedness of US and allied military forces on the name of retaliation the terrorist and terrorism. As a whole the journalist of the world are suffered of national political instability and international terrorism. On the name of eliminating those elements, media are using as a weapons, suppressing it. On the other hand like criminal gang, militant group are crushing the media by imprisoning the journalists, taking hostages the journalists, killing them and wooing them with bribe, infiltrating themselves as a journalists. That is the great tensions for media world.

More than 100 journalists were arrested during the previous state of emergency from November 2001 to August 2002 and many of them were subjected to torture in Nepal. The intimidation, threaten and imprisonment of journalists aren't still unabated. The pain and torment in media sector is still twitching from time to time. It is dampened even after February 1, 2006, annual day after the royal constrictions, which is continuing after the declaration of general strike by 7-alliance party of Nepal. The following table represents real situation of journalists in first emergency. It is believed that there is tough and strangling situation in second emergency imposed by royal government.

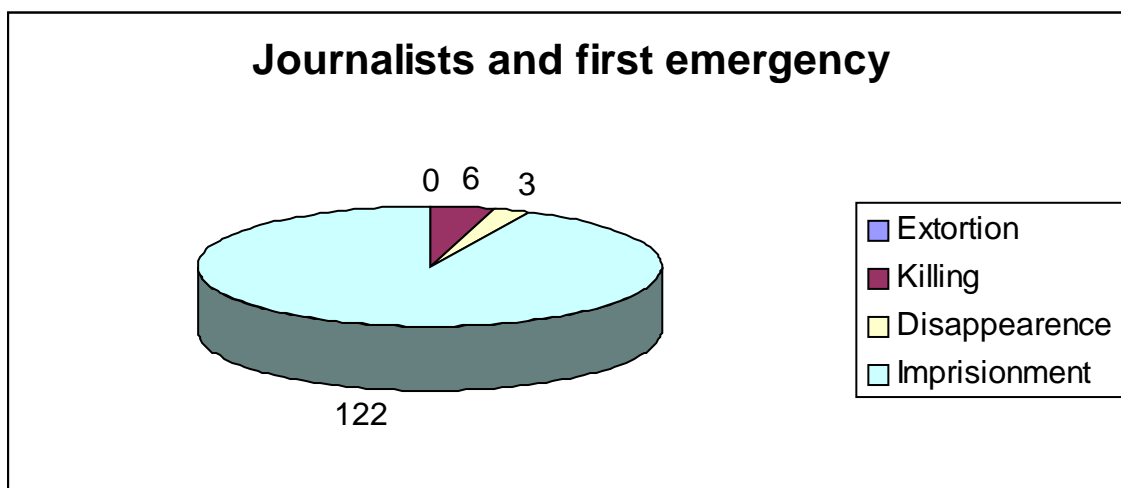
The condition of crackdown under Nepali press during the 1st emergency from Mansir 11, 2058 to Bhadra 12, 2059 has been presented as following table.

Table no. 2: Distribution of list of situation of journalist in 1st emergency

	Extortion	Killing	Disappearance	Imprisonment
Government	0	6	3	122
Maoist	2	2	3 free among 4	0

(Source - Nepali press under emergency, NFJ)

However, South Asia continues its well-deserved reputation as one of most



unsafe places in the world for journalists to work. Daily attacks on media workers, a culture of impunity for those that target journalists, and a profoundly undemocratic and hostile media environment in many countries mean journalists who seek out and report truth do so in a climate of fear and intimidation." The past year saw governments continue the crack down on democratic rights and press freedom in the name of tackling terrorism. And corrupt officials, insurgents, fundamentalists of all religions and gangsters with their own violent methods of silencing truth tellers, continue with impunity," mentions Jacqueline Park, director, IFJ Asia-Pacific. On World Press Freedom Day, May 3, the IFJ releases its Third Annual Press Freedom Report for South Asia: Courage and Censorship - Journalists and Press Freedom in South Asia 2004-2005 to highlight the professionalism of journalists working in adverse circumstances to protect press freedoms and keep the public informed.

The report sets out to tell the full story of press freedom, democratic right and journalists' safety in South Asia. Sadly, it details the deaths of too many journalists and records the unspeakable treatment of many others. In a terrible and shocking toll, 19 media workers were killed between May 2004 and April 2005 in targeted attacks for their efforts to ensure the voice of the free press in South Asia is heard. The report also documents the declining media freedoms so important for media independence and vital to democracy. The report also tells how journalists in Nepal have been at the forefront of the opposition to the Royal coup and clampdown on press freedom and democratic rights there; of the courage of Bangladeshi journalists who, despite daily attacks of the most horrific proportions, continue to expose the corruption that pervades the country; and of how journalists, while counting their own losses, were quick to tell the world and their own communities of the devastation caused by the tsunami.

The report has been co-coordinated by the International Federation of Journalists on behalf of the South Asia Media Solidarity Network (SAMSN), a unique coalition of journalists' unions and press freedom organisations in the region. The SAMSN, bringing together more than 25,000 journalists across the region, is dedicated to building solidarity among journalists' organisations and other groups in

the region working to promote a safer working environment and greater respect for the work of journalists. The IFJ called upon governments to respect democratic rights, investigate and follow up every attack and be held accountable when there is official indifference, negligence or, as in some cases, official complicity in attacks on media. "Spotlighting the cases of violence against journalists and press freedom violations plays a valuable role in not only raising awareness of these issues but also in applying pressure to ensure that the perpetrators of these assaults are brought to justice," believed in the report.²²

At around 10 in the morning of February 1, 2005, King Gyanendra delivers an address to the nation, proclaiming dismissal of four-party coalition government led by Prime Minister Sher Bahadur Deuba which was the third government directly nominated by him after taking over the country's executive powers on October 4, 2002. The King took this move accusing the government of failing to initiate process to hold general elections as per his wish. With the announcement, he also declares that the new government to be formed would be under his own leadership. Immediately after the Royal proclamation, all communication networks, including telephone, Internet and fax, are cut off and a State of Emergency declared through a separate notice all throughout the country. Many constitutional clauses on civil rights suspended. Strict censorship imposed in mass communication media, both electronic and print. FM radios and private TV stations swarmed with security forces for vigil. So after the royal takeover, there is no press freedom in Nepal.²³

Part three

Methodology

3.1 Research procedure

Research methodology determines activities to achieve the main objectives of the study. To make this study more valuable and reliable, different research methodologies have been adopted. This study is descriptive although very little nature of the study is also exploratory too. However to make success above mentioned research design, it has focused on content analysis and questionnaire method including library method. The sources of data are included both primary and secondary as per availability. In sum, random sampling, interview, questionnaire and case study method are included as a technique of data collection.

3.2 Questionnaires

This study has conducted by the support of the schedule questionnaire, which are taken as for the obtainment of description, comparison and measurement of the press situation during the royal takeover legally and practically. All questionnaires are in structured form that has included either closed form or selective type of questionnaire and open end or inventive type of questionnaire. Both kinds of questionnaires are included in this research for the obtainment of quantitative and qualitative description of the study.

3.3 Sampling technique

The sample for the questionnaire has taken 100 personnel who are worked as journalist both expert and professionals randomly. For content analysis of press law related issues, four newspapers are accepted. These papers are included Kantipur, the Himalayan times, Smachapatra and Gorkhapatra. The content related to the order and ordinance published in those newspapers, has accepted to analyze the effect of the situation after the royal takeover. Those people who are undertaking the professional journalism in any form of the media have filled the questionnaires. The newspapers

professionals have accepted to fill especially the questionnaires. However, the journalists worked in radio and television, are also included in this sampling of the study. In that process, sub editor, reporter, program operator have been included in this study.

3.4 Nature of the data

The data obtained from the study has included both primary and secondary sources of data. The data related to journalist detention, killings are taken from the report of the Nepalese Journalist Federation as secondary sources of data. For the primary sources of data, the survey method has been followed with questionnaire, case study, and content analysis. As a whole the study has accepted both quantitative and qualitative study. The questionnaires have also included both subjective and objective nature for quantification and qualification, which are interrelated to each other for the conclusion ascertainment. The content analysis is completely qualitative study.

3.5. Presentation of data

Editing, coding and classification of the acquired data are included as the form of presentation of data. The data has presented on diagrams, pictures, and table to display the clear scene of the study.

3.6. Analysis of data

In the data processing the filled questionnaire has been carefully checked to remove the possible errors and inconsistencies for the edit of raw data. After the editing of raw data, the necessary data are tabulated and remaining qualitative data are kept in text according to the relevance in quantification. The computer is used for the presentation of data in different figures such as bar-diagram, pie chart, histogram etc. Finally the summary and conclusion are drawn and required recommendation has been stated.

3.7 Duration of study

Activity	Month
1. Literature review	1. December 15, 2005
2. Proposal writing	2. December 15, 2005
3. Data collection	3. January and February
4. Report writing	4. March and April
5. Presentation and submission	5. May and June

Part Four

Data collection and analysis

Situation of press freedom after royal takeover

4.1.1. Suspension of Press freedom in emergency

On February 1, 2005, the king of Nepal declared a state of emergency, sacked his government, and shut down the free press including the independent news on radio, suspending the Article 12 (a), (b) and (d), article 13 (a), Article 15, 16, 17, 22, and 23. The second emergency after the reestablishment of democracy has suspended the following basic fundamental right related to the freedom of speech and expression, right to peaceful assembly without any weapons, right to move and live across the nation of Article 12, right against preventive detention of Article 15, right to information of Article 16, right to property of Article 17, right to privacy of Article 22, right to constitutional remedy of Article 23 except the habeas corpus of Nepal constitution 2047. Comparatively the second emergency seems more stringent than first emergency in the history of Nepali press world. In the beginning, it is mentioned that the communication media are the medium of the enhancement of the 'consciousness of democracy' in royal declaration. On the one hand the royal declaration seemed positive but on the other hand military personnel seized the premises of the media houses. The government took the policy to make all the media on the favor to the government by coaxing or threatening both. The military personnel started to vet the media content. Without the verification from the military personnel, no media could publish the news. The broadcasting media were banned news dissemination completely.

The government owned and some royalist media started to praise the royal government. These media supported the stringent order and restrictions, which

imposed on media. The dark night of the Nepali journalism started with the avaricious ambition of the king

4.1.2 Ban on radio news and protest against it

On 2 February 2005, Ministry of Information and Communication published the two notices to give the formality to the royal declaration. The orders to control the media are also published. On the one hand, the government of Nepal claimed that Fm Radio around the world are used to no broadcast news. On the other hand, FM Radio claimed that it was only the technology, so there was no query about the broadcasting the news through FM technology. The chairman of the International Journalist Federation, Christopher Warren, arrived here in Nepal and advocated for radio technology but the government of Nepal turned deaf. The communication Corner closed by government from the day of emergency declaration on 1 February 2005. The Nepalese journalist Federation started to protest against the government decision but in the beginning, it didn't envisage on the fire of radio journalist by FM radio owner. Maoists started to take advantage operating their own mobile radio stations. The government didn't pay their attention on the impact of their radio, but concentrated only on the civil radio. It was taken as the government's incapacity to think farsightedly.

The radio journalists, who participated in the protest organized by the Federation of Nepalese Journalists, are started to take clarification by the government. The radio journalists have continued to fight against the government's decision except the threat produced by the government. The journalist has mocked the government by distributing the coconut to the monkeys of Swoyamvu. They are not backwarded to protest through reciting the news publicly using mike. The journalist worked in private radio stations formulated 'Radio rescue fighting committee.'

Gradually, more than 1000 radio journalists became unemployed of 41 radio stations out of the 56 stations. The journalists outside the capital faced painful, arduous and difficult situation both from government side and Maoist side. There is

no place to bring their information and pain because of the unavailability of the telephone and telematic media. The journalists occupying in valley are felt quite relax than rural area because of their chance to bring their voice to the public. The government couldn't torture severely them with the voice of the international society, human right organization, international journalist association, donor association etc. The government of Nepal faced severe criticism from international and national community.

The ban on news with the declaration of emergency came to end when Supreme Court made an interim order against the government to halt the proceedings against Rainbow FM for news broadcasting on 10 august 2005. Finally all the FM station started to broadcast news. Again, with the presence of Media Ordinance, FM stations are deprived of political and conflict news and allow only non-political information, not news.

The spokesperson of Royal Nepali Army started to make psychological pressure on journalists claiming that cameraman of Nepal-1, Phanindra Silwal, had supported the Maoist shortly after the royal coup. Silwal had taken the picture of cross fire between Maoist and royal army including the rescue scene of injured military personnel by the Maoist side during the time of the two-way fighting between them in Dhadhing road section, Prithibi Highway. So the Nepal government has completely disrupted private media.

4.1.3. Maoist on FM Radio

When the government of Nepal banned on the news on FM radio, the Maoist escalated the propensity of their mobile radio broadcasting from twice a week to daily. Many journalists opposed the double-speak of the government for constraining the independent radio and promoting the non-state-radio. The people of the rural area are proliferately used to get Maoist radio broadcasting because of the lack of the independent radio news. The Maoist has taken advantages of the government's flaw

and weakest point utilizing their propaganda skill and aptitude, providing their news and information with denouncement to the royal government and army. The government couldn't watch backlash and negative tantamount impact of its shortsightedness banning radio news until the proceedings of Rainbow FM.

4.1.4. Vetting of media content by military personnel

Shortly after the royal declaration, the military personnel in civil uniform entered the newsroom for the purpose of censoring the information, especially the news. The final copy of the leading daily of Nepal like Kantipur, Nepal Samachapatra, Rajdhani, Annarpurna post, the Himalayan Times etc, were edited by the military representative. The magazine, Himal Fortnightly published with blank space where content were cut off by military vigilant. Some other weekly newspapers are stopped to publish as the presence of military representative. The final outgoing copies were published as per the perspective of the vigilant of government by removing the anti-governmental Issues and adding the favorable issues to the contemporary government of Nepal. No editor or media houses had opposed the government action because of the fear of the intimidation and imprisonment. Almost all the newspaper has used soft language while presenting the news. Finally the duress of newspaper became mild than before. The military person entered the media house with weapons and combat dress. In that time, the fear of insecurity was common.

4.1.5. Reduction of pages by newspapers

Shortly after the royal takeover in February, almost all the newspapers reduced their number of pages. For example Kantipur daily became 12 pages from 16 pages, Annapurna became 8 pages from 12 pages, Nepal Samachapatra became 8 pages from 12 pages and other alike this. Within a month, all got success to establish their previous numbers of pages as before the crisis situation. However all the newspapers covered other social issues rather than political and conflict issues. Mainly Maoist got little negative coverage in contrary to previous coverage.

4.1.6. Discriminative advertisement policy

The government declared withdrawn of the public welfare advertisement to squeeze the media economically. No media could get government fund and advertisement except government side media. The Gorkhapatra was declared to bring its access to the each village by the Ministry of Information and Communication. The newspapers in trial are stopped from government facilities. The government indirectly followed the one door advertisement policy. Finally many of the newspapers were crunched by economically. Interrogated 7 newspapers for empty space edited by military vigilant are deprived of welfare advertisement from February too. Group 'A' weekly newspaper were getting 12000 rupees from information department are closed by government to make difficult to such newspaper for opposing the royal government. Interrogated newspapers were Desantar, Sanghu, Prakash, Hank, and Bimarsa etc. Ministry of Information and Communication send letter to all government offices not to provide any aid and advertisement to private newspapers. On Chaitra 2, 2061, in their meeting of Council of Minister, this decision was passed.

On Mansir 8, 2062, the government publicizes 'one door policy and directives in government advertisement'. Government's One Door Advertisement Policy has a very adverse impact on Media sector since it has limited public expenditure on advertising. In the name of one door advertising policy, government has imposed economic blockade. This policy has been exercised to control those media institutions, which opposes royal move. This has been adversely affecting the professional capacity of a journalist to be critical. This has created the danger for independent media world of being governments' chanting group. As a result, 'Network of Weekly-fortnightly Newspaper' has formulated on the leadership of FNJ after the meeting of the editor of those newspapers on Kartik 3, 2062. The network has demanded

1. Payment of welfare advertisement to suspended six newspapers
2. End of the one door advertisement policy and conspiracy to flourish only government media

The government has tried to end the development of Mofasal and small newspapers, which has deep negative impact on Nepali journalism because of its lack of self-reliance. However, the weekly and fortnightly newspapers got their popularity in their critical issue than other big houses. So these media have fought for their existence. As a result of continuous fighting, government becomes ready to avail welfare advertisement to suspended seven newspapers.

4.1.7. Discriminative classification of Press Council Nepal

Press council of Nepal also misused as the lapdog of royal government during royal takeover. Council interrogated many newspaper editors including Kantipur editor as a gatekeeper of Ministry of Information and Communication. President of Council, Mathvar Shingh Thapa, hailed the royal declaration, claiming royal movement as obligatory to the nation in '30th Annual Report of Council- 2062', which was unfavorable to the press world. The question was raised in the role of press council while it published classification report being bias against democratic newspapers. The mofassal newspaper like Janasangharsha, Blast, the newspapers of capital like Deshantar, Budhabar, Chalphal, Ghatana Ra Bichar, Tarun, Hanks were recommended to degrade in ' B' from previous 'A' grade, which couldn't pass in Council meeting.

Finally Janasanghaarsa, Blast, Desantar, Bhudhabar, got additional 5/5 marks and included again in Grade 'A'. But other 4 newspapers became the target of retaliation of government. It is surprising that the newspapers like Rahasya, People's Review, Punarjagaran which never in grade 'A' got grade 'A' because of the closeness to royal movement side and all evening newspapers of capital degraded to grade 'D'.

Journalist demanded resignation of Thapa, and started to make black spot in editorial and publish upside-down picture. Leader of the council asserted negotiation

for Reevaluation of classification and reclassification from independent other body till Paush last but it didn't implemented.

4.1.8. Freedom curtailment through media ordinance

On October 9, 2005, His Majesty the King promulgated an "Ordinance amending some of the Nepal Act Related to media", which amended six of Nepal's key pieces of media-related legislation. The government vindicated the ordinance on the ground of disciplined media, obliquely the government already started to enforce this provision. The journalist and other human right activist started to protest against the ordinance as the curtailment of freedom of speech and expression as mentioned in Nepal constitution. As a result this ordinance became the entrenchment of previous restrictions for further constrain against press world legally, especially the private owned media but this ordinance established well ground for government owned media for the opportunity of better future by the effort of government patron. Nepalese journalist federation, human right organization etc opposed strongly the ordinance. The Nepalese Journalist Federation filed the case in Supreme Court against the ordinance challenging the government for its legality.

The Supreme Court issued two-stay order between 27 October and 7 December instructing the government not to enforce the ordinance until the decision of constitutional challenge but court didn't say the ordinance illegal. So the government took this law as the limitation of suspended fundamental right freedom of speech and expression. On the other hand the Maoist also detained, threatened the journalist, banned on distribution of newspapers, and extorted the equipment of FM radio. Finally they promised respecting to the freedom of speech and expression after the 12-point pact agreement between seven party and Maoist on November 22, 2005. The absorption of the Ordinance is mentioned below.

a. Ban on news on FM Radio

One of the prominent parts of the ordinance is ban on news reporting through license requirements. So, all the FM Radio stations were deprived of news dissemination. The legal ground of this section was mentioned the section seven of National Broadcasting Act 1993, which empowers the government to ban on any kinds of program for short period of time not exceeding than six month. The news was banned previously too but the Supreme Court made an interim order against the government to halt the proceedings against Rainbow FM for news broadcasting on 10 august 2005. Finally all the FM station started to broadcast news. But the effort of the FM stations became vain after the declaration of ordinance.

After the declaration of the ordinance, the government issued public notification to every FM stations instructing them not to broadcast the news, on October 18 and 19. Mainly the ordinance has amended the section 5 of broadcasting act to block the news dissemination through FM stations. The ordinance replaced the word news-based program by informative program. In that sense the information related to politics, government and foreign policy were strongly banned. In fact, the government can't prohibit the news broadcasting on the basis of section 16(a), (b) of Broadcasting Act but the government has made difficult to news broadcaster making it complicated process through obtaining and maintaining the license procedure for news dissemination. As a result the government seized the satellite uplink equipment of Kantipur FM on October 21, 2005 on the ground of section 11 of Broadcasting Act, which says no broadcaster may relay their broadcasting without permission of the government. The Supreme Court refused to issue interim order on the case of the ordinance.

b. Amendment in defamation Act

The ordinance has amended the section 5 to 8 of Defamation act- 2016 for increase the fine or compensation or the imprisonment from 6 month to 2 years. The ordinance has also amended the section 27 to 30 and the section 14 to 17 of the press

and publication act 2048. As a whole the ordinance has increased the fine by 10 fold in the violations of these sections of the ordinance. In the name of the violation of the defamation act, the ordinance has taken it as criminal law or a person responsible for this publication may be charged both fine and imprisonment. So this ordinance seems tough gag to mute the media sector by imposing defamatory law.

c. Restrictions on cross-media ownership

The ordinance has amended the Broadcasting act 2049, through section 6(a) of the ordinance, which restricts the cross media ownership. It says that no single media group can run more than following two media like Radio, TV, and Newspaper under the same ownership. If some media are running like this, it is strongly force to repeal the any one of these media within a year.

d. Restrictions on dissemination of news from foreign sources in Nepal

The ordinance has restricted the foreign news agencies to exchange the foreign news items in Nepal without approval of the government of Nepal adding the section 32(2) but no restrictions are mentioned for selling or distributing the news to RSS. Previously section 31 (1) of the news Agency Act 1962 prohibits any other news agencies for exchanging the foreign news items about Nepal, inside the Nepal. The purpose of the addition of this section in previous one seems to restrict foreign news agencies to cover the issues, which are unfavorable to the government.

e. Greater power to the Nepal press council

The ordinance has amended the section 12(2)(d) of the press council act 2048, overpowering the press council to suspended the facilities, special privileges of the defiant journalist of the government order on the name of 'defiance of the professional code of conduct time and time again'. This amendment pledges additional power to

the council to recommend the government for the cancellation of the representative certificate of the journalists. The purpose of this amendment seems to strike off the journalist or to prevent them from protest against the government restrictions.

f. Amendment on Print and Publication Act 2048

The ordinance has expanded the section 14(a) of the press and publication Act adding royal family as well as the king. Before the amendment, it says that the publications, in any book, newspaper or magazine, of material that will, ‘formed hatred, disrespect, contempt or malice toward his Majesty or the royal family, or undermine the dignity of his majesty’ are prohibited. According to this amendment, no media can criticize the king and other royal family including his government.

The ordinance has also amended the section 16(1) of the press and publication act adding adversely affecting national interests and dignity, undermining relations with foreign states and governments, assisting, supporting or encouraging terrorist, terrorism, and destructive activists are prohibited to be imported from foreign nations. The paragraph (b) and (e) of section 16(1) are deleted in this ordinance because of the favorableness of that section toward media.

g. Content restriction of broadcast

The ordinance has amended the section 15 of broadcasting act adding the benchmark of the prohibition in contrary to the non – aligned foreign policy of Nepal and matters or materials banned or prohibited for publication under current laws. It is already prohibited the advertisement related to the matters adversely affecting political parties, vulgar materials, and matters of such an nature as to create unusual fear and terror in the general public. As a whole, this amendment prohibits not only the advertisement but also the other programming. The amendment has also deleted the paragraph 2 of the section 15 of the broadcasting act, which has protected the

political opposition parties to disseminate information. This amendment proves the indirect motives of the government to misuse the media in their favor.

In sum, many of the content of the ordinance seems against the spirit of Article 13(1) of the constitution, the right to information of article 16, the right to privacy of article 22 and right to constitutional remedy of article 23 because even after the withdrawn of emergency, above mentioned Article still are not used. It is the desperate situation of Nepali press world applying ordinance instead of spirit of constitution.

4.1.9. Attacks on Kantipur FM and Sagarmatha FM

On 21 October the authorities raided Kantipur FM's radio station and seized uplink equipment for allegedly relaying broadcasts without permission of the Government. On October 21, dozens of armed police officers stormed into the Kantipur FM Station and seized vital equipment, including an encoder, satellite modem and digital audio recorder. The attack, moments before midnight, came on the eve of the station's seventh anniversary, and just hours after nationwide protests condemned the new media ordinance. A delegation from the Ministry of Information and Communications approached the station earlier in the day on October 21, claiming Kantipur FM had violated the new media ordinance, which forbids simultaneous transmission from more than one place. Kantipur FM has had a license to transmit programs to areas outside Kathmandu through a relay station in eastern Nepal since 2000, and the station's manager Prabhat Rimal said the broadcast was legal. Kantipur FM was Nepal's first privately owned independent FM station, without its equipment, the service is only available in Kathmandu Valley.

Likewise the police raided Radio Sagarmatha FM station and seized transmission equipment from Radio Sagarmatha as it was relaying the transmission of

the BBC Nepali Service. On Sunday November 27, 2005 at approximately 9pm, Radio Sagarmatha FM went off air after police raided the station, ordered staff not to use the phone, seized its transmission equipment and took into custody five journalists and technicians working at the station. Police raided the station as it was airing relay transmissions of BBC Nepali Service Live from London. The journalists arrested were Durga Karki, Dipak Babur Aryal, Dipak Raj Pandey, Punya Bhandari and technician Rajendra Bhandari. Police later released Durga Karki. The others are being kept at District Police Office armed security officials left behind two letters, one asking for Sagarmatha to shut down its transmission until further notice and the other stating the authorities were taking the radio equipment for investigation. The reason for the raid against Sagarmatha is thought to be connected to the BBC Nepali Service airing an exclusive interview with Maoist chairman Prachanda alias Pushpa Kamal Dahal—the first radio interview given by him in the last ten years. Despite Sagarmatha airing music instead of the Prachanda interview. Approximately seven FM stations outside of Kathmandu were also forced to drop their transmission of BBC Nepali on Monday November 28 by local authorities because of the interview. The authorities also suspended the transmission of BBC World Service over 103 FM owned by the state-run Radio Nepal despite state-run Radio Nepal blocking the news broadcast of BBC over 103 FM since the royal takeover in February. The raid of Sagarmatha follows the October 21 police raid of the station of Kantipur FM where its equipment used to uplink its transmission were seized.

4.2. *Survey of the press freedom after royal takeover*

4.2.1 Definition of press freedom

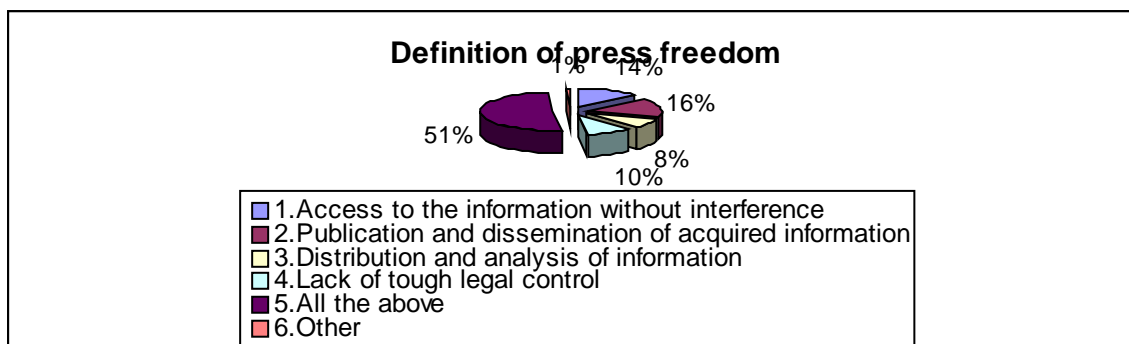
Without the understanding of press freedom, no journalist performs his or her duty very well. Study can't be done without the knowledge of press freedom too. So Knowledge of respondent about the definition of press freedom has presented in following table.

Table no.3: Distribution of Respondents who define press freedom

Option	Number of respondent	Percentage
1.Access to the information without interference	14	14%
2.Publication and dissemination of acquired information	16	16%
3.Distribution and analysis of information	8	8%
4.Lack of tough legal control	10	10%
5.All the above	51	51%
6.Other	1	1%
Total	100	100%

Majority of the 51 % respondents have chosen option 'all the above mentioned ' to define the press freedom. In their point of view, access to the information without interferences, publication and dissemination of acquired information, distribution and analysis of information, and lack of tough legal control, are interrelated. Absence any one among them, press can be handicapped and can't perform their responsibility very well. Liberty without responsibility, press can't sustain and utilize press freedom, they insist. Some other respondents have chosen separate option too but it is handicapped,

claimed by majority respondents. After the royal takeover, there is no press freedom because of the absence of above-mentioned criteria, respondents claim.



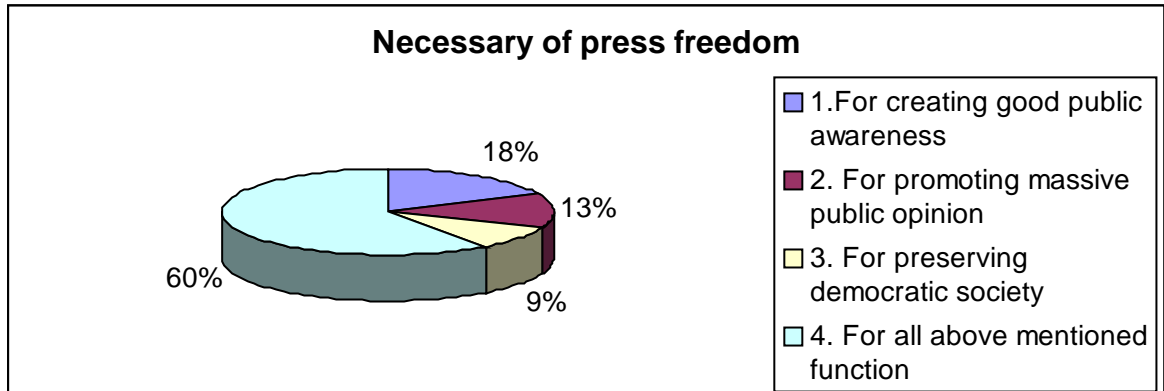
4.2.2. Necessary of press freedom

Independent press is only the mainstay of the nation for overall socio-economic development. Without independent status of the press, no press can carry responsibility toward public. Without responsibility, people will be traditional and lack of awareness. So press freedom is strongly advocated by the respondents in following table.

Table no. 4: Distribution of respondents who point out necessary of press freedom

Option	Number of respondent	Percentage
1. For creating good public awareness	18	18%
2. For promoting massive public opinion	13	13%
3. For preserving democratic society	9	9%
4. For all above mentioned function	60	60%
Total	100	100%

Majority of 60% respondents have chosen 'for all the above mentioned function' to depict the necessary of press freedom. According to them, press freedom is necessary



equally for creating good public awareness, promoting massive public opinion, preserving democratic society. 9% respondents have emphasized on preserving democratic society, 13% emphasized on promoting massive public opinion, and 18% emphasized on creating good public awareness. Without the press freedom, no feelings of responsibility and democratic norms and values can be secured. That is made possible with good public awareness. Some of them response that present democratic movement is consequences of media output in Nepalese context in the informal interview. During the scenario of the royal government, press freedom is effectively curtailed to thwart civil liberty.

4.2.3. Condition of press freedom after royal takeover

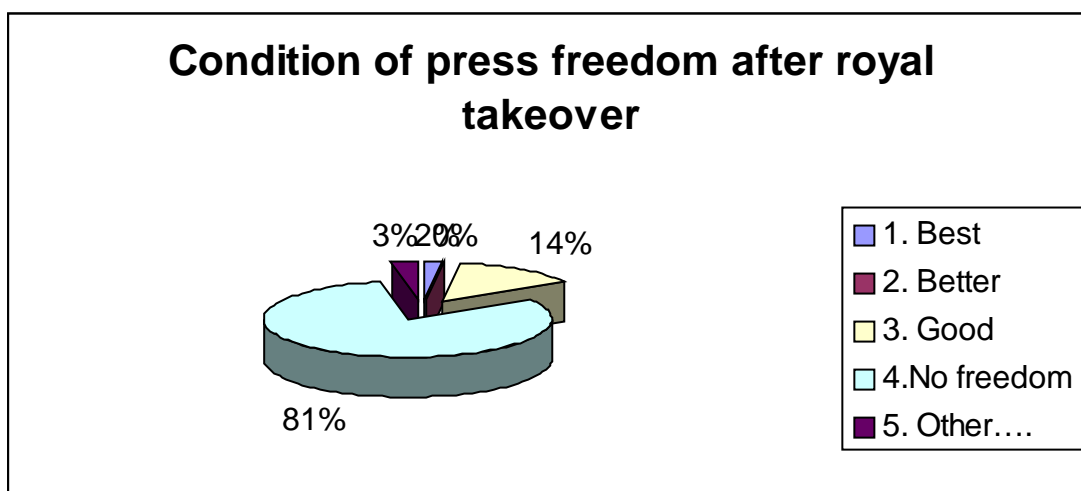
At around 10 in the morning of February 1, 2005, King Gyanendra delivers an address to the nation, proclaiming dismissal of four-party coalition government led by Prime Minister Sher Bahadur Deuba which was the third government directly nominated by him after taking over the country's executive powers on October 4, 2002. The King took this move accusing the government of failing to initiate process to hold general elections as per his wish. With the announcement, he also declares that the new government to be formed would be under his own leadership. Immediately after the Royal proclamation, all communication networks, including telephone, Internet and fax, are cut off and a State of Emergency declared through a separate notice all throughout the country. Many constitutional clauses on civil rights

suspended. Strict censorship imposed in mass communication media, both electronic and print. FM radios and private TV stations swarmed with security forces for vigil. Even after withdraw of emergency, Nepal government declared media ordinance to thresh media world. So after the royal takeover, there is no press freedom in Nepal. The conception of respondents about the condition of press freedom after royal takeover is presented in following table.

Table no. 5: Distribution of respondents who respond on press freedom

2%	0%	14%	81%	3%	100%
2	0	14	81	3	100
1. Best	2. Better	3. Good	4.No freedom	5. Other....	Total

Majority of 81% respondents have ticked ‘no freedom’ after royal takeover. 2% respondents connected to the government media have mentioned better press freedom



and 14% told good, but 3% respondents have told that the journalist and media organization owned by government and their wings have better condition of press freedom but it is worse for other. They have told that the journalists sans the governmental media have no open access to the sources, opportunity and spots as governmental media. In the beginning of the takeover, it was grave problematic but now it seems quite satisfactory in comparison to the previous one. However there is no better condition of press freedom after the royal coup as before 2058BS.

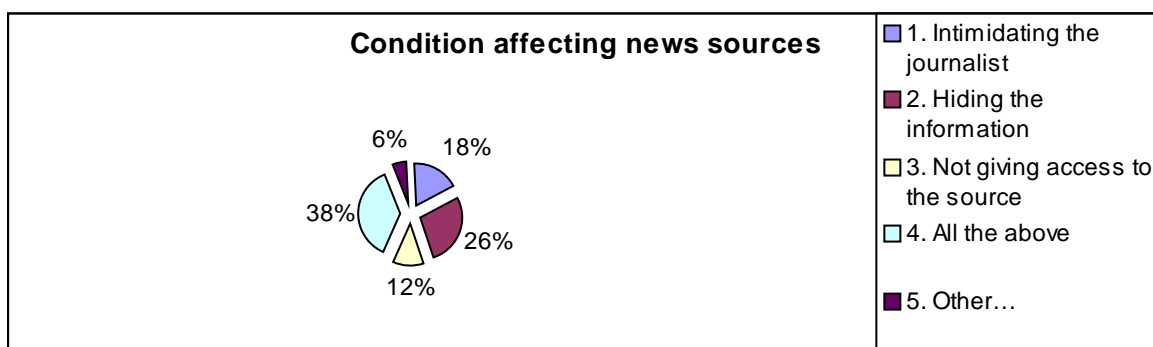
4.2.4. Condition affecting news sources

Government sponsored threats, detentions, searches, and assaults against journalist from several news organizations seems rampant during the tenure of royal takeover from February 1, 2005 onward. Journalists outside the Katmandu are hardest hit with the suspension of basic fundamental right and other restriction during emergency period. After the absence of emergency, suppression of media is n't reduced by hard-die royalist government. Nepal government has given psychological presser over all professional journalists. Inaccess to news sources is rampant during the black night of journalist by explicit and implicit control. Many journalists are held on the ground of reporting too. Following table has presented respondents view on condition affecting the news sources.

Table no. 6: Distribution of respondents who comment on news sources

Option	Number of respondent	Percentage
1. Intimidating the journalist	18	18%
2. Hiding the information	26	26%
3. Not giving access to the source	12	12%
4. All the above	38	38%
5. Other...	6	6%
Total	100	100%

Majority of the 38% respondents have chosen option 'all the above' to show the



condition affecting news sources. According to them, the government has confined

the news sources as intimidating the journalist, hiding the information, not giving the access to the sources. Then, 18% respondents have emphasized on intimidation, 26% emphasized on hiding information, 12% emphasized on lack of access to the sources but 6% respondents have mentioned different element than above component. Some journalists have mentioned that there is only the confinement on government subject matter but it has revealed wide range of news sources like development, environmental protection, bio diversity and alike but not in government intransparency.

4.2.5. Necessity of curtailment of press freedom

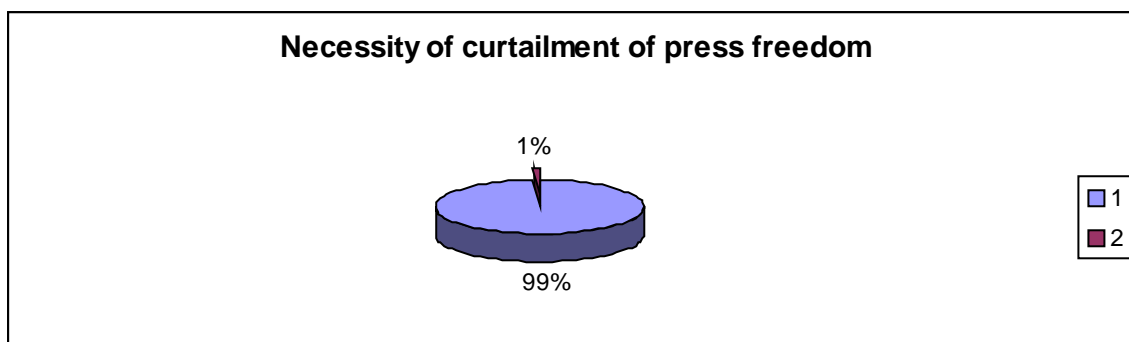
Undemocratic government is used to produce undue and untoward situation over press freedom practices. The notice issued by Ministry of information and communication on February 3 and 4, 2005 to control printing media and electronic media has made deep negative impact on press freedom as an order of his majesty's the government of Nepal. Under these provisions, Nepali press has felt thunderstone in its development and professionalism. Administration, both military and police, have started to swarm over media and journalists. After the state of emergency, government has prolonged its restriction over media with issuance of media Ordinance. On that issue, in the time of study, the sample respondents of study show their reaction as presented in following table.

Table no. 7: Distribution of respondents who point out on necessity of press freedom curtailment

Option	Respondents	Percentage
1. Necessary	3	3%
2. Unnecessary	97	97%
Total	100	100%

Many of the respondents, 97% have chosen the option 'unnecessary ' for the question of necessity of curtailment of press freedom on such situation. According to their opinion, curtailment of press freedom in 21 century is completely rude,

ridiculous and irresponsible attitude of government toward public. They claim free



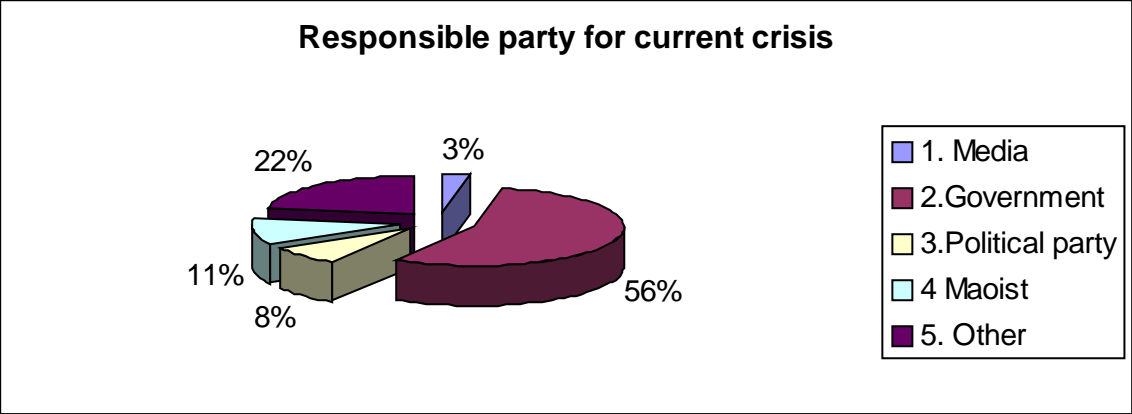
press has made positive impact of the government even in the crisis situation. According to the respondent who chosen option 'necessary', press freedom is strongly necessary to curtail the press because free press is completely dark and unsupportive to the intransparent and tatty government on such a crisis situation but not for the civil society.

4.2.6. Responsible party for current crisis

The seed of deterioration of press freedom has started shortly after the Maoist declaration of people's movement aiming the establishment of republican state here in Nepal. It gets its apex point in 2001 with the declaration of 1st emergency in 2001, and clouded over Nepali press as worsen and dampen situation in royal takeover in 2005. The respondent of our study have found following responsible party for current crisis in press as presented in following table.

Table no. 8: Distribution of respondents who point out responsible party

3%	56%	8%	11%	22%	100%
3	56	8	11	22	100
1. Media	2. Government	3. Political party	4 Maoist	5. Other	Total



Majority of the respondents, 56% have chosen the option 'government' for responsible party of the current crisis situation in press freedom. However, 22% respondents, who chosen the option 'other' for this crisis situation, have told that the chief sector of the current unrest in press freedom is king's negligible attitude conspicuously. He did so to make press world favorable to him but it is being boomrang effect to him now- they say. They mention the king's action as 'last breath of monarchy' and 'path of end dynasty'.

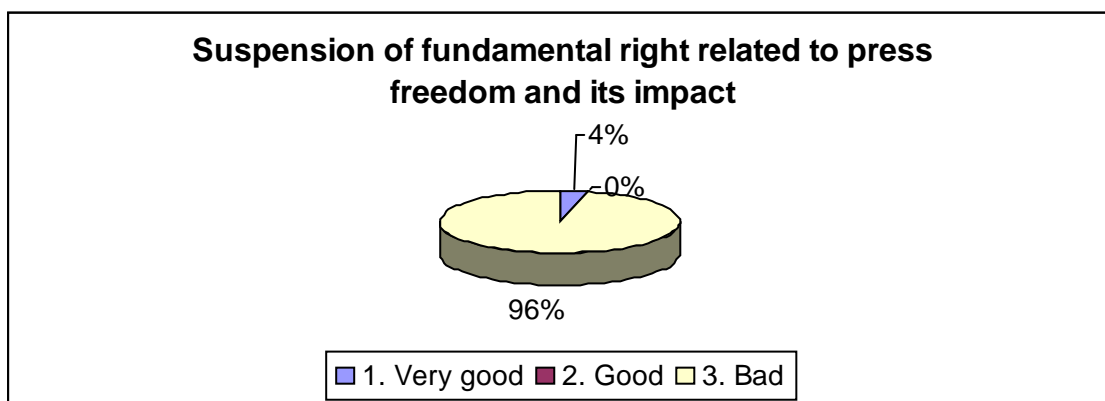
4.2.7. Suspension of fundamental right related to press during emergency

The suspension of fundamental right in crisis situation is common around the world. However, provision of emergency is misusing here creating unnecessary tension over media world in both, first and second emergency. During those times, there is no rule of law because of the suspension of fundamental right in Nepal. The respondents of our study have responded as following as presented in below table.

Table no.9: Distribution of respondents who point out on suspension of press freedom

4 %	0 %	96 %	100 %
4	0	96	100
4	2. Good	3. Bad	Total

96% respondents out of the 100% in this table have opposed the suspension of fundamental right related to press during the emergency period. They think, for the time being, it benefits the government but for long run it will be boomrang effect to



them. They argue it isn't necessary to suspend the fundamental right because open environment helps to govern the nation even in conflict situation very well. Fundamental right of Nepal constitution was suspended during emergency period. Even after the withdrawn of emergency, the government has curtailed the fundamental right in the name of various dramas like ordinance, order, threaten, intimidation, pillaging etc. If there is no fundamental right, there is no guarantee of any liberty, so there is no rule of law in contrary during royal takeover.

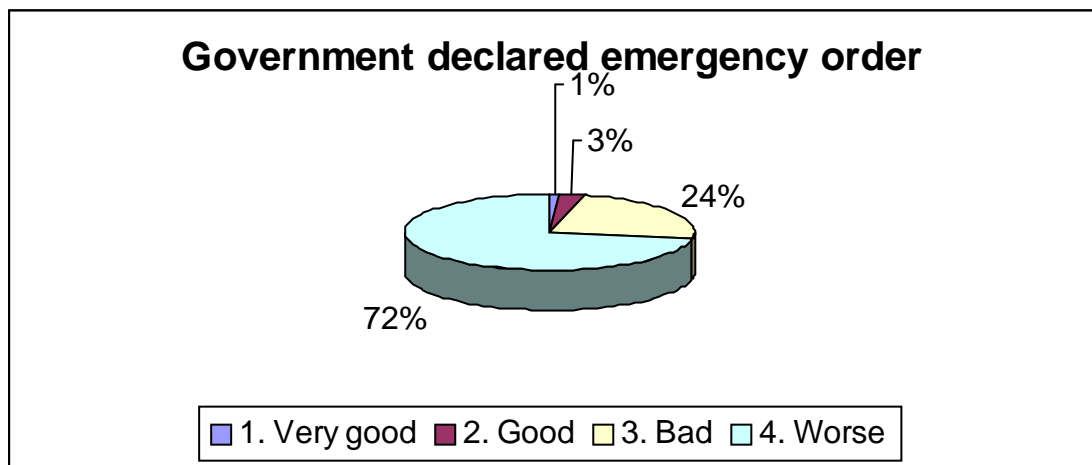
4.2.8. Government declared restrictive order during emergency period

The notice, issued by Ministry of information and communication on February 3 and 4, 2005 to control printing media and electronic media, has made deep negative impact on press freedom as an order of his majesty's the government of Nepal. In the beginning, it has sensationalized the situation. Gradually the effect is waning. No media has opposed the movement in the beginning, but slowly media are started protest against it. The respondents have showed their concern as following table.

Table no. 10: Distribution of respondents who respond on restrictive order

1 %	3 %	24 %	72 %	100
1	3	24	72	100
1. Very good	2. Good	3. Bad	4. Worse	Total

This table has shown that 72% respondent, majority journalists, has taken



option 'worse' for government declared restrictive order declared shortly after the royal coup, 24% have chosen the option 'bad' for restrictive order. These restrictive orders are comprised for censoring the press world to govern over media willfully by despotic government. The person who getting benefit from government has chosen the option 'very good' and 'good'.

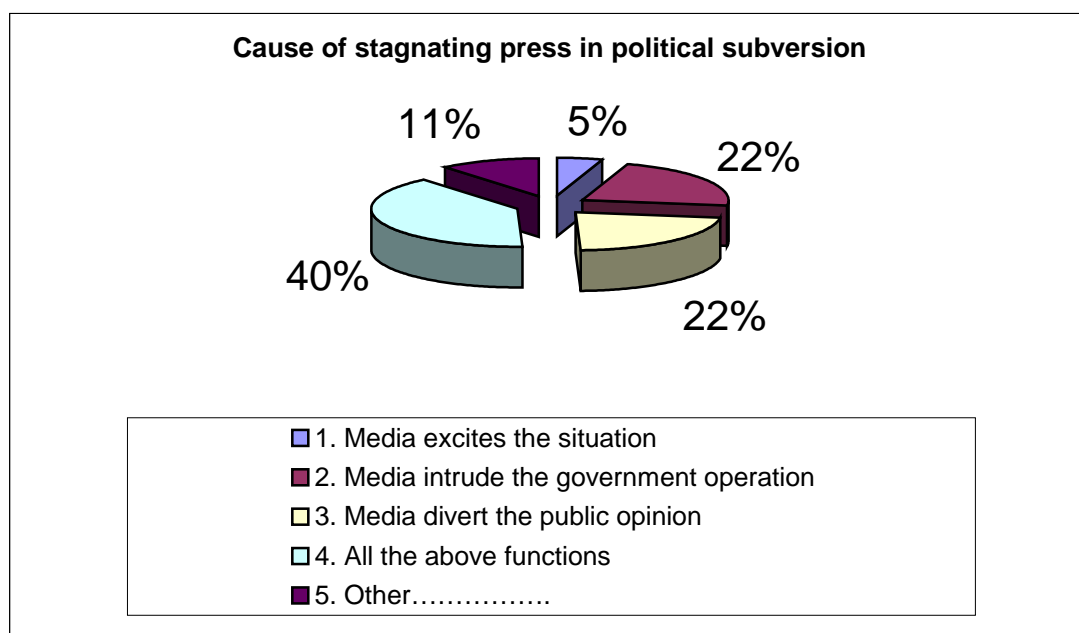
4.2.9. Cause of stagnation of the press in political subversion

Every government wants to make press favorable to them. Despotic government constricts press world badly and democratic government keeps press world quite open. So the transformation of throne from one system to next is always different taste for press world. The result of our study shows their concern in following table.

Table no. 11: Distribution of respondents who point out cause of stagnation of press

Option	Number of respondent	Percentage
1. Media excites the situation	5	5 %
2. Media intrude the government operation	22	22 %
3. Media divert the public opinion	22	22 %
4. All the above functions	39	39 %
5. Other.....	11	11 %
Total	100	100 %

This table has shown that majority of sample of respondent have chosen option 'all the above function' to depict the cause of stagnating the press in political subversion. Although 5% respondents have chosen 'media excites the situation', 22% respondents have chosen 'media intrude the government operation', 22% respondents have chosen



'media divert the public opinion' and 5% chosen option 'other' who believes that press freedom is completely opposing the autocratic nature of the government. Like this each political transformation has been changing the status of press freedom from time to time. The history shows that political transitional period is most devastating

and deteriorating for press world. It is the specimen example of this situation during royal coup in Nepal.

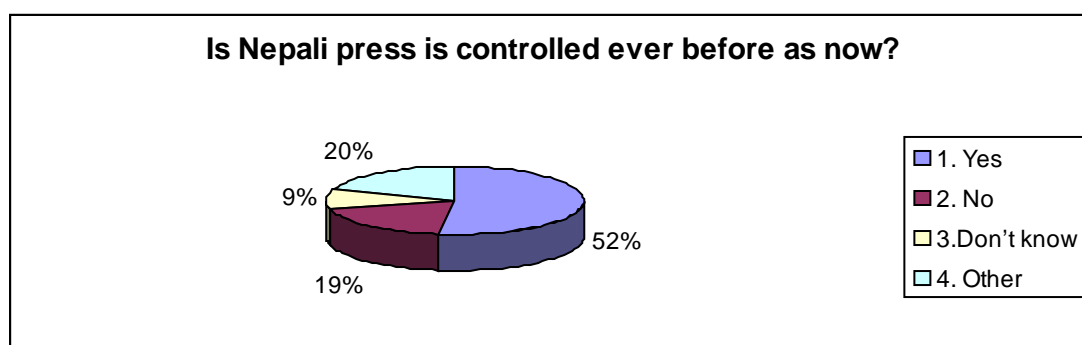
4.2.10. Nepali press controlled ever before as now

Nepali press got three-dimensional freedom with hi-fi technology, both in electronic and print media, after the open environment and conducive and congenial atmosphere of government policy shortly after the reestablishment of democracy in 1990. Before this era, 'Pnchayat' system imposed hefty control over media. So that time, no big media emerged. Same kinds of axe have fallen after 2001, with emergency and transitional form of Nepali politics. So our sample respondents of our study have focused their opinion as in following table.

Table no. 12: Distribution of respondents comparing press control

52	19	9	20	100
52	19	9	20	100
1. Yes	2. No	3. Don't know	4. Other	Total

Nepali press is in political turmoil from time to time but after the restoration of



democracy the royal crackdown on media is prominent part of the restriction of press freedom except the 1st emergency of 2001. Before the 1991 AD, during 'Pnnchaya' era, Nepali press had faced tremendous bad destitute like present going-on situation but restoration of democracy gave wide range of freedom. However, it has become vain after royal movement in Nepal.

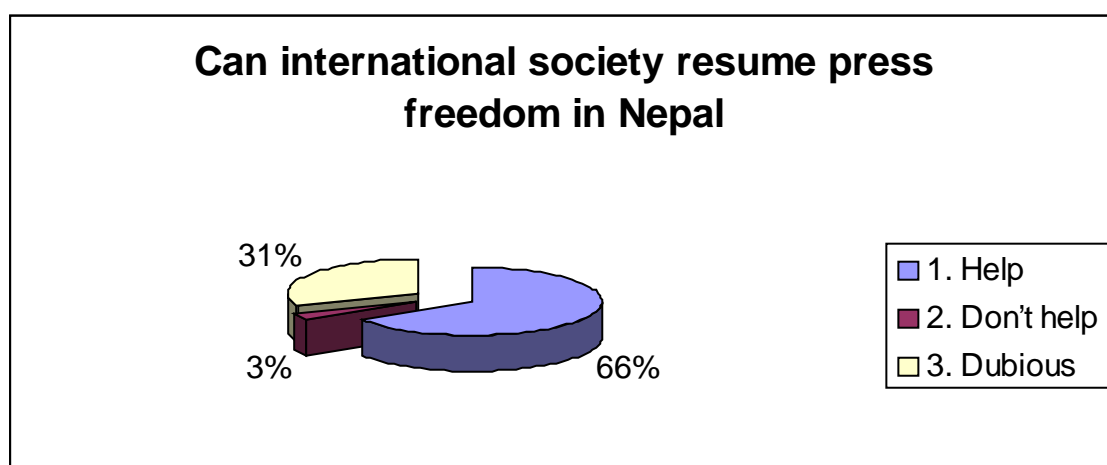
4.2.11 International community and resumption of freedom in Nepal

With the transition of the Nepali politics, all international community including neighboring country showed their deep concern over Nepali crisis, especially over crisis in press freedom and other violation of fundamental right related issues by warring side, government and Maoist. Donor association stopped their aid and support to Nepali government and completely stopped military assistance by all democratic nations. So it seems direct and indirect pressure over Nepali government. This show positive sign for reinstate democracy here in Nepal. Likethis, sample respondents of our study have token the situation as follows in table.

Table no.13: Distribution of respondents who believe on the support of international society for resumption of press freedom in Nepal

66 %	3 %	31 %	100 %
66	3	31	100
1. Help	2. Don't help	3. Dubious	Total

Majority of the respondents have focused on the support of international



journalists and community for restitution of press freedom here in Nepal. Many issues deprived of coverage here get chance to be better covered by international journalist and society. They claim that they stimulate the international donor association; agency

and other supportive organization not to provide aid to despotic, tyrannical government. That keeps the government under pressure and finally the government has to be ready to relent for certainty of press freedom here in Nepal. But some dubious respondents don't rely on majority respondents because all despotic government undermines international democratic society and starts to get the support of authoritative government of the world.

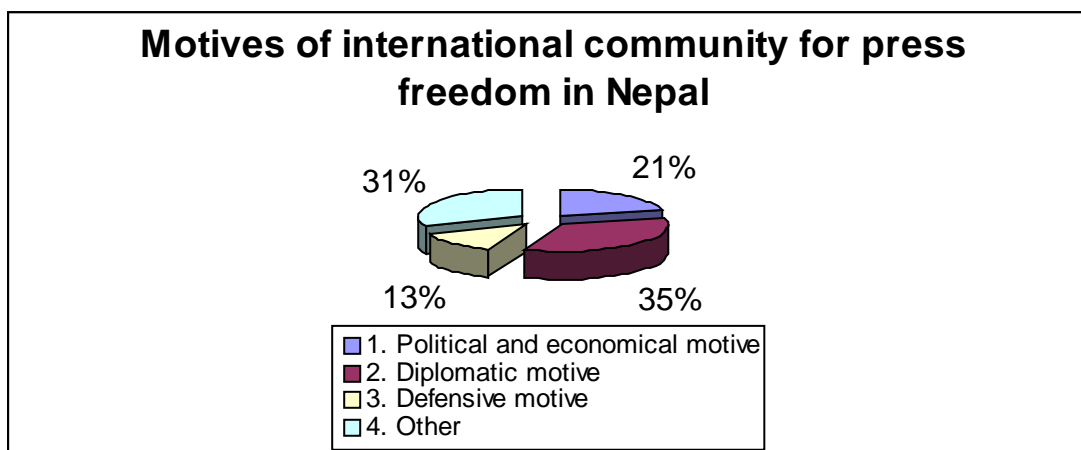
4.2.12. Motives of the international community for press freedom in Nepal

Almost all the countries having democratic surveillance want to see the democratic world too. So they want to add the flavor of democratic spree around the world. Modern sophisticated society entangled with various nations for their needs fulfillment through diplomatic effort for social, political, economical, defense purposes in collaboration and cooperation seems essential for their fraternity and livelihood exchange. The complicated and mechanical society of 21 century can't go ahead and progress its infrastructure without the guarantee of human right and press freedom. So to establish prosper society around the world through amenities exchanging, international society is deeply rooting the concept of press freedom around the world aiming transparent society. So our sample respondents of our study have opined as following table: -

Table no. 14: Distribution of respondents over motives of international community

Option	Respondent	Percent
1. Political and economical motive	21	21
2. Diplomatic motive	35	35
3. Defensive motive	13	13
4. Other	31	31
Total	100	100

The majority 35% respondents have chosen diplomatic motive option as a motive of international society to establish press freedom in Nepal but other 31% respondents have focused all the condition of above mentioned element with diplomatic motive. However some respondent are dubious for the motive of



international society. They want to lobby international society in their behalf- say respondent who is dubious.

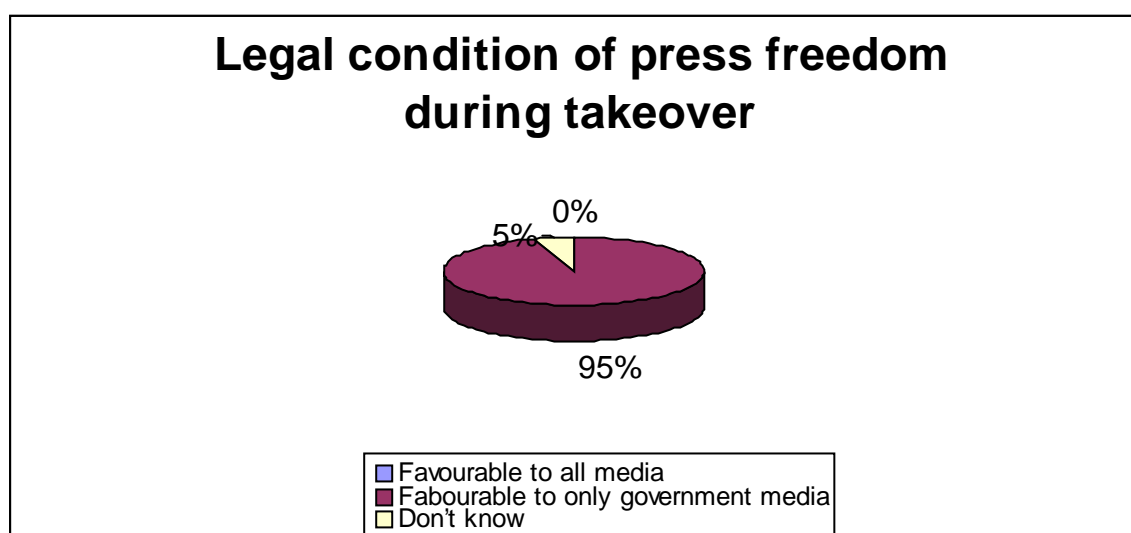
4.2.13. Present legal condition of press freedom after royal takeover

The present legal system is presented in 4.2 above. As a whole, the government has made attempt to make press law favorable to the government. Latest Communication ordinance is its sparkling example of constricted press freedom in Nepal. But the court has upheated the media deciding on the favor of journalist according to the Nepal constitution 2047. On the one hand, the government side media has better lure environment with government discriminative patronage. On the other hand, Supreme Court and international society are preventing private media, to be badly affected by the government of Nepal. Some respondent have presented their grim hope on practical aspect of press freedom. All the journalists have not access to the news sources. It is only the military law. Press law is completely autocratic because news related to army is hiding and it is completely supportive to King's reign in Nepal. The view of our sample of respondents is presented in following table.

Table no. 15: Distribution of respondent who point out press situation during royal takeover

Option	Number of respondent	Percent
Favorable to all media	0	0 %
Favorable to only government media	95	95 %
Don't know	5	5 %
Total	100	100 %

This table shows that 95% respondents have chosen the option 'favorable to only government and 5% respondents have said their inacquittance to the press law. Many of them mention that it is good only for 'chanting band of royalist' insisting ' there is no press freedom' after royal takeover. They think, ordinance misusing the spirit of national Broadcasting Act 2052, National Communication Policy 2049, and Long-term communication Policy 2059 has made instable condition of press freedom. Some journalists have emphasized press law after royal takeover is completely stringent and ineffective claiming Article 127 of Nepal constitution, which gave power to the King. It is regretful and subject of deep concern to the Nepalese journalists, which is



restrictive. Some respondents have focused on intimidation, cajoling press for their selfishness by current royal government.

As a whole, the control after royal takeover on press is excessive as the condition of rural area is quite devastating. Discriminative advertisement policy, arrest and prosecution on the ground of news and views writing are the rubric of ordinance that is very bad for current situation. Psychological fear is tangent on press freedom than before. Direct control to the press after movement is quite strong than before. Congested but wide censorship is rampant. The government is tending toward autocratic nature.

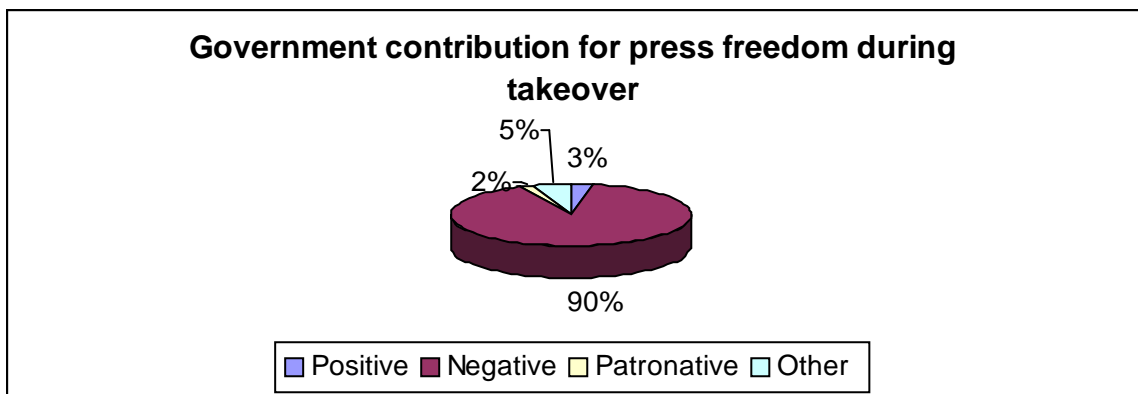
4.2.15. Contribution of government for press freedom after royal takeover

The press has the role of forth estate of the nation. It bridges gap among executive, legislative and judicial body of any nation. So press should be independent in its performances. So, the government shouldn't hook the media freedom. The government shouldn't hide information. Autocratic government does nothing to ensure government. Establishment of democratic government is essential for better press freedom. After the royal takeover, it is only the tattletale, which is twitching media from time to time in Nepal. The government has no positive contribution to private media but to government media. Our sample respondents of study opine as following presented in table:

Table no. 16: Distribution of respondent who point out government contribution on media

Option	Respondent	Percentage
Positive	3	3%
Negative	90	90%
Patronable	2	2%
Other	5	5%
Total	100	100%

This table shows that 90% respondents say negative role of government, 3 % respondents having government media say positive, 2% respondents say patronative to government media and other 5% present their anguish towards government. According to them, Classification of media should be without partial and any other influence; and should be according to the popularity, quality of paper, not in the framework of responsibility to the government. The government should ensure and apply the constitutional guarantee practically, not only theoretically. The government shouldn't neglect the media and its role. The government should produce mentionable and applicable status and opportunity for the development of media equally as other infrastructure of development. The function of government is preservation of press,



not persecution and control. For this current ordinance, order and brutality toward press should be revoked. The government shouldn't establish pillar of obstacle and hurdle in practice of press freedom. Almost all the respondent doesn't rely on the royal government for ensurement of press freedom. The democratic culture of the government is far better than theoretical warrantee of press freedom. The government should be only felicitator, and patron. The government like despotic royalist can't preserve press. Fascist policy and undemocratic system should be shunned, not that kinds of government can't take side for freedom of speech and expression including press.

4.2.16. Role of Supreme Court for preservation of press freedom

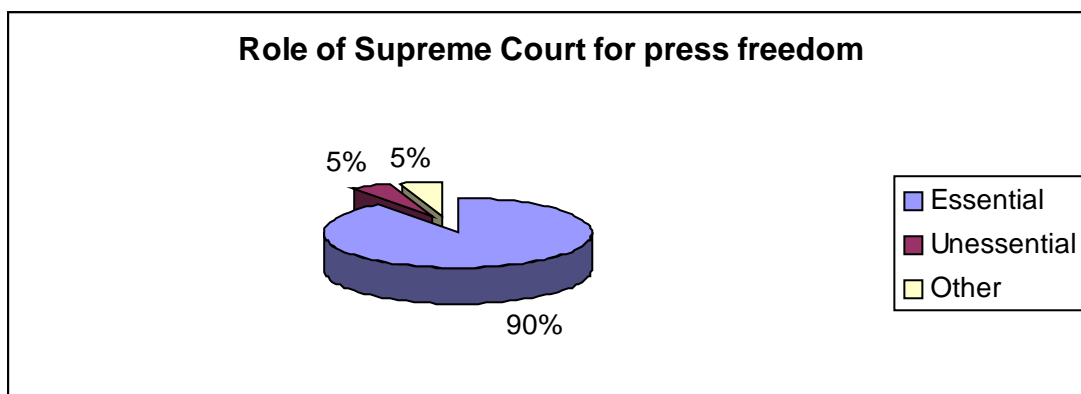
The judicial power is the heart and soul of rule of law. In democratic society, it is independent and performs very well but it is fairy tale in autocratic society. Nobody is

above the rule of law. Everybody is abiding with law. Unawareness and ignorance of law is punitive. So the preservation of press freedom is guided by judicial power of any nations. The role of Supreme Court is presented below according to the view of respondents. For example, after the Supreme Court of Nepal made an interim order on 10 august 2005 requiring the government to halt proceedings against Rainbow FM radio for broadcasting news, many other FM stations also started broadcasting news program. The stay orders for Kantipur FM and Sagarmatha FM are another landmark decision of Supreme Court of Nepal.

Table no. 17: Distribution of respondents who point out over role of Supreme Court

Option	Number of respondent	Percent
Essential	90	90%
Unessential	5	5%
Other	5	5%

This table presents that 90% respondents of sample have focused on significant role of court for preserving press freedom here in Nepal. Nobody responds on



unessential of court but 5% respondents present his or her anguish toward court of Nepal. According to them, the supreme court of Nepal has to depict its courageous, impartial and objective decision to establish the rule of law revoking anti- civil society law like communication ordinance. The decision like the reinstatement of radio news is quite admirable. So it has critical and significant role to reinstate and

implement the fundamental right mentioned in Nepal constitution 2047. All respondents think that it is well enough if it operate and execute its function autonomously without the influence of politics. However they present their grim hope in the behavior of some professional of the court. Some thinks that the court is influenced by king after royal takeover in 2005 but it should be the patron of Nepali journalism, which keeps the media in track and prevents to be derailed from its responsibility to the public and little bit helps redress from government misusing of the press. The stay order of ordinance and FM registration cancellation, the news broadcasts are admirable for Nepali press world after the royal coup, they insist.

Part Five

Effect of royal takeover on February 1, 2005

5.1 Harassment and arrest of journalists

The next day of the emergency imposition in Nepal, the international watchdog like International Federation of Journalist, Committee to Protect Journalist, International Donor Association etc are deeply concerned over media safety as Nepal enters a state of emergency on February 1, 2005, and are appealed for the safety of journalists. Suddenly the journalist along with democratic personnel are endangered as the collapse of democracy after King Gyanendra dismissed parliament and 8-month old Sher Bahadur Deuba government, declaring an immediate state of emergency with suspension the basic fundamental right of the people including the freedom of speech, expression and press. All telephone and mobile phone lines have been cut; flights to the capital of aviation were cancelled. News sites are inaccessible and all Internet services in Nepal have been suspended to keep linkage of Nepalese journalist out from outside journalists.

The palace has summoned all newspaper editors and they have been told that all publications will be subject to vetting by the Palace with the assistance of Royal Nepal Army. Journalists are detained in army camps and threatened not to publish articles critical of the King's action. Federation of Nepalese Journalist has condemned royal crackdown on media and democratic values in Nepal taking the kings action as a 'coup' for the first time. Press censorship and the presence of the army in media houses have begun. Communications have been completely disrupted. Now there is no free press and it has been effectively killed. So the Nepalese Journalists Federation has made decision to fight back for freedom of the press, democracy, guarantee the right of the Nepali people to information. The decision taken by NFJ has supported by international freedom fighter and made solidarity on the courses of action of them. Almost all the newspapers are kept silence on that issues but one Nepali language paper Rajhdani has demonstrated extreme courage by publishing the names of people

arrested on 1 February coup. Army personnel, usually inside the offices themselves, are continuously monitoring the media. In the case of one anti-monarch publication, the Jan Ashta weekly, a colonel is reported to have moved into the building. The only reports coming from inside the country are being smuggled out or broadcast through the BBC and UN organisation in the country. Many freedom fighters and pro-democracy activist reportedly have been arrested based on video footage of street demonstrations taken by army intelligence.

The journalists are organising a protest rally, despite the martial law order that no groups of more than five people are allowed. King Gyanendra has ordered a complete black out of all media outside the Kathmandu Valley. The soldiers told media houses to shut down, “until further notice” in Pokhara. “You don’t have to publish news from now onwards. This is the responsibility of the Kathmandu-based daily papers,” quoted army personal to a national reporter. Military personnel are now running all the private media houses since the February 1 takeover. An army major has dictated to editors what to include in editorials in Jan Ashta.

All the FM stations outside the Kathmandu valley have been closed down. The Royal Nepal Army has run radio Sagarmatha, the first community radio station in South Asia. It has banned any news, discussion or regular programs from broadcast. The local administration and army battalion head quarters of Rupandehi district in Western Nepal have ordered Butawal F.M and Lumbini F.M to stop broadcasting and have ordered Mechi Kali, Daily Lumbini, Jana Sangharsa and Naya Disha to discontinue publishing.

Khagendra Sangraula, prominent columnist of Kantipur daily has been arrested and is being detained at the Armed Police Head Quarters in Halchowk, Kathmandu, for his previous critical articles against an active monarchy. Bishnu Nisthuri, president of the FNJ, was arrested on February 4 from his residence. The arrest follows the vocal opposition of Bishnu of King Gyanendra’s decision, after their defiant condemnation of the Royal coup in press releases smuggled out of the country.

The BBC representative, Netra K.C. has also disappeared after being called to the army barracks in Nepalgunj.

5.2. IFJ High Mission to Nepal

Federation of Nepalese journalists has appealed for international action as media crisis escalates hurly-burly here in Nepal. As a result, Christopher Warren, president of the IFJ, has made decision to launch high-level mission to Nepal from February 16 to 19 to understand the reality of the Nepali press freedom. Finally the Mission has published its report The International Federation of Journalists (IFJ) has released preliminary findings on the situation facing journalists and media in Nepal, part way through its high level mission to the Himalayan nation, led by IFJ President Christopher Warren. Journalists' safety, censorship, media job losses and lack of independent news are the most serious threats to independent media and free reporting, in Nepal reports the IFJ. This is having a crippling effect on democracy." Since King Gyanendra's royal coup on 1 February, he and his army have suffocated the media by directly enforcing censorship through armed military intervention and indirectly fostering a climate of fear and self-censorship," mentions the Mission report." As a result of this sweeping censorship, media organisations have been shut down, journalists have been arrested, the public doesn't know what's going on and close to 800 journalists are out of work," Warren said. It is deeply concerned for the welfare of three detained trade union leaders and calls for their immediate release. Ms Manju Bhattarai, Pushkar Acharya and Kishore Gautam have all been detained in a clampdown on trade union rights and there are reports that Bhattarai is not well. All are executive members of the ICFTU affiliate, the Nepal Trade Union Congress. The Mission found four areas of most concern for free and independent media in Nepal as following:

a. Safety of Journalists

Following the Royal Proclamation and declaration of emergency, any statements critical of the King were prohibited. The statement by the FNJ, strongly criticising the King's actions, was met with reprisal. The president of FNJ, Taranath Dahal was hounded, and continues to remain in hiding. Bishnu Nisthuri, General Secretary of the FNJ who was arrested on the night of Friday, 4 February 2005, continues to remain in detention. His whereabouts was unknown for three days, until his wife, Shakuntala Nisthuri, was allowed to meet him. She has met him on four occasions, and he is in reasonable physical condition. Nisthuri is being detained in Singha Durbar Ward Police Station without any detention notice. Responding to a habeas corpus petition filed by the FNJ, the Supreme Court ordered the government on 14 February to submit a written explanation within three days why Bishnu Nisthuri is being kept in detention. A single bench of Justice Khil Raj Regmi issued the order to the authorities including the Ministries of Home and Defense, Nepal Police Head Quarters, Armed Police Force, Royal Nepalese Army, Kathmandu District Administration Office and Singha Durbar Ward Police Office (The Himalayan Times, 15 February). Rounding up of those critical of the royal coup continues to be a threat. It is the political leaders and human rights activists who seem to be targeted, but journalists are under real threat also. On 13 February, D. R Panth, a reporter with the daily Kantipur, was arrested in Dadeldhura town in the Mid Western Region. On 15 February, two journalists were detained in Chitwan: Basant Prajuli (representative of Gorkhapatra Daily) and Narayan Adhikari from Government-owned Rastriya Samachar Samiti. The reasons are not known.

b. Censorship

Following the Royal Proclamation, there has been severe censorship of the media in Nepal. Even before the royal address ended, at about 10.15 am, armed personnel entered media houses, TV and radio stations and demanded that work be stopped. Phone and internet lines were totally cut for three days, and intermittently and

arbitrarily turned on and off for a few hours at random. Mobile phone connections continue to be cut off. The Royal Proclamation it contained "guidelines" on what the media could report, essentially prohibiting any criticism of the Royal Proclamation or the King's actions. Any reports that would give publicity to the Maoists were also proscribed. *Censorship has been of four kinds: Direct censorship:* prohibiting any news critical of the King and present government, or giving "publicity" to Maoists. This has meant that armed military personnel stationed themselves at state-owned and private media houses, vetting all news to be published. Army visits at the daily newspapers went on for at least three days and the IFJ witnessed it continuing well into the second week of the coup. Many newspapers have responded by publishing ridiculous editorials or leaving huge blank spaces in protest. FM radio stations were prohibited from broadcasting news, all news bulletins stopped immediately.

Self-Censorship:

Due to fear of reprisals (being picked up or detained, harassed by the security personnel), or their publications being closed down, editors and publishers have opted to self-censor. In the beginning, there was literally no political news except for handouts from official sources.

Cutting off communications:

Cutting off mobile phone connections and some landlines has severely affected newsgathering and confirmation of news reports, especially from remote areas.

Total clampdown:

The FM radio stations have been prohibited from broadcasting news forcing up to 800 radio journalists out of work. There are 56 registered FM stations in Nepal, with 41 in actual operation. They have a wide outreach, and their listeners in remote areas have no other form of news. With a widespread non-literate population, radio is an

excellent - sometimes the only - means of communication. By cutting off the access to FM news, the King is denying the Nepali public of a vital source of independent news. Private Indian news channels like Aaj Tak, Zee News, NDTV, Star News and the state-owned Doordarshan News have been banned. No cable provider can broadcast these channels. These were widely viewed in Nepal. Channel One, a private Nepali news channel uplinked from India, has been closed down totally. Interestingly, BBC radio (Nepali service) has not been banned. There is a bulletin for 30 minutes from 9-9.30pm, which is widely listened to as the only source of authentic news. The service has increased now to 45 minute ever since 1 February with a special 15-minute program on nine years of the Maoist insurgency.

c. Layoffs

Media workers in the FM radio stations are most severely affected by the clampdown on news. According to our reports, it is understood up to 800 journalists are out of work. If the ban on news is not lifted, it is likely they will lose their jobs permanently.

d. Lack of Independent News

The imposition of censorship has had a deep impact on provision of independent news to the public. Cutting off radio news has a particularly severe impact. The IFJ visited Pumdivundi village outside Pokhara (Kaski district), where some villagers expressed their frustration at not knowing what was going on politically, that newspapers were not publishing news, and radios were only broadcasting music. The Maoist blockade is biting everywhere outside the Kathmandu Valley - vehicular movement is at a minimum, schools and colleges are closed, shops are more or less closed. The IFJ will release a full report on the media situation in Nepal after the conclusion of the mission. Following King Gyanendra's 1 February royal coup security forces closed all weekly newspapers in Jhapa, including Mukti Aawaj. Paper resumed publication on 22 February after writing to the army, but editor was arrested

the next day. Manohar Pokhrel, editor of Batabaran weekly and Arjun Sah, an executive editor of Jana Aakrosh daily were arrested on 22 February in Rajbiraj, the district headquarter of Saptari, and served with a three month detention order the following day. Nevertheless: -

Five newspaper editors who had published blank spaces instead of editorial in protest against the widespread censorship in Nepal were interrogated. The chief of the Kathmandu district administration office, Baman Prasad Neupane interrogated Kabir Rana and Rajendra Baidh from the weekly Birmarsh for two hours on 23 February. The following day Neupane questioned Navaraj Timilsinha of Prakash, Gopal Budhathoki of Sanghu and Shashidhar Bhandari of 'Hank'. The editors were released after agreeing to report to the authorities when summoned.

Soldiers held reporter Swagat Nepal of Nepal Samacharpatra daily, for over 14 hours overnight on 21 February. Plainclothes policemen arrested him on a Kathmandu street, forced him into a jeep, drove off with him and interrogated him, depriving him of food and water. He was released in the morning on 22 February.

Maoists staged an attack on a regional television station, the state run Nepal Television's Kohalpur station on 23 February. According to reports, hundreds of Maoist militants stormed, set alight and looted the production center of the station at around 11pm on the 23rd. They stole equipment such as cameras, demolished anything they could not carry and set fire to the building as they fled. They destroyed the studio, control room and other areas and ruined all furniture, machines and electronic equipment causing about \$US1million damage. They plundered the employees' quarters but no injuries have been reported. The Maoists had bombed the station previously, in 1997, but this is the first Maoist attack on the press since the coup.

Journalists Naryan Adhikari, who works for RSS and Kalifa FM, and Basanta Parajuli, who works for Gorkhapatra and Synergy FM, remain in jail, having been

arrested on 13 February. D.R. Panta has been held since 15 February and five journalists held since before the Royal coup remain in detention.

5.3. Mission Final Report on Nepal: Coups, King and Censorship

Censorship and attacks on journalists were getting worse as the Nepal coup moved into its fifth week, the International Federation of Journalists said at the release of their report on Nepal: Coups, Kings and Censorship. Just this week, the regime has released new regulations prohibiting the media from disseminating any information or publishing news related to security matters without obtaining prior information from the security forces.

11 journalists have been detained for more than 48 hours since the coup, with three still being held and about a hundred in hiding or exile

Censorship of the media has reached unacceptable levels, with newspapers prevented from reporting the political events surrounding the coup

The Nepali people have been denied access to information by the banning of news on FM radio

About half of all publications have ceased publication, particularly outside the Kathmandu valley

Hundreds of journalists have already lost their jobs, with many more at risk. The mission also found freedom of association under threat, with the Federation of Nepalese Journalists pressured over its campaign to sustain press freedom. Trade union rights have also been suspended, with senior trade union leaders in jail. The journalist organizations are extremely concerned for the safety of journalists JB Pun Magar, after his abduction by Maoists in the Kapilbastu district.

5.4. Harassment and detention of journalists continued

Harassment, censorship and arrest of journalists are continued. On 15 March, Khagendra Shrestha, editor of Dharan Today, was injured when unidentified assailants opened fire in the eastern Nepali town of Dharan. Shrestha has recovered at BP Koirala Medical Institute, Dharan, and Sunsari district.

On 9 March, JP Pun Magar, staff reporter of the fortnightly magazine Himal Khabarpatrika was kidnapped by pro-government self-defense militias not as previously reported by CPN-Maoists. He was released unharmed on Friday 11 March at 9am in Kapilbastu. Magar called his editor after being released and reported that he was kidnapped at the Nepal-India border, Pakadi Chok. On the first day he was interrogated in Hindi and the kidnappers introduced themselves as Maoists. After an hour he was blindfolded, forced to walk for two hours, and finally as greeted by a voice saying in Hindi, "Gentleman journalist, you are welcome". Magar identified the voice as Preetam Pande, leader of self-defense militias, and realised that his captors were not Maoists. Magar told his editor that while he wasn't physically harmed during his abduction, he was mentally tortured and threatened to 'be careful' while filing stories.

Panchthar's Chief district officer sentenced Laba Dev Dhungana, FNJ Panchthar district president, to three-month jail time. He was arrested on 3 March for reporting protests held in response to the King's 1 February coup. On 12 March, Ganash Lama, reporter for Jaan Pahaar Weekly, was arrested in Kathmandu while reporting demonstrations against King Gyanendra and is currently being held at the Ward Police Station in Kamal Pokari. Suryaa Thapa, senior reporter of the weekly Haank, was arrested and detained by police in Mahendra Police Club, Kathmandu. It appears her arrest is linked to her leadership of the Communist Party of Nepal -UCM (Unitary Center-Masaal) and not for her work as a journalist.

On 12 March, editors of Kathmandu daily-based newspapers were called by officials from the Ministry of Information and Communication and ordered not to post news of deposed minister Sher Bahadur Deuba's press conference. Editors published the story anyway after officials failed to issue written orders about the media 'blackout'. One independent television station reported the press conference in its evening broadcast but it did not appear in the following bulletin.

Security forces at the Kakadbhitta border in Jhapa district harassed 17 foreign correspondents; those are attempting to enter Nepal from India to cover the coup. Police mistreated Sudarshan Rijjal, reporter for Kantipur daily, and his camera seized while covering an anti-king demonstration. Journalists arrested and detained. Sharad Adhikari, local reporter for Channel Nepal, was sentenced to imprisonment. On the other hand, five radio stations, operated by Maoists, are the only FM stations broadcasting news and current affairs. Independent television stations continue to broadcast news and current affairs programs in spite of the Broadcasting Act, used by the security forces to muzzle FM radio, being applicable to both media. FM station managers met in Kathmandu to discuss the restrictions and to push to resume broadcasting news and current affairs. At the very least, stations are calling for a return to non-political programming - the current restrictions ban any sort of talk. "We are not allowed even to have any sort of talk, even if it was on ways to grow cauliflower or getting rid of pests in the field," said one broadcaster from Lumbini. The security forces have even been sensitive about the type of Nepali music played in case it raises communist morale. On the other hand if the ban on news and current affairs programming continues, radio stations will be forced to close. This will result in more job losses and a smaller media landscape.

Narayan Walge, editor of Kantipur, was summoned for questioning by the Crime Investigation Division of the District Police Office at Hanuman Dhoka, and not by the Chief District Officer. On Thursday 17 March 2005, Walge presented himself to the police office in accordance with a summons presented to him on Wednesday 16 by the Crime Investigation Division of the Police. Walge and his lawyer were allowed to leave after an hour of police questioning. Walge was questioned on Kantipur's content

in its 15 March edition, apparently to determine if it had violated the spirit of the 1 February Royal proclamation. A front-page report in the Kantipur 15 March edition claimed 750 protestors were arrested for taking part in peaceful protests around the country. In a statement issued on the same day, the Home Ministry refuted the number and claimed it was exaggerated. The newspaper also published a photo of Bal Bahadur Rai; leader of Nepali Congress.

The grim series of event is that the life of Gokul Baskota, executive editor of Kathmandu's *Dristi Weekly*, is believed to be in serious danger as he continues to receive regular death threats. From July 18 and 19, three unknown people followed Baskota; it is believed with the intention to harm him. Baskota has also been receiving regular threatening phone calls. In recent time there have been several incidents of threats, harassment and kidnappings of journalists in Nepal.

On 29 April 2005, even after the withdrawal of the emergency, no government has withdrawn the suspension on media and other fundamental rights. The killing, harassing, brutally beating, torturing the journalists are not abated. After the disposition of the emergency, the government has continued to brutally attack the press. It has proved that the government has withdrawn only the term emergency except the practices. The government has issued the three month imprisonment warrant order for reporter of Samaya weekly, Devkumar Subedi, on the ground of the reporting of the protest of seven student organization marched on the Surkhet district on the support of complete democracy and peace on Jestha 1. The imprisonment of the Subedi has proved the government's irresponsibility and threat over the press freedom of Nepal and direct violation of constitution enshrined fundamental rights. The Federation of Nepalese Journalist has demanded to release the subedi, who is the central representative of the Federation too. It is the condemnable attack on the press from government administration.

Likewise, District Administration Office called the journalist, Kanakmani Dikchit, and taken written description on the ground of the Article published in Himal fortnightly in emergency. It seems directly wrong to grill him on the issue of

emergency after the two month later of the emergency withdrawn. No constitution has allowed the government to grill and take clarification with journalist on the ground of any article, editorial, opinion published in newspaper. These activities of the administration have proved the defeatist mentality of the government. This effort seems the way of weakening the journalist, psychologically and physically both through intimidation, indirect influences and boogieing. The Maoist has abducted the journalist of Ilam, some Sharma on Baishakh 30 2062. The effort, abducting the journalist who unified to the press freedom, and intimidating them and making unnecessary influence toward tem, seems condemnable.

On July 24, 21 pro-democratic journalists employed by public broadcaster Nepal Television (NTV) were sacked as a punitive action for their involvement in the FNJ-led movement for the restoration of complete media freedom. Previous to the current spate of sackings, the FNJ's Banke district president, Prem KC, was told to either resign from his position of FNJ's district president or quit his job as a reporter at NTV. He was officially dismissed from his job on June 16. In the latest of a series of shocking events, the Royal Nepalese army warned Kantipur Daily and The Kathmandu Post reporters that action may be taken against them on charges of being Maoists. The threats were made following a media report that stated army personnel were using minors as their informants and prior to this incident, army officers interrogated Kantipur reporter, Harihar Singh Rathor, along with Neupane, Shahi and Annapurna Post reporter, Pushkar Thapa, for reporting the same story. They refused army orders to publish corrections. Beyond targeting journalists, on July 30 the army has also arrested Ramakanta Gautam, a distributor of Kantipur Publications. Security personnel have not disclosed his condition, or whereabouts. In July alone, it was announced that the government plans to undertake mass sackings at Nepal Television (NTV), citing journalists' stance in favor of free media; the government refused to consider lifting the ban on FM news broadcasts.

The government has lifted 'state-of-emergency' which is used to justify comprehensive media censorship, but civil liberties, including freedom of the press and association, remain restricted. The former Prime Minister has been jailed for corruption by an extra judicial, politically motivated, anti-corruption commission, and arrests of journalists and democracy activists continue. The restrictions not only hurt those who are directly intimidated by the army or the Maoists, but everyone who had consequently lost vibrant sources of news and the right to free speech. The ban on FM news broadcasting is bad enough, shutting down a radio station is yet another step away from a free and independent media, another freedom taken away from the Nepalese people.

The government has alleged Nepal FM breached its decreed ban on FM news broadcasting by airing news of the King's birthday on July 7 and including news content on a daily program which focuses on social issues. On August 8, the Parsa Chief District Officer summoned editor and publisher Krishnakumar Khanal and managing director Bijay Kuswah to the DAO office in relation to a story they ran in the Birgunj Report Daily on August 5. The two journalists were harassed in a locked in a room for three hours, and then forced to sign a statement declaring that they would never again publish any articles critical of the monarchy. Khanal and Kuswah say they were threatened with imprisonment if they did not sign the statement.

In another incident in the Saptari district, the vice-chairman of the district's development committee threatened Kantipur journalist Dilliram Khatiwada in relation to a story he wrote on corruption. This latest intimidation of journalists follows a similar incident in the Dailekh district on July 31, when Royal Nepalese Army officials threatened three local journalists who had reported that the army was using minors as informants. The journalists were urged to retract their stories and were forced to provide thumbprints.

5.5. *Supreme Court order*

On August 3, the Nepalese government alleged that independent radio station Nepal FM had breached a ban on airing any kind of news on FM radio. The government granted the radio station seven days to explain why it should not be permanently shut down. The Supreme Court of Nepal instructed the government on August 10 to stop the license cancellation procedure until the court delivers its final verdict on the case, adding that the ban would have a serious impact upon people right to information. There is a history of the Nepal Supreme Court making decisions in favor of journalists, with the court preventing the closure of radio material distributor Communications Corner in June 2005, and redefining freedom of press to also include radio in a landmark case in 2001.

5.6. *Debate over cartoon*

On August 22, the Office of the Chief District Officer (CDO) summoned two editors of major national broadsheets in Kathmandu for interrogation over a Sunday cartoon published by the Kantipur Dainik and its English language counterpart, The Kathmandu Post. Editors Narayan Wagle and Prateek Pradhan were interrogated by two officers from the Ministry of Information and Communications, apparently hired by the CDO, about the cartoon, which fronted the pages of their respective dailies. After Wagle and Pradhan questioned the propriety of the officer's actions, the Minister for Information and Communication, Tanka Dhakal, fired back with a disturbing threat. At approximately 4:30pm on August 25, Bhaikaji Ghimire, managing director of *Sama Dristi* weekly was released after the Supreme Court ruled on August 24 that his arrest and detainment was illegal. Ghimire was released from Nakhku Jail in Lailitpur to representatives of the National Human Rights Commission, Federation of Nepalese Journalists (FNJ), human rights activists and lawyers. Ghimire has been tortured and held in Army custody since his illegal arrest by the army on December 1, 2003 in Chehetrapati. Another journalist, Binod Dahal was also released on August 25 as a result of a release order by the Supreme Court.

A joint mission of twelve international agencies, including the IFJ, UN agencies, global media associations, and freedom of expression advocates and media development organisations lobbied government and military officials in July to release both Ghimire and Dahal. On August 25, Police in Parbat beat Lal Prasad Sharma, a journalist for *Kantipur Daily* while reporting on the seven party agitation programs. The same police captured the camera and destroyed the film of Durga Sharma, reporter of *Nepal Samacharpatra* daily.

5.7. *Media ordinance*

On October 9, King Gyanendra announced changes to media law that would come into force immediately, limiting media licenses, banning the broadcast of news on radio and prohibiting a number of foreign publications. Most alarmingly, fines for defamation have been increased ten fold. King Gyanendra announced the laws the day before Nepal's ten day long festival (Dashain Leave), leaving media organisations no time to respond to the ordinance. The International Federation of Journalists (IFJ) supports a move by the Federation of Nepalese Journalists (FNJ), the Nepal Bar Association (NBA) and other activist groups to challenge the new media ordinance in the Supreme Court. The Supreme Court has issued show cause notices to several ministries and both houses of parliament regarding the ordinance announced by King Gyanendra on October 9, 2005.

The ordinance banned news programs on FM stations, restricted media licenses, forbid any news that was damaging to the king or any member of his family, and increased penalties for defamation ten-fold. Advocates Ravi Raj Bhandary and Kahar Singh Khadka argued that the ordinance goes against the spirit of the Constitution of Nepal, 1990, the Universal Declaration of Human Rights, 1948, and the International Covenant on Civil and Political Rights, 1966.

Lawyers and media activists have urged journalists to defy the new media laws. Advocate Bhimarjun Acharya claimed that if an ordinance was unjust, unfair and unnecessary, then people should ignore it. However, the ministry did not specify what type of action they would take against journalists or institutions that violated the new laws.

5.8. Attack on Kantipur FM

On October 21, dozens of armed police officers stormed into the Kantipur FM Station and seized vital equipment, including an encoder, satellite modem and digital audio recorder. The attack, moments before midnight, came on the eve of the station's seventh anniversary, and just hours after nationwide protests condemned the new media ordinance. A delegation from the Ministry of Information and Communications approached the station earlier in the day on October 21, claiming Kantipur FM had violated the new media ordinance, which forbids simultaneous transmission from more than one place. Kantipur FM has had a license to transmit programs to areas outside Kathmandu through a relay station in eastern Nepal since 2000, and the station's manager Prabhat Rimal said the broadcast was legal. Kantipur FM was Nepal's first privately owned independent FM station, without its equipment, the service is now only available in Kathmandu Valley.

A protest rally of over 1000 journalists, activists, teachers, lawyers, students and civilians was co-coordinated by the FNJ on October 21, only a few hours before the attack on Kantipur FM. On October 26, the government issued a 24-hour ultimatum to Kantipur FM to come up with a formal explanation for failing to comply with the recently introduced media ordinance. The government threatened to revoke the station's license should it fail to submit the written explanation within the stipulated time or if the explanation was not satisfactory. The ultimatum follows an attack against the station on October 21, when dozens of armed police officers stormed into the station and seized vital equipment after the government accused the station of going against the new media ordinance. The ordinance, put in place on

October 9, banned news programs on FM stations, restricted media licenses, forbids any news damaging to the king or members of the royal family, and increased penalties for defamation ten-fold.

5.9. Supreme Court issues stay order

The Supreme Court has issued an interim stay order to the government, preventing it from taking action against Kantipur FM until October 30, when a decision will be on both the Kantipur case, and on the media ordinance itself. The stay order has stopped the government's plan to cancel Kantipur FM's license, after the station allegedly ignored the government's warning to stop broadcasting news programs. The government gave the station only 24 hours to provide a written explanation as to why it had not stopped its news broadcasts, threatening to shut them down if the explanation was not satisfactory. The Nepalese Attorney General, Professor Pawan Kumar Ohja, has defended the legality of the recent media ordinance, claiming that it is not unconstitutional—despite having been issued by the executive in the absence of parliament. “As ordinances also hold legislative power, it can amend not only the ordinance itself, but also the existing laws and regulations made by the parliament,” Ohja said. Government lawyers said that the ordinance adhered to the 1990 constitution, and was intended “to regulate the press, not control it.”

5.10. Radio stations defy government summons

The Nepalese Government summoned representatives from various FM radio stations to the Ministry of Information and Communications on November 6. According to Save Independent Radio Movement (SIRM) none of the radio stations obeyed the summons, which was delivered by telephone just an hour in advance. SIRM spokesman Ghamraj Luitel described the incident as evidence of “the autocratic government's disrespect for rule of law.” The Nepalese Government summoned representatives from various FM radio stations to the Ministry of

Information and Communications on November 6. According to Save Independent Radio Movement (SIRM) none of the radio stations obeyed the summons, which was delivered by telephone just an hour in advance. SIRM spokesman described the incident as evidence of “the autocratic government’s disrespect for rule of law.” There are 56 FM radio stations in Nepal. The summons comes two weeks after a national conference of Independent radio stations in Chitwan, where participants decided to defy government orders until the Supreme Court passed a ruling on the new media ordinance.

Plain-clothes soldiers carried out a blatant and vicious attack on Dristi Weekly reporter Ram Bahadur Rawal on October 28. Rawal was watching a traditional Deuda dance in his home district of Bajura when the soldiers approached him and confirmed that he was a member of the press before violently beating him. Rawal sustained serious injuries to his head and eyes. He is not the first journalist to be targeted in the Bajura district and the FNJ is now considering sending a mission to the area. Government lawyers said that the ordinance adhered to the 1990 constitution, and was intended “to regulate the press, not control it.” The ordinance, issued on October 9, prohibits FM stations from broadcasting news and also from criticising the king and the royal family. It includes provisions for jailing reporters for up to two years in defamation cases.

5.11. Attack on Sagarmatha FM

On Sunday November 27, 2005 at approximately 9pm, Radio Sagarmatha FM went off air after police raided the station, ordered staff not to use the phone, seized its transmission equipment and took into custody five journalists and technicians working at the station. Police raided the station as it was airing relay transmissions of BBC Nepali Service Live from London. The journalists arrested were Durga Karki, Dipak Babur Aryal, Dipak Raj Pandey, Punya Bhandari and technician Rajendra Bhandari. Police later released Durga Karki. The others are being kept at District Police Office armed security officials left behind two letters, one asking for Sagarmatha to shut down its transmission until further notice and the other stating the

authorities were taking the radio equipment for investigation. The reason for the raid against Sagarmatha is thought to be connected to the BBC Nepali Service airing an exclusive interview with Maoist chairman Prachanda alias Pushpa Kamal Dahal—the first radio interview given by him in the last ten years. Despite Sagarmatha airing music instead of the Prachanda interview.

It is reported that approximately seven FM stations outside of Kathmandu were forced to drop their transmission of BBC Nepali on Monday November 28 by local authorities because of the interview. The authorities also suspended the transmission of BBC World Service over 103 FM owned by the state-run Radio Nepal despite state-run Radio Nepal blocking the news broadcast of BBC over 103 FM since the royal takeover in February. The raid of Sagarmatha follows the October 21 police raid of the station of Kantipur FM where its equipment used to uplink its transmission were seized.

Likewise, police in Surkhet in mid-western Nepal, on 2 January, detained journalist Moti Poudel of Kantipur daily and cameraperson Kamal Panta of Kantipur Television Network from the premises of Surkhet Appellate Court. The journalists were covering news regarding the court's decision on a habeas corpus petition. Plainclothes policemen reportedly beat up Panta as he was trying to take pictures of security men re-arresting the four persons (suspected Maoists) released after the court's order. The policemen had acted on the orders of Police Inspector, Gobindha Pathak of the Regional Police Office. Panta was accused of working as an informer for Maoists and was taken towards the police station. Panta sustained minor injuries from the beating. Journalist Poudel who went to Panta's rescue was also arrested. Police inspector Rajkumar Silwal of District Police Office, also snatched Panta's camera and deleted the pictures, stating that he was ordered to do so by 'higher authority'.

5.12. Post Ordinance Protest continued

In an eerie replay of the royal takeover of February 1, last year, a curfew was clamped, mobile phones completely cut off, landlines arbitrarily shut down and all political demonstrations banned. Several senior political leaders were placed under house arrest and second rung leaders detained, in an attempt to foil the political rally scheduled for Friday January 20, 2006. But Police force used excessive force to crack down the rally. The governments of the United States, United Kingdom, India and the European Union are among the first to have condemned King Gyanendra's actions in attempting to curb peaceful political activity in the country. UN Secretary-General Kofi Annan had repeatedly called for urgent dialogue in order to avoid confrontation, and for a bilateral ceasefire between the Government and the Communist Party of Nepal-Maoist. This appeal was not heeded, and the four-month unilateral ceasefire declared by the Maoists came to an end.

More repression is on the anvil as the anniversary of the February 1 coup, and municipal elections scheduled for February 8, 2006. Political parties and human rights activists have termed the elections a "sham" of democracy, and an attempt to consolidate the autocratic regime. The Maoists have declared a boycott of the polls. As a result many journalists were arrested on reporting proceeding. The arrested were detained under Nepal's Public Security Act (PSA), which permits detention without trial, initially for up to 90 days, to prevent persons from committing actions that "undermine the sovereignty, integrity or public tranquility and order of the Kingdom.

In the two days following at least six journalists were injured in police charges, where more than 250 protesters were arrested and assaulted. Satya Ram Parajuli, the editor of the monthly *Majdoor Aawaj*, had an arm broken by a policeman. Damodar Dawadi of the weekly *Naya Bikalpa*, Kamal Pariyar of the daily *Jana Sangharsha* Man Bahadur Basnet, Satya Raj Rajbhandari and freelance journalist Diwakar Pant were also injured. Furthermore, a policeman fired upon *Kantipur* journalist Khuman Singh Tamang, as he was taking photographs of detained student leaders at Banepa police post. Tamang was unharmed. Elsewhere, Rupandehi-

based reporter of *The Himalayan Times* and *Annapurna Post* Mahendra Thapa was injured in a police baton charge while he was reporting a student protest in Butwal on January 23. Armed forces arrested editor of regional dailies *Mahendranagar Post* and *Abhiyan Khem Bhandari* in the western town of Mahendranagar as he was returning home on January 21 and two days earlier police detained *Roadmap Weekly* journalist Dwarika Upreti outside his office in Kathmandu. There have also been reports of arrested journalists being tortured while in detention.

In a further echo of media restrictions imposed last year, government forces have also targeted the foreign media. This week the ministry of information and communications took Indian news channels Aaj Tak and Star News off the air in areas, accusing them of transmitting materials regarding the protests "that were harmful to security and sovereignty of the country and were provocative in nature". Civil society says that efforts to hold municipal elections are a "shambolic attempt" to give the impression that some notion of democracy still exists in the country. The routine arrest and detention of human rights activists and journalists and the widespread denial of rights kills any confidence people may have in this faltering process.

At least 33 journalists, including Federation of Nepalese Journalists' (FNJ) president Bishnu Nisthuri, vice presidents Sanjay Shantoshi Rai and Gangadhar Parajuli, secretary Balaram Baniya and treasurer Hemanta Kafle, were arrested at the protest, which was part of the FNJ's program to commemorate the anniversary of the February 1, 2005 royal coup (which is now known as The Black Day in Nepalese Media). Several journalists have also been injured, including FNJ central committee member Ramesh Bista, when police brutally baton-charged the peaceful protesters. Bista has receiving medical treatment at Miteri Hospital for a dislocated knee. FNJ general secretary Mahendra Bista and Ram Hari Silwal were also injured during the protest program, as armed police repeatedly water cannoned the protestors. Other journalists who were arrested include, Kanak Mani Dixit, Kishor Shrestha, Kedar Koirala, Rupak Adhikari, Roshan Karki, Tirtha Thapa, Narendra Saud, Nanda Rishi Neupane, Mahendra Pande, Rishi Dhamala, Sarla Gautam, Yadev Devkota, Dinesh

Karki, Keshev Neupani, Rojan Rai, Bharat Pokhrel, Lilanath Ghimire, Amar Nath Dhakal, Lavdev Dhungana, Krishna Humagain, Bindukanth Ghimire, and Suman Malla. The Federation of Nepalese Journalists (FNJ) general secretary Mahendra Bista described Kathmandu as a ‘restricted zone’ after police forcibly barred protestors from accessing a peaceful rally organised by the University Teachers’ Association in the Tripureshwor area on February 3, 2006.

Prevented from entering Tripureshwor, the protestors regrouped in Thapathali and later converged at a corner meeting at Tinkune. Up to 50 journalists, university teachers and human rights activists were arrested for attempting to enter the areas and participate in the rally. Many arrests were made before the rally program had even begun. The action was widely condemned as the attempts by the Nepalese Government to prevent coverage of the country’s first democratic elections since 1999, as security forces imposed a blanket “no entry” policy for media personnel at election venues as the controversial polls took place amidst tight security on Wednesday February 8, 2006. Two journalists covering polls in Ilam were arrested and detained overnight without charges. Two more journalists were arrested and another beaten by police while trying to cover the elections in Dharan and Kalaiwa. In Chitwan, a journalist was manhandled and briefly detained by police, while security forces threatened two journalists who tried to talk to voters and take photographs at a polling booth in New Baneshwor. Journalists were forcibly excluded in a spate of arrests and beatings at polling venues throughout the country. Photojournalists in Kakaryitta and Dhankuta had their cameras confiscated by police after taking shots of people casting votes. Last month, media personnel protested after the government barred press from meeting municipality candidates. These actions place growing question marks over the legitimacy of Nepal’s elections. Presented by King Gyanendra as a step towards democracy, the elections have been slammed as bogus by Nepalese and international critics alike. Wednesday’s polling came on the fourth day of a one-week national strike called by the Maoists in protest against the elections. Voter turnout was dismal on the day following boycotts by both the Maoists and Nepal’s seven main political parties. One person was killed and hundreds arrested

as security forces clamped down on nationwide protests aimed at disrupting the polling. The situation has provoked outcry amongst the international community.

At approximately 8am on March 3, Jaya Prakash Gupta, editor of Kathmandu based, *Sandhyakalin Upatyaka Daily* was arrested from his office. Gupta was taken to court for remand and kept at Hanumandhoka Police Office where he will be kept for ten days under the Offence against the State Act. Gupta was arrested due to his newspaper publishing a story of a bomb blast where the king was residing. Two days after Gupta's detention, police restricted the selling the *Sandhyakalin Upatyaka Daily*. The FNJ have been refused access to meet with Gupta. Amar Bahadur Sunar, correspondent in Dailekh, western Nepal for the government news agency RSS and the national daily *Rajdhani*, was arrested and held for four hours on March 2 while attending a FNJ – UNESCO workshop. Plain-clothes police searched Sunar's house the night prior to his arrest. His arrest is reportedly in connection with fellow journalists who support the king reporting him to local police. The arrests follow reports of *Majdur Aawaj* journalist Bhawana Prasain being beaten in custody by police attempting to extract a confession of CPN-Maoist party membership. Prasain, 24, has been held since February 9, 2006 when she was arrested at a pro-democracy demonstration in Kathmandu. Police reported finding leftist organisation leaflets in her bag. Prasain was taken to police stations in Singh Durbar, then Hanumandhoka after three days she was transferred to the Kathmandu central prison. On March 2, the Supreme Court ordered the government to justify Prasain's detention following a habeas corpus request lodged by her employer, Satyaram Parajuli, editor of *Majdur Aawaj*.

The Royal Nepalese Army (RNA) has planned to operate ten mobile FM stations across the Nepal "to counter Maoist propaganda". The RNA which currently operates radio and television programs giving information on army activities and against "terrorism" in Nepal will operate four FM stations with the capacity of one kilowatt and six others with the capacity of 250 watt. Media reports in Nepal claim the Ministry of Information and Communications has exempted the RNA from

licence charges for the stations, while the government has freed it from customs duty on imports of FM equipment.

The Interior Minister of Nepal was reported saying on March 12, 2006, “The government will treat anyone publishing and writing news about the Maoists as their accomplices, and will deal with them accordingly.” The announcement by the government came two days before the planned blockade of the capital, Kathmandu, by Maoist rebels on March 14. The Maoists have also called for a nation-wide strike to begin on April 3. On March 13, Ministers from the government again demonstrated their tight control of the media when they barred local journalists from a meeting between business leaders and government officials in Birgunj. The meeting was held to assess the problems facing the business community of Birgunj due to general strikes, and appeal to them to continue operating industries and transport services.

Local reporter, Govinda Devkota, stated security personnel prevented local journalists from entering the venue at DDC Hall. Only government media and a few TV camerapersons from Kathmandu were allowed to enter. This incident follows the seizure of a journalist in Tatopani by members of the Armed Police Force (APF) on March 8, 2006, who threatened to charge the reporter with terrorism. APF DSP Deepak Thapa, in his office, then pressured the managing operator of Sri Abhilekh weekly, Pabitra Kumar Khadka, to divulge his news sources. A week earlier, Khadka’s newspaper had reported on APF abusing civilians when they beat up a dozen local women, injuring one of them severely. In response to continued violations of press freedom and freedom of expression in Nepal, twelve international organisations, including UN agency, global media associations, freedom of expression advocates and media development organisations, are undertaking a joint mission to Nepal from 20 to 25 March 2006.

After a first mission in July 2005, when a large group of press freedom and freedom of expression organisations came together to undertake a joint mission in support of the national media community, the March 2006 mission is a direct continuation of this process and the inclusion of more organisations demonstrates the

ever growing concern of the international community about the situation in the country. The members of the mission will meet with a broad cross-section of the national media community to discuss the press freedom and freedom of expression situation. They will also meet with key institutions and decision-maker amongst the national authorities, security forces and other parties to stress respect for press freedom and freedom of expression. In addition, the mission will visit three districts in Nepal - Pokhara, Surkhet and Birtamod - and will meet with local civil and army authorities and representatives from the local media in these areas. The members of the mission will also participate in a national conference on press freedom in Nepal to be held in Kathmandu on 24 March 2006.

On March 23, Satya Prasad Shrestha, district correspondent of *Nepal Samacharpatra*, and three other people were injured when Maoists fired bullets in front of a newspaper shop at Bharat Chowk in Bara district. Federation of Nepalese Journalists (FNJ), Maoist's have since released a statement expressing regret for their unintentional injuring of Shrestha. Shrestha has currently being treated for his injuries at Narayani sub regional hospital in Birgunj. Many journalists are attacked in the mission day. The attack occurred during the international advocacy mission for press freedom and freedom of expression in Nepal.

The mission from March 20 –25 met with a broad cross-section of the Nepalese national media community to discuss the press freedom and freedom of expression situation, as well as senior officials to stress the need to respect press freedom and freedom of expression. In addition, the mission visited three districts in Nepal - Pokhara, Surkhet and Birtamod - and met with local civil and army authorities and representatives from the local media in these areas. An amendment made by the Nepalese Government to the Terrorist and Disruptive Activities (Punishment and Control) Ordinance (TADO) has the potential to criminalise the basic act of the media, of supplying information. On March 26, the king's approval of the renewal of TADO, published in the gazette on Monday April 3, saw the inclusion of new provisions saying that the actions of those classed as Maoist 'accomplices' can be considered 'crimes related to terrorism and disruption' and that the dissemination of

Maoist related information is punishable under the anti-terrorism law. The IFJ has concerns over the amendment in particular the definition of ‘accomplice’, which defines accomplices as those who; remain in contact with, give assistance to, supply information to or disseminate information from the Maoists as being an accomplice. Individuals under the provision could face between one to three years imprisonment or 10,000-50,000 NPR fine or both if found guilty of disseminating Maoist information.

The law has also broadened the definition of crimes related to terrorism and disruption to include; acts of seizing property, depriving people of use of their property, abductions, supporting the Maoists knowingly or unknowingly either by extending economic or material support and shelter, all new additions since the promulgation of TADO in October 2005. It remains unclear if political parties and the media fall within the ambit of the new provisions, however in recent times government ministers have publicly labelled the political parties as accomplices of the Maoists since entered in the 12-point understanding with the Maoists thus suggesting the newly introduced provisions are aimed at further restricting and punishing any relationships currently standing between the media, political parties and the Maoists.

In the light of these assurances, it is concerned about ongoing incidents of harassment of media professionals. Media watchdog refer in particular to the intimidation of Lav Dev Dhungana, president of Federation of Nepalese Journalist (FNJ) Panchthar branch at Ranke, border between Ilam and Panchthar district, on 31st March. The incident reportedly occurred when Dhungana, a freelance reporter, tried to take photographs of Maoists collecting money from vehicles on Mechi Highway. Maoist area-in-charge, Deep, reportedly threatened Dhungana, who was detained for one and a half hours on allegations of "spying". This occurred despite Dhungana proving himself as a journalist and president of FNJ Panchthar Branch. He was intimidated, and his identity card and diary were also snatched.

The Royal Nepal Army (RNA) have used excessive force, teargas and batons and fired indiscriminately at protestors in an attempt to control the mass protests

across Nepal, which began on April 6. Particular concern is the targeted violence against journalists both reporting and participating in the popular protest demonstrations. This has included mass arrests of media persons and numerous incidents of journalists being brutally attacked by authorities while attempting to cover the demonstrations. Over 100 journalists and many more lawyers and other civil society activists have been arrested, over 24 journalists have been assaulted since the current phase of the pro-democracy movement began on April 6. We are concerned about the 15 journalists and media workers who still remain in custody. Many of them were arrested without any legal notice and were physically assaulted by police prior to their arrest. The attached appendix lists the incidents of journalists who were arrested and attacked during April 2006.

On April 16, 20 journalists were arrested from Bhotahiti, Kathmandu and have been given a 90-day detention order under the Public Security Act 1990 for participating in a protest rally against the unfair treatment of journalists on April 14. These arrests followed the arrests of four journalists and the injuring of at least a dozen others a peaceful protest organised by the Federation of Nepalese Journalists (FNJ) in Gaushala, Kathmandu on April 15. The rally began from the FNJ offices at the Media village and as they reached Gaushala police indiscriminately baton charged the journalists and continued to beat them even after taking control of the crowd. In addition to the mass arrests and violence against the journalists, the government is attempting to use censorship to silence the media with a direction from the Minister of Information to all cable operators to blackout Kantipur TV and the reintroduction of the media ordinance on April 3. The watchdog of press started to condemn the royal crackdown on media and democratic value in Nepal. However the arrest and beating of journalist seems frightening scenario during the 19- daylong general strike. Finally the democracy in Nepal after the second proclamation of the king to the nation is possible. The detention and intimidation are continued until the proclamation of king to the nation reinstating the House of Representative of Nepal and democratic value.

Part Six

Conclusion and recommendation

6.1 Conclusion

This study has found that the duration of royal takeover is most devastating and troublesome for media worker in the history of Nepali press world after the restoration of democracy in 1990. The strict 'Order' from government and 'Ordinance Amending Some of the Nepal Act Related to Media' are seemed most unfavorable for Nepali media. The direct interference from administration on media, ban on radio news, discriminative classification of newspapers by press council, discriminative advertisement policy, inaccess to News sources to private media, attacks on kantipur on October 21 and raid on Sagarmatha on November 27, etc are another unforgettable blow for the development of Nepali press world during the royal takeover. However majority respondent have believed that royal government thwart private media to uproot the democratic norms and values, for reducing influence of private media by preventing them being accessed to news sources in reverse to the promotion of royal media. The government has continued the harassment and arrest of journalist, layoff democratic journalist from royal media, forceful news instead of independent news, and interrogation of journalists during takeover. However, Supreme Court stay order, defy of government order and law by journalists, support of international community to establish freedom and democracy in Nepal etc are counterpoint for democracy which is proved absolutely correct at last. So as per our study on the basis of objective, following conclusion is summed up here.

-) Government sponsored threats, detentions, searches, and assaults against journalist from several news organizations seems rampant during the tenure of royal takeover from February 1, 2005 onward.
-) Journalists outside the Katmandu are hardest hit with the suspension of basic fundamental right and other restriction.
-) Rural journalists have faced greatest restrictions

-) Newspaper copies are cut by military vigilant.
-) No access to local and international media and human right organization is possible in rural area during emergency.
-) Some of the restrictions are temporary like order of ministry of information and communication but some are not, like ordinance.
-) Negative reporting or commentary about the king and his royal coup are banned.
-) The most devastating threat to the media is ban on news on private radio stations; it is in transition from time to time.
-) Radio journalists have faced unemployment and only radio stations run by Maoist and government continued to broadcast news, but not now.
-) Both warring sides routinely targeted journalist with threats, physical attack, and prolong often brutal detention has created the limitation of press freedom.
-) Maoist has continued to abduct journalist in retaliation for negative reporting until the 12-pact agreement between agitating party and Maoist group.
-) On the name of the defense against Maoist insurgency, press freedom has been curtailed.
-) Many journalists are Blindfolded and tortured with electric shock, beatings, and cold water. Rearrested journalists are disappeared multiple times under anti terrorism law.
-) Most journalist have been detained only briefly, but other have been held for weeks or even months under harsh anti terrorism legislation that allows lengthy detention without trials.
-) The government has withdrawn the advertisement from independent news outlets, depriving them of major sources of revenue.
-) Due to government control over advertisement and insecurity of market, journalists of capital have been badly affected while in the places outside the valley newspapers are in the verge of closure.
-) As a result, most newspaper has significantly reduced the number of pages published.

-) In October, The axe has fallen again on Nepal's press when the king has promulgated the media ordinance that journalist have been protesting for reinstating the ban on FM radio news broadcasts.
-) A draconian media ordinances issued in October is codified much of the kings censorship as law, making a return to democracy under the monarch appear increasingly unlikely.
-) It has placed limits on ownership that seem specifically to target kantipur, the nation's largest independent media group, codified restrictions on criticizing the king and the royal family; and increased the maximum penalty for defamation to two years in prison. King Gyanendra has got criticism from international society, including Donor Association that became helpful to withdraw emergency in 100 days but the king was silent on the status of press restrictions.
-) Newspaper editorial has obliquely protested the government action. Internet is taken as the powerful media to protest the government.
-) From the incidents demonstrated above, it is clear that the practice of curbing press freedom is still prevalent in Nepal.
-) Control over freedom and investment has been affecting the profession and employment of media workers.
-) Market has been limited due to control over freedom.
-) Blog journalism has become the path of freedom of speech and expression, which based on Internet assisted telematic media.

6.2 Recommendation

Theoretically, the constitution of 2047 is very good in the favor to Nepali press world. We have fundamental right for the promotion of freedom of speech and expression including rule of law but practicability or procedural guarantee is almost absent. The ruler has still traditional way of thinking and has opinion of 17th century even in 21 century that is proved by royal takeover in February 1, 2005 and their effort to curtail, muzzle and garrote the media. So it is strongly necessary to establish

and usage of fundamental freedom and rule of law both in substantial and procedural form. The government shouldn't misuse the government media. These media are necessary to be independent and autonomous in their responsibility toward public. In gist, following recommendation is considered to prevent the media from despotic government. It is strongly necessary to establish free, independent and autonomous media.

-) The government should stop harrassassment, detention of journalists
-) The government should revoke Media Ordinance.
-) The government should give special privilege to the journalists in conflict reporting
-) The interference from administrative high-handedness should be stopped.
-) The government shouldn't target FM radio from time to time
-) The government shouldn't set plan against the press freedom.
-) The government watchdog agency should fight for independent status of press, not for pro-government.
-) Government media should be autonomous
-) The government should withdraw discriminative advertisement policy
-) Dictum, order from government to stop press should be abandoned for responsible press.
-) The Supreme Court should play active role for press freedom.
-) The government should have supportive role for private media.
-) Press council should be independent and free from bias
-) Government should supportive for private media
-) Government should make law according to the provision of our constitution of Nepal.
-) International community should aware the government for press freedom from time to time.

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Appendix – I

Questionnaires

(Respondents are requested to tick the best answer)

Respondent's name.....

Organization.....

Designation.....

Part one

1. What is press freedom?

Access to the information without interference	Publication and dissemination of acquired information	Distribution and analysis of information	Lack of the tough legal control	All the above	Other
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2. Why press freedom is necessary?

- a. For creating good public awareness
- b. For promoting massive public opinion
- c. For preserving democratic society
- d. For all above mentioned function

3. What is the condition of press freedom in Nepal after royal takeover in feb.1st, 2005?

Best	Better	Good	Worst	Other....
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4. How does this condition affecting to access to the news sources?

Intimidating the journalist	Hiding the information	Not giving access to the source	All the above	Other...
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5. Is it necessary to curtail the press allowing them not to take their responsibility to the public?

Necessary	Unnecessary
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6. Who is the responsible for the present staggering condition of press freedom?

Media	Government	Political party	Maoist	Other
-------	------------	-----------------	--------	-------

7. Is it good the suspension of article 12, 13, 16, and 23 of constitution 2047 BS?

Very good	Good	Not good
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8. The government of Nepal has declared the restrictive order after royal movement. What do you think about such kinds of declaration?

Very good	Good	Bad	Worse
-----------	------	-----	-------

9. Why the government wants to stagnate and shackle the press in political subversion?

- a. Media excites the situation
- b. Media intrude the government operation
- c. Media divert the public opinion
- d. All the above functions
- e. Other.....

10. Have the Nepali press controlled ever before as now?

Yes	No	Don't know	Other.....
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11. International journalist and community have showed deep concern on royal movement of February 1st 2005. Does it help to resume freedom in Nepal?

Yes	No	Dubious
-----	----	---------

12. The international society has urged to resume the human right and press freedom here in Nepal. What are their motives behind this statement?

Political and economical motive	Diplomatic motive	Defensive motive	Other
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Part two

13. What is the present legal condition of press freedom after royal takeover?

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14. How do you consider the restrictive order of the government published in Nepal gazette?

.....

15. How do you taking the communication ordinance that is issued in 2062?

.....

16. How does ordinance inhibiting the practices of press freedom?

.....

17. Is such a restriction of press necessary?

.....

18. Can such restrictive order to the media help to sustain the government?

.....
.....

19. What is the role of watchdog of press like Nepalese journalist federation for resumption of complete press freedom?

.....
.....
.....

20. What distinction have you found before and after the royal takeover in press restriction system?

.....
.....

21. What kinds of contribution must be needed to ensure the press freedom by the government in Nepal? Give your opinion.

.....
.....

22. What role has Supreme Court of Nepal played for preserving the human rights and press freedom?

.....
.....

(Thank you for your support of filling questionnaires)

Appendix – II

February 4, 2005

Order issued for ban on FM radio news

His Majesty's the Government
Ministry of Information and Communication
Notice

This order has issued by His majesty's the King using the right mentioned in rule 8 part F of section 7 of National Broadcasting Act 2049 considering the emergency declared for the nation and national welfare according to the release issued in 2061/10/19 by royal press secretariat of His Majesty's the King for not to broadcast any other kinds of news, information, article, opinion, expression beyond the absolute entertainment program on FM Radio Stations.

The same notice is informed that anyone who publishes prohibited material breaching this information will be punished according to the provision mentioned in National Broadcasting Act 2049.

Appendix – III

February 3, 2005

Order issued for newspaper

His Majesty's the Government Ministry of Information and Communication Notice

The publication of all interview, article, news information, including opinion or individual expression having the nature of supporting and encouraging directly or indirectly the terrorist or disruptive and terrorism against the spirit and meaning of the royal declaration declared by His majesty's the government in 2061/10/19 considering the nation and national welfare using the right of clause 1 of section 15 of Printing and Publication Act 2048, have been prohibited for 6 month from the date of this information issuance.

The same notice is informed that anyone who publishes prohibited material breaching this information will be punished according to the provision mentioned in Printing and Publication Act 2048.

Appendix – IV

February 3, 2005

Order issued for broadcasting media

His Majesty's the Government Ministry of Information and Communication

Notice

The dissemination of all the interview, article, news information, including opinion or individual expression having the nature of supporting and encouraging directly or indirectly the terrorist or disruptive and terrorism against the spirit and meaning of the royal declaration declared by His majesty's the government in 2061/10/19 considering the nation and national welfare using the right of section 7 of National Broadcasting Act 2049, have been prohibited for 6 month from the date of this information issuance.

The same notice is informed that anyone who broadcasts prohibited material breaching this information will be punished according to the provision mentioned in National Broadcasting Act 2049.

Appendix – V

**The direction of home ministry to chief district officer with
the order of the defense ministry for interrogate editor**

His Majesty's the King

Home Ministry

Peace and Defense Branch

Sinhadarbar, Kathmandu

P.N.P.D. 9432/12/26

S.N. 4072

2061/12/26

Office of the District Administration

Kathmandu

According to the approval in the meeting of security management sub-committee in 2061/12/19, following newspapers publishing from Kathmandu are found to be published the news and ironical cartoon picture against the spirit of notice of His Majesty's the King, the Ministry of Information and Communication, requests for necessary action with the request for necessary action by Ministry of Defense on letter SN 3546 in 2061/12/23.

- (a) Himal fortnightly magazine on "national crisis situation and opportunity" published in 17 Chaitra, 2061.
- (b) Budhabar weekly on "Where is democracy King" and cartoon published in Chaitra 17, 2061.

.....

2061/12/26

Branch officer

Appendix – VI

The 1st press release taking royal movement as 'coup' from the FNJ of February 2 follows:

“The Royal announcement made yesterday, by ending the spirit and value of the Constitution of Nepal, is a coup against democracy and peoples’ rights. This has undoubtedly destroyed the fabric of democracy and has also confirmed that the lives of ordinary civilians as well as national values are in grave danger.

“The Federation strongly condemns and expresses disagreement on this historic and enormous mistake. To believe that following a path like this will restore peace and democracy is standing against the values and ideas of modern civilization.

“The Federation of Nepali Journalists does not believe that, in the 21st century, the country can progress and achieve democracy through an ‘imposed’ monarchy by the King. This move has also ended freedom of expression, press freedom and other rights of the citizens that were won after great struggle and sacrifice.

“Press censorship and the presence of the army in media houses have begun. Communications have been completely disrupted. Now there is no free press and it has been effectively killed. At this time, the Federation of Nepali Journalists believes that its duty is to fight for freedom of the press, democracy, a just peace and national freedom. We also believe that it is important to fight for this with courage and determination in order to guarantee the right of the Nepali people to information.”

Appendix – VII

International Federation of Journalist Letter to Kofi Annan about repression in Nepal

April 13, 2006

The Honourable Kofi Annan

Secretary-General

United Nations NewYork,

NY10017USA

Dear Sir,

The International Federation of Journalists (IFJ) the global organisation representing 500,000 journalists worldwide is imploring your support for the Nepalese struggle for democracy. The IFJ is deeply concerned over the targeting of journalists and outright violence towards the Nepalese people and is calling on the United Nations to apply pressure on the king to immediately discontinue the crackdown and begin to restore democracy in Nepal.

Of particular concern to the IFJ is the targeted violence against both reporting and participating in the mass peaceful protest demonstrations organised by the Seven Party Alliance from which began on April 10 and continue indefinitely. Since the curfew was announced on April 5, over 100 journalists have been arrested, over 24 have been assaulted and there are reports of eight people being killed.

In an attempt to control the mass protests across Nepal, armed police and the Royal Nepal Army (RNA) have used excessive force, teargas and batons and fired randomly at protestors in an attempt to control the crowd.

The police and RNA have systematically targeted journalists and media persons attempting to cover the mass protests resulting in mass arrests of media persons and

multiple incidents of journalists being brutally attacked by authorities while attempting to cover the demonstrations. The IFJ has received reports of the Royal Nepal Army (RNA) indiscriminately firing on crowds of protestors in an attempt to break up the crowd. Most disturbing are reports that those injured are being taken away by police and disappearing.

The IFJ has received reports that assistant sub Inspector Sailesh Giri and police personnel, Ram Hari Karki infiltrated a protest in Kathmandu organized by IFJ's Nepalese affiliate, the Federation of Nepalese Journalists (FNJ) in plain clothes, pretending to be journalists and deliberately began to provoke both protestors, and security personnel.

In another incident plain clothed RNA members infiltrated a peaceful demonstration in Kohalpur Bazaar of Banke on Monday April 10, with concealed explosives. Fortunately they were recognized and stopped by UN staff who demanded to be shown the grenades.

The IFJ is particularly concerned over the 14 journalists and media workers detained during the recent pro-democracy movement who still remain in custody. Many of them were arrested without any legal notice and were physically assaulted by police prior to their arrest. The blatant disregard that the Nepalese authorities are showing for the work of the media is abhorrent and demands condemnation from the international community.

We are sickened at the beatings and assaults on our colleagues by the RNA and police and would welcome the UN's criticism of the King's actions. The IFJ is calling on the United Nations to apply pressure on the King of Nepal to re-instate democracy and human rights. We urge you to ensure the free passage and safety of all journalists and their access to communication lines and information.

Yours sincerely

Christopher Warren
President, IFJ

Appendix VIII

IFJ report after the declaration of general strike in Nepal

Journalists arrested and beaten – April 5-18,
2006 (report of IFJ)

April 5, 2006

Journalist from his house arrested in Lalitpur – 5am

On April 5, Ramesh Kumar Silwal, chief editor of the monthly magazine, *Science and future* was arrested from his residence at Sanepa, Lalitpur. Three security personnel in plain clothes entered the compound of his house by jumping through the surrounding wall and rang the bell at 5am. When his niece opened the door, they said they have come to take Silwal. Security personnel took Silwal to Duwakot in a taxi. He has been issued a 90-day detention notice under Public Security Act (PSA) under the accusation of endangering public order and is being detained at Armed Police Force, Duwakot.

13 journalists arrested in Kathmandu – 7:35am

At approximately 7:35am on Wednesday April 5, 13 journalists were among 37 professionals arrested in front of the international convention center during a peaceful protest rally organized by the Professional Alliance for Peace and Democracy (PAPAD). The peaceful rally organized in protest of the Kathmandu and Lalitpur district administrations indefinitely banning public protests was scheduled to begin at 7:30am from Baneshwor where it would proceed to Mandala of Maitighar. Five minutes after the rally began; police intervened by using force to remove protestors.

Among the journalists arrested were: Bishnu Nisthuri, president, Federation of Nepalese Journalists (FNJ); Mahendra Bista, general secretary, FNJ; Binod Pahadi, Central Committee member, FNJ; Balram Baniya, secretary, FNJ; senior journalist, Harihar Birahi; senior journalist Gopal Thapaliya; Krishna Humagain; Yuvraj Acharya; Bharat Pokherel; Navaraj Sharma; RishiDhamala; Kosh Raja Koirala; and Sudarshan Acharya. Amongst the others arrested were 13 lawyers, 5 professors, 3 doctors, 2 film artists and a civil society activist. Several protesters sustained minor injuries as police dragged them away. Gopal Thapaliya, president of the South Asia Free Media Association (SAFMA) Nepal was taken to Kathmandu Model Hospital at Bagbazaar for treatment of injuries to his right elbow sustained while being arrested. They were released on same day in the evening.

24 journalists arrested in Kathmandu – 3:30pm

Approximately 24 journalists were arrested at around 3:30pm while participating in a peaceful protest organised by the Federation of Nepalese Journalists (FNJ). Among those arrested were: Shiva Gaunle, vice-president, FNJ; Hemanta Kafle, FNJ treasurer; Purna Basnet, FNJ Central Committee member; senior journalist Kanak Dixit; Gyan Ram Shrestha; Laxman Karki; Bal Kumar Nepal; Navin Paudyal; Baburam Dhakal; Rojan Rai; Ujir Magar; Kiran Pokhrel; Indra Baniya; Damodar Dawadi; Govinda Chaulagain; Prakash Silwal; Lila Raj Khanal; Rajendra Aryal; Bimal Gautam; Dharmendra Jha; Uddhav Acharya; Nirmala Sharma; Shankar Layal Malla; and Dev Raj Rimal. All were detained in Janasewa Police Office, Newroad.

To break up the protest police used excessive force and manhandled the journalists before arresting them. The demonstrators were protesting the arrest of 37 professionals, including 13 journalists, at a protest rally organised by the Professional Alliance for Peace and Democracy (PAPAD) earlier that day. The journalists and other professionals that were arrested in the morning and originally detained at Ward Police Office, Tinkune, were transferred to the Police Club at Bhrikutimandap,

Kathmandu, at 2:30pm. All the detained journalists and professionals were released at 5:30 pm.

Journalist arrested from his house

Journalist Laxmi Prasain, chief editor *Kutumba Weekly* was arrested from his house on April 5. He is still under detention

April 6, 2006

Four journalists arrested in Kathmandu

FNJ central representatives: Sudarshan Acharya; Bhaktadhowj Bhojara; Shyam Badan KC, editor *Roadmap Weekly*; and Kamal Koirala, chief editor, *Roadmap Weekly* were arrested from Kathmandu on April 6. Acharya and Bhojara were detained at the women's training academy, Jawalakhel. They are still under detention

Media vehicle vandalized in Kathmandu

In a separate incident, an unidentified group vandalised a vehicle of the *Himalayan Times* at Bhaktapur on April 6 while the vehicle was en route to Surya Vinayak to drop home members of the editorial department. The attackers hurled stones at the vehicle shattering its windows. Another group at Tinkune Kathmandu later attacked the vehicle. The driver and passengers managed to escape unharmed from both attacks.

April 7, 2006

Five journalists arrested at Hetuada at 7:45am

Five journalists including: Khem Bolakhe, secretary, Federation of Nepalese Journalists (FNJ), Makwanpur branch; Gokarna Adhikari, treasurer; Girija Adhikari; Pratik Dainik; Sunhil Khadka, *Nikash Weekly*; and Hari Humagain, *Hetauda Shandesh* were arrested at 7:45am from Hetuada. The journalists were arrested at a

peaceful protest rally organised by the Professional Alliance for Peace and Democracy (PAPAD) against the mass arrests from protests the day earlier. Police baton charged participants of the rally. They were released on same day.

One journalist arrested at Srijana Chowk, Pokhara at 10am

Tribhuwan Paudel, executive member, Federation of Nepalese Journalists (FNJ), Kaski chapter and reporter of Pokhara-based Annapurna FM, *Pokhara Hotline* and *Himan Khabar* online was arrested from Srijana Chowk, Pokhara while reporting the news of the protests by the SPA. Paudel was arrested and taken to the police barracks at Pokhara. He has since been released.

April 8, 2006

Seven journalists receive serious injuries at Baglung

At least seven journalists were injured at the hands of police on Saturday April 8, while covering a peaceful protest organised by the SPA in the district headquarter of Baglung. Hari Narayan Gautam, secretary, Federation of Nepalese Journalists (FNJ) Dhaulagiri Branch received a serious injury to his head. Police beating left five other journalists including Himal Bahadur GC and Ram Krishna Sharma injured. Also injured by police while covering the protests in Kathmandu were: Suresh Regmi, journalist with Chitwan based Synergy FM; Tej Prakash Pandid, chief editor, *Nayayug Bani*; and Santosh Sharma, journalist, Kantipur; Shyam Shrestha, cameraman; and Tilak Koirala, Nepal One Television were manhandled by police while covering the protests in Bagbazar, Kathmandu.

Journalist arrested in Kathmandu

Kanak Mani Dixit, senior journalist and editor, *Himal South Asia* magazine, and Kedar Sharma from Nepal Forum of Environmental Journalists (NEFEJ) were arrested on April 8 for defying curfew orders imposed by the government. Dixit was

arrested in front of the TU Teaching Hospital at Maharajgunj along with 24 rights activists and professionals. They continue to be in detention.

Independent media including Kantipur excluded from curfew passes

The government has refused to issue curfew passes to some independent media houses including; *Kathmandu Post* and its sister publication *Kantipur*, after the ministry of information and communication excluded Kantipur Publications name from the list of the media houses to receive passes for vehicles to ferry staff and drop off newspapers.

April 9, 2006

Six journalists' injured in Butawal - 8am

At 8am on April 9, six journalists were brutally beaten by security forces while participating in a pro-democratic rally defying the dawn to dusk curfew order imposed by the local government. R. Ghimire, president FNJ Rupandehi district; Karna Bahadur Karki, editor, *Lumbini daily*; and Kamala Kuwar were forcefully pushed into a police van and taken into police custody. They were released the next day. Dipendra Kunwar; Yanendra G.C; and Dinesh Pandey were hospitalised after policed baton charged them at the rally.

Journalist beaten up in Panga, Bhaktapur – 11am

Bhadra Sharma, correspondent, *Budhabar Weekly* was severely beaten by security forces while on his way to his offices at Panga, Bhaktapur.

Five journalists arrested in Doti – 12:30pm

Five journalists participating in a pro-democracy rally in the far west town of Doti, Silgadhi were arrested at around 12:30pm on April 9. The arrested journalists include: Ram Bahadur Ayr, editor, *Bimb Weekly*; Yogendra Balayer, correspondent,

Rajdhani Daily; Dil Bahadur Chhatyal; Min Bahadur Bum; and Ran Bahadur Bohora. They were released after an hour.

18 journalists arrested in Butawal –1pm

Eighteen journalists were arrested at a pro-democracy protest rally in Butawal where 20,000 protestors moved through the main road of Butawal defying the curfew order imposed by the local administration. After police failed to control the crowd the Royal Nepal Army (RNA) began firing randomly into the crowd resulting in dozens of injured protestors and the crowd running into laneways where they were chased by police and arrested.

The journalists arrested were: Sher Bahadur KC; Dinesh Pandey; Dipak Gyawali, secretary FNJ Rupendehi; Dipendra Kuwar; Dipendra Baduwal; Top Raj Sharma; Amrit Giri; Prakash Shrestha; Arjun Shrestha; Bharat KC; Yuvaraj Pandey; Hari Sundar Basi; Shyam Lal Pokhrel; Siddhi Charan Bhattarai; Laxman Paudel; Manoranjan Sharma; Ramesh Pokhrel; and Pradeep Acharya. Several of the journalists were badly beaten by police after they were arrested. The arrested journalists were held at Butawal police station and released the next day.

Newspaper office attacked at 1:30pm

Army personnel attacked the office of Chitwan based *Paradarshi daily* at around 1.30pm on April 9. Army personnel hurled stones at the office of the daily on accusation of dissemination of news related to movement and exaggeration of police action.

Three journalists arrested in Dhankuta – 3:30pm

Three journalists were arrested at 3:30pm on April 9 while participating in a peaceful rally organised by the Appellate Court Bar Association against the arrest of

journalists and professionals across the country. Amongst the journalists arrested were; Sanjay Santoshi, vice president, FNJ; Bijay Shantoshi Rau, president FNJ Dhankuta Chapter; J.B Ghale Magar, vice president FNJ Dhankuta. Magar was severely beaten by security personal resulting in severe injuries to his head. All three journalists were held at the District Police Office in Dhankuta, and released the same day.

Journalist arrested in Dailekh

Sita Ram Jaisi, FNJ executive member of FNJ Dailekh was arrested in the far western district of Dailekh while reporting the protests staged by the Seven Party Alliance. He has been released next day.

Journalists arrested in Baglung

Hari Narayan Gautam, secretary, FNJ of Shaulagiri Branch was arrested on April 9 from Baglung; headquarter of Dhalagiri zone while reporting on the news of the democratic movement organized by the seven party alliance. He continues to be under detention.

Journalist arrested and beaten up in Sokedhara, Kathmandu

Security forces arrested and beat up Bed Prakash Dhakal, sub-editor of the *Annapurna Post*, from the Cyprus School compound at Sokedhara, Kathmandu. Dhakal was waiting for his office car to pick him up when security forces was beaten up despite showing his media identity car, when teachers from the school attempted to intervene, they were also beaten up by the security forces. He has been released on same day.

Journalist arrested in Kathmandu

Thirlal Bhushal, reporter, *Kathmandu Post* was arrested from his residence during the afternoon on April 9. He was released the same day.

Media vehicle targeted in Kathmandu

A *Himalayan Times* vehicle was vandalised by the second time in two days by protestors.

Journalist injured in Handigaon, Kathmandu

Sabin Chandra Acharya, sub-editor, *Annapurna Post* was hit in the cheek by a stone thrown by unidentified people in the afternoon in Handigaon, Kathmandu.

Journalist beaten in Dhangadi

Tek Raj Joshi, reporter for Dhangadi based Ghodaghodi FM, Tika Upreti and Prayag Joshi of *Sudur Sandesh*, were severely beaten in Dhangadi by security forces while they were reporting news on the democratic movement staged by the Seven Party Alliance (SPA).

Journalist beaten in Chitwan

Binod Poudel, correspondent, *Annapurna Daily* was beaten by police and severely injured by police while reporting on the SPA democratic movement. Poudel was taken home after his injuries were treated in hospital.

April 10, 2006

Two journalists arrested in Dhangadi

Jagat Saud, correspondent, Farwest and Prayag Joshi, correspondent, *Sudur Sandesh* were arrested in the morning of April 10 while reporting news of the

democratic movement organised by the seven party alliance in Dhangadi, far western town and district headquarter of Kalali. According to FNJ, Joshi was severely beaten by police despite showing his media identity card. Prayag Joshi was released on the same day while Saud is still under custody.

Four journalists beaten in Boudha – 5pm

Police personnel brutally beat four journalists including: Balram Baniya, secretary, FNJ; eKantipur editor, Akhilesh Tripathi; assistant senior sub-editor Gopal Khanal; and reporter Ekindra Kunwar at Boudha on Monday April 10 at 5pm. The journalists were deliberately singled out and targeted by police when they arrived at the SPA demonstration as police realised they were from Kantipur Publications. More than a dozen police surrounded the four journalists, using their batons to systematically beat them as they showed their press cards. When asked for help, a Sub-Inspector of Police, who was apparently leading the policemen, was heard saying, “Hit them... but not on the heads.” The police broke nearly half a dozen batons while hitting the journalists on their arms, backs and legs. Police also hurled stone at a photojournalist, Saligram Tiwari. The attackers were deployed under the command of Police Officer Keshev Bahadur Shahi. The journalists were later treated for massive swollen backs, limbs and legs at the Tribhuvan University Teaching Hospital at Maharajgunj.

Journalist beaten in Parbat

Om Prakash Upadhyaya, *Himalayan Times* correspondent for Parbat district was brutally beaten by security personnel while covering the protests despite showing his media identity card. Upadhyaya is now being treated at Parbat District Hospital.

Journalist beaten in Dadelhura

Police severely beat up D R Pant, vice president, FNJ and *Kantipur* reporter while he was covering a protest demonstration at Tufandanda in Dadelhura bazaar.

Police took him under control, systematically beat him and snatched away his camera. Panta who was seriously injured in the police beating treated for severe bruises.

Government infiltration witnessed at democratic rallies

Dozens of plainclothes soldiers carrying explosives infiltrated the SPA's peaceful demonstration in Kohalpur Bazaar of Banke, which was part of a nationwide democratic movement. The UN's Human Rights team spotted the plainclothes army carrying grenades as they entered the gathering and asked the infiltrators to show the hidden objects. One of the soldiers immediately revealed a grenade but when he was asked to show the object in his other pocket, he left the gathering. Major Anirudra Nagarkoti commands the troops who were deployed to foil the peaceful demonstration and Lieutenant Ram Bahadur Karki led the ambush.

Two journalists beaten by police in Ratnanagar, Chitwan – 2pm

Keshav Bhattarai, FNJ central council member and Narayan Dhungana, reporter of *Bargikrit Dainik* were beaten by the police at Ratnanagar, Chitwan when they were reporting on the democratic movement organised by the SPA at Ratnanagar. They were beaten even as they showed their media identity cards to the police. Dhungana received minor injuries and Bhattarai returned home after being treated at the hospital.

April 11, 2006

Journalist beaten in Myanglung

Journalist Krishna Yogi was severely beaten by police while he was reporting a torch rally organised by the SPA. He received severe injuries to his head and wrist.

Three journalists arrested in Dailekh – 12noon

Three journalists Yagya Raj Thapa, Pushkar Thapa and Umesh KC.Narayan were arrested from Dailekh, mid western district while they were reporting news on the democratic movement organised by the SPA. Police also manhandled them before the arrest. They were also threatened of further action and warned not to report on democratic movement. They were released after six hours of detention.

Ten journalists arrested in Chitwan – 1pm

Ten journalists including Bishnu Chimeki, central committee member of the FNJ and Janak Aryal, president of FNJ's Chitwan chapter were arrested from a protest rally organised against the nationwide arrest and attack on journalists and professionals. Narayan Sapkota and Babu Ram Ghimire, secretary and treasurer of FNJ-Chitwan respectively were also arrested. Other arrested journalists included: Krishna Giri, Hari Prasad Pokhrel, Binod Adhikari, Sanad Kumar Chaudhari, Anup Raj Kanel and Hari Prasad Upreti. All arrested journalists were detained at Women Police Academy, Chitwan. They were released at 6pm

President of FNJ Pachthar chapter brutally beaten by police - 1.45pm

Lavdev Dhungana, president of FNJ Pachthar Chapter was brutally beaten by police while participating in a protest rally organised by professionals against continuous arrest and attack on journalists and professionals. Five police personnel surrounded him and brutally beat him despite showing his identity card. Dhungana received severe injury to his head and being treated at hospital. He received four stitches to his head.

April 12, 2006

21 journalists arrested in Naya Sadak, Pokhara – 11.45am

At least 21 journalists were arrested from a peaceful protest organised by Professional Alliance for Peace and Democracy (PAPAD) against the government imposition of curfew and restriction order on demonstration. Around 200 professionals were also arrested. Four of the journalists arrested were: Gangadhar Parajuli, FNJ vice-president; Badri Binod Pratik, former vice president, FNJ; and Rabindra Bastola, president, FNJ-Kaski chapter. The rally began from Prithvi Narayan Chowk. Police arrested the participants as they reached Naya Sadak. Other journalists arrested during the demonstration include Madhav Sharma, Nav Raj Subedi, Him Nidhi Laudari, Bal Krishna Kaucha Magar, Shiva Sharma Chanchal, Krishna Anjan, Bishnu Prasad Bhandari, Aarju Bista, Dol Raj Pokhrel, Bishwa Shankar Palikhe, Hari Bastola, Binod Dhaulagiri, Beda Nidhi Timilsina, Sanjay Kishore Bastola, Navin Sigdel, Bibhu Bhushal, Punya Poudel and Yem Sangeet Shrota. All arrested journalists were kept in Area Police office, New road, Pokhara. They were released on same day Police interfered with the protest and used excessive force on the participants. Police also manhandled the journalists and other professionals before arresting them.

29 journalists arrested in Bhrikutimandap, Kathmandu - 10.45am

29 journalists including Mahendra Bista, FNJ secretary general, central committee members of FNJ, Ramji Dahal and Binod Pahadi were arrested from Bhrikutimandap, Kathmandu while participating in a peaceful protest rally organised by the FNJ against the government attack on media and freedom of expression. The other journalists arrested were Nirmala Sharma, Kishore Shrestha, Damodar Dawadi, Bharat Raj Pokhreal, Rajendra Aryal, Punya Bhandari, Ishwori Neupane, Ishwori Wagle, Dambar Giri, Dipak Acharya, Chet Nath Dhamla, Amar Nath Dhakal, Shree Babu Karki, Nav Raj Sharma, Sanat Acharya, Sita Ram Baral, Rohit Dahal, Surya Neupane, Santhosh Kanel, Bharat Khadka, Dev Raj Rimal, Nanda Rishi Neupane,

Krishna Humagain, Shiva Devkota, Kapil Kafle and Shyam Bashnet. All were detained at Singhadurbar Ward Police office, Kathmandu. They were released on same day in the evening at 8 PM. Four journalists beaten by security forces in Udayapur, eastern district of Nepal Security personnel used sharp objects to beat journalists Rabindra Kumar Chaudhary, Kushal Babu Basnet, Shanta Rai and Mohan Gole who were reporting a peaceful rally organised by the SPA against the autocratic regime.

Four journalists arrested in Terhathum

Chatra Rimal, treasurer, FNJ Terhathum Chapter and central representative of FNJ Uddhav Timilsina was one of four journalists arrested from Myanglung, district headquarter of eastern district Terhathum. Bharat Ingnam, correspondent for Saptakoshi FM, and Rajendra Baral, correspondent for *Hank Weekly*, were also among those arrested while reporting news on a peaceful demonstration organised by the SPA. They were released on 15th April.

Two journalists arrested in Bagbajar, Kathmandu

Kedar Khadka and Krishna Abiral were arrested in the morning while they were raising funds for the treatment of people injured during the democratic movement organised by the SPA. They were released the same day in the evening.

Plain-clothed police infiltrate journalists' peaceful protest gathering

Assistant Sub Inspector Sailesh Giri and police personnel Ram Hari Karki infiltrated a protest gathering of journalists at Bhrikutimandap in the morning of April 12. The police wore plain clothes pretending to be journalists and tried to provoke the protestors to behave violently. One of the infiltrators seized a wireless phone from security personnel who was deployed to control the crowd, and threw the phone away

to provoke a reaction. The security worker started baton charging the crowd. They arrived in a pick-up van with a number-plate Ba.2.Cha.

April 13

Kantipur TV banned

On April 13, the State Minister for Information and Communications Shirish Shamsher Rana directed all cable television operators to discontinue telecasting Kantipur Television (KTV). The State minister called the cable operators to the ministry and directed them to issue a joint appeal, ceasing KTV's telecast. Rana promised necessary security for those operators who co-operate by blacking out KTV. Rana justified the blackout as KTV had been broadcasting the SPA democracy movement.

Maoists obstruct distribution of newspaper

On April 13, the CPN- Maoists obstructed distribution of the *Kantipur Daily* at Bagaha in Siraha, eastern district of Nepal. Two Maoists with pistols stopped the vehicle carrying newspapers meant for the western districts of the region. The vehicle was freed after one-and-half hours after locals appealed to the rebels to let the vehicle continue.

April 14, 2006

Journalist arrested in Hetauda – 6pm

Deepak Adhikary, executive member FNJ, Makwanpur branch was arrested from his residence at Hetauda, district headquarter of Makwanpur on April 13, at 6 PM. According to Girija Adhikary, Birgunj correspondent of *Prateek Daily*, he was brutally beaten during the arrest and he is now severely injured. His thumb was broken and he sustained injuries to his back and knee. At the time of arrest, he was

wearing a jacket with a press emblem. He has not been provided with necessary medical attention and is being detained the District police Office, Hetauda. He was released on 16th April.

Journalist beaten – 9am

Security personnel beat Girija Adhikary, Birgunj correspondent of *Prateek Dainik*, at 8:55AM on April 13, while on his way home prior to the 9am curfew.

13 journalists arrested in Bablung – 8:45am

13 journalists including Rajesh Chandra Raj Bhandari, president, FNJ Dhaulagiri chapter were arrested from Baglung; headquarter of Dhaulagiri Zone on April 14, at 8.45am. The journalists were arrested at a peaceful demonstration organized by the FNJ –Dhaulagiri chapter on the occasion of the Nepalese New Year's Day 2063, April 14. They were released on same day after 4 hour of detention. Other arrested journalists include: Ram Bahadur G.C.; Himal Sharma; Rajan Thapa; Prakat Kumar Shishir; Durga Dutta Acharya; Babulal Shakya; Bishnu Sharma; Gyanendra Gautam; Yogendra Milan Santhal; Prakash Poudel; Purna B.K.; & Mahesh Poudel

Editor threatened

On April 14, an unidentified group threatened to take the life of Rajendra Vaidhya, chief editor of *Bimarsha Weekly*. Vaidhya was threatened via telephone when the person said, "the damage of your car is not enough and now we will attack you." The caller disconnected the line before he could react. According to Vaidhya, "when the call came, he had just returned home after meeting detained journalists at Singha Durbar Ward Police Office." His car was damaged two days prior to the threat.

April 15, 2006

Four journalists arrested at Gausala, Kathmandu – 9:30am

Four journalists including Surya Thapa, FNJ central committee member, were arrested from Gausala, Kathmandu on April 15, at 9.3am. The journalists were arrested at a peaceful protest rally organised by FNJ against the government attack on peaceful demonstrations. Other arrested journalists include Fanindra Dahal & Tika Ram Yatri. They were released on same day. Mahendra Bista, FNJ secretary general; Shailendra Basnet; Krishna Humagain; and Man Bahadur Neupane received severe injuries to their heads when police brutally baton charged participants of the rally and injured over a dozen journalists. The rally began from the FNJ offices at the Media village and as they reached Gaushalla police brutally attacked them. Neupane received seven stitches to his head. Police also injured former FNJ presidents Hari Har Birahi; Tara Nath Dahal; central committee member of FNJ Binod Pahari; president of Nepal Press Union (NPU) Murari Sharma; president of SAFMA-Nepal, Gopal Thapaliya; Rajendra Aryal; Bharat Pokhrel; Chakra Karki; Purushottam Kattel; Tej Prakash Pandit; and Kishore Shrestha. The police team including Superintendent of Police (SP), Shyam Bahadur Khadka, Deputy Superintendent of Police (DSP), Sushil Bhandari, and Inspector Ramesh Basnet indiscriminately baton charged the journalists and continued to beat them even after taking control of the crowd. Yubraj Sharma, former president, Nepal Engineer Association (NEC) and advocate Upendra Keshari Neupane who were expressing their solidarity to the journalist's protest were also injured in the incident. All injured journalists returned home after being treated at Kathmandu Model Hospital and other health canters in Kathmandu.

11 Journalists arrested in Putalisadak

11 journalists were arrested on April 15, while taking part in a demonstration organized by the Reporters Club of Nepal at Putalisadak. The journalists arrested included chairman of the Club, Rishi Dhamala; journalists Purushottam Dhakal; Suman Malla; Navaraj Chalise; Manoj Gajurel; Bimal Ghimire; Nirmal Neupane;

Bhav Nath Ghimire; Sachittanad Sapkota; Lila Prasad Pathak; and Shankar Layal Malla. All arrested journalists; artists are professionals were detained at Singdurbar Ward Police Office, Kathmandu. They were released on same day in the evening.

Journalist beaten in Dailekh

On April 15, Dirgha Raj Thapa, correspondent for *Budhwar Weekly* was severely beaten by security personnel in Dailekh, mid western region resulting in his leg being broken. According to Dailekh based journalist Hari Har Singh Rathore, the incident took place when Thapa was reporting news on a peaceful demonstration organized by local women.

April 16, 2006

20 journalists arrested and jailed for 90 days in Bhotahiti –1pm

20 journalists were arrested at 1pm on April 16, from Bhotahiti, Kathmandu at a protest rally organised by Press Chautari Nepal against the brutal attack and arrest of journalists on April 14. On April 17, the journalists were given a 90-day detention order under the Public Security Act 1990. The journalists include; Bal Krishna Chapagain, president, Press Chautari Nepal; Bharat Raj Pokhrel; Shambhu Shrestha; Ganesh Basnet; Gagan Bista; Rajendra Fuyal; Bhimsen Raj Bahak; Dev Raj Rimal; Bal Kumar Rimal; Rohit Dahal; Dev Raj Aryal; Prakash Silwal; Govinda Chaulagain; and Indra Baniya. Punya Bhandari, Shushil Aryal, Kiran Pokhrel, Suro Jung Pandey, Om Prakash Acharya and Dipak Oli were also among the arrested. All the arrested journalists are detained at Dasarath National Stadium, Kathmandu.

Radio transmission stopped

The Dang District Administration Office, ordered local Swargadwari FM to stop the relay transmission of a program *Akhbar* through Sagarmatha FM on April 16.

Since the order, the FM has stopped the relay transmission. Four days prior to this, the telecom had disconnected the telephone connection of the FM without informing it to disrupt relay transmission. However the FM had transmitted its relay service through alternative sources.

Police vandalised motorcycle owned by newspaper in Birgunj

On April 16, police vandalised the motorcycle owned by *Ankush daily* from Birgunj, central district of Nepal. The motorcycle was parked outside the office and police personnel damaged it despite the Press emblem being plainly printed on it.

Media ordinance renewed

The Government on April 3 renewed the controversial Media Ordinance that was promulgated six months ago. The provisions in the renewed Ordinance regarding the control of press and provisions prohibiting FM stations from airing news remain unchanged. The news of the renewed ordinance was made public on April 16.

April 17, 2006

2 Journalists brutally beaten

Guru Gautam, journalist and secretary of Human Rights and Peace Society, Bara Chapter and Gokul Ghorsaini, correspondent of *Nepal Samacharpatra* and Central Council member of FNJ were brutally beaten by the security personnel. They were reporting a peaceful protest demonstration organized by seven party alliances when six security personnel rounded them and beat them brutally even though they revealed their identity. During the beating, Ghorsaini sustained an injury on his face and Guru Gautam was injured on his hand and leg. Two people lost their lives when security personnel opened fire at the demonstrators during the protest demonstration.

April 18 2006

3 Journalists arrested

Balram Baniya, reporter of *Kantipur* daily, Bimal Gautam, reporter of Kantipur Television, Raju Timilsina, cameraman and Shiva Ram Thapa, driver of Kantipur Television were arrested from Central Secretariat complex (Singhadurbar) at 1 PM, today (18 April) while they were there for reporting news about the protest organized by civil servants against the government. They were allowed to enter Central Secretariat complex but when they tried to enter Home Ministry to cover news, they were taken into custody by police and were taken to Hanumandhoka District Police Office. According to Saurav Dhakal, Journalist of Kantipur Television, Home Minister Kamal Thapa misbehaved with the journalists.

Journalists still in custody

Journalists Sudarshan Acharya, Bhakta Dhoj Bohara, Shyam Badan KC, Kamal Koirala, Laxmi Prasain, Suresh Kumar Yadhav, Kanak Mani Dixit, Kedar Sharma, Hari Narayan Gautam, Jagat Saud, Ramesh Chandra Silwal, Bimal Gautam, Raju Timilsina, Shiva Ram Thapa (Driver KTV), Bal Krishna Chapagain, Bharat Raj Pokhrel, Shambhu Shrestha, Ganesh Basnet, Gagan Bista, Rajendra Fuyal, Bhimsen Raj Bahak, Dev Raj Rimal, Bal Kumar Rimal, Rohit Dahal, Dev Raj Aryal, Prakash Silwal, Govind Chaulagain Indra Baniya. Punya Bhandari, Shushil Aryal, Kiran Pokhrel, Suro Jung Pandey, Om Prakash Acharya Dipak Oli are still under custody.

NOTE: - After the proclamation of democracy in April 24, 2006, Media Ordinance including all legal system issued with detention, intimidation, pillaging over journalists after royal takeover, has been declared invalid.

Appendix IX

A carton published in Kantipur and Kathmandu post for which editor of these newspapers were interrogated

