

Nepal

Extremely unstable political conditions in Nepal have at times led to harassment of journalists and censorship of traditional media. In 2005 conditions deteriorated to the point where a week-long national media and Internet blackout was imposed. However, Nepal does not filter the Internet on an ongoing basis.



Background

Nepal is among the world's least-developed countries. It has endured extreme political instability in recent years because of its transition from absolute monarchy to democracy and because of its years of struggle between the state and militant Maoist insurgents, who control large portions of the countryside. Nepal was under the rule of an absolute monarch until 1990, when popular pressure forced the king to transition to a democratic system of parliamentary monarchy.¹ Since then, internal governmental collapse and parliamentary dissolution have been common occurrences.² During periods of extreme political volatility, the state has clamped down on the press and free expression. In 2005, citing deteriorating security conditions in Nepal from Maoist

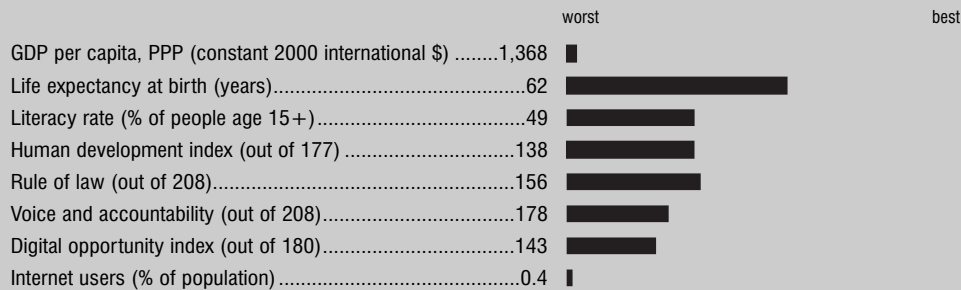
violence, the king imposed authoritarian rule and a week-long media blackout, during which the country was cut off from the Internet.³ The state and Maoist rebels both have a history of harassing journalists and repressing media coverage.⁴ Nevertheless, with the exception of King Gyanendra's authoritarian rule in 2005–06, Nepal has experienced tremendous growth of a "vibrant" and largely free independent media since parliament was established in 1990.⁵

Internet in Nepal

Although through 2005 less than 1 percent of Nepal's population of twenty-three million used the Internet, the Internet market in Nepal is

RESULTS AT A GLANCE

Filtering	No evidence of filtering	Suspected filtering	Selective filtering	Substantial filtering	Pervasive filtering
Political	●				
Social	●				
Conflict/security	●				
Internet tools	●				
Other factors	Low	Medium	High	Not applicable	
Transparency				●	
Consistency				●	

KEY INDICATORS

Source (by indicator): World Bank 2005, 2006a, 2006a; UNDP 2006; World Bank 2006c, 2006c; ITU 2006, 2005

growing rapidly—the result of a competitive Internet service provider (ISP) market and low Internet access prices.⁶ Thirty-one private ISPs offer Internet access to businesses and consumers, though two, Worldlink and Mercantile, dominate the market with a combined share of more than 70 percent.⁷ Cybercafés are important sources of Internet access for Nepalis; the country is believed to have the highest concentration of cybercafés in the world.⁸ Much of Nepal's Internet access is concentrated in the more-developed Katmandu Valley region, as the mountainous terrain and low income in remote regions of the country make access more difficult. However, one effort to bring Internet access to rural populations—the Nepali Wireless Networking Project—has already wirelessly connected seven remote mountain villages to the Internet, with plans to network twenty-one villages in all.⁹

Although relatively few Nepalis presently get their news from the Internet, it has nevertheless become an important source of independent news in Nepal.¹⁰ When King Gyanendra assumed authoritarian control in 2005, for example, traditional media were either shut down or heavily censored to ensure the publication of only

favorable news about the monarch.¹¹ Nepali bloggers became an important political voice and source of information to the world about the situation unfolding inside the country.¹²

Legal and regulatory frameworks

Nepal's legal system is in flux because of its unstable political landscape and its new constitution. The most recent collapse occurred in February 2005, when the king assumed control of the government and armed forces.¹³ Mass civilian protests followed, and he was forced to reinstate parliament and ultimately relinquish all official powers to the prime minister and parliament.¹⁴ The king sought to stifle the independent media during his tenure, passing the repressive Media Law, which prohibited criticism of the king and royal family and the broadcast of news over independent FM radio stations (an important source of independent news in the country). The Media Law also increased the penalties for defamation tenfold. The law was repealed once parliament was reinstated.¹⁵

In December 2006, seven political parties and the Maoists agreed on a new interim constitution that paves the way for the Maoists to join the political mainstream and nationalizes royal

properties,¹⁶ leaving the fate of the monarchy up to a general election.¹⁷ The interim constitution guarantees certain social freedoms including freedom of speech and expression, freedom to protest, and freedom to establish a political party, among others.¹⁸ The constitution also guarantees the freedom to publish, including a specifically enumerated freedom to publish on the Internet.¹⁹ It advises, however, that those who publish information that causes social disruption or disparages others may be subject to punishment under relevant laws.²⁰

One such law is likely the Electronic Transaction and Digital Signature Act of 2004 (ETDSA), which regulates online commerce and financial transactions and criminalizes certain online behavior, including hacking and fraud. ETDSA also provides criminal penalties, including fines and up to five years in prison, for the publication of “illegal” content on the Internet (though it provides no definition of illegal content), or for the publication of hate speech or speech likely to trigger ethnic strife.²¹ Similarly, the National Broadcasting Act of 1993 and the National Broadcasting Regulation of 1995 provide for fines and/or imprisonment for broadcasting content likely to cause ethnic strife or social unrest, undermine national security or moral decency, or conflict with Nepali foreign policy.²²

However, the extent to which any previously existing laws will retain their force under the new government is unclear.

ONI testing results

Testing was conducted from October 2006 through January 2007 on six Nepali ISPs: Worldlink, Everest, Mercantile, Nepal Telecom, Speedcast, and Websurfer. The tests revealed no evidence of filtering for any of the categories tested.

Conclusion

Ongoing political instability remains a constant threat to independent media in Nepal, as there is

a history of insurgents and the state harassing journalists and clamping down on media freedoms during times of political tension. In 2006 Nepal emerged from a particularly repressive period: the king’s authoritarian rule was abolished, parliament was reinstated, and a new interim constitution was put into effect guaranteeing freedom of expression and of the press. These freedoms do not, however, extend to speech that is likely to incite social unrest or disparage others, which are sensitive issues for the state because of the ethnic and socioeconomic strife underlying the struggle with the Maoists. At present, however, Nepali journalists report virtually unconditional freedom of the press, including the Internet, and ONI’s testing revealed no evidence that Nepal imposes technological filters on the Internet.

NOTES

1. See Maya Chadda, *Building Democracy in South Asia: India, Nepal, Pakistan*, Boulder, CO: Lynne Rienner Publishers (2000), pp. 113–20.
2. See generally John Whelpton, *A History of Nepal*, Cambridge University Press (2005), pp. 208–24.
3. BBC News, “Q&A: Nepal’s future,” November 8, 2006, http://news.bbc.co.uk/1/hi/world/south_asia/2707107.stm; see Mark Glaser, “Nepalese bloggers, journalists defy media clampdown by king,” *Online Journalism Review*, February 23, 2005, <http://www.ojr.org/ojr/stories/050223glaser/>.
4. See, for example, Reporters Without Borders, “Maoists and government urged to respect press freedom undertakings,” August 22, 2006, http://www.rsf.org/article.php3?id_article=18632; International Freedom of Expression Exchange, “Parliament abolishes repressive media law,” <http://www.ifex.org/fr/content/view/full/74580/>; Committee to Protect Journalists, Press Release, “Over 200 journalists arrested, 31 in custody,” April 20, 2006, <http://peacejournalism.com/ReadArticle.asp?ArticleID=8550>.
5. See, for example, World Association of Newspapers, “Founding father of independent media in Nepal remains hopeful, despite continued restrictions,” June 2005, <http://www.wan-press.org/article7574.html>; BBC Online, “Nepal protests against media law,” November 15, 2005, http://news.bbc.co.uk/2/hi/south_asia/4432882.stm.

6. Paul Budde Communication Pty Ltd., Nepal, Telecoms Market Overview and Statistics, July 30, 2006, p. 11.
7. Ibid., pp. 1, 14.
8. Ibid., p. 12.
9. Ibid., p. 13.
10. See Vincent Lim, "Blogging for democracy in Nepal," AsiaMedia, April 13, 2006, <http://www.asiamedia.ucla.edu/article.asp?parentid=43000>.
11. See Mark Glaser, "Nepalese bloggers, journalists defy media clampdown by king," Online Journalism Review, February 23, 2005, <http://www.ojr.org/ojr/stories/050223glaser/>.
12. Ibid.
13. BBC News, "Q&A: Nepal's future," November 8, 2006, http://news.bbc.co.uk/1/hi/world/south_asia/2707107.stm.
14. Charles Haviland, "Erasing the 'royal' in Nepal," BBC News, May 19, 2006, http://news.bbc.co.uk/1/hi/world/south_asia/4998666.stm.
15. International Freedom of Expression Exchange, "Parliament abolishes repressive media law," <http://www.ifex.org/fr/content/view/full/74580/>.
16. S. Chandrasekharan, "NEPAL: Interim constitution unveiled: Monarchy dumped," December 17, 2006, <http://www.saag.org/%5Cnotes4%5Cnote354.html>.
17. See Nepal Interim Constitution, http://www.nepalnews.com/archive/2007/jan/jan15/Constitution_2063.doc.
18. See Nepal Interim Constitution, Article 12.3, http://www.nepalnews.com/archive/2007/jan/jan15/Constitution_2063.doc.
19. Nepal Interim Constitution, Article 45.1.
20. Nepal Interim Constitution, Article 12.
21. Nepal Electronic Transaction and Digital Signature Act, Article 47, http://www.nta.gov.np/cyber_law.html.
22. National Broadcasting Act of Nepal, Articles 15–16, http://www.moic.gov.np/policy/pol_broad_act_2049.php; National Broadcasting Regulation, Article 9, http://www.nta.gov.np/national_broadcasting_regulation_2052.html.

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Jonathan L. Zittrain

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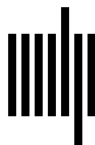
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