

Civic Space in Nepal

Ritika Singh, Shambhawi Paudel,
Sudeshna Thapa & Jeevan Baniya

In its latest report, *People Power under Attack*, CIVICUS, the South Africa-based organisation that has been keeping track of how civic space has fared globally over the years, points out that the governments in South Asia have become increasingly repressive towards civil society. Though Nepal is considered comparatively more tolerant in the region, the report notes that civic space there is ‘obstructed’ as well.¹ In the context of such a conclusion, what follows is an attempt to ascertain the status of civic space in Nepal alongside a short reference on how religious minorities have fared.

This chapter reviews the emergence of civic space and the nature of civic space. It maps out how civil society has emerged and developed in contemporary history, and in the course of its evolution, to what extent civic space has been nurtured and opened up further or restricted thereof. It focuses specifically on:

- tracing how civic space became a legitimate sphere of activity in Nepal, while evaluating the level of its openness at present;
- conducting a review of the legal regime that governs the functioning of civic space in Nepal; and
- identifying the space enabled by the government to keep

¹ Civic space is obstructed when it is undermined by the state whether by means of surveillance, bureaucratic harassment or defamation. In an obstructed civic space, citizens are vulnerable to frequent use of excessive force by law enforcement agencies, and journalists face the risk of physical attack and criminal defamation charges, which could encourage self-censorship. See: CIVICUS, *People Power under Attack* (2019), <https://civicus.contentfiles.net/media/assets/file/GlobalReport2019.pdf>.

alive the civic spirit while also specifically reviewing the civic space available for religious minorities.

The chapter is based primarily on a review of published material and includes an assessment of laws and policies, including various bills that were under consideration in recent years, to capture the general position of the government vis-à-vis civic society over time. Primary data was also collected through an expert survey conducted online, the results of which have been provided in the Annex following this chapter.

The Context

Nepal emerged from the control of the Rana family oligarchy in 1951, after a century that had left the country isolated, poor, and underdeveloped. The budding democracy established following the ouster of the Ranas, however, was to last less than a decade before King Mahendra banned all political activities and introduced the Panchayat system, a political arrangement that functioned under the direct control of the palace. The Panchayat system lasted from 1960 to 1990, when a popular movement, popularly called the People's Movement, reinstated pluralistic multi-party democracy in the country. It was not smooth sailing for the democracy though with Nepal witnessing 12 governments in the 12 years until 2002, with abuse of authority almost the norm.² Meanwhile, in 1996, a Maoist insurgency took off, which brought into stark relief the class- and identity-based inequalities and injustices in the country.³

In the year 2002, accusing the democratic government of not being able to resolve the conflict and maintain law and order, King Gyanendra took power and began to rule through nominated prime ministers before assuming direct power himself in February 2005. That set the stage for what has been called the Second People's Movement in 2006, during which an alliance

² M. Lawoti, *Looking Back, Looking Forward: Centralisation, Multiple Conflicts, and Democratic State Building in Nepal* (Washington D.C.: East West Centre: 2007).

³ D. Thapa and B. Sijapati, *A Kingdom under Siege: Nepal's Maoist Insurgency, 1996 to 2004* (Kathmandu: Zed Books, 2005).

of the parliamentary parties along with the Maoists forced the king to reinstate democracy. This movement would bring about massive changes in the country—declaration of Nepal as a republic, and the election of an inclusive Constituent Assembly to draft a popular constitution for the country.⁴ However, political problems continued to persist with the constitution failing to be promulgated until almost a decade later, and the re-emergence of older political actors in the so-called ‘new Nepal’.⁵ Thus, while civil society contributed to the overthrowing of the king in 2006, it lost its influence soon after the ouster of the king and the return to power of the political parties, and instead experienced fragmentation and party- politicisation.⁶

As will be elaborated in later sections, the post-2006 period ‘undermined the civil society solidarity that existed before 2006’ by contentious political issues revolving around federalism and secularism, the introduction of several laws (or attempts thereof) aimed at constricting civic space as a result, and the government’s attempts to direct funding toward infrastructural development as opposed to advocacy actions.⁷ The state’s attitude has appeared to be that there has been ‘enough discussion of people’s rights, and that it is now time to think about people’s duties to the nation and its development’.⁸ The conflation of all civil society organisations

4 M. Lawoti, *Looking Back, Looking Forward: Centralisation, Multiple Conflicts, and Democratic State Building in Nepal* (Washington D.C.: East West Centre: 2007).

5 B. Sharma and B. Ellen, ‘Earthquake Prods Nepal Parties to Make Constitution Deal’, *The New York Times*, June 8, 2015, <https://www.nytimes.com/2015/06/09/world/asia/earthquake-prods-nepal-parties-to-make-constitution-deal.html>.

6 Ibid.

7 S. Nazneen and D. Thapa, ‘The Implications of Closing Civic Space for Sustainable Development in Nepal’ (IDS and ACT Alliance, 2019), <https://www.ids.ac.uk/publications/the-implications-of-closing-civic-space-for-sustainable-development-in-nepal>; and International Centre for Not for Profit Law (ICNL), *Assessment of the Legal Environment for Civil Society and Media in Nepal* (Kathmandu: ICNL, 2017), <https://www.icnl.org/post/assessment-and-monitoring/assessment-of-the-legal-environment-for-civil-society-and-media-in-nepal>.

8 F. Talcott, A. Khanal, and P. Bhattarai, ‘Civil Society in a Federal Nepal: A Landscape Study’ (Kathmandu: British Council, 2019), https://www.britishcouncil.org.np/sites/default/files/nepal_csos_landscape_study_final_report.pdf.

Box 1: NGOS and CSOs

Due to their broadening mandate, international and transnational structures, and intersectionality in approaches, a singular understanding of civil society organisations and non-governmental organisations has become difficult to come by.

The United Nations Reporting Framework defines CSOs as ‘non-State, not-for-profit, voluntary entities formed by people in the social sphere that are separate from the State and the market’.* Following one widely accepted definition of NGOs as ‘self-governing, private, not-for-profit organisations that are geared to improving the quality of life of disadvantaged people’,[†] NGOs can be considered a sub-set of CSOs.[‡] Such an inclusion can also be unspecified but present as when CSOs are taken to consist of all ‘non-market and nonstate organisations outside of the family in which people organise themselves to pursue shared interests in the public domain’, including community-based organisations and village associations, environmental groups, women’s rights groups, farmers’ associations, faith-based organisations, labour unions, co-operatives, professional associations, chambers of commerce, independent research institutes, and the not-for-profit media.[‡]

Such an expansive definition of CSOs, however, has come under criticism for the uncritical assumption that all associations that are not politically- or profit-oriented promote the same goals. NGOs, especially those that are focused on donor-driven ideas of development and good governance, have the potential to promote a ‘de-politicised version of social action and weakening the strength of civil society in pursuing radical ideas of social change’, while also negating the conception that civil society can be a ‘site for contestation, struggle and conflict’.[§]

* ‘Civil Society Organisations’, Reporting Framework, UN Guiding Principles, accessed September 23, 2020, <https://www.ungpreporting.org/glossary/civil-society-organizations-csos>.

[†] A.C. Vakil, ‘Confronting the Classification Problem: Toward a Taxonomy of NGOs’, *World Development* 25, no. 12 (1997): 2057-2070.

[‡] United Nations Development Program: *Working with Civil Society in Foreign Aid: Possibilities for South-South Cooperation?* (Beijing: UNDP China, September 2013), https://www.undp.org/content/dam/undp/documents/partners/civil_society/publications/2013_UNDP-CH-Working-With-Civil-Society-in-Foreign-Aid_EN.pdf.

[§] R. Mohanty, ‘Civil Society and NGOs’, *The Indian Journal of Political Science* 63, no. 2 (June-September 2002): 213-232.

(CSOs) and non-governmental organisations (NGOs) means that all such bodies are viewed as service-delivery entities.⁹

Civic Space in the Pre-2006 Period

The era of democratic politics in Nepal after the overthrow of the Rana regime in Nepal in 1951 laid the ground for civil society to expand but not in terms of providing a check on the state; rather their role was limited to complementing the state.¹⁰ The Panchayat era saw limits being placed on the political rights of individuals as well as institutions, and there were various attempts to ‘register, guide, direct, control, and supervise’ social organisations.¹¹

The two pieces of legislation under which CSOs can seek registration both date back to the Panchayat years: the National Directive Act (NDA) 1961, and the Association Registration Act (ARA) 1977.¹² Organisations registered under the NDA are directly accountable to the government and are not required to report or renew registration with the District Administration Office.¹³ The ARA gave the government the power to ‘give necessary directions to the Association’, and described it as ‘the duty of the Association to follow such directions’.¹⁴ Hence, civil society organisations had little say to actually contest the state at the time.¹⁵

There was an opening of civic space for a brief period around 1979, in the lead up to the national referendum to decide the fate of the Panchayat system, when the state allowed political parties

9 U. Uprety, ‘Defending Civil Society: Report on Laws and Regulations Governing Civil Society Organisations in Nepal’ (Washington D.C.: World Movement for Democracy, 2011); and C.H. Shrestha, ‘Activists and Development in Nepal’, in *Varieties of Activist Experience: Civil Society in South Asia*, edited by D.N. Gellner (New Delhi: Sage Publications, 2010), 181-216.

10 C.D. Bhatta, ‘The Interface between the State and Civil Society in Nepal’, *Dhulagiri Journal of Sociology and Anthropology* 10 (2016): 63–91.

11 Ibid.

12 International Centre for Not for Profit Law (ICNL), *Assessment of the Legal Environment for Civil Society and Media in Nepal* (Kathmandu: ICNL, 2017), <https://www.icnl.org/post/assessment-and-monitoring/assessment-of-the-legal-environment-for-civil-society-and-media-in-nepal>.

13 Ibid.

14 L.R. Baral, *Oppositional Politics in Nepal* (Kathmandu: Himal Books, 2005).

15 K. Sharma, ‘The Political Economy of Civil War in Nepal’, *World Development* 34:7 (2006): 1237-1253.

and organisations to be openly active.¹⁶ Even though the freedom was short-lived as the referendum went in favour of the status quo, many organisations formed at the time remained active.¹⁷ After the referendum, laws were also relaxed or amended to facilitate freedom of expression which resulted in the growth of some CSOs, particularly of professionals from diverse streams.¹⁸

Until the late 1980s, foreign aid was the major source of development financing. According to the country's first Five-Year Plan (1956-60), the entire development budget was to be funded through external sources, and until the early 1980s, foreign aid contributed to roughly three quarters of the development expenditure.¹⁹ But funds coming into the non-government sector was monitored by the Social Service National Coordination Council, which was under the Queen, thereby giving the government a great say on how the money was spent, with little regard for accountability or transparency.²⁰

The democratic transition in 1990 meant that a space opened up for participation of civic society in policy-making, and in advocating for change.²¹ In 1991, Nepal also acceded to the International Covenant on Civil and Political Rights (ICCPR), accepting all international obligations under the treaty, including freedom of

16 M. Hoftun, W. Raeper, and J. Whelpton, *People, Politics and Ideology: Democracy and Social Change in Nepal* (Kathmandu: Mandala Book Point, 1999).

17 Ibid.

18 See: V. Adams, *Doctors for Democracy: Health Professionals in the Nepal Revolution* (New York: Cambridge University Press, 1998); K. Hachhethu, 'Mass Movement 1990', *Contributions to Nepalese Studies* 17, no. 2 (1990), 177-201; Hoftun et al, *People, Politics and Ideology*; J. Whelpton, *A History of Nepal* (New York: Cambridge University Press, 2005).

19 Ministry of Finance, Government of Nepal, *A Study on Foreign Aid Mobilisation in Federal Nepal* (Kathmandu: Government of Nepal, 2017).

20 S. Shakya, 'Unleashing Nepal's Economic Potential: A Business Perspective', in *Nepal in Transition: From People's War to Fragile Peace*, edited by S. von Einsiedel, S. Pradhan and D. Malone (Cambridge: Cambridge University Press, 2012), 114-128.

21 While not under the scope of this chapter, it is important to point out that most literature on civil society produced after 1990 is largely embedded in line with liberal civil society ideals that approach civil society as development actors and which advocate for curtailment of the state. They uncritically herald but do not support or substantiate with any concrete evidence the important democratising activities of civil society and the media in reference to the post-1990 period.

Box 2: CSOs and NGOs in National Development

It was only in the Seventh Five-Year Plan (1985-90) that NGOs were mentioned in national development policy, with the Social Services National Coordination Committee (SSNCC) designated as the government body overseeing the NGO sector. This Plan, the last to be adopted during Panchayat rule, was also when many registered and unregistered CSOs that challenged the legitimacy of the Panchayat state came into existence.

The Eighth Plan (1992-97), which followed the restoration of democracy two years earlier, adopted a liberal approach towards setting up and operating CSOs and simplification of government policies to allow these organisations to play an active role in rural development projects across the country. This Plan can be also seen as the foundation for the Social Welfare Act 1992 since it stipulated that '[t]he government sector will make provisions for policy guidelines and legal support to facilitate the social service programmes run by the non-government and private organisations'. From the Ninth Plan (1997-2002) onwards, a separate section or chapter on NGOs was included with an objective to develop the non-governmental sector as a partner in development. The trend of government plans setting aside a separate section on NGOs continued in later iterations as well, with incremental focus on their roles in local development and on marginalised groups. The Tenth Plan (2002-2007) especially added targeted programmes for socially and geographically marginalised groups.

The Eleventh Plan (2007-10) signalled a major shift, as it was adopted following the end of the decade-long armed conflict in the country. It remains the only plan with a separate section on human rights along with an increased role for non-governmental sector in issues of post-conflict state recovery and reconstruction, rule of law, restorative justice, as well as development projects. It, however, also began the trend for increased state regulation, with a stronger role mentioned for the Social Welfare Council (SWC) in reviewing NGOs as well in recordkeeping of all their functions.

The priority of the government returned to organisations focusing on development from the Twelfth (2010-13) through the Fifteenth (2019-22) Plans, their 'watchdog' component was minimised while the sphere of control of the SWC was expanded, mainly through

restrictions on international funding. The Fourteenth Plan (2016-19) also emphasised the need for legal reforms regarding the operation and monitoring of NGOs. The Fifteenth Plan (2019-22) takes a step back with CSOs given a supporting role in development plans and policies, and in the upliftment of marginalised groups. And, despite the separate chapter dealing with civic matters and human rights, CSOs are not mentioned as having a role on these issues or on accountability or good governance.

Sources: National Planning Commission, Government of Nepal, The Seventh Plan (1985-90) (1985); The Eighth Plan (1992-97) (1992); The Ninth Plan (1997-2002) (1997); The Tenth Plan (2002-2007) (2002); The Eleventh Plan (2007-10) (2007); The Twelfth Plan (2010-13) (2010); The Thirteenth Plan (2013-16) (2013); The Fourteenth Plan (2016-19) (2016); The Fifteenth Plan (2019-22) (2019).

expression, assembly, and association.²² The signing of the ICCPR, which followed the political changes, also facilitated the entry of international non-government organisations (INGOs) into the country.

Thus, the restoration of multiparty democracy in the country coincided with the flourishing of CSOs in Nepal. There are mainly two reasons for this rapid increase in associational life in the country. First was the influx of INGOs. During Panchayat times, funds from foreign donors were directed to a 'consolidated fund managed by the government', but after 1990, Nepali CSOs and NGOs were directly able to access funds, which resulted in an increase in their numbers.²³ The second factor was the focus of bilateral and multilateral donor agencies in working with non-state actors for 'good governance and democratisation' in the country.²⁴ This was a marked departure from the previous focus on

²² Articles 18, 21 and 22. UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

²³ Nazneen and Thapa, 'The Implications of Closing Civic Space for Sustainable Development in Nepal'.

²⁴ D.R. Panday, *Nepal's Failed Development: Reflections on the Mission and the Maladies* (Kathmandu: Mandala Book Point, 1999); A. Rademacher and D. Tamang, *Democracy, Development and NGOs* (Kathmandu: SEARCH, 1993); World Bank, *World Development Report 2000: Entering the 21st Century* (Oxford: Oxford University Press, 2000).

‘development’, with funds now channelled into ‘the construction of a civil society’.²⁵ That INGOs were required to work through local partners were a contributory factor as well.

One important feature in the 1990s was the unprecedented increase in the number of organisations formed on the basis of caste and ethnic identity.²⁶ While the historically marginalised groups such as Madhesis, Janajatis and Dalits along with women had organised quite effectively for decades through cultural institutions,²⁷ the democratic opening allowed these groups to mobilise politically for the first time.²⁸ There were, however, legal obstacles curtailing the full enjoyment of the open civic space. For instance, under the Social Welfare Act 1992, foreign and domestic CSOs that sought international or government resources were required to obtain affiliation with the Social Welfare Council.²⁹ The Social Welfare Act was widely regarded as restrictive as it permitted arbitrary denials of registration and did not compel the Social Welfare Council (SWC), the body responsible for operationalising the Act, to respond to applications in a timely manner. Furthermore, the SWC had an office only in the capital, Kathmandu, making it difficult for CSOs in other parts of the country in getting affiliation.³⁰

The Maoist insurgency saw civic space emerge as an independent bipartisan entity able to hold both the state and the Maoists to account. This resulted in the rise of civic society actors as defenders

25 S. Tamang, ‘Civilising Civil Society: Donors and Democratic Space’, *Studies in Nepali History and Society*, 7:2 (2002), 309-353.

26 See S.I. Hangen, *The Rise of Ethnic Politics in Nepal: Democracy in the Margins* (New York: Routledge, 2010), for more details on the growth of identity-based movements in Nepal since the middle of the 20th century.

27 Madhesis are people with origins in the southern Tarai plains of Nepal while Janajatis are indigenous nationalities. Along with Dalits, these groups comprise nearly two thirds of the national population.

28 D. Thapa, *World Development Report 2011: Background Case Study—Nepal* (Washington DC: The World Bank, 2011), <https://drive.google.com/file/d/1UEHRwxTaz1ZwRSk72IEV5i2GjjeH4LaK/view>. However, there are authors who believe that with the emergence of a range of new CSOs in the 1990s, indigenous CSOs were pushed to the margins in most development discourse. See: U. Uprety, *(Shrinking) Civic Space in Nepal: Concerns among Indigenous People’s Organisations* (Kathmandu: Forum for Development Studies, 2020).

29 Social Welfare Council, ‘Social Welfare Rules 2049’ (Kathmandu: SWC, 1993).

30 ICNL, *Assessment of the Legal Environment for Civil Society and Media in Nepal*.

of democracy and human rights.³¹ When the king seized power in February 2005, CSOs as well as the media experienced a major setback. Viewing civic space as a threat to his rule, he jailed many prominent civil society actors and announced controls on both civil society organisations and donors.³² A prominent example was the placing of the chairperson of the NGO Federation of Nepal, the biggest grouping of NGOs in Nepal, on a travel ban and arrest list, together with political party leaders and eminent human rights activists.³³ The media was also subjected to strict censorship and control at the time, with news and political programmes barred from television and radio, and many journalists facing increased scrutiny, harassment, and even arbitrary detention.³⁴ The government also introduced a new code of conduct stipulating that NGO workers should not engage in 'party politics', their tenure as heads of organisations be limited to two terms, and they not receive salaries.³⁵

Despite these constraints, or perhaps because of them, this period witnessed an increased level of trust in CSOs as protectors and promoters of human rights and justice. That was mainly because Nepal's civil society evolved into a movement aimed at defending democracy and human rights, specifically for women, Janajatis, and other marginalised groups, during the 2006 People's Movement.³⁶ However, once the monarchy had been ousted and

31 Nazneen and Thapa, 'The Implications of Closing Civic Space for Sustainable Development in Nepal'.

32 J. Baniya, 'Civil Society, Social Movements and Democratisation: A Case Study of Nepal' (PhD diss., University of Oslo, 2014), ISSN 1504-3991; O.A. Rai, 'The crow and the scarecrow', *Nepali Times*, May 18, 2018, <https://www.nepalitimes.com/banner/the-crow-and-the-scarecrow>.

33 Shrestha, 'Activists and Development in Nepal'.

34 Reporters without Borders, 'King takes further measures against press freedom', *RSF*, February 8, 2005, <https://rsf.org/en/news/king-takes-further-measures-against-press-freedom>; Reporters without Borders, 'More than 40 journalists released after three hours in custody', *RSF*, February 2, 2005, <https://rsf.org/en/news/more-40-journalists-released-after-three-hours-custody>; Reporters without Borders, 'Indignation as government restricts advertising to "nationalist" publications', *RSF*, June 29, 2005, <https://rsf.org/en/news/indignation-government-restricts-advertising-nationalist-publications>;

35 Bhatta, 'The Interface between the State and Civil Society in Nepal'.

36 U. Uprety, 'Democracy and Civil Society: A Reflection on the Legal Framework for Civil Society in Nepal', *International Journal of Not-for-Profit Law* 13, no. 3 (2011).

Box 3: Non-NGO Civil Society Initiatives

In the political turmoil following 2002, when the king ousted the elected government, student unions, professional organisations, human rights groups, intellectuals, artists, and assorted activists rose in protest. These protests coalesced into the wider citizens' movement after the king took direct control of the state in early 2005. Civic mobilisation saw the emergence of the Citizens' Movement for Democracy and Peace (CMDP) as a loose but leading network of a cross-section of civil society actors. The CMDP was successful in a way citizen-led movements had not been in Nepal because of the ability of its leadership to mobilise the broader public, and by embracing the pro-republic and transformative agenda of the broader movement.

Issues of minority rights, social justice and a secular state have been raised since the 1990s by the Nepal Federation of Indigenous Nationalities (NEFIN), Dalit activists and some human rights activists, which continued until the promulgation of the Constitution in 2015.^{*} There has also been spontaneous civil society activism in recent times. Some examples include the mobilisation in mid-2019 against the controversial Guthi Bill meant to regulate land in the name of religious trusts[†] and against arbitrary fees in medical colleges.[‡] Even earlier, was the attempt to ban protests at Maitighar Mandala, a popular venue for protests in the capital. The response was swift from civil society with street protests and a court challenge before the government backed down.[§]

^{*} J. Baniya, 'Civil Society, Social Movements and Democratisation: A Case Study of Nepal' (PhD diss., University of Oslo, 2014), ISSN 1504-3991.

[†] Himalayan News Service, 'Government Withdraws Controversial Guthi Bill', *The Himalayan Times*, June 25, 2019, <https://thehimalayantimes.com/nepal/government-withdraws-controversial-guthi-bill/>.

[‡] Republica, 'Medical Students Protest at Maitighar Demanding Return of Additional Fees', *myRepublica*, November 6, 2019, <https://myrepublica.nagariknetwork.com/news/medical-students-protest-at-maitighar-demanding-return-of-additional-fees>.

[§] 'Nepal—ICNL', International Centre for Not for Profit Law (ICNL), last modified April 16, 2020, <https://www.icnl.org/resources/civic-freedom-monitor/nepal#glance>.

the political parties and the Maoists came to power, these same forces began to see CSOs as inimical to their interests; the Maoists held that civil society was responsible for attempting to weaken

the communist movement, while the mainstream political parties blamed the advocacy activities of NGOs for having fuelled the Maoist movement in the first place.³⁷

Post-2006 Civic Space

The rise of Maoists in Nepal was fuelled by the idea of inequities arising out of class but also equally importantly due to ethnic identity.³⁸ Hence, its end saw the rise of a number of identity-based groups and associations, and brought rights-based advocacy of those marginalised on the basis of gender, caste, ethnicity, religion, region and language.³⁹ The idea of inclusion was adopted by the government wholeheartedly as well, with the Three-Year Interim Plan (2007/08–2009/10), which went further than the Tenth Plan and declared: ‘Inclusion means to fulfil the physical, emotional and basic needs of all the people, groups or castes. It has to be achieved by respecting their dignity and their own culture and also reducing the disparities between excluded and advantaged groups and by reducing the gap in the existing opportunities and access. In addition to this, it is to help to build a just society by ensuring rightful sharing of power and resources for their active participation as a citizen.’⁴⁰

Various donor groups and INGOs had become active in supporting the marginalised groups as a means to undercutting the grievance base of the Maoists during the conflict and later in keeping with the spirit of the government programme as outlined in the Eleventh Plan. This included raising a voice for a higher degree of inclusion in the new state dispensation being debated in the Constituent Assembly (CA). The state, however, began to increasingly view such initiatives with a degree of hostility. It was around this time that various provisions were introduced to curtail the space for civic activity in Nepal, a trend that has

37 Talcott et al, ‘Civil Society in a Federal Nepal’.

38 M. Lawoti, *Towards a Democratic Nepal: Inclusive Political Institutions for a Multicultural Society* (New Delhi: Sage Publications, 2005).

39 Nazneen and Thapa, ‘The Implications of Closing Civic Space for Sustainable Development in Nepal’.

40 National Planning Commission, Government of Nepal, Three-Year Interim Plan (2007/08–2009/10).

become all the more pronounced over the years. With the exception of the aftermath of the devastating 2015 earthquake, when the government recognised the role of CSOs in providing relief to the general people, the state has demonstrated degrees of antagonism towards civic groups. Most noticeably, the SWC has issued several directives that hinder CSO operations such as limits on administrative expenditure of total budgets and increasingly burdensome registration procedures.⁴¹

Irrespective of the growing restrictions domestically, on the international front Nepal continued to stand for an open society. Nepal signed on to the Accra Agenda of Action 2008,⁴² an international commitment between states, civil society organisations, the United Nations, and global funds to set an agenda on how to increase aid effectiveness.⁴³ The Accra Agenda specifically highlights the role of the state in creating an enabling environment for CSOs to contribute to development objectives.⁴⁴ It also calls for increased coordination of CSO activities with government efforts and transparency and accountability on both sides.⁴⁵ Similar sentiments are echoed in the Busan Partnership for Effective Development Cooperation 2011⁴⁶ and the 2015 Addis Ababa Action Agenda⁴⁷ that Nepal is party to. Nepal is also committed to the 2030 Sustainable Development Goals, which emphasises the role of civil society and non-government organisations in governance and development.⁴⁸

41 ICNL, *Assessment of the Legal Environment for Civil Society and Media in Nepal*.

42 Third High Level Forum on Aid Effectiveness, *Accra Agenda for Action* (2008).

43 OECD, *The Accra Agenda for Action (AAA)* (2008), <https://www.oecd.org/dac/effectiveness/45827311.pdf>.

44 Third High Level Forum on Aid Effectiveness, *Accra Agenda for Action* (2008), Agenda 20.

45 OECD, *The Accra Agenda for Action (AAA)* (2008), <https://www.oecd.org/dac/effectiveness/45827311.pdf>.

46 Fourth High Level Forum on Aid Effectiveness, *Busan Partnership for Effective Development Cooperation* (2011).

47 UN General Assembly, *Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Addis Ababa Action Agenda)*, A/RES/69/313, 17 August 2015, https://unctad.org/meetings/en/SessionalDocuments/ares69d313_en.pdf.

48 NGO Federation of Nepal, *Enabling Environment National Assessment*

Governing Civic Space in Nepal

The Washington DC-based International Centre for Not-for-Profit Law (ICNL)⁴⁹ has identified the following elements common to a restrictive attitude of the state towards civic space: 'the proposal and adoption of restrictive CSO laws; the proposal and adoption of anti-protest laws; the closure, de-registration and expulsion of CSOs; the adoption and manipulation of counterterrorism laws and policies; and, the adoption of laws and policies that restrict access to resources, notably including foreign funding and affiliations'.⁵⁰ With the exception of those dealing with counterterrorism, the Nepali government has either adopted all the other elements mentioned or at least tried to do so, representing an increasingly repressive attitude towards civil society. Foreign funding in particular is mostly tied to the fear of conversion to Christianity, which is discussed in detail later in the chapter.

All CSOs are required to register with the respective District Administrative Office under the Association Registration Act 1977, regardless of their functions. Hence, under this Act, 'everything from football clubs to film societies to neighbourhood associations to research institutes to spiritual centres to self-help groups to advocacy organisations to service delivery NGOs' have been registered.⁵¹ All the organisations registered under the Association Registration Act are also given the option of affiliating with the SWC set up under the Social Welfare Act 1992 with the objective of 'co-ordination, co-operation, mobilisation and promotion of the social organizations and institutions, in order to run social

(EENA) (Kathmandu: NGO Federation of Nepal, 2015), https://www.civicus.org/images/EENA_Nepal.pdf.

49 The ICNL is an organisation dedicated to supporting the growth of civil society by improving the legal frameworks regulating NGOs the world over. 'International Centre for Not for Profit Law', accessed September 22, 2020, <https://www.icnl.org>.

50 ICNL (2016a) 'Survey of Trends Affecting Civic Space: 2015-16', Global Trends in NGO Law: A Quarterly Review of NGO Legal Trends around the World, 7.4, <https://www.icnl.org/resources/research/global-trends-ngo-law/survey-of-trends-affecting-civic-space-2015-16>.

51 D. Thapa, 'Revisiting the NGO Discourse', *The Kathmandu Post*, October 4, 2018, <https://kathmandupost.com/opinion/2018/10/04/revisiting-the-ngo-discourse>.

Box 4: Constitutional Limitations on Individual and Collective Freedom

The Constitution of Nepal 2015 has guaranteed the freedom of expression and association, albeit with the caveat that the state can ‘impose reasonable restrictions’ on any action that undermines the ‘nationality, sovereignty, independence and indivisibility of Nepal’ or which disrupt the ‘the harmonious relations subsisting among the people of various castes, ethnicities, religions, or communities’,* both conditions that provide a wide latitude in interpretation.

In fact, each of the seven constitutions Nepal has had so far have their own formulations, indicating the specific priorities and concerns of the state vis-à-vis the full enjoyment of civil rights and personal freedoms by citizens. It is also perhaps telling that Nepal is still not a party to the ILO Convention no. 87, Freedom of Association and Protection of the Right to Organise Convention, 1948,[†] which entails more specific obligations with regard to freedom of association and right to assembly than the ICCPR and human rights treaties Nepal is party to.[‡]

The first of Nepal’s constitutions, adopted in 1948, contained only two limitations on the fundamental freedoms of speech, assembly, association, religion, publication and religion: against the basis of principles of ethics and morality, or against prevailing laws and regulations.[§] The Interim Constitution of Nepal 1951, following the fall of the Rana regime, added a few more limitations: public benefit, maintenance of public harmony, national security, laws made by the state, and the norms set by those laws.^{||} In both these documents, the rights were defined negatively—as something that people enjoyed outside the scope of these limitations.

The adoption of the Constitution of the Kingdom of Nepal in 1959 started the positive formulation of rights with the limitations mentioned under a separate clause entitled ‘Public Benefit’. A similar one was included in the Constitution of Nepal 1962 as well. A major difference in the two documents was that in 1959 ‘public benefit’ was defined as promoting certain national and public values inter alia morals, health, economic welfare, and respect of rule of law,[#] and in 1962, it was described negatively, disallowing people to exercise their rights in a way that goes

against the national interest,** including forming political parties and organisations.**

The Constitution of 1990 and the Interim Constitution of 2007 were both adopted after popular movements but the intent of both the constitutions on the limitations remained intact. From the 1990 constitution, the limiting clause actually began to be mentioned under the specific right it was qualifying. Hence, the limitations under personal freedom were different from limitations on press freedom which were again different from the limitation under freedom of association. But, in all instances, national unity and harmony between different caste and ethnic groups were highlighted.** As with previous iterations, the Constitution of Nepal 2015 also lacks definitions and authoritative commentaries on what constitute 'public morality' or 'harmonious relations' between castes and ethnic groups,[§] creating a high risk of arbitrary suspension of civil and political freedoms.

* Constitution of Nepal 2015, https://www.constituteproject.org/constitution/Nepal_2015.pdf

† ILO, 'Up-to-date Conventions and Protocols not ratified by Nepal', accessed 27 August 2020, https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103197

‡ Article 9 of the Treaty Act of Nepal, 1990 requires treaty provisions to be enforceable as national laws and any inconsistent laws to be void for the purpose of that treaty.

§ The Nepal Government Act, 1948, Art 4.

|| The Nepal Interim Government Act, 1951, Art 19.

Constitution of Kingdom of Nepal, 1959, Art 8.

** Constitution of Nepal, 1962, Art 17.

†† Constitution of Nepal, 1962, Art 11.

‡‡ Constitution of Kingdom of Nepal, 1990, Art 12(2)(1); Interim Constitution of Nepal, 2007, Art 12(2)(3).

§§ Constitution of Nepal 2015, Art 17.

activities in more organized way'.⁵² By making it mandatory for all INGOs to seek permission from the SWC to run their programmes and for all domestic CSOs/NGOs to likewise seek permission to receive funding from foreign sources, the SWC has become the primary regulatory body governing civil society in Nepal, in line

⁵² Social Welfare Act 2049, <https://swc.org.np/sites/default/files/downloads/SWC-Act.pdf>.

with the changing state outlook towards regulatory policy for these organisations (see Box 2).

The Association Registration Act itself has stringent eligibility requirements for registration and does not even specify grounds under which a registration application may be rejected.⁵³ Furthermore, local authorities have the jurisdiction to suspend or terminate registration if an organisation fails to follow the directions of the government. Due to the arbitrary nature of the Association Registration Act, following the enactment of necessary legislation for non-profit companies to be registered, since 2006 CSOs have also taken that route instead. Both Nepali citizens and foreigners can establish a non-profit company,⁵⁴ and, unlike with the Association Registration Act, safeguards against arbitrary denial of registration also exist. However, there are restrictions such as the requirement of government approval to open new branches, which does not apply to profit-oriented corporations, and the requirement of government approval on operational expenditure.

The Social Welfare Act 1992 also brings in its own set of arbitrary rules and restrictions. Similar to the Association Registration Act, the Social Welfare Act does not stipulate any safeguards against arbitrary denials of registration to civil society organisations, such as a mandatory time period for the SWC to respond to an application, specific grounds for denial of registration, or avenues for appeal of a denial of registration. A particularly restrictive regulation is that the registered CSOs do not get blanket approval to receive foreign or government resources for their activities but must apply on a case-by-case basis. Furthermore, while INGOs can set up branch offices in the country following agreement with the SWC, they are required to take on local CSOs as implementing partners under project-specific agreements, a burdensome process that requires consent from up to seven different ministries.⁵⁵

⁵³ Association Registration Act, 2034, <http://www.lawcommission.gov.np/en/archives/category/documents/prevaling-law/statutes-acts/associations-registration-act-2034-1977>.

⁵⁴ Companies Act 2063, <http://www.lawcommission.gov.np/nep/archives/category/documents/prevaling-law/statutes-acts/कम्पनी-ऐन-२०६३-statutes-acts>, Section 4(f-i).

⁵⁵ 'Nepal—ICNL', International Centre for Not for Profit Law (ICNL), last

In keeping with the growing illiberalism permeating the Nepali state, a Social Welfare and Development Act was drafted in 2014 with the intent to replace the Social Welfare Act of 1992. It contained a number of provisions that could constitute violations of freedom of association, including the increasingly burdensome registration procedures for CSOs, excessive regulatory powers being allocated to the SWC, and massive penalties to organisations functioning without registration, among others.⁵⁶ The said Act was not passed, owing to the widespread backlash from civil society organisations but had it become law in the form it was drafted, it would also have violated the ICCPR, which states the right to freedom of association.⁵⁷

This has not prevented the SWC from not only controlling CSOs, but also the direction and content of their activities. That has become more pronounced with the government's interest in focusing on service delivery and infrastructure development. The SWC and government officials have described the ideal distribution of foreign funds receipts as 60 per cent for 'hardware' (activities that focus on infrastructural development, agriculture projects, etc) and 40 per cent toward 'software' (consisting of advocacy, rights-based programming, capacity building, awareness raising, etc).⁵⁸ As a result, all CSOs, regardless of their objectives and functions, are being asked to deliver on 'hardware', not only 'software'.⁵⁹ In fact, one of the main legal instruments regulating the CSO sector, the Social Welfare Act itself is very limiting, with the only terms featuring in its preamble being 'social welfare activities', 'social welfare-oriented activities', 'reconstruction activities', 'humanistic livelihood', and 'welfare-oriented institutions'.

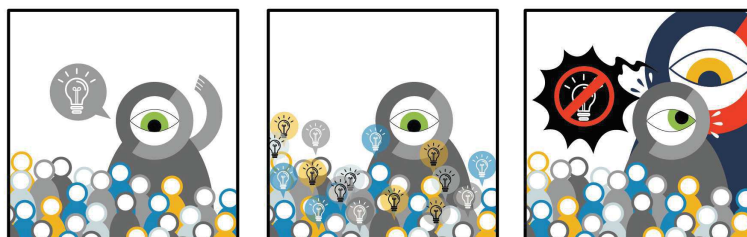
modified April 16, 2020, <https://www.icnl.org/resources/civic-freedom-monitor/nepal#glance>.

⁵⁶ International Centre for Not for Profit Law, 'Comments on Nepal's Draft Social Welfare and Development Act', last modified October 27, 2016, <https://www.icnl.org>.

⁵⁷ Ibid.

⁵⁸ A.R. Pokhrel, and P. Kafle, 'A Critique on Proposed Social Welfare and Development Act, 2073 of Nepal' LinkedIn, October 27, 2016, <https://www.linkedin.com/pulse/critique-proposed-social-welfare-development-act-2073-pokhrel>.

⁵⁹ ICNL, *Assessment of the Legal Environment for Civil Society and Media in Nepal*.



In a similar vein, a 2017 government report on foreign aid mobilisation, while acknowledging the role of CSOs in national development, defines their function as ‘delivery of services in rural areas, enhancement of quality of life of the people and human capital development.’⁶⁰ Such a re-orientation of the development agenda has led to ideas of inclusion, human rights, and protection of minorities taking a backseat, and created obstacles for organisations working in these areas. An SWC official was even more forthright when he admitted that the SWC ‘will be also vigilant on NGOs that are focused on advocacy-related works that contradict promotion of social harmony’ (see also Box 4).⁶¹ The ‘promotion of social harmony’ being very vague and subject to all kinds of interpretation, there is every possibility of it being used to discredit activities that call for greater social and political inclusion or for overcoming religious, ethnic, and sexual majoritarianism.

There are also laws that have a negative impact on the freedom of expression. In particular, the National Broadcasting Act 1993 enables the government to prevent the broadcast of any programme that goes against the ‘national interest’.⁶² The Press and Publication Act 1991, too, restricts the publication of materials that, among others, undermines the ‘sovereignty and integrity of Nepal’,

⁶⁰ Ministry of Finance, Government of Nepal, *A Study on Foreign Aid Mobilisation in Federal Nepal* (Kathmandu: Government of Nepal, 2017).

⁶¹ P.M. Shrestha, ‘Social Welfare Council Tightens Noose on Local NGOs’, *The Kathmandu Post*, December 03, 2019, <https://tkpo.st/33BMck8>.

⁶² National Broadcasting Act, 2050, Nepal Law Commission (1993), Section 7, <http://www.lawcommission.gov.np/en/wp-content/uploads/2018/10/national-broadcasting-act-2049-1993.pdf>.

and disrupts security, peace, and order in the country.⁶³ There is also a new law that has had a chilling effect on free speech, the Electronic Transactions Act 2008, which codifies the punishment for publication of materials which may spread hate or jealousy against anyone or jeopardise the harmonious relations among the peoples of various castes, ethnicities, and communities.⁶⁴ Its vague stipulations can be and has been used by government authorities to control and repress anti-government content in the electronic media. One prominent example was the arrest, invoking the Act, of a former government secretary for criticising the current government and its ministers through his social media posts.⁶⁵

Post-2015 Civic Space

Starting with the proposed Social Welfare and Development Act of 2014, there have been several other legislative or policy attempts to control civic space in the country. The Bill to Amend and Consolidate Laws Relating to Establishment, Registration and Operation of Social Organisations 2019 is repressive, as, among other restrictions and bureaucratic hurdles, it severely curtails the spontaneous emergence of actors to protest against or mobilise for a cause.⁶⁶ If passed in its current form, the new law would require CSOs to limit their scope of work, as well as geographical area of

63 Press and Publication Act 2048, Nepal Law Commission (1991), Section 14, <http://www.lawcommission.gov.np/en/archives/category/documents/prevaling-law/statutes-acts/press-and-publication-act-2048-1991>.

64 Electronic Transactions Act, 2063, Nepal Law Commission (2008) Section 47, <http://www.lawcommission.gov.np/en/wp-content/uploads/2018/10/electronic-transaction-act-2063-2008.pdf>.

65 Some musicians and comic personalities have also been arrested for creating 'disharmony' since the Act was passed. See: S. Dhungana, 'Attorney's Office File a Court Case against Former Government Secretary Upadhyaya for Cybercrime', *The Kathmandu Post*, April 26, 2020, <https://tkpo.st/2S8ZH8a>. The same Act was used to arrest a Nepali comedian in 2019 for criticising a Nepali film in an online video, leading to a massive outcry. Himalayan News Service, 'Activists Protest against Arrest of a Youtuber', *The Himalayan Times*, June 12, 2019, <https://thehimalayantimes.com/kathmandu/activists-protest-against-arrest-of-a-youtuber-pranesh-gautam>.

66 J. Lama, 'Sarkarle sangha sanstha banda garne bidheyak lyayo' ['The Government Has Brought Acts to Shut down Organisations'], *OnlineKhabar*, January 21, 2020, https://www.onlinekhabar.com/2020/01/830189#.XiaCTrTu1bs_email.

Table 1: Key Laws and Regulations Governing Civil Society Organisations in Nepal

Year of Enactment	Act	Specific implications for civil society organisations
Existing		
1961	National Directive Act	The government can issue orders and instructions to organisations registered under the Act with regard to their activities as deemed appropriate. Any orders or instructions issued by the government is final and cannot be questioned in any court of law.
1977	Association Registration Act	The Act details requirements for registration and (annual) renewal, and of approval from the government. All of these provisions can be used for delaying the CSO registration process even though the Act provides no specific ground to reject an application for registration.
1992	Social Welfare Act	CSOs receiving foreign funding have to be affiliated with the SWC under this Act. In addition, CSOs must also receive case-by-case project approval in order to receive such funds from foreign sources. INGOs are also required to affiliate with the SWC.
2006	Companies Act	The Act has some safeguards against arbitrary denial of registration of any company even though it has some operational requirements for non-profit companies which do not apply to for-profit groups.
2012	Local Government Resource Mobility and Management Directive	CSOs need to provide details of activities to local authorities for the renewal process. In planning development projects, CSOs are required to prioritise projects currently under operation in local areas.
2017	Local Government Operation Act	Encourages CSOs, including NGOs, user committees, cooperative institutions, and other social and community organisations, to work in coordination with local governments. Several types of work require coordination and prior approval from local governments.

Year of Enactment	Act	Specific implications for civil society organisations
2019	International Development Cooperation Policy	International aid mobilised through Nepali groups has to be in line with government priorities, which is identified mostly as infrastructure development.
Proposed		
2014	Social Welfare and Development Act	Requirement of permission from Foreign Ministry; dissolution of NGO possible on orders of local authorities; SWC has the power to suspend or dissolve the Executive Committee of NGOs if engaged in activities that contravene their memorandum of understanding, or prevailing laws.
2018	National Integrity and Ethics Policy	Requires groups to seek government permission to receive foreign grants. INGOs banned from advocating on policy issues and from making 'inappropriate allegations', 'spreading ill will', or doing anything to 'jeopardise the Nepali civilisation, culture, social relationships and harmony'.
2019	Bill to Amend and Consolidate Laws Relating to Establishment, Registration and Operation of Social Organisations	Meant to replace the Association Registration Act 1977, the National Directive Act 1961, and the Social Welfare Act 1992, CSOs are directed to choose only one area of work among 13 functional categories.

functioning.⁶⁷ Likewise, the proposed National Integrity and Ethics Policy 2018 stressed strong vigilance over the non-government and private sectors along with burdensome reporting and procedural requirements, increased restrictions on scope of activities as well as access to funding.⁶⁸ The proposed Policy also stipulates that INGOs, specifically, would not be allowed to engage in projects that influence the drafting of laws and policies in the country, that

⁶⁷ Bill to Amend and Consolidate Laws Relating to Establishment, Registration and Operation of Social Organisations, 2075, National Assembly (2019).

⁶⁸ T.R. Pradhan, 'Integrity policy draft draws NGOs' flak', *The Kathmandu Post*, April 15, 2018, <http://kathmandupost.ekantipur.com.np/news/2018-04-15/integrity-policy-draft-draws-ngos-flak.html>.

they may only send those reports to their headquarters that have received approval from the government, have to get their budget and programmes approved by the Finance Ministry, and that they would be banned if they tried to engage in proselytisation.⁶⁹ The International Development Cooperation Policy 2019 requires that ‘foreign grants which are mobilised through the budget system by the provinces and local levels will be provided as conditional grants’ and funds must be used according to the conditions stated in the related project agreement.⁷⁰ This ensures a large degree of control over the expenditure of the funds and further allows the central government to pick and choose areas of focus.

In June 2018, the Ministry of Home Affairs, issued a circular to the District Administration Offices ordering them to seek property details of office-bearers and staff of INGOs during their registration, renewal, or affiliation with the Social Welfare Council while also requiring NGOs to choose a specific sector of work, and mandating them to submit financial and activity progress reports every four months.⁷¹ The Ministry retracted the first two provisions, following opposition from the NGO sector, although the last has surfaced in the new bill under consideration as mentioned above.⁷² Complementing these efforts was a policy reportedly drafted by the Social Welfare Council to prevent CSOs from running programmes that could affect Nepal’s relations with India and China, code for the ‘Free Tibet’ movement as well as Tibetans’ transiting via Nepal to India, and the operation of madrassas in the region bordering India.⁷³

69 M. Bader, ‘In Nepal, proposed INGO regulation has sector fearful’, *DevEx*, May 01, 2018, <https://www.devex.com/news/in-nepal-proposed-ingo-regulation-has-sector-fearful-92647>.

70 P.M. Shrestha, ‘Provincial and Local Governments Told to Accept Foreign Aid Only after Centre’s Approval’, *The Kathmandu Post*, December 17, 2019, <https://tkpo.st/35tHAOK>.

71 P.M. Shrestha, ‘Non-government Organisations Concerned over a New Law to Regulate Them’, *The Kathmandu Post*, November 3, 2019, <https://tkpo.st/36urSnx>.

72 The Kathmandu Post, ‘Ministry Retracts Decision on NGO’, *The Kathmandu Post*, June 19, 2018, <https://kathmandupost.com/miscellaneous/2018/06/19/ministry-retracts-decision-on-ngos>.

73 P.M. Shrestha, ‘New Policy for Foreign Non-governmental Organisations Aims to Address Concerns Raised by India and China’, *The Kathmandu Post*,

There has been a parallel development with regard to the independence of the media as well. Nepal dropped six places on the Global Press Freedom Index in 2020, and was ranked 112th among 180 countries largely due to the 'draconian laws' introduced by the current administration since 2018.⁷⁴ This represents a gradual slide over the years: 106th in 2018 and 2019,⁷⁵ and 100th in 2017.⁷⁶ The updated Criminal Code of 2018 also threatens the media with journalists facing up to three years in prison and monetary fines for publishing information deemed 'confidential' under the Code.⁷⁷ In August 2020, a crew member of a music video released on YouTube was arrested on charges of 'spreading communal hatred and burning the national flag' under the Criminal Code.⁷⁸

There have been legislations planned that would impinge on press freedom. The Media Council Bill 2019 seeks to fine journalists up to NPR 1 million (c. USD 9,000) if found guilty of libel or defamation.⁷⁹ The Mass Communications Bill 2019 has an even harsher restriction of up to 15 years' imprisonment for 'publishing or broadcasting contents deemed to be against sovereignty, territorial integrity and national unity', which, again, is a broad stipulation open to interpretation.⁸⁰ The Information

January 12, 2020, <https://tkpo.st/2QMBSm9>.

74 The ranking is done by Reporters Without Borders. See: C.K. Mandal, 'Nepal Loses Six Spots on Global Press Freedom Index to Rank 112th Out of 180 Countries', *The Kathmandu Post*, April 22, 2020, <https://tkpo.st/2XV3GbW>.

75 Mandal, 'Nepal Loses Six Spots on Global Press Freedom Index to Rank 112th Out of 180 Countries'.

76 Kathmandu Tribune, 'Nepal ranks 100 in 2017 World Press Freedom Index', *Kathmandu Tribune*, April 27, 2017, <https://www.kathmandutribune.com/nepal-ranks-100-in-2017-press-freedom-index>.

77 'Press Freedom at Risk with New Criminal Code Restrictions', CIVICUS, last modified October 16, 2018, <https://monitor.civicus.org/updates/2018/10/16/press-freedom-risk-new-criminal-code-restrictions>.

78 Himalayan News Service, 'Crew Member of Controversial Music Video Held', *The Himalayan Times*, August 19, 2020, <https://thehimalayantimes.com/nepal/crew-member-of-controversial-music-video-held>.

79 *Media Council Bill 2075*, National Assembly (2019), <https://na.parliament.gov.np/uploads/attachments/o8lmmh8mitfvgdsg.pdf>, Section 18.

80 B. Ghimire, 'Government is Working on Mass Media Bill with Harsher Provisions for Media Sector', *The Kathmandu Post*, August 10, 2019, <https://kathmandupost.com/national/2019/08/10/after-it-and-media-council-bills-government-is-working-on-mass-media-bill-with-harsher-provisions-for-media-sector>.

Technology Bill of 2019 criminalises people for posting content on social media deemed to be against ‘national unity, self-respect, national interest, relationship between federal units’.⁸¹ None of the three aforementioned bills have been passed yet since the government is reportedly unwilling to stir up controversy,⁸² and is facing opposition from members of their own party,⁸³ besides the journalists.⁸⁴ Regardless of such opposition, in practice, the space for an independent media is already shrinking, as seen by the arrest of the chief editor of an online news outlet in September 2018 under the Electronics Transaction Act 2008 for reporting on corruption over the sale of government-owned factory land.⁸⁵ It has also been reported that the Minister of Information and Communications directed the state-owned media to refrain from publishing news that could harm the government’s reputation.⁸⁶

In September 2019, an amendment proposal to the Media Council Bill was filed to include a provision of a licence for journalists, which was widely interpreted as yet another obstacle to the functioning of free press in the country.⁸⁷ Similarly, the

81 *Information Technology Bill 2075*, House of Representatives (2019), <https://hr.parliament.gov.np/uploads/attachments/eucmqwyeyg3nf9ov.pdf>, Section 94.

82 B. Ghimire, ‘Government is Working on Mass Media Bill with Harsher Provisions for Media Sector’, *The Kathmandu Post*, August 10, 2019, <https://kathmandupost.com/national/2019/08/10/after-it-and-media-council-bills-government-is-working-on-mass-media-bill-with-harsher-provisions-for-media-sector>.

83 T.R. Pradhan, ‘Organisations Gear up for Protest against IT Bill Saying It Will Curb Freedom of Expression’, *The Kathmandu Post*, January 11, 2020, <https://tkpo.st/3a2KkFE>.

84 Editorial, ‘The Media Council Bill Further Endangers Press Freedom’, *The Kathmandu Post*, May 13, 2019, <https://kathmandupost.com/editorial/2019/05/13/the-media-council-bill-further-endangers-press-freedom>.

85 International Federation of Journalists, ‘Nepal: Editor Arrested on Cybercrime Charges’, *International Federation of Journalists*, September 11, 2018, <https://www.ifj.org/media-centre/news/detail/category/asia-pacific/article/nepal-editor-arrested-on-cybercrime-charges.html>.

86 B. Sapkota, et al, *2018 Civil Society Organisation Sustainability Index* (USAID, 2018) <https://www.fhi360.org/sites/default/files/media/documents/resource-csosi-2018-report-asia.pdf>.

87 ‘Restrictive Bills Still Being Pushed by Nepali Lawmakers as Protests around Xi’s Visit Stifled’, CIVICUS, last modified October 10, 2019, <https://monitor.civicus.org/updates/2019/10/16/restrictive-bills-being-pushed-nepal-silence-expression-while-journalists-remain-risk>.

Special Service Bill 2020, meant to set up ‘special intelligence service’, grants the National Investigation Department sweeping powers to ‘monitor, observe, and intercept, as well as document any conversation carried out through public or other means of communication, along with audio, visual, or electronic signals or details transmitted by any person or organization that seems suspicious’, with extremely lax oversight.⁸⁸

The government also showed to clamp down against civil servants with the Federal Civil Service Bill 2019 preventing them from sharing personal views through the media.⁸⁹ A proposed provision in the Bill enables the government to ‘deprive retired civil servants of their pension if they criticise the government in a manner that can incite hatred, social conflict, and violence’.⁹⁰ This provision is regarded to have been included after some retired civil servants were critical towards the government’s activities on social media.⁹¹

Impediments to Civic Space for Religious Minorities

Article 4 of the Constitution of Nepal 2015 describes Nepal as secular, but defines secularism as the protection of traditional religions and customs ‘practised from ancient times’, which is considered shorthand for Hinduism, the country’s dominant religion.⁹² Due to the inability of the state to define secularism in terms of equality to all religions in both the 2015 and 2007 constitutions, simply declaring the country as secular has done little to provide

⁸⁸ ‘Nepal: Amend Intrusive Intelligence Bill’, Human Rights Watch, May 29, 2020, <https://www.hrw.org/news/2020/05/29/nepal-amend-intrusive-intelligence-bill-0>.

⁸⁹ Federal Civil Service Bill 2075, National Assembly (2019), <https://hr.parliament.gov.np/uploads/attachments/pbuexolehcjydydv.pdf>, Section 75.

⁹⁰ R.K. Kamat, ‘NC Opposes Any Move to Deny Pension to Retired Civil Servants’, The Himalayan Times, November 17, 2019, <https://thehimalayantimes.com/nepal/nc-opposes-any-move-to-deny-pension-to-retired-civil-servants>.

⁹¹ T.R. Pradhan, ‘Bill Tabled to Restrict Civil Servants from Sharing Views on Social Media’, The Kathmandu Post, February 12, 2019, <https://kathmandupost.com/national/2019/02/12/bill-tabled-to-restrict-civil-servants-from-sharing-views-on-social-media>.

⁹² C. Letizia, ‘Secularism and Statebuilding in Nepal’, in *Two Steps Forward, One Step Back: The Nepal Peace Process*, edited by D. Thapa and A. Ramsbotham (London: Conciliation Resources, 2017), 109-111.

recognition to religious minorities, namely, Buddhists, Muslims, Kirat, and Christians.⁹³

The International Development Cooperation Policy 2019 directs foreign NGOs to fund development work rather than religious and political institutions, a form of resistance toward the notion that foreign funding is used as a covert means of proselytisation.⁹⁴ Acts of forced religious conversion are already prohibited by the Constitution as a criminal offence. For instance, in 2019, there were two separate instances of Christians being arrested under the suspicion of converting people to Christianity.⁹⁵ Individuals who have opined that religious conversion should be made legal have invited controversy, as seen by the case of the then British ambassador to Nepal, who wrote an open letter to the then CA asking them to include the right to conversion in the constitution.⁹⁶

The 2019 Policy is all the more jarring since apart from Buddhist monasteries, 'all religious groups must register as NGOs or non-profit organisations to own land or other property, operate legally as institutions, or gain eligibility for public service-related

93 The percentage of Hindus in the country has been decreased over the years, 86.5 per cent in 1991 to 80.6 in 2001 before inching up to 81.3 in 2011. The proportion of Buddhists and Kirats has seen a corresponding rise and decrease whereas those of Christians and Muslims has seen rising steadily: Buddhists from 7.8 per cent in 1991 to 10.7 in 2001 and 9.0 in 2011; Muslims from 3.5 in 1991 to 4.2 in 2001 to 4.4 in 2011; Kirat from 1.72 per cent in 1991 to 3.6 in 2001 to 3.04 in 2011; and Christians from 0.17 per cent in 1991 to 0.4 in 2001 to 1.4 in 2011, Central Bureau of Statistics National Data Portal, accessed June 2, 2020, <http://nationaldata.gov.np/StaticReport?tglId=1001&tsgId=6&tid=1003>. However, regardless of the decline and increase, the number and power both of the minorities remain very limited, while Hinduism has retained its importance symbolically and politically. See: C. Letizia, 'Secularism and Statebuilding in Nepal'.

94 P.M. Shrestha, 'New Policy Aims to Bar Foreign NGOs from Financing Religious and Political Organisations', *The Kathmandu Post*, June 2, 2019, <https://kathmandupost.com/national/2019/06/02/new-policy-aims-to-bar-foreign-ngos-from-financing-religious-and-political-institutions>.

95 'Christians Seized by Police While Training Pastors in Nepal', Barnabas Fund, April 24, 2019, <https://barnabasfund.org/en/news/christians-seized-by-police-while-training-pastors-in-nepal>; 'Three Foreigners Arrested Over Religious Conversion Accusations in Nepal', New Spotlight Online, July 24, 2019, <https://www.spotlightnepal.com/2019/07/24/three-foreigners-arrested-over-religious-conversion-accusations-nepal>.

96 R.R. Subedi, 'Envoy Sparks Storm of Conversion Controversy', *The Rising Nepal*, undated, <http://therisingnepal.org.np/news/568>.



government grants and partnerships'.⁹⁷ This creates an inherent problem as religious groups must function as an NGO, and NGOs that receive foreign funding cannot undertake religious activities. There have also been reports of the Social Welfare Council carrying out investigations of NGOs for allegedly carrying out forced religious conversion.⁹⁸

Contradictory laws that disadvantage certain communities over others also still exist in Nepal such as the criminalisation of slaughtering of cows, animals sacred only to Hindus. In 2018/19, 34 such cases were registered with the Supreme Court.⁹⁹ Nepal's Criminal Code that came into effect in August 2018 imposed punishment on those 'harming the religious sentiment' of any caste, ethnic community, or class,¹⁰⁰ a clause open to broad and potentially harmful interpretations to the detriment of religious minorities. Besides Muslims and Christians, other religious minorities such as Kirat (3.0 per cent) also face obstruction in observing the last rites for their deceased, specifically in the urban areas of the country, even though a 2011 Supreme Court ruling requires 'the government to provide protection for religious groups

⁹⁷ United States Department of State, *International Religious Freedom Report for 2019* (Washington D.C.: Office of International Religious Freedom, 2019).

⁹⁸ C.L. Tiwari, 'SWC Probing NGOs for Forceful Religious Conversion', myRepublica, September 17, 2017. <https://myrepublica.nagariknetwork.com/news/27720>.

⁹⁹ The years 2018/19 spans the Nepali fiscal year 2075 BS. See: S. H. Gyawali, 'Criminalisation of Cow-Slaughter Is a Tool of Caste Terror', *The Record*, June 14, 2019, <https://www.recordnepal.com/podcast/criminalization-of-cow-slaughter-is-a-tool-of-caste-terror>.

¹⁰⁰ United States Department of State Bureau of Democracy, *International Religious Freedom Report for 2018* (Washington D.C.: Bureau of Democracy, Human Rights, and Labour, 2018).

carrying out funeral rites in the exercise of their constitutional right to practice their religion'.¹⁰¹

The victory of Hindu nationalist Bharatiya Janata Party in the Indian elections in May 2014 has encouraged the growth of the anti-secular Hindu right in Nepal as well, with Muslims and Christians being the main targets.¹⁰² Christian faith-based NGOs report facing increased scrutiny in their hiring practices, especially when they seek to hire members of the Christian faith for tasks that require knowledge of the religion.¹⁰³ The 2018 Pew Research Centre report on freedom of religion also indicates that the level of social hostilities towards religious minorities in Nepal rose from moderate levels in 2014 to high levels in 2015 and 2016.¹⁰⁴

Tibetan refugees, who are predominantly Buddhist, report increasing restrictions in voicing their political opinions over the years as they have been barred from protesting and even from celebrating the birthday of their spiritual leader, the Dalai Lama. In October 2019, Tibetan refugees reported being placed under surveillance during the visit of the Chinese president, Xi Jinping, to Nepal.¹⁰⁵ Several campaigners of the 'Free Tibet' movement and human rights activists were detained in Kathmandu in the lead-up to and during Xi's visit.¹⁰⁶

Reactions to Attempts to Curtail Civic Space

There has been widespread opposition to the various attempts to pass laws that could systematically curtail civil liberties in the country. The American ambassador to Nepal criticised the proposed

¹⁰¹ Ibid.

¹⁰² C. Letizia, 'Secularism and Statebuilding in Nepal'.

¹⁰³ P. Khadka, 'Challenging Time for Nepal NGOs', *Union of Catholic Asian News*, June 13, 2019, <https://www.ucanews.com/news/challenging-time-for-nepal-ngos/85388>.

¹⁰⁴ Pew Research Centre, *Global Uptick in Government Restrictions* (Washington D.C.: Pew Research Centre, 2018).

¹⁰⁵ S. Thapa, Y. D. Gurung and J. Baniya, 'Living in Limbo: Tibetan and Bhutanese Refugees in Nepal', in: *South Asia State of Minorities Report 2019 Migrants, Refugees and the Stateless*, edited by D. Thapa, S. Thapa and R. Singh (South Asia Collective, 2019), 65-90.

¹⁰⁶ Himalayan News Service, '11 Tibetan Refugees among 22 Held', *The Himalayan Times*, October 13, 2019, <https://thehimalayantimes.com/kathmandu/11-tibetan-refugees-among-22-held>.

Social Welfare and Development Act as appearing to ‘run counter to the constitution’s call for a “single-door system,” requiring CSOs to obtain multiple approvals from different agencies in order to operate’.¹⁰⁷ The 2018 circular by the Ministry of Home Affairs that would have placed restrictions over CSOs was withdrawn due to ‘acute pressure from the NGO sector and around a dozen formal and informal dialogues with government agencies’.¹⁰⁸ The National Integrity and Ethics Policy also caused several stakeholders to express reservations and concern. The NGO Federation, in particular, took up the mantle to bring to the government’s attention the overly restrictive provisions of the draft.¹⁰⁹ The president of the NGO Federation released a statement expressing concern that ‘the ministry is focusing on controlling non-government organisations, instead of regulating and facilitating them’.¹¹⁰ Stakeholders also worried that the provisions of the draft can be ‘misused to silence critics at home and restrict the activities of international groups in Nepal’.¹¹¹ Some critics also assert that the draft is a ‘backlash against the funding indigenous and excluded groups received from western donors during the Constitution-drafting process’.¹¹²

Four UN Special Rapporteurs expressed reservations on the proposed National Integrity and Ethics Policy, arguing that ‘some of the provisions of the Integrity Policy would have a serious negative effect on the activities of civil society and restrict the freedom of expression and freedom of association’.¹¹³ Local actors

107 A.B. Teplitz, ‘Inclusive Civic Participations: Where Democracies Thrive’, *The Himalayan Times*, February 20, 2017, <https://thehimalayantimes.com/opinion/inclusive-civic-participation-democracies-thrive>.

108 ‘Ministry Retracts Decision on NGOs’, *The Kathmandu Post*, June 19, 2018, <https://kathmandupost.com/miscellaneous/2018/06/19/ministry-retracts-decision-on-ngos>.

109 T.R. Pradhan, ‘Integrity Policy Draft Draws NGOs’ Flak’, *The Kathmandu Post*, April 15, 2018, <http://kathmandupost.ekantipur.com.np/news/2018-04-15/integrity-policy-draft-draws-ngos-flak.html>.

110 P.M. Shrestha, ‘Non-government Organisations Concerned over a New Law to Regulate Them’, *The Kathmandu Post*, November 3, 2019, <https://tkpo.st/36urSnx>.

111 O.A. Rai, ‘The Crow and the Scarecrow’, *Nepali Times*, May 18, 2018, <https://www.nepalitimes.com/banner/the-crow-and-the-scarecrow>.

112 Ibid.

113 ‘PM Vents Ire on Foreign Missions, I/NGOs for ‘Unwarranted Interest’ in Integrity Policy’, *Republica*, July 27, 2018, <https://myrepublica.nagariknetwork>.

Box 5: Civic Space during Covid-19

The declaration of Covid-19 as a worldwide pandemic seems to have led governments around the world to seize power in the name of combating the outbreak, in lack of safeguards as well as mechanisms to safely devolve the power once the worst is over.* The Government of Nepal has also displayed this form of control over civic space during the pandemic, from inconsistency in their approach toward CSOs, and suppressing peaceful protestors in an attempt to silence all forms of criticism.†

The Women and Social Committee of the House of Representatives has directed the government to waive the requirement for CSOs to submit periodic activity reports. Recognising the pandemic as a problem common to all, the Committee directed the government to be cognisant of the necessity to revise plans as a result of the pandemic.‡ The Committee also directed the government to enable proper utilisation of the resources available with CSOs.§ Parliamentarians also stated that NGOs must be of use to the general population during such disasters.¶ Such a sentiment can be very problematic as it presumes that these organisations are to be mobilised in a situation of disaster.

For its part, the SWC directed all NGOs to commit 20 per cent of their budget of the year 2020 to the Covid-19 response.‡ There was no recognition of the fact that this requires coordination with donors and the government itself, and even in cases where the funds could be re-directed, the SWC has had bureaucratic delays in providing approval to do so, further derailing the process.**

The month of June, specifically, saw spontaneous protests by youth against the government's passive handling of the Covid-19 pandemic, including alleged corruption in the purchase of medical supplies, perceived nonchalance to the plight of migrant workers abroad and low-income households in the country attempts by the government to pass repressive measures of surveillance amidst the pandemic, and mismanagement of quarantine facilities.†† Problematically, however, the government chose to repress the largely peaceful protests, including by resorting to detention.††

* S. Gebrekidan, 'For Autocrats, and Others, Coronavirus Is a Chance to Grab Even More Power', *The New York Times*, March 30, 2020, <https://www.nytimes.com/2020/03/30/world/europe/coronavirus-governments-power.html>.

† Nepali Times, 'Lockdown Crackdown', *Nepali Times*, April 29, 2020, <https://www.nepalitimes.com/editorial/lockdown-crackdown>.

‡ OnlineKhabar, 'Parliamentary Committee Directs: Free NGOs from the "Burden" of Submitting Reports' [Sansadiya samitiko nirdeshan—gai.sa.sa. lai pratibedan bujhaunuparne jhanjhat bata mukta garideu], *OnlineKhabar*, May 14, 2020, <https://www.onlinekhabar.com/2020/05/864057>.

§ Kantipur, 'Parliamentary Committee Directs for Resources of NGOs to be Used for Corona Treatment' [Gairsarkari sansthaka sadhan-shrot corona upacharma lagauna sansadiya samitiko nirdeshan], *Kantipur*, May 14, 2020, https://ekantipur.com/news/2020/05/14/158945223717318692.html?fbclid=IwAR0WUk-OWV62Lg_227C07628P18eao5dnE81bjT0c3mgNVonfnKu0VYWARL.

|| Ibid.

M. Pokhrel, 'Due to the Pandemic, INGO Money Has Not Been Spent, Government Moves to Spend It on Corona Treatment' [Mahamari ka karan INGO ko rakam kharcha bhaena, corona upacharma kharchina sarkarko pahal], April 27, 2020, <https://www.himalkhabar.com/news/113486>.

** P.M. Shrestha, 'Foreign Non-government Organisations Commit Rs 1.2 Billion to COVID Response', *The Kathmandu Post*, May 31, 2020, <https://tkpo.st/3cl8rz7>.

†† 'Youths Defy Arrest Warning and Stage Peaceful Rallies Demanding Government Accountability Regarding COVID-19 Response', *The Kathmandu Post*, June 12, 2020, <https://kathmandupost.com/visual-stories/2020/06/12/youths-led-peaceful-protests-against-government-continue-in-various-cities>.

‡‡ 'Police Use Teargas, Water Cannons to Disperse Protesters', *The Kathmandu Post*, June 11, 2020, <https://kathmandupost.com/visual-stories/2020/06/11/police-use-teargas-water-cannons-to-disperse-protesters>.

working in the field of civil liberty, freedom of expression and press freedom have argued that these controversial bills and decisions aim to curtail civil liberties.¹¹⁴ CSOs have also been raising concerns on some provisions of the Bill to Amend and Consolidate Laws Relating to Establishment, Registration and Operation of Social Organisations 2019 that appear to 'manifest the "controlling mindset" of the government'.¹¹⁵

[com/news/pm-vents-ire-on-foreign-missions-i-ngos-for-unwarranted-interest-in-integrity-policy/](https://www.kathmandupost.com/news/pm-vents-ire-on-foreign-missions-i-ngos-for-unwarranted-interest-in-integrity-policy/); Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on freedom of religion or belief REFERENCE: OL NPL 1/201811 July 2018.

114 P.M. Shrestha, 'Non-government Organisations Concerned over a New Law to Regulate Them', *The Kathmandu Post*, November 3, 2019, <https://tkpo.st/36urSnx>.

115 'Nepal—ICNL', International Centre for Not for Profit Law (ICNL), last modified April 16, 2020, <https://www.icnl.org/resources/civic-freedom-monitor/nepal#glance>.

Particularly in response to the UN Special Rapporteurs' reservation, K.P. Oli, the Prime Minister, alleged that the diplomatic missions had begun raising a 'hue and cry' even though the government had not completed introducing the policy and further questioned the interest of 'foreigners' in a policy that was yet to be implemented.¹¹⁶ The government has also publicly questioned the credibility and accountability of CSOs in several instances.¹¹⁷ In another development that cause concern, the Commission for the Investigation of Abuse of Authority, the statutory body mandated to check corruption in government, has been demanding expansion of its authority to also look into corruption and irregularities of NGOs.¹¹⁸

Conclusion

A vibrant and independent civic space is intrinsic to a democratic society and the rule of law. While civic space in Nepal has largely been guided by the regime in place, it has also played a critical role in popular movements at various points in the country's recent history. While civic space was closed in the oligarchic Rana regime, the era of democratic politics that followed it was conducive to the growth of CSOs, although as a means to complement the activities of the state. CSOs also faced a severely restrictive environment during the Panchayat regime. Following the 1990 democratic transition, the space was created for participation of civic actors in policymaking, and in advocating for change. The Maoist insurgency resulted in the growth of an active civic space for defenders of democracy and human rights. The period following the end of the insurgency, however, saw the rise of fragmentation and partisanship with civil society which had been at the forefront of demanding change. The nature of civic space has thus been constricted while it has seen a

¹¹⁶ 'PM Vents Ire on Foreign Missions, I/NGOs for 'Unwarranted Interest' in Integrity Policy', *Republica*, July 27, 2018, <https://myrepublica.nagariknetwork.com/news/pm-vents-ire-on-foreignmissions-i-ngos-for-unwarranted-interest-in-integrity-policy/>.

¹¹⁷ 'Building CSO Enabling Environment in Nepal (BEEN)', NGO Federation of Nepal, accessed June 26, 2020, <http://www.ngofederation.org/node/271>.

¹¹⁸ R. Bajgain, 'CIAA Demands Jurisdiction over Private Sector as Well' [niji chhetra ma haat halna paunuparne akhtiyar ko maag], *OnlineKhabar*, May 14, 2020, <https://www.onlinekhabar.com/2020/05/864034>.

concurrent trend of the state introducing different provisions to curtail the space for civil activity in Nepal, a development that has become more pronounced over the years.

The state has demonstrated greater interest in CSOs' activities in development work instead of their advocacy and human rights functions. Several acts and draft bills have been designed to provide oversight authority to the government that have the potential to severely hinder the process of registration and functioning of CSOs. Laws and regulations that increase surveillance of prominent civil society actors as well as regulate the media's freedom of expression have also been drafted in the past few years. Citizens are also vulnerable to the use of excessive force by law enforcement agencies, and journalists face the risk of physical attack as well as criminal defamation charges. The country also seems to be moving in the direction of restrictive civic space with the planned adoption of restrictive laws governing CSOs, including receipt of foreign funds.

Recommendations

Based on the findings of this chapter, the following recommendations have been made to ensure that civic space in Nepal, specifically for the minorities, remains protected.

- i. Enable civil society organisations and non-governmental organisations to function without arbitrary administrative and bureaucratic hurdles.
 - Lift the threat of cancellation of registration of CSOs.
 - End unnecessary and uncalled-for requirements to receive funds from foreign sources, while ensuring that the standards of transparency and accountability are being met.
- ii. Ensure that an active and vocal civil society is present in the country by ceasing to repress dissent and peaceful protests.
- iii. Ensure that the media remains independent by ceasing all undue pressure in the guise of regulations to preserve 'national interest'.
- iv. Enable freedom of expression by discouraging and investi-

- gating unwarranted detention and arrests of individuals.
- v. Ensure that the government adheres to the international instruments that it is signatory to, such as the International Covenant on Civil and Political Rights (ICCPR), Busan Partnership for Effective Development Cooperation, and the Addis Ababa Action Agenda.
- vi. Ensure that the government upholds the commitments to inclusion, secularism and equality for all enshrined in the Constitution of Nepal 2015.

Annex

Assessment of Civic Space in Nepal: Survey Findings

An online expert survey on civic space in Nepal since the current government assumed power in February 2018 was conducted online with participants chosen through purposive sampling.¹¹⁹ Experts in various fields, including academia, media, advocacy, and development works, were identified with diversity in terms of caste/ethnicity, gender, and geographical representation taken into consideration. The survey was administered via SurveyMonkey after receiving consent from the participants. Of the 85 experts approached, a total of 51 individuals responded. There were 32 male and 19 female participants with 29 self-identifying themselves as a member of one or more minority groups.

Right to Civil Liberty

Survey results suggest that a majority of the respondents believe there is wide variance on how much civil liberties different groups enjoy (See Figure 1). A substantial plurality or majority disagree that members of different social groups, economic status, genders, and sexual orientations enjoy the same level of civil liberties. It is significant that not a single respondent agreed strongly with any of these four propositions. (The numbers in parentheses denote the question in the survey. See the annex for the full questionnaire.)

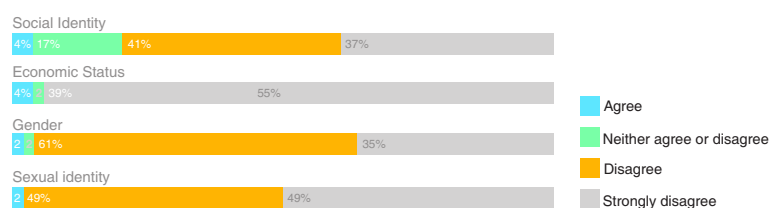


Figure 1: Civil Liberties Enjoyed Equally by Different Groups

¹¹⁹ The survey questions drew references from other similar surveys conducted in the issue, including the V-Dem Codebook. See Michael Coppedge et al., 'V-Dem Codebook v9' Varieties of Democracy (V-Dem) Project (2019). https://www.v-dem.net/media/filer_public/e6/d2/e6d27595-9d69-4312-b09f-63d2a0a65df2/v-dem_codebook_v9.pdf.

While a majority of the respondents agree that all groups have been allowed to form and register associations in order to advance their collective interests, the responses were divided with regard to the question whether the state has put any restrictions on registration and operation of CSOs (See Figure 2). While nearly 30 per cent of the respondents believed religious groups are not allowed to function freely, a majority believe that it has become more difficult in the operation of CSOs in general.

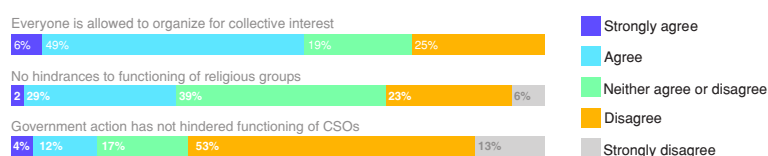


Figure 2: Freedom of Association in Practice

It is noteworthy that while only a small proportion of just over 10 per cent of the respondents believe there is lack of freedom of expression (See Figure 3), substantial majorities are of the view that the current government has been attempting to curtail the space for that freedom (See Figure 4).

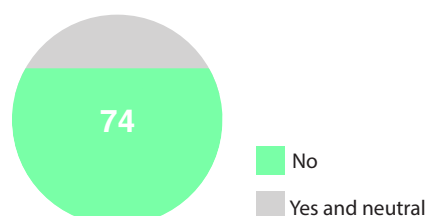


Figure 3: Existence of Full Freedom of Expression

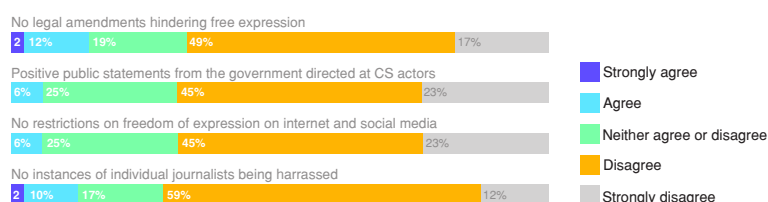


Figure 4: Freedom of Expression in Practice

A similar trend can be seen on freedom of assembly, whereby nearly four fifths of the respondents believe there is freedom of assembly in Nepal (See Figure 5). In contrast, a majority, an overwhelming one in the case of use of violence against protestors, believe the government has assailed that right in practice.

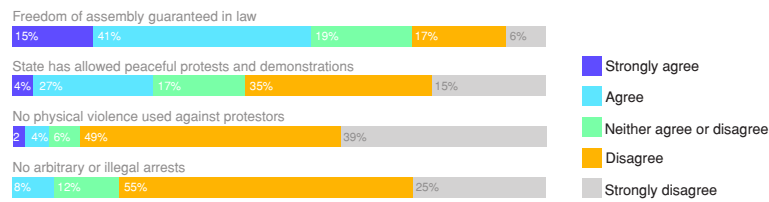


Figure 5: Freedom of Assembly in Practice

The respondents were mostly neutral when asked about how active the courts have become in passing judgements related to freedom of association, expression, and peaceful assembly, with nearly equal proportions believing the courts have or have not been progressive enough (See Figure 6).

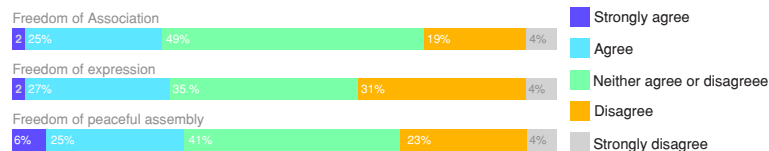


Figure 6: Progressive Court Judgement on Fundamental Freedoms

On the current government and its leadership, the survey results showed the majority of respondents agree that the prime minister is portrayed as being endowed with extraordinary abilities, and more than two thirds believe that the government has promoted a specific ideology or societal model as well as touted their performance to justify its rule (See Figure 7).

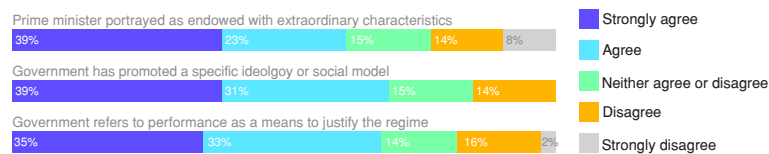


Figure 7: Legitimacy of the Current Government