

# National communication policies and constitutional framework affecting pluralism in Nepal

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Constitutional Framework Affecting Pluralism In Nepal**

**By**

**Badri B Karki**

NATIONAL COMMUNICATION POLICIES AND CONSTITUTIONAL  
FRAMEWORK AFFECTING PLURALISM IN NEPAL

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1. Pluralism and Constitution:

Nepal is a multiethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and constitutional monarchical kingdom ( Article 4(1)). Having common aspirations and united by a bond of allegiance to national independence and integrity of Nepal the Nepalese people irrespective of religion, race, caste or tribe, collectively constitute the nation ( Article- 2 ). The Nepali is the official language but all other languages spoken as the mother tongue in Nepal are also recognised as the national language. No citizen shall be discriminated on grounds of religion, race, sex, caste, tribe or ideological conviction or any of them. From these constitutional declarations and guarantees it is evidently <sup>clear</sup> that the present constitution of Nepal is earnestly committed to preserve, protect and promote pluralism in all important forms and facts.

2. Freedom of Speech and Press:

The constitution not only guarantees freedom of opinion and expression as a fundamental right but also the right of press and publication in an absolute terms. Freedom of

- 2 -

opinion and expression could be restricted by law made for the protection of sovereignty and integrity of the country, or maintaining harmonious relations among various castes, tribes or communities or on any act of sedition, defamation, contempt of courts or incitement to <sup>commit</sup> an offence, or any act contrary to public decency or morality. No news item, article or other reading material shall be censored except by law imposing reasonable restrictions on any act which may undermine the sovereignty and integrity of the country, or which may jeopardise harmonious relations among various people, or on any act of sedition, defamation, contempt of court or incitement to an offence or any act contrary to public decency and morality. However, no press shall be closed or seized for printing any news item, article or other reading material. In the same way, the registration of a newspaper or periodical shall not be cancelled for publishing any news item, article or other reading material. These fundamental freedoms as guaranteed by the present constitution of Nepal have evidently emboldened the Nepalese media within a short period of the restoration of democracy.

### 3. Right to Information:

One of the most fundamental of the fundamental rights that the present constitution has guaranteed is the right to

- 3 -

information. This right by its very nature is of high value and significance to media. By virtue of this right every citizen is entitled to demand and receive information on any matter of public importance except those matters which are subject to secrecy laws. As, so far no laws on secrecy have been enacted, in practice, this has contributed in creating confusion on exercise of this precious right. It can only be hoped that the government will take initiative in implementing this right.

4. Directive Principles/State Policies:

Like few other constitution, our constitution has reserved a chapter for the provision of the Directive Principles and Policies of the State which although are not justiciable but to be considered fundamental for the governance of the country. By article 25 the state is under obligation to promote conditions of welfare on the basis of the principles of an open society by establishing a just system in all aspects of national life. The state shall as a matter of policy, while maintaining the cultural diversity of the country, pursue a policy of strengthening the national unity by promoting healthy and cordial social relations amongst the various religions, castes, tribes, communities and linguistic groups and by helping in the promotion of their languages, literatures, scripts, arts and cultures.



- 4 -

5. Some legislations relating to media:

There exist a number of legislations that regulate and control the right relating to media in Nepal. Among them are Radio Nepal Act 1958, Telecommunications Act 1962, Postal Act 1962, National News Agency Act 1962, Gorkhapatra Corporation Act 1962, Cinematograph Act 1969, Communications Act 1972, Press and Publications Act 1991, Press Council Act 1993, National Broadcasting Act 1993. Some of the enactments which were enacted under the past regime that professed and protected only one ideology of partyless polity still remain to be updated in line with the scheme of the present constitution.

6. Government Media Versus Private Sector Media:

As the first newspaper was started some 82 years back <sup>by</sup> the government, <sup>itself they</sup> still continue to publish newspapers. The only National News Agency that collect and disseminate information still continues to be controlled by government. The electronic media—Nepal Television and Radio Nepal—are owned by government and managed by a government nominated Board of Directors. These government media are made to work under virtual censorship on many occasions. The private sector print media although legally free, due to resource constraints both in terms of professional

- 5 -

skill and modern technology, are finding it hard to compete with the government and foreign media. Compared to government media the private media has been able to maintain and establish some degree of credibility among the readers. There are some papers in private sector which have strong affiliation with the political parties, *are therefore obliged to toe the party line.*

#### 7. Support Institutions:

There are few institutions and organisations which provide some kind of services to private media in Nepal. To name few of them. Press council, Journalist Association of Nepal, Press Institute *may be noted.*

#### 8. National Communications Policy:

The first communication policy for Nepal was declared and launched in 1972 which remained in operation till 1988. After the restoration of Democracy <sup>in</sup> 1990 which replaced the past regime a new communication policy was formulated in 1991. However, after the promulgation of the present democratic constitution it was increasingly felt that a new communication policy be formulated and implemented. A taskforce was constituted under the convenorship of an Upper House Member comprising members from private press sector with the task of making recommendation on National

- 6 -

*Policy*  
Communication. On the basis of the recommendation of the said taskforce a new communication policy has been announced in 1993 by the government. Under the new policy the government has decided to privatize its media and extend concessional facilities to private press in terms of subsidized news print and some advertisements. There is nothing in the law that could stop the government from privatizing the government owned media, but the delay in implementing these policies (already committed) is beyond comprehension. In days to come more policy measures may have to be formulated in line with the constitutional directives and need implemented. After all the laws whether the legislative enactments or constitutional laws they are only the legitimate means of policy implementation.

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