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Review of National Communication Policies and Legal Frameworks Affecting Broadcasting

by

Chandi Raj Dhakal
"Where it left to me to decide whether we should have a government without newspaper or newspapers without a government, I should not hesitate to prefer the latter," Thomas Jefferson wrote this in 1787 in describing the pre-eminent role of the press in a democracy. Jefferson was speaking of the American press as he knew it 30 or so short weekly newspapers, each taking a highly partisan stance on the issues of the day. The founding fathers of American republic saw the changed exchange of ideas in these publications as essential to democracy, and they enshrined freedom of the press in the first Amendment to the Constitution of America.

Communication with the people is necessary in any society and in any form of Government. It is much more so in a democracy where the Government depends on popular backing. People must be told about the Government plans, programmes, policies, activities, success, achievements, etc. so as to involve them and to get their willing participation, also communication from the people—reaction of the people to the policies and programmes must reach the policy makers and administrators to enable them to modify or change the programmes accordingly. The basic function of mass communication is to provide information, education or instruction and entertainment to the people.

Today we are living in a small world. Distance is no longer relevant to our way of life, with a telephone we can contact anyone at any time and at any place around the world with a computer a modem and telephone we can access almost any kind of information stored in computer in major centers of this world. With a television set we can witness "Live transmission" of almost any event around the world. The global communication network enables us to access. Collect process and deliver information from an office or a terminal to almost any place in the world. Indeed we are now part of global connectivity, global mobility and global information society. Within this environment a nation or a region can no longer progress or have a competitive advantage without the support of high quality communication networks. One of the system which have played a significant role in the improvement of communication services is the satellite system. Satellite technologies offer wide coverage, high-quality, high speed and multi-service offering transmissions.

The political change that took place in Nepal in 1990 too has had a dramatic impact on the mass media in Nepal, because a country's communication system tends to reflect changing attitudes in the new political system. Like Jefferson many politicians, media professionals and the intelligentsia in general express their desire to see a well developed fair accurate and strong communication media in Nepal.
The constitution fully guarantees the freedom of thought and expression (in Article 12) and the right to press and publication (in Article 13). The latter provides that no news item, article or any other reading materials shall be censored. Sub Article (2) further provides that no press shall be closed or seized for printing any news item article or any reading materials. Similarly, subarticle (3) provides that the registration of newspaper or periodical shall not be canceled merely for publishing any news articles or any reading material. Further, Article 16 Confers on every person the right to information.

His Majesty’s Government of Nepal has recently formulated a National Communication policy, 1992 which in many terms is in time with the democratic spirit that we wish to develop in our country. This policy broadly covers newspapers, broadcasting, information, government media, postal services, motion pictures, telecommunication sector as well as our policies on the management of our departments and corporations. I would like to present an overview of this policy.

No communication policy can be absolute and for a long period of time. It has to be adopted to the prevailing political, social and economic conditions as well as developments science and technology. His Majesty’s Government has formulated communication policy in many times before restoration of democracy, 1990. The communication plan first prepared in 1971, and second National Communication Policies and programmes of HMG has passed in 1983. The interim Government announced a new media Policy in 1991.

Following the general elections in May 1991 and formation of a new Government with popular mandate a 16 members Task Group was formed to frame a new communication policy in keeping with the re-introduction of democracy in the country. Acting on the recommendation made by the Task Group the Government announced the New National Communication Policy on September 17, 1992.

The preamble to the policy document explains that the purpose of the new policy was to make all the media of communication and information "credible, effective and efficient" and to "harness the most advanced technology and processes available in the fields of information and communication" with increased communication policy of 1992 sought to achieve the following objectives and policies.

1. OBJECTIVES;

1.1. To inform the public about the economic and social activities of the country and promote the freedom of expression and the right to information of the people as guaranteed by the constitution of the kingdom of Nepal, 2047 (1990) and to ensure the institutional development of democracy while upholding the sovereignty, territorial integrity and national independence as well as the dignity of the kingdom of Nepal.

1.2. To make the communications media efficient so as to make citizens conscious by creating an environment of equality, mutual goodwill and harmony among the various tribes, languages, classes and religious communities in such manner as the people in general may, on the basis of the rule of law, enjoy the benefits of democracy peaceably.
1.3. To make the communication media active so as to facilitate the protection and consolidation of the basic norms and values of the constitutional monarchy, the multi-party democracy and the national unity in line with the top priority of the national interest.

1.4. To make the information and communication sector active so as to preserve the various aspects of national identity and significance, as well as to secure peoples participation, international cooperation and goodwill in the process of all-round development of the nation by creating public awareness.

2. POLICIES:

2.1. POLICIES ON NEWS PAPERS

2.1.1. Any Nepali Citizen shall be entitled to publish news papers in any language in course of exercising the people's freedom of opinion and expression and the right to information.

2.1.2. The profession of Journalism shall be recognized as an industry for the institutional development of newspapers.

2.1.3. An environment shall be created to make the field of journalism financially and materially self-reliant by making it independent, dignified and responsible while at the same time developing the private-sector journalism in a competitive manner.

2.1.4. News papers shall be classified on the basis of their status of circulation and regularity. Newsprint and other materials shall be made available at a reasonable price in an accessible manner.

2.1.5. His majesty Government shall, on the basis of their status of circulation, level of standard and regularity, classify newspapers of the private sector and make them also available advertisements of government notices and of public sector services.

2.1.6. An environment shall be created to enable the private sector newspapers to avail, on the basis of their classification, advertisements of the Government and semi-Government industries and enterprises.

2.1.7. Newspapers shall be provided their right to collect the news without any hindrance under the laws and regulations.

2.1.8. Newspapers shall be provided the facility of exchanging the news including that of delivery.

2.1.9. Efforts shall be made to provide loans to newspapers at a concessional rate of interest to keep printing press on the basis of fixed criteria.
2.1.10. Literary and subject wise newspapers that are being published on a monthly, bi-monthly and quarterly basis shall be, on the basis of classification, offered advertisement and provided other facilities as par with other newspapers.

2.1.11. Laws and regulations relating to the protection of rights, interests and freedoms of working journalists, employed in a publication enterprise recognized as an industry shall be enacted and framed and thereby provided protection to this profession.

2.1.12. Any publication, importation, sales and circulation of newspapers that are obscene, sensitive and are likely to spread disorder in the society shall be banned.

2.2 POLICY ON INFORMATION

2.2.1. In order to safeguard the right to information of the people guaranteed by the constitution, His Majesty's Governments shall make avail all kinds of information to the communication media except those restricted by law.

2.2.2. In providing information to the communication media, priority shall be given to the national communication media of the Government and private sector.

2.2.3. Arrangements shall be made to make the spokespersons on the various ministries of His Majesty's Government effective in generating publicity of information and thereby to provide information on a regular basis.

2.3 POLICIES ON THE COMMUNICATION MEDIA IN GOVERNMENT SECTOR

2.3.1. Priority shall be given in the publication and broadcasting of news of national and international events featuring subjects of news value, not merely focusing on criteria of protocol alone.

2.3.2. Impartial, objectives and credible news shall be gathered, published and broadcast as well as news on rural development shall be given appropriate place.

2.3.3. News items that are likely to spread religions, intolerance, cause rift among religions, classes, genders, ethnic groups, communities and so on and invite Seditions activities shall not be encouraged.

2.4. POLICIES ON POSTAL SERVICES

2.4.1. Postal services shall be made prompt, credible and effective and an post office area in each of the village development committees shall be established and thereby provided postal services upto the village level.

2.4.2. Priority dealing shall be secured from the transport enterprises and concerned agencies in order to bring about regularity in the transportation of postal items.
2.4.3. Domestic and foreign expedited mail service shall be run in an efficient manner.

2.4.4. Private-Sector agencies involved in services similar to the nature of activities of the postal services shall be regulated and managed.

2.4.5. Postal stamps featuring the Nepalese art, culture, nationality, geographical landmarks, bio-diversity events and acts of historical significance as well as the national level construction works of huge scale shall be published in order to keep them in public vision.

2.4.6. Postal stamps featuring important international events shall be published.

2.5. POLICIES ON MOTION PICTURES

2.5.1. For the suitable development of Nepalese Film Industries, entrepreneurs engaged in the production, exhibition and circulation of motion pictures shall be encouraged to open up new investment opportunities.

2.5.2. A situation shall be created where by production and processing of the Nepalese film could be carried domestically while preparing an environment where by artists and technical man-power engaged in film industries might be in a position to obtain necessary training and incentives.

2.5.3. All the parties engaged in the production and exhibition of film to be produced in the Nepali Language and in any other national language of Nepal shall be provided special incentives.

2.5.4. An environment conducive to the promotion of Nepalese art, culture, song and music as well as the improvement of professional skills of artists engaged in these fields shall be created.

2.5.5. The responsibilities and criteria of the Film Censor Board shall be spelt out and all kinds of films to be exhibited within the kingdom of Nepal shall be censored.

2.5.6. Arrangements shall be made for the censorship of also the motion pictures shot in Nepal and intended to be exhibited in foreign countries on the ground of a definite criterion.

2.6. POLICIES ON TELECOMMUNICATIONS

2.6.1. To develop and expand telecommunication services as a very essential service in order to foster it as an infrastructure of national development.

2.6.2. To encourage and make the private sector participate in the development and operation of the telecommunication service.
2.6.3. For the purpose of telecommunications service to divide the kingdom of Nepal into three regions an extremely remote, remote and accessible regions and to establish suitable telecommunications and at points in the extremely remote and remote regions requiring an average of not more than six hours walking distance.

2.6.4. Gradually to introduce suitable modern communication technology in order to provide useful, efficient, reliable and unhindered communications services to the people in general.

2.6.5. To encourage the private sector to produce and install advanced communications equipment indigenously.

2.7. POLICIES ON BROADCASTING

2.7.1. Radio and television broadcasting shall be managed by enacting a separate act relating to broadcasting.

2.7.2. Satellites and cable television shall be regulated and managed by enacting and framing laws and regulations relating thereto.

2.7.3. Programmes to be aired on the government-owned broadcasting agencies shall be divided into two services, namely the National Service and the Commercial Service.

2.7.4. Programmes shall be broadcast in the various national languages in a gradual manner under the concept of regional broadcasting.

2.7.5. Participation of the private sector shall be increased in the production of programmes to be aired on Radio and television.

2.7.6. Broadcasting time may be made available to the private sector at their request for beaming educational and recreational programmes on radio and television on the basis of fixed criteria.

2.7.7. Without prejudice to the national interests and on the basis of fixed criteria and procedures, foreign communications media, if they so wish, may be available time for broadcasting educational and recreational programmes.

2.7.8. Subject to the broadcasting Act, corporate bodies from the private sector shall also be permitted to set frequency modulation (FM) broadcasting system in any defined area and broadcast educational and recreational programmes.

2.7.9. The Nepal Television and Radio Nepal shall be provided assistance to expand their broadcasting.

2.8. POLICIES ON MANAGEMENT OF DEPARTMENTS:
2.8.1. The Ministry of Communication was renamed Ministry of Information and Communications.

2.8.2. To develop the postal services Department into an autonomous administrative structure by making it available modern technology and material support for the strengthening of the postal services.

2.8.3. To name the Department of printing and publication as the Department of Printing and Develop, expand and consolidate the printing facilities of the Department of Printing into the Security printing press that mainly prints the confidential publications and security printing materials.

2.8.4. Not to operate by His Majesty's Government other commercial printing press except his Majesty's Government press to be developed as the security printing press.

2.8.5. To name the department of press information as the Department of Information to strengthen information services and operate this department in such manner as to have a significant bearing on the development of a dignified and institutionalized journalism.

2.8.6. To establish communications centers to generate effective flows of information and to provide services to the communications media.

2.9. POLICIES ON THE MANAGEMENT OF CORPORATIONS.

2.9.1. To name the Royal Nepal Film Corporation as the Nepal Film Development Corporation in order to operate it as a corporation conducive to make contributions to the development of the Nepalese Film Industries and as part of privatization, issue its share to the private sectors.

2.9.2. Shares of the Rastriya Samachar Samiti and Gorakapatra Corporation would be sold to the public with the ultimate aim of managing it under Joint rather Government ownership.

2.9.3. To grant autonomy to the management of the Nepal Telecommunications Corporation and to expand it with the participation from private sector.

2.9.4. To develop the administrative structures of the Radio Nepal and the Nepal Television into the National Broadcasting Authority.

2.9.5. To develop the management of institutions under the Government ownership such as the Radio Nepal and the Nepal Television into autonomous structures.
2.9.6. To reduce ex-officio representation of government officials in the Board of Directors of the Government owned corporations and to induct individuals with professional and managerial capabilities.

There have been positive indications of actions taken by the government to implement the provision of the National Communication Policy, the National Broadcasting Act, 1992 (2049) passed by the fourth session of parliament. Now we are in the process of formulating the National Broadcasting rules. The Nepal Film Development Corporation has recently changed its shares for sale to the public through newspaper advertisements.

No separate act governing broadcasting existed during the three decades of Panchayat regime. His Majesty's Government Nepal has issued the order, the formerly government controlled radio department was turned into a corporatism as radio broadcasting service development committees in 1984 under development committee Act, 1956 (2013) clause 3. The duties and responsibilities of this committee have ascertained to operate broadcasting service through Radio Nepal with a view to disseminate information on national and international activities and in order to promote economic, intellectual and social upliftment of the nation and the society by keeping national interest uppermost.

The committee may perform following functions to fulfill its duties and responsibilities under this order.

1. To make policies for the development of Radio Broadcasting.
2. To expand Radio Broadcasting Service.
3. To mobilize necessary resources and facilities for the improvement and expansion of Radio Broadcasting service.
4. To receive Loan and other assistance from international agencies with the permission of His Majesty's Government.
5. To run the advertisement service on Commercial basis in order to make radio broadcasting service self-reliant.
6. To produce skilled man-power for making Radio Broadcasting Service more interesting.
7. To conduct research and study as necessary to manage broadcasting in a practical and scientific way.
8. To present before his Majesty's Government the early report of the radio broadcasting service.
9. To perform other functions as necessary to implement the mentioned functions.
During the decade of seventies (1971) the Communication Corporation Act, expedient to formulate legal provisions for the establishment of communication corporations. The Television Corporation was established under this Act. His Majesty's Government has issued notification about television broadcasting in Nepal. The main objectives of the corporation are in accordance with this notification, as "keeping in view the international development of technology and the growing demand of times the corporation shall be the preservation of the cultural heritage and the conservation of natural resources of Nepal as also to promote national interest propagating national consciousness among the general public through the medium of television by the efficient operation and expansion of the Nepal Television transmission service. The duties of this corporation to expand the television service throughout the kingdom by adhering to the principles of the profession.

The corporation may perform following functions under this notification.

1. To strive for achieving self reliance.
2. To bring about improvement in the management of corporation in order to enhance the quality of television services.
3. To expand professional programmes of the corporation.
4. To formulate the policies of the corporation and adopt necessary measures for their implementation by remaining within the directives of His Majesty's Government.
5. To make necessary arrangements for the transmission of television programmes to all parts of the kingdom of Nepal.

The above mention order and notification are relating to broadcasting.

At present the administrative reform suggestion commission has presented his report mentioning that the Radio Nepal and Nepal Television have to be govern under one umbrella as National Broadcasting Authority, though they will have their separate identity. The main objective of this report is to develop Radio Nepal and Nepal Television as an autonomous institution to safeguard the people's right to information through radio and television broadcasting and disseminate development and information to the people in areas such as agriculture, science, technology and environment conservation.

Now we are in the process of drafting the National Broadcasting Authority (Radio Nepal and Nepal Television) Bill under this act the duties of the broadcaster will be determined to needs of community attitudes on such things as the portrayal on television
of sex, nudity, coarse language and violence. They must also accept complaints from the public about the broadcasting service they provide. The drafted bill will be forwarded at the next session of parliament in the beginning of 1994, and we would like to assured that the broadcasting authority Bill will successful to systematize in our audio visual system.

The first independent National Broadcasting Act, 1392 (2049) came into force 09.06.1993 (2702.2050) nearly five month ago. Due to the pass of this Act the significant change was taken place in the sector of broadcasting; that was before this act the broadcasting media were govern under the control of government. Now according to this act government has only the right to monitoring, to formulating the broadcasting policies and operate them. Similarly government may issue the license for to operate satellite, cable or frequency modulation (FM) broadcasting to a particular person as well as corporate body; but the institution need: not function under the direct control of government as earlier. The salient features of this act are as follows:

1. To make the broadcasting media credible, effective and consolidated by taking account the fundamental spirit of the freedom of opinion and expression and the right to every citizen to demand and receive information of any matter of public importance as guaranteed by the constitution of the kingdom of Nepal, 1990 (2047).

2. To way communication of the economic, social and cultural activity between people and government.

3. No person or corporate body cannot broadcast any programme without license.

4. Private sector may participate in the production of programmes on the basics of fixed criteria and procedures.

5. Foreign broadcasting corporation and communication media, if they so wish, may be made available time for broadcasting recreational, educational and news oriented programmes.

6. Programmes, opposite of our foreign policy, harmful for our sovereignty, territorial integrity and national independence or contempt of our socio-cultural condition could not be allowed for broadcasting.

7. To discourage broadcasting of advertisement for commodities which cause adverse effects on health such as smoking and liquors.
His Majesty's Government may restrict to broadcast any programmes considering to nation and national interest.

The broadcasting corporation, broadcaster and other related person shall be liable to on imprisonment for a period of one year or fine of ten thousands rupees or both, if they worked against this act.

The Broadcasting Act, 1992 provides for the licensing of private TV and radio in addition to the national stations. The Government may issue licenses for the following items under this act.

a. Establishment of up link/down link earth station facilities for broadcasting purposes.

b. Reception/distribution of satellite broadcasting signals via cabling to the general public.

c. Establishment of frequency modulation (FM) broadcasting station.

Under the same act the foreign person or corporate body are also allowed to establish of up link/down link earth station for joint venture operation with their Nepalese counter part.

So, the above mentioned act has opened the door for private parties to establishment or operation of broadcasting corporation in Nepal. The following reasons were played main role the privatization of our broadcasting medias.

1. The fast rate of technological advancements in the audio visual field.

2. The use of satellite for broadcasting.

3. The creation of healthy competition among broadcasting networks.

4. Balancing the popular conception of broadcasting as an entertainment medium with social service and information.

Now National Broadcasting Rules also in the process of drafting under the National Broadcasting Act, 1992. So we are hopeful that it will come quickly. The rules will legalize about the process of to take licenses, its terms and period, renew process, fees and other procedural matter.

In substances the communication policies that were announced by the government from time to time. It should be suited to the political, social and economic condition prevailing at any given
time in the country's history. The new communication policy designed for a democratic system of government. So our future programmes will be directed towards the fulfillment of these policies. In the field of implementation of this policies, we are encouraged by the fact that some positive developments have taken place in recent years and a great deal still needs to be achieved. Laws relating to the protection of rights, interests and freedoms of working journalists bill also will be submit in our sixth session of parliament.

Our broadcasting media Radio Nepal and Nepal Television will turned into authority, while the National Broadcasting Authority Bill will passed from our parliament.

The radio is the cheapest and most universal communication media in Nepal. Radio broadcasts are estimated to cover about 90 percent of the population. A task force will be constituted in the near future to choose languages recommendations. Nepal Television project was setup in 1985 and transmission of programmes was started from December of the same year. Now, its programmes can be viewed in 35 districts (out of total 75 districts) and are said to cover 23 percent of the population. So we have to reform our broadcasting organisation in accordance with our National communication policy. The National Broadcasting Authority Act and National Broadcasting Rules are recently need for to accomplish the objectives of our National communication policy. So the successful implementation of National Broadcasting Act and above mention Rules is the necessity of today for the reform of Radio Nepal and Nepal Television.

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