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The Need for a Citizen-oriented Radio Policy

Introduction

Key in democracy is the right of citizens to freely express their voice and the right of citizens to access information. In any democratic country, such rights are constitutionally guaranteed. The existence of an independent media plays an important internal role in ensuring these rights, and where democracy prevails, the media tends to be independent; media and democracy playing a complementary role. The past history of Nepal shows this relation – the media was promoted with the establishment of democracy in 1951, but restricted again in 1960 when the then king dismantled the democratically elected government. Following the restoration of democracy in 1990, the hitherto restricted media became free again and the very powerful medium of communication, the radio, became open through the private sector.

In terms of the radio, following the establishment of Radio Nepal in 1951, for about half a century radio transmission was monopolized by the state. The 1990 constitution guaranteed the right to information, and press freedom and freedom of expression. In 1993 after the new broadcasting policy was formulated, the entry of the private sector in the broadcasting realm was recognized at the policy level for the first time. The National Broadcasting Act, 1993 and the National Broadcasting Regulation, 1995 followed. Private sector radio began to operate according to these act and regulation. According to the website of the Ministry of Information and Communications (MoIC), till the October 2012, there were a total of 472 radios which had received broadcasting licenses. Of this total, 327 FM radios are broadcasting regularly.¹

¹ Although the MoIC website has serial numbers up to 476, the serial number 164 is blank and three details of radios are repeated. Thus the actual number of radios granted permission is 472. See www.moic.gov.np; accessed on 13 October 2012.



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Since its establishment, state controlled Radio Nepal has functioned to only relay government information.² In the absence of a two-way dialogue, ordinary Nepali citizens were not able to have a sense of ownership of this medium. Although this set-up to some extent enabled the state to relay information to ordinary citizens, it was unable to function as an effective mechanism through which citizens could voice their concerns at the policy level. A key factor behind the establishment of FM radios was the envisioned goal of making citizens owners of radios, through which their voices could first be taken from the local government up to Singh Durbar.³ Indeed, the preamble of the National Broadcasting Act, 1993 notes that one of the reasons for granting the operation of independent radios was to enable the unrestricted use of citizen's right to freedom of expression, the right to information guaranteed by the constitution and to enable citizens to actualize democracy at the local level through independent local radios.⁴

Given the fact that just under half the population in Nepal is illiterate, the economy is weak and there is inadequate infrastructure, the radio remains the most powerful medium of communication in Nepal. Unsurprisingly, since the establishment of FM radio, citizen's access to information has increased. Citizens who are able to access radio technologies have been able to express their opinions through the radio.⁵

However, despite their somewhat positive roles, FM radios have not been able to carry the voices of marginalized citizens. The concerns of the poor and marginalized citizens living in remote areas, local issues and the language spoken by the majority in those areas have not received appropriate space in FM radios. Not only are there are few programs containing local concerns and in local languages, even when they do exist, with a few exceptions, they are given minimum priority in terms of time and space.

Studies have shown that the operational management of FM radios remains in the hands of the powerful and FM radios have been unable to play their expected roles for the rights of the poor and marginalized.⁶ When the licenses for radio operation are opened to the public, it is the elites who are first to receive licenses enabled by their access to power. Further, even if the licenses are distributed in an open manner, establishing and operating costs result in the primacy of the elite and rich class. Predictably, their primary concern is not the poor and marginalized.

It is the responsibility of the state to eliminate obstacles and enable all citizens to enjoy constitutionally guaranteed democratic rights. However, the Nepali state has limited its obligations to citizens to making licenses open for all. It has no real interest in widening the usage of radio in order to strengthen democratic foundations. This is clear from the indifference shown by the state in formulating or even implementing existing recommendations and policies. As the transition period extends, the state has not been able to prioritize the review of radio policies and solutions to the problems in the broadcasting sector seem more uncertain.

This policy paper on the FM radio sector is focused on analyzing major policy problems and suggesting possible strategies for improvement. The first concern raised is the classification of FM radios and the need

² Although some informal radio broadcasting existed before, formal and regular radio broadcasting in Nepal only began only after the establishment of Radio Nepal in 1951. See, Onta, Pratyoush, Shekhar Parajulee, Devraj Humagain, Krishna Adhikari and Komal Bhatta, eds. 2004. *Radio Nepalko Samajik Itibas*. Kathmandu: Martin Chautari.

³ The campaign for independent radio from international and national level was envisioned for the empowerment of citizens through the effective use of communication. For more details see, Mainali, Raghu. 2002. *Samudayik Radio Sangharshashil Yatra*. In *Sthaniya Radio: Sambhavana ra Upayogita*. Pratyoush Onta and Raghu Mainali, eds., pp. 25–33. Kathmandu: Nepal Press Institute and Martin Chautari.

⁴ See the preamble of National Broadcasting Act, 1993.

⁵ See, Onta, Pratyoush. 2008. *Swatantra Radio ra Srota: Bahaska Kehi Sawal*. *Media Adhyayan* 3: 59–81.

⁶ See, UNDP. 2009. *Communication for Empowerment in Nepal: An Assessment of Communication and Media Needs among Indigenous Peoples*. Bangkok: United Nations Development Program (UNDP).



to differentiate between different forms of radios. The second point raised in this policy paper is the need to make frequency and license distribution procedures systematic and transparent while the third issue raised is the need to establish an independent and autonomous institution for monitoring and regulating the broadcasting sector. The paper ends with some key recommendations.

Classification of Radios and Stressing the Responsibility towards Community

FM radios in Nepal have been established via various investments from different sources. More specifically, FM radios have been established by private companies, non-governmental organizations (NGO), co-operatives, government bodies such as the elected local bodies, Radio Nepal and the Metropolitan Traffic Police department and educational institutions (see figure 1). All of these organizations have differing purposes and priorities. There are groups that seek to profit by selling their productions (programs) in the market just as any other business oriented industries. In contrast, other groups seek to exchange information with target groups or communities while raising awareness on developmental issues.

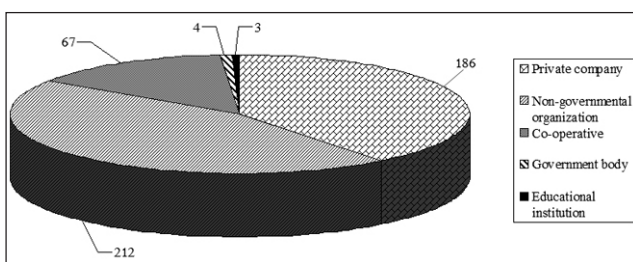


Fig. 1: Distribution of licenses according to nature of ownership. Source: www.moic.gov.np; accessed 13 October 2012.

However, the broadcasting policy of 1993 and broadcasting act of the same year does not make a distinction between types of radio.⁷ In other words, while there has been national and international

recognition of the achievements in community radio in Nepal and till October 2012 more than 200 non-profit radios have been in operation, the law makes no legal differentiation between commercial and community radios.

However, although the law does not differentiate, voices have been raised for radios to be classified based on their purpose and nature. And radios themselves have identified themselves either as commercial or community based on the nature of managing organization. Thus radios operated by private, profit oriented companies are recognized as commercial radios. In general, radios operating with a non-profit motive like non-governmental organizations, co-operatives, government bodies, and educational institutions are considered as community radios.

However, although radios have classified themselves based on ownership, such a simple categorisation however is fraught with ambiguities. For example, even though Madan Pokhara Village Development Committee is the legal owner (license is issued to the VDC) of the Radio Madan Pokhara, it is recognized as a community radio as it is run by an independent management committee. Radio Madan Pokhara is also a member of Association of Community Radio Broadcasters Nepal (ACORAB). In contrast, Metro FM which is owned by the Kathmandu Metropolitan City Office is not considered as a community radio as it is regulated under the direct control and command of the Office, an organ of the government. Neither is Metro FM a member of ACORAB either. To make things more complicated, even if they are under the control of similar bodies, it is apparent that one is recognized as a community radio if a little more autonomy is conferred, while another is not if it has a little less autonomy. Of the two remaining radios under the ownership of government, one is under the control of Radio Nepal, through which Radio Nepal relays its central broadcasting. Radio Nepal used to lease that frequency to the private sector. The fourth radio under the ownership of a government body is Metro Traffic FM run by the Metropolitan Traffic Police Division, Kathmandu.

⁷ See, Humagain, Devraj and Pratyoush Onta. 2008. Kanunle Nachinne Nepalka Samudayik Radio. *Sambita* 2: 34-40.



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In all, radios have been established via the investment of the government and the private sector along with a host of non-governmental and other organizations of different characters. A debate also exists as to whether radios operated by co-operatives are community radios, given that they are not completely non-profit making but can distribute some portion of profit among share holders by law.

Discourse on Classification and its Relevance

The demand for the legal classification of FM radios based on their nature and the service they offer has been raised since the last decade. Different task forces and commissions for recommending policy level legal revisions for FM radio and other broadcasting mediums formed by the government and non-government sectors have stressed the need for classification. More than six task forces and commissions have been formed from government side alone.⁸ Such task forces and studies in the past have recommended classifying FM radios into commercial and community or non-commercial.⁹ For example, the long-term communication policy promulgated in 2002 highlighted the need to classify broadcasting media based on their services.¹⁰ Similar

⁸ The reports of all task forces formed could not be accessed due to the lack of organized archiving. The reports that were accessed are: Koirala, Bharat Dutta, coordinator. 2002. *Bidyutiya Sancharmadhyamlai Byabasthit ra Bikasit Gari Sanchalan Garnebare Sujhabharu*. Unpublished report, MoIC; Adhikari, Mahesh Prasad, coordinator. 2003. *Prasaran Pranaliko Bikas, Sanchalan ra Sudharka Sambandhama Gathit Samitiko Sujhau*. Unpublished report, MoIC; Adhikari, Radheshyam, coordinator. 2006. *Uchchastariya Media Sujhab Ayog Pratibedan, 2063*. Kathmandu: Secretariat of High Level Media Commission, Information Department; and, Shukla, Tapanath, coordinator. 2006. *Bidyutiya Sancharmadhyamlai Byabasthit tatha Niyaman ra Rastriya Prasaran Pradhikaransambandhi Bidheyek Tarjuma Garna Gathit Karyadalko Sujhab*. Unpublished report, MoIC.

⁹ Although most reports, on the basis of overall radio broadcasting, point out that radios like the government operated Radio Nepal with its nationwide coverage should be categorized under 'Public Broadcasting Service,' the issue of Public Service Broadcasting is not discussed in this policy paper as it is centered on local FM radio.

¹⁰ See, HMG. 2002. *Suchana tatha Sanchar Chhetrako Dirghakalin Niti 2059*. Kathmandu: MoIC, p. 24.

recommendations have been made by other actors including organizations working for community radios especially Community Radio Support Centre (CRSC)¹¹ and the ACORAB. They have been lobbying for clear definitions and legal provisions for community radio and other non-commercial radios.¹² The need for classification clarity has also been stressed by donor agencies working in communication sector such as UNESCO. In one of its reports, UNESCO recommended that radios should be classified in three categories: public, private and community.¹³ In another study done by International Press Freedom and Freedom of Expression Mission to Nepal in 2008, the bundling of different types of radio into a single category is listed as a legal weakness.¹⁴ Overall, different stakeholders in the sector and radio promoters/operators have stressed the need for classification.¹⁵ However, policy recommendations not only on broadcasting but also on communication have never been translated into law let alone be implemented.

¹¹ The CRSC is a unit under the Nepal Forum of Environmental Journalists (NEFEJ) which has advocated and struggled for an independent radio since the framing of the constitution in 1990. NEFEJ is the mother institution of Radio Sagarmatha which is known as the first community radio in South Asia.

¹² The CRSC had prepared a draft bill 'Samudayik ra Gairbyaparik Prasaran Bidheyek-2059.' In the proposed bill, they classify and define community and non-commercial institutions. For more details see, Mainali, Raghu, ed. 2002. *Samudayik Prasaran, Prastabit Kanun tatha Sarbochcha Adalatko Phaisala*. Kathmandu: CRSC/NEFEJ, pp. 14-17. Similarly, ACORAB has published a study report to recommend major provisions to be included in broadcasting laws on community radios. For more details see, Basnet, Madhab Kumar. 2008. *Nepalma Samudayik Radio: Kanuni Byabastha ra Abasyakata*. Kathmandu: ACORAB.

¹³ See, Pringle, Ian and Bikram Subba. 2007. *Ten Years On: The State of Community Radio in Nepal*. Kathmandu: UNESCO, pp. 13-14.

¹⁴ See, International Press Freedom and Freedom of Expression Mission to Nepal. 2008. *An Overview of Nepal's Media and Recommendations for Development Priorities: Building for the Future*. Place not mentioned: International Media Support, p. 18.

¹⁵ Interviews conducted by Martin Chautari in various times with the Chairperson of ACORAB Min Bahadur Shahi, the Coordinator of CRSC Raghu Mainali, the Chairperson of Broadcasting Association of Nepal (BAN) Bishnuhari Dhakal and the Chairperson of Ujyaalo FM and Ujyaalo 90 Network Gopal Guragain.



The stress on the need for the classification of radio of varying origins and goals stems from a demand to legally define different types of radios and to determine state-facilities and responsibilities clearly. It is quite clearly impractical for the state to uniformly treat radios established with private investment and the objective of profit making with the community based, non-profit organizations established with the objective of service.

However, the difference in method of radio operation and services offered by commercial and community radios is also equally important. Different studies have showed that even in the radios recognized as community, elite groups dominate operation and management while the participation of the poor and the marginalized is minimal in terms of head count and their involvement in decision making.¹⁶ Similarly, other studies have revealed that programs produced at the center and distributed through networking are highly prioritized in both commercial and community radios, to the detriment of locally generated matter – local issues, produced in local languages.¹⁷ Indeed, studies have shown that in many cases, radios known as commercial radios have served the local community better than the radios known as community radios.¹⁸ There is nothing gained from the state providing special facilities to radios in the name of community or a similar such name when style of radios' operation and their services to audience do not fundamentally differ from that of the

commercial radios. It is based precisely on the logic of uniformity of services rendered that both types of radio have till now equally received public service announcements, discount on renewal fees and royalties, and distribution of government advertisements. However, donors have played a significant role for the development and promotion of the community radios in Nepal.¹⁹

The lack of difference between how community and commercial radios currently conduct themselves does not prevent the need for classifications. Current issues affecting "community" radios may stem from a myriad of reasons including the lack of experience in broadcasters, availability of limited economic resource leading to competition in the advertisement market, and the poor policy of the state. Thus there is room to reform this sector. Key here is the need to orient towards a stress on diversity of ownership in radio and the creating of state categorizations accordingly, with rights and responsibilities framed in clear policy. By defining community radio clearly and providing standards, policy prescriptions can be made to increase the voice and access of the poor and marginalized communities.

All over the world, the broadcasting policy of every country classifies radio based on the services offered and the nature of their operation. For instance, in the past few years laws have been framed in the neighboring countries of India and Bangladesh clearly classifying community and commercial radios. Radios operated by non-profit making institutions like educational institutions and others are categorized under community radio in these countries. Radios have long been categorized with rights and duties determined accordingly in such developed countries as France, Australia, and Canada. Clearly the nature of classifications of radios vary from country to

¹⁶ See, Pringle, Ian and Bikram Subba. 2007. *Ten Years On: The State of Community Radio in Nepal*. Kathmandu: UNESCO; Subba, Bikram and Yadab Chapagain. 2009. *The Status of Community Radio in Nepal: A Study Report from Institutional Perspective*. Kathmandu: ACORAB; CRSC/NEFEJ. 2012. *Community MHz II: Assessing Community Radio in Nepal*. Kathmandu: CRSC/NEFEJ.

¹⁷ See, Humagain, Devraj, Komal Bhatta and Harshaman Maharjan. 2009. *Radio Network: Abhyas, Antarbastu va Sthaniya Prabhav*. Kathmandu: Martin Chautari; Bhattarai, Binod and Ghanendra Ojha. 2010. *What's on Air?* Kathmandu: CRSC/NEFEJ; and Timilsina, Ekindra. 2012. *Kailalika Radioma Sthaniya Samagri. Media Adhyayan 7*: 191–216.

¹⁸ See, MS Nepal. 2005. *Nepalma FM Radio: Sthiti va Prabritti Adhyayan Pratibedan*. Kathmandu: MS Nepal, Danish Association for International Co-operation.

¹⁹ See, Humagain, Devraj. 2005. *Nepalma FM Radiyoko Bistar*. In *Radio Patrakarita: FMma Samachar ra Sambad*. Pratyoush Onta, Shekhar Parajulee, Devraj Humagain, Komal Bhatta and Krishna Adhikari, eds., pp. 3–59. Kathmandu: Martin Chautari; and, Ghimire, Lilanath. 2010. *Radioma Panch Arba Lagani. Kantipur*, 19 July, p. 17.



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country.²⁰ But regardless of the names assigned and types of classification made, the practice worldwide is to differentiate between radios established with the motive of profit making and non-profit making. Importantly, these countries have legal provisions for making community or non-profit making radios more responsible in relating the concern and participation of the local population.

Drawing from international practice, in order to encourage diversity in radios in Nepal, it is clear that they must be legally categorized with provisions for separate services and conditions. More specifically, management and operation as per the nature of radio, the establishment of certain standards for the participation of different classes and communities and the nature of programs, all require clear definitions and demarcations. This will address the issue of the dominance of elites in radio in the name of community and the neglect of the local in the broadcasting of programs.

Licenses and Frequency Distribution and Management

The development of radio in Nepal thus far has revealed that the distribution of license and frequency management in Nepal is not guided by any given plan, system or process. Looking at the process historically, the National Broadcasting Act, 1993 was immediately enforced in order to implement the communication policy. However, there was a delay in the introduction of the regulations because of political instability and the deep rooted conservative mentality of the bureaucracy. Even after the introduction of the regulations, there was much hesitation in

distributing radio operation licenses to the private sector. It was only after pressure from various civil society groups that Radio Sagarmatha received a license for broadcasting in May 1997, four years after the law was enforced.²¹

From 1997 to 2002, only 25 radios nationwide had been given licenses. In 2003, Kamal Thapa granted licenses to 31 radios in one go and became known as quite a 'liberal' communication Minister.²² However from then until the 2006 People's Movement, it was quite difficult to receive licenses which resulted in the slow growth of FM radio during this period.²³ Indeed, from when the then king Gyanendra took power on 1 February 2005, till the re-establishment of democracy in 2006, FM radios became the main targets of state censorship, more so than newspapers

²¹ Soon after the formulation of national communication policy in 1993, the NEFEJ had submitted an application for the operation of Radio Sagarmatha in order to pressure for the framing of necessary laws. Three other institutions working for the development of journalism—Himal Association, Nepal Press Institute and World View Nepal—had cooperated on this. However, these three institutions pulled out from the board of management of Radio Sagarmatha after the radio was managed for two years and NEFEJ alone started to manage the radio. For more details relating to the framing of laws on broadcasting and on the background of Radio Sagarmatha see, Mainali, Raghu. 2002. *Samudayik Radio Sangharshashil Yatra*. In *Sthaniya Radio: Sambhavana ra Upayogita*. Pratyoush Onta and Raghu Mainali, eds, pp. 25-33. Kathmandu: Nepal Press Institute and Martin Chautari; Humagain, Devraj. 2005. *Nepalma FM Radioko Bistar*. In *Radio Patrakarita: FMma Samachar ra Sambad*. Pratyoush Onta, Shekhar Parajulee, Devraj Humagain, Komal Bhatta and Krishna Adhikari, eds, pp. 3-59. Kathmandu: Martin Chautari; and, Humagain, Devraj. 2005. *Kanun Niti tatha Sarkari Rabaiya*. In *Radio Patrakarita: FMma Samachar ra Sambad*. Pratyoush Onta, Shekhar Parajulee, Devraj Humagain, Komal Bhatta and Krishna Adhikari, eds, pp. 87-137. Kathmandu: Martin Chautari.

²² See, Humagain, Devraj. 2005. *Nepalma FM Radioko Bistar*. In *Radio Patrakarita: FMma Samachar ra Sambad*. Pratyoush Onta, Shekhar Parajulee, Devraj Humagain, Komal Bhatta and Krishna Adhikari, eds., pp. 3-59. Kathmandu: Martin Chautari; and, Humagain, Devraj. 2008. *Nitigat ra Kanuni Anyolbich Nepalka Samudayik Radio*. In *Swatantra Radiyoko Ek Dashak: Bikas, Bahas ra Samajik Sarokar*. Devraj Humagain, Pratyoush Onta and Komal Bhatta, eds., pp. 32-66. Kathmandu: Martin Chautari.

²³ See, Onta, Pratyoush. 2009. Independent Radio and Public Engagement. *Studies in Nepali History and Society* 14(2): 335-366.

²⁰ For instance, radio is classified into five categories from A to E in France based on the area they cover and the service they offer. The radios under category A established with non-commercial purpose broadcast local, community, cultural and educational services. The radios that fall under other categories are commercial radios. They are categorized in different categories based on the area they cover and the nature of their program. For more details see, Price-Davies, Eryl and Jo Tacchi. 2001. *Community Radio in a Global Context: A Comparative Analysis in Six Countries*. Place not Mentioned: Community Media Association.



and television because of widespread impact. Instead of giving out licenses to new radios, attempts were made to close down radios on various pretexts.²⁴ However, during the people's movement 2006, the FM radios played a significant role in spreading information on the movement.

The government that came into power after the success of the movement distributed licenses in large numbers. The then Minister for Information and Communications Dilendra Prasad Badu of Nepali Congress had directed the ministry bureaucrats to grant licenses without delay to the individuals applying for establishing FM radios.²⁵

What can be seen from history is the manner in which, whether in liberal democratic periods or autocratic times, the distribution of radio licenses has been at the personal discretion of the minister for Information and Communications and not according to certain procedures.

Another problem related to license distribution is the unequal distribution of radios geographically. Radios are concentrated in certain urban areas, and are relatively scarce in geographically remote and economically backward rural areas. The income from advertisement is more in urban areas as there are more economic activities, thus at one level it is natural that FM radios number comparatively higher there. However, the number of the radios dependent on the advertisement market in the urban areas is more than the market can sustain which has led to unhealthy competition which in turn has affected human

resources and the quality of programs.²⁶ The Table 1 shows that the three districts of the Kathmandu valley and ten other districts together hold control over 200 radio licenses out of 472 distributed so far in Nepal. This means these 13 districts which total only 17 percent of all 75 districts have control over 42 percent radio licenses in the country.

Table 1: Top Ten Districts with High Number of Radio Licenses

S. N.	District	Number of Radio
1.	Kathmandu valley	38
2.	Morang	22
3.	Kailali	21
4.	Kaski	20
5.	Banke	16
6.	Rupandehi	15
7.	Parsa	14
8.	Chitwan	14
9.	Dang	14
10.	Jhapa	13
11.	Sunsari	13
Total		200

Source: www. moic.gov.np; accessed on 13 October 2012.

Also of major concern related to frequency and license distribution is the duration of ownership of a provided frequency by an individual and institution.

According to international standards, radio frequency used for FM radio ranges between 87.5 to 108 megahertz (MHz) in general. To avoid what is called radio-frequency interference (RFI), frequency is distributed with some gap. Thus, there is a limit on the number of frequencies (and thereby number of radio stations) that the authorities could permit for a certain area. For example, if a gap of about 0.3 to 0.4 MHz is to be maintained the maximum number of radio licenses that the authorities could distribute in Kathmandu valley is only 38. However, even if radio frequencies are granted with a gap of 0.3 or 0.4 MHz,

²⁴ See, Dhungel, Binod. 2007. *Shabi Shasanma Swatantra Radio: Daman ra Pratirodhka Katha*. Kathmandu: Martin Chautari.

²⁵ The interview conducted with Tapanath Shukla on 20 October 2011. At the time of this interview, Shukla had been the Executive Director of Radio Nepal. While he was in the ministry, he had been the coordinator of the task force formed for framing the bill on Managing and Monitoring Electronic Means of Communication and National Broadcasting Authority. See for recommendation report of the task force he involved in, Shukla, Tapanth, coordinator. 2006. *Bidyutiya Sancharmadhyamlai Byabasthit tatha Niyaman ra Rastriya Prasaran Pradhikaransambandhi Bidheyak Tarjuma Garna Gathit Karyadalko Sujhab*. Unpublished report, MoIC.

²⁶ See, Humagain, Devraj, Komal Bhatta and Harshaman Maharjan. 2009. *Radio Network: Abhyas, Antarbastu ra Sthaniya Prabhav*. Kathmandu: Martin Chautari; Adhidari, Krishna. 2012. *Birganjka Radioko Arthik Paksha. Media Adhyayan* 7: 171-190; and, Humagain, Devraj. 2012. *Gantabyahin Yatrama Sthaniya Radio. Kantipur*, 10 October, p. 7.



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there will be some RFI related problems, as radio waves travel beyond designated areas. This has led to an overload of frequencies in areas with many radio stations. In the case of Tarai districts where frequencies from distant places also reach, in many places as soon as there are 10 to 15 radios, problems of RFI is encountered. Thus even if there are only a few radios operating in a certain area, there is a shortage of frequencies to allocate new radios. The Nepali state no longer has any frequency available to grant new licenses in Kathmandu valley, the Tarai and some mid-hill districts connected to the Tarai even though applications for establishing radio in these areas have continued.²⁷

What this means is that no new radio stations can be established. The crux of the problem lies in the fact that the existing law is silent on the duration of permit once acquired. Thus, once individuals or institutions receive a certain frequency, there is no time limit to which they have the right to use it. Individuals and institutions have to renew the license every year and there is a legal provision that licenses may be canceled if not renewed later than six months after the specified time. However, this does not prevent the possibility of the same individuals and institutions always monopolizing that frequency endlessly. Thus the entrance of newcomers is barred due to the lack of clarity in policy.

Looking at international practice, there are provisions to grant an individual or an institution a license from 5 to 15 years, after which others are able to claim that frequency in a competitive manner. For instance, there are provisions for granting license the first time for 5 years in Australia, Netherlands, Ireland and France; for 7 years in Canada; for 4 years in South Africa; for 8 years in the United States of America (USA) and for 10 years in Uruguay. Based on the

²⁷ Based on the conversation with Anup Nepal, the under secretary of Frequency Division, MoIC on 20 October 2012. For more details on the context of frequency see, Upreti, Pawan Prakash. 2008. *Nepalma FM Radio Prasaran: Frequency Abastha ra Byabastha*. In *Swatantra Radioko Ek Dashak: Bikas, Babas ra Samajik Sarokar*. Devraj Humagain, Pratyoush Onta and Komal Bhatta, eds., pp. 67–91. Kathmandu: Martin Chautari.

performance of the concerned institution, the same institution can be granted licenses again twice for the same period of time or less.²⁸

Discussions about the need to have such procedures to facilitate opportunities for new groups and to make this sector competitive has taken place in Nepal.²⁹ There is a clear need to reform the laws given that provision in the broadcasting act which allows certain persons and groups to own public property for unlimited periods of time is against democratic norms. In Nepal's current context, it has clear implications in that the poor and the marginalized citizens will be barred from future access to radio ownership.

The Need for a Regulating Institution

Various monitoring and regulating institutions exist in Nepal, such as the Press Council for print media, The Nepal Telecommunications Authority for the telecommunication sector and Nepal Medical Council for health sector. However, there is no separate independent body to monitor, manage and regulate such a sensitive sector like broadcasting. The broadcasting act authorizes the MoIC to distribute licenses and frequencies to the institutions that fulfill specified procedures and pay appropriate fees.³⁰ The

²⁸ For more details see, Pavarala Vinod and Kanchan K. Malik. 2007. *Legislating for Community Radio: A Comparative Analysis of Policy Makers in Other Countries*. In *Other Voice: The Struggles for Community Radio in India*, pp. 43–80. New Delhi: Sage Publications; Price-Davies, Eryl and Jo Tacchi. 2001. *Community Radio in a Global Context: A Comparative Analysis in Six Countries*. Place not mentioned: Community Media Association; and Basnet, Madhab Kumar. 2008. *Nepalma Samudayik Radio: Kanuni Byabastha ra Abasyakata*. Kathmandu: ACORAB, pp. 45–46.

²⁹ See, Bhattarai, Binod. 2000. *Radio Sound of Openness*. In *Media Nepal 2000*. P. Kharel, ed., pp. 93–122. Kathmandu: Nepal Press Institute; Adhikari, Mahesh Prasad, coordinator. 2004. *Frequency Modulation Prasaran Pranali (FM Radio) ko Sthapana evam Byabasthapan Sambandhama Byabasthit evam Pardarshi Niti Tarjuma Garna Gathit Sujhab Samitiko Pratibedan*, unpublished, MoIC; and Shukla, Tapanath, coordinator. 2063. *Bidyutiya Sancharmadhyamlai Byabasthit tatha Niyaman ra Rastriya Pradhikaransambandhi Bidheyek Tarjuma Garna Gathit Karyadalko Sujhab*. Unpublished report, MoIC.

³⁰ This has provisions requiring those wanting licenses to submit an application with a feasibility study report covering economic, technical,



renewal of annual licenses and the payment of royalties is also undertaken by the ministry. More specifically, this falls under the authority of the audio-visual and frequency management section in the MoIC. Apart from the fact that the small structure under the ministry has not been able to monitor and manage the whole broadcasting sector, questions have also been raised concerning the impartiality of the work carried out by the ministry as it is not an independent and politically autonomous institution. As the ministry has control over broadcasting related-work, political interference has resulted in delays and other complexities.

In many countries of the world an independent monitoring mechanism related to broadcasting has been established. In some countries such mechanisms include the whole sector of broadcasting including telecommunications while in some other countries there are bodies to look after only radio. For instance, there is the Australian Broadcasting Authority (ABA) in Australia, the Canadian Radio-Television and Telecommunications Commission (CRTC) in Canada, the Federal Communications Commission (FCC) in the USA, the Broadcasting Commission of Ireland (BCI) in Ireland, and the Independent Communications Authority of South Africa (ICASA) in South Africa. Although attempts to establish a separate monitoring body called 'Broadcasting Regulatory Authority of India' was made in 2006 in neighboring India following the preparation of a draft act, it has yet to be formed. In India, the Telecommunication Regulator Authority of India supervises the technical aspects of broadcasting-related-institutions; different directives are framed to oversee different sectors of broadcasting. South Africa, the USA and Canada have provisions for such a body to oversee telecommunications as well as the internet. The major tasks of such bodies especially in terms of radio are to grant and renew licenses, determine license fees, frame policies on broadcasting, establish and supervise codes of conduct, settle debates

and program aspects at the ministry. However, licenses are granted without adequate evaluation of the above mentioned points.

or cases related to broadcasting, and plan and distribute frequencies.³¹

The need for an independent and autonomous mechanism to frame broadcasting related policies and planning and to provide overall regular supervision and management of broadcasting except frequencies, has been pointed out by broadcasting related task forces formed in the past. The formation of an independent mechanism can aid supervision and the furthering of tasks related to broadcasting and help keep this sector free as far as possible from political pressure and influence. More specifically, a body including independent, experienced experts and stakeholders in this sphere can be formed and made to be accountable to parliament. Envisioned not as a mechanism of control but as a mechanism to enable the development of the broadcasting sector, such a separate mechanism would be useful to manage the complexities and issues present in this sector.

A draft law to form such a body in Nepal has been prepared thrice by the ministry in the past.³² The earlier two drafts introduced in 2002 were criticized for trying to curtail the autonomy of the body and to keep it under the control of the ministry. Although the third draft (2006) was said to have included more autonomy to the body, different stakeholders protested their non-inclusion in the preparation of the draft.³³ Apart from such protests,

³¹ See, Price-Davies, Eryl and Jo Tacchi. 2001. *Community Radio in a Global Context: A Comparative Analysis in Six Countries*. Place not mentioned: Community Media Association; Paravala, Vinod and Kanchan K. Malik. 2007. *Other Voice: The Struggle for Community Radio in India*. New Delhi: Sage Publications.

³² See, HMG. 2002. *Rastriya Prasaran Parishad Ain, 2059*. Unpublished, MoIC; HMG. 2002. *Rastriya Prasaran Pradhikaran Adhyadesh (Masyauda)*. Unpublished, MoIC; and, Shukla, Tapanath, coordinator. 2006. *Bidyutiya Sancharmadhyamlai Byabasthit tatha Niyaman ra Rastriya Prasaran Pradhikaransambandhi Bidheyak Tarjuma Garna Gathit Karyadalko Sujhab*. Unpublished report, MoIC.

³³ The interview carried out by Martin Chautari with Tapanath Shukla, the coordinator of task force formed for framing the draft of the act, and Anup Nepal, one of members of the task force on 20 October 2012 and also with the Bishnuhari Dhakal, Chairperson of Broadcasting Association of Nepal (BAN) on 27 September 2012.



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frequent changes in the government and political instability after 2006 have led to the non-prioritization of the law.

Conclusion and Recommendations

In simple terms, the major role of media in a democracy is the promotion of the democratic rights of citizens such as the right to information, opinion and freedom of expression. Furthermore, in an underdeveloped country like Nepal, the radio plays a relatively more important role as a medium of communication. Since citizens are at the centre in a democracy, the purpose of managing communication should be citizen focused. However, insufficient attention has been given to the framing of broadcasting-related policies from the view point of the concerns and interest of ordinary citizens. While radio and their managers are to be partially blamed, it is clear that the state has not been able to create a conducive environment with appropriate policy provisions. The following recommendations are proposed:

- FM radios based on their ownership and services offered have to be classified into two types—commercial and community (or non-commercial). Commercial radios based on technical capability and broadcasting area should be further classified for the purpose of determining fees.
- While providing standard facilities to commercial radios, a healthy and competitive environment should be created. The state should collect tax and royalties from those who are undertaking business using public property (frequency), which should be spent for the development of physical infrastructure of this sector.
- Community or non-commercial radios should be dedicated towards the target community and should not be profit-making. To increase the access of economically and socio-culturally backward communities, provisions should be made to encourage community radios of small capacity (for example less than 100 watts) and lower investment. For this, the state should allow concessions on various services and fees such as license and renewal fees, telephone, and fuel etc. for these radios. Additionally, in order to prevent the radios from being involved in commercial and political interests and to maintain good governance, certain terms and conditions have to be set up for their smooth regulation and management.
- In order to make the whole procedure relating to radio—including distribution of license and frequency and monitoring—systematic and transparent and as free as possible from political interference, an independent and autonomous body must be established. That body may additionally determine fee and standards as needed, advise and make recommendations to the government on necessary policies, hear complaints related to broadcasting, undertake studies and give verdicts.
- When the country transforms from its current centralized form into a federal structure, such a body may have regional or federal units like in the USA. In such a context, some rights can remain with central body and some other rights with the province or regional units.
- The procedure of forming such a body should be impartial and transparent with the recommendation of an independent committee which includes the representation of stakeholder bodies and organizations. That body should have a provision to make the head an independent expert with a long history of experience in the broadcasting sector, and members consisting of different stakeholder organizations or representatives of the organizations.
- Since radio frequency is a public property, the existing provision to use a frequency received once by an individual or an institution for an unlimited time should be abolished. After an individual or a group uses the frequency for a certain period, the frequency should be given back to the state, after which the state should make it available to others



based on competition. This will aid the entrance of new individuals or group for diversity in radio broadcasting.

- The frequency has to be made available based not on the arbitrary decision of the ministry, but as a result of competitive selection based on public calls for application annually or biannually by the government or the concerned body. The bases for selection should be the service (program) proposed by the applicant, economic resources for investment and management, background of the promoter and capability or commitment etc.

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Martin Chautari (MC) began as an informal discussion group in Kathmandu in 1991, allowing development professionals and academics to meet every two weeks to share insights and experiences. In 1995, the name 'Martin Chautari' was adopted after the late Martin Hoftun, one of the founders of the original discussion group. After being managed by the Centre for Social Research and Development for six years, in 2002 MC became registered as a separate non-government organization in Kathmandu.

Since its inception, MC's core objective has been to enhance the quality of public dialogue and the public sphere in Nepal. Started at a time in which Nepal had little, if any, culture of informed public discussion, MC is now nationally known for its discussions which are held three times a week. Chautari also conducts research focused on governance and democracy, media, education, health and livelihoods with cross-cutting themes of gender and social inclusion. A rigorous mentoring program of young researchers is in-built into MC's work.

Till date MC has published seventy-two books including an annual journal *Media Adhyayan* [Media Studies, established 2006]. MC is also the editorial home of the journal *Studies in Nepali History and Society* (SINHAS), published by Mandala Book Point since 1996. Since 2006, MC has opened its research library and media documentation centre to the public. The library's holdings total more than 17,000 books, a quarter of which focuses on the media.

All five components – the discussions, research, mentoring, publications and library – feed into each other and form an intrinsic part of MC's primary objective: strengthening the social contract between the state and citizens and expanding and making inclusive the public sphere by promoting informed dialogues and analytically rigorous research.

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