

Restrictions on NGOs and Attacks Against Lawyers in Nepal

Universal Periodic Review: 37th session

Summary

The new Constitution of Nepal came into force on 20 September 2015, establishing a federal system with three tiers of government: federal, provincial and local. This new Constitution gives rise to concern about the extent to which government can interfere with the regulation and oversight of local NGOs and INGOs. Additional draft legislation has also been proposed which could create further obstacles for such organisations. In particular, the **Social Organisation Act** creates a more burdensome registration process for NGOs and increases the government's power to prosecute members of these organisations. The **National Integrity Policy** allows for restrictions of the activities of NGOs and their access to funding. The proposed **NGO (Regulation) Bill** contains restrictive provisions for the regulation, registration, and supervision of NGOs. There is concern that increased regulation may hinder the effectiveness of NGOs and prevent them from speaking out against government policies and practices, as well as human rights violations.

In addition to this legislation, since 2018 there have been other legislative changes that increase government control over civil society and curtail civil liberties in Nepal. For example, the Passport Bill permits the government to issue instructions which can prevent passports from being issued. The **Nepal Special Service Bill** increases the powers of surveillance of the intelligence services, including the interception of audio and audiovisual conversations, which potentially puts the security of lawyers and human rights defenders at risk and could interfere with lawyer-client confidentiality. The government has also proposed to amend the **National Human Rights Commission Act** in a way that could undermine the jurisdiction and independence of the NHRC and limit the ability of citizens in different provinces to access the NHRC.

Reports of attacks on lawyers and human rights defenders are especially concerning. Some have been threatened, criminally prosecuted, or otherwise prevented from carrying out their work. There is also a general lack of trust in law enforcement agencies among lawyers and

NGOs. This situation has worsened due to the lack of adequate investigation into attacks against lawyers and human rights defenders. It seems that those who file a complaint against state agents are especially at risk of violence and intimidation. There is a particularly high risk for women lawyers and human rights defenders, who often face threats, defamation and social stigma for defending victims of gender-based violence. Offenders in such cases are rarely brought to justice and state authorities often fail to provide adequate protection to lawyers and human rights defenders in these cases and others.

Recommendations

- Amend or repeal existing legislation and regulations, and abstain from adopting new legislation and regulations, which allow for disproportionate government interference in the functioning of NGOs or place a disproportionate administrative burden on such organisations.
- Introduce and enforce measures to protect the safety and security of lawyers and human rights defenders, particularly women lawyers and human rights defenders, and effectively investigate and attacks and bring those responsible to justice.
- Amend or repeal existing legislation and regulations - and abstain from adopting new legislation and regulations - that negatively affect the jurisdiction and independence of the National Human Rights Commission, or restrict the right to freedom of expression, freedom of assembly, freedom of association, and other fundamental human rights in an impermissible manner.