



Safer Internet Day 2023

'INTERNET REGULATION IN NEPAL: LAW, POLICY AND PRACTICES'

Organized by:



Secretariat:



7th February, 2023

Basera Boutique Hotel, Kathmandu

Safer Internet Day 2023: High-level Panel on Internet Regulation in Nepal

Introduction

Safer Internet Day has been organized since 2005 and is now being celebrated in around 180 countries and territories worldwide on 7th February. There are many issues on Internet regulation in Nepal. Many inconsistencies are there in the law and policies that hinder free business as well as use of the Internet in Nepal. We need to have certain clarity on the laws and policies on Internet business in Nepal. Political commitment requires for a better Law and Policies.

Program Outline

13:30-14:00 Arrival and Registration

14:00-14:45 Inaugural Session

15:00-16:30 Internet Regulation in Nepal: A Political Perspective

16:30 Closing Remarks

17:30 Onwards Dinner

Position Paper about the Internet Regulations Policy and Practices: Mr. Ananda Raj Khanal

During his presentation, Mr. Khanal addressed several key issues related to cybersecurity and ICT policies in Nepal. He began by highlighting the prevalence of misinformation and disinformation in the recent federal and provincial elections, and then discussed a number of cyber attacks that have occurred in Nepal, including the recent attack on the National Information and Technology Center (NITC) which led to the Denial of Service of all government websites hosted there. He pointed out that none of the concerned ministries or government

agencies had published anything about the attack or the progress of the investigation, leaving Nepal vulnerable to future attacks.

Mr. Khanal emphasized that the global economy of cybercrime is worth 6 trillion dollars, and that the recent cyber attack at NITC caused the airport to go down for nearly 5 hours, highlighting the need for improved mechanisms to trace and prevent such attacks. He also noted that there are a lot of existing policies and legislations related to ICTs in Nepal, but what is lacking is harmony and proper jurisdiction. He specifically pointed out that the Ministry of Communication and Information Technology should focus on infrastructure and access, while other related services could be handled by other ministries or agencies with related expertise.

Mr. Khanal also mentioned the Digital Nepal framework, which was initiated in 2076 but has yet to show any progress on its indicators, and other digital initiatives announced by the government that have had unsatisfactory achievements. However, he praised the Nepal Rastra Bank for its exemplary adaptation of new technologies and incorporation of them into their policies to foster digital transformation in the fintech sector.

Finally, Mr. Khanal called for a more holistic approach to internet governance in Nepal, emphasizing the importance of multistakeholderism and inclusive legislation that has been consulted with all concerned stakeholders. He concluded that Nepal's existing policies, legislation, and institutional and regulatory framework are not adequate to address the challenges of the digital age and that precise reformation is needed for today's digital world.

Remarks from NTA Chairman Mr. Purusottam Khanal:

Mr. Khanal began his remarks by pointing out the lack of clear demarcation between the two ministries responsible for technology in Nepal, resulting in confusion over which ministry governs which technology. He raised concerns about the absence of a regulatory framework for content regulation on the internet, which has led to conflicts regarding jurisdiction over national sovereignty, defamation, and other issues.

He highlighted the lack of capacity and resources within major institutions responsible for Information Technology grievances, such as the National Information and Technology Center, which operates under a temporary Development Committee Act, and the Cyber Emergency Response Team, which lacks the necessary technical and human resources.

As a representative of the Nepalese telecom regulator, Mr. Khanal noted the prevalence of digital duplication in government institutions due to the absence of a sole authority for ICT and emerging technologies to establish standard frameworks for solving common issues. He also criticized the breach of fiber cables by government institutions without providing right of way and alternatives.

Despite NTA's efforts to initiate policies and draft a cyber policy with ITU's support, the government and line ministries have failed to respond adequately. Mr. Khanal stressed the importance of policies and legislation that are up-to-date and capable of addressing emerging technologies and related issues.

In conclusion, Mr. Khanal emphasized the need for visionary aspirations and expertise to meet the technological needs of the digital age. He urged the government to update its policies and regulations and work with regulatory bodies to bridge gaps in understanding and practices.

Remarks from Prof. Dr. Laxmi Pd. Mainali - Vice -Chair (Nepal Law Commission)

Prof. Mainali expressed his gratitude to be present among dignitaries and highlighted his high expectations from the Hon. Members of the Federal Parliament who were present at the event. He called upon them to deepen and widen the role of Nepal Law Commission in the process of formation and amendment of legislations, and in the field of research and innovation in the legal arena. He further committed that the Law Commission is always ready to assist in the development of umbrella legislation that regulates the ICT sector in Nepal.

Prof. Mainali also noted that during the opening session, improper regulatory practices were discussed, and he identified that such occurrences were due to the lack of a single-window legislation process. He suggested that if any legislation originated from Nepal Law Commission and then forwarded to the concerned ministry, such issues could be mitigated in the future.

In conclusion, Prof. Mainali cautioned the Hon. Parliamentarians not to allow actions that promote defamation of individuals and institutions, as well as the spread of disinformation, in the name of freedom of expression and human rights on digital platforms.

Hon. Gagan Kumar Thapa (Chief Guest):

Hon. Thapa emphasized the importance of promoting ICT as an industry and entrepreneurship, but acknowledged that there are hurdles that need to be cleared in order to achieve this goal. He mentioned the legal provisions related to foreign investment, which currently limit FDI to above 50 million but are being reconsidered for the ICT industry and startups. He also identified issues with internet adaptation, awareness, and policies, highlighting the disconnect between policy drafting and legislation.

Hon. Thapa expressed a need to restructure old regulatory frameworks and emphasized the importance of ensuring that any legislation related to ICT does not stifle freedom of expression or other constitutional rights. He called for a holistic approach to viewing the internet as a medium of change rather than a consumer product.

Lastly, Hon. Thapa urged the panel and audience to identify gaps in existing legislation, policies, and regulatory frameworks that can be fixed by parliamentarians. He expressed a willingness to take these issues forward and work towards addressing them.

Panel Discussion on: Internet Regulation in Nepal: A Political Perspective

Ex-Minister Ganesh Shah:

Ex-Minister Ganesh Shah highlighted the impact of living in the digital age. He provided examples of how smartphones have become a tool to persuade children to eat their food, and how the internet has become a crucial friend for senior citizens. The internet has become a significant part of our lifestyle, regardless of age, profession, or geography. However, while the internet has provided numerous benefits, it has also created divides and demarcations through emerging technologies.

When it comes to the governance of the internet in Nepal, as a democratic country, we need democratic governance that upholds our human rights on the internet and digital platforms. While discussing the existing policies and regulations, it was noted that while there are many policies and regulations, they lack the competence needed for implementation. Additionally, some policies are only created for the sake of having policies. In the current scenario, there is a need for integrated legislation capable of addressing the emerging digital issues of the 21st century. Furthermore, we require a unitary regulatory mechanism to deal with all kinds of issues related to ICTs.

Overall, Ex-Minister Ganesh Shah's discussion emphasized the importance of democratic governance and integrated legislation to address emerging digital issues in Nepal.

Puskar Singh Badal (Treasurer of ISP Association Nepal)

During a panel discussion, Puskar Singh Badal, Treasurer of ISP Association Nepal, emphasized the challenges faced by internet service providers in Nepal. Mr. Badal noted that although the government has recognized internet service as a vital service that cannot be interrupted, the industry is classified as a luxury item when it comes to taxation. Internet service providers are required to pay around 35% in taxes and are subjected to extra taxes by local

governments, despite complaints from stakeholders that the internet is not affordable or the pricing is too high. Additionally, uncertain pole charges for fiber cables and their unexpected increases, as well as cable cuts by the NEA due to surge charge issues, are common challenges that hinder the industry.

To address these issues, Mr. Badal urged policymakers to provision infrastructure sharing legislations and to consider underground cables as an alternative to overhead cables. Moreover, with more than 100 internet service providers currently in Nepal, there is a lack of benchmarking in terms of quality of service and customer retention. Due to this, ISPs cannot focus on providing better quality service to their customers. Mr. Badal suggested that allowing for mergers and acquisitions between ISPs could be a creative method to create healthy competition among providers and enhance user experience. He also noted that some providers are selling internet services below cost price due to competition, which is unsustainable in the long run.

Overall, Puskar Singh Badal's discussion highlighted the challenges faced by internet service providers in Nepal and the need for policy makers to consider infrastructure sharing, underground cables, and mergers and acquisitions as solutions. Additionally, benchmarking for quality of service and customer retention can improve the overall user experience.

Hon. Dipa Sharma:

Hon. Dipa Sharma emphasized the importance of ensuring safety, security, and accessibility in the digital society. As a member of parliament and an internet user, she acknowledged the positive and negative aspects of the internet. She stressed the responsibility of policy makers to create policies that promote the safe and responsible use of the internet, particularly in the face of criminal activities organized online.

Moreover, Hon. Sharma recognized the issues caused by the digital divide, targeted defamation, misinformation, and disinformation. She acknowledged the risk that these issues pose to political careers and the challenges posed by geographical barriers to internet access in Nepal. She also highlighted the dominance of content platforms such as TikTok, YouTube, and Facebook, and the importance of regulating their content to respect human rights in the digital space.

As a member of parliament, Hon. Sharma pledged to put in her best efforts to ensure proper governance mechanisms that regulate the internet while respecting human rights.

Hon. Ramhari Khatiwada:

Hon. Ramhari Khatiwada highlighted the lack of capacity development activities for enhancing the outcome of parliament and digital skills for daily life as a parliamentarian, digital diplomacy, and policy making. He emphasized the importance of digital skills in enhancing the role of legislators and committed to putting all efforts to endorse them. Khatiwada shared his

experience as a political leader and parliamentarian, acknowledging that technology has been overlooked in the past, and suggested that technology and digital skills must be given importance to better serve the citizens of Nepal.

Hon. Santosh Pariyar

Hon. Pariyar shared how Rashtriya Swatantra Party (RSP) utilized internet and digital platforms in our election campaign and it has been the best tool for us to outreach to a wider audience in a very short period of time. At the same time we have also realized that we are not only using the internet but the internet is also using us and it's deep. Similarly we have reached that point of the digital age that Within a fraction of time anyone could lose their money, could be a victim of defamation and many other threats that are related to privacy and security in cyberspace. It was also mentioned earlier that as a politician we even have to face the targeted defamation and invasion of privacy that could happen in a small fraction of time and could damage our whole carrier. Talking about the parliament it hasn't even been able to utilize just the minimum form of technology today. In this scenario the aspect of connecting this technology with people's life, livelihood, economy and skill development. As an early adopter of the Internet we still thrive for digital literacy and we still have challenges to achieve this as well.

Key Takeaways from the Panel

- The internet is a vital service that is important for daily life, but it is often classified as a luxury item when it comes to taxation.
- ISPs face challenges with uncertain pole charges, which increase costs unexpectedly, and there is no regulation over them. Infrastructure sharing and underground cables could be ways to ensure uninterrupted service.
- There are more than 100 ISPs in Nepal, but there is a lack of benchmarking in terms of quality of service and customer retention. Merger and acquisition could be a way to create healthy competition and provide better internet services to users.
- The internet is an inevitable part of our lives, and we have a responsibility to ensure the safe and responsible use of digital platforms. The digital divide and issues like targeted defamation, misinformation, and disinformation need to be addressed.
- Digital skills are essential for enhancing the role of legislators in policy making, and capacity development activities are needed to improve outcomes in parliament.
- The internet is a powerful tool for outreach and campaigning, but it also poses risks related to privacy and security. There is a need for digital literacy and for connecting technology with people's lives, livelihoods, and the economy.