

Learning Package on Civic and Democratic Space

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Acronyms

CSO	Civil Society Organization
CBO	Community Based Organization
PWD	Person with Disability
KII	Key Informants Interview
SDGs	Sustainable Development Goals
UNICEF	United Nations Children's Fund
ICNL	The International Center for Not-for-Profit-Law
NBTC	National Broadcasting and Telecommunications Commission
BNP	Bangladesh Nationalist Party
NHRC	National Human Rights Commission
ICCPR	International Covenant on Civil and Political Rights
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CPRD	The Convention on the Rights of Persons with Disabilities
NGO	Non-Government Organization
INGO	International Non-Government Organization
DAO	District Administrative Office
MOU	Memorandums of Understanding
SWC	Social Welfare Council
OGP	Open Government Partnership
FEDO	Feminist Dalit Organization
MP	Members of Parliament
UDHR	Universal Declaration of Human Rights
ECHR	European Charter of Human Rights
ACHR	American Convention of Human Rights
UNHRC	United Nations Human Rights Council
UN	United Nations
ECN	Election Commission Nepal
CIVICUS	

Chapter One:

Introduction and Purpose

Concept of Learning Document

"We the peoples of the United Nations determined to save succeeding generations from the scourge of war ... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom."

In the recent time ruthless efforts are being made to undermine civic space and democratic values across the world. Youth, women, and human right activists, CSOs activists, good governance defenders, minority group leaders, collective activists are facing many obstacles from both the government and non-government sides. Many governments, fundamentalist and extremist groups have been attacking over the civic and democratic space around the world.

There is the trend of shrinking and closing the civic and democratic space through policies laws, and practices. The shrinking restricts citizen's and civil society organization's (CSO) ability to operate and function properly. This has been minimizing the ability to serve vulnerable community and citizens effectively, to advance human rights, and to hold their government more transparent and accountable as well.

Austerity is a key aspect behind the increasing restriction on civic and democratic space in Asian countries like Bangladesh, Nepal and Thailand. This situation makes it more difficult to mobilize for fairer alternatives and to access justice for those deprived of their fundamental and basic rights. In the latest time, state mechanism and structures are captured by small elites, cliques, and fundamentalists in both the democratic and autocratic states. The limited class are enjoying unlimited freedom and opportunity and most of the citizens are marginalized from civic and democratic rights around world.

The three countries in Asia, Nepal, Bangladesh, and Thailand are not spaced out from this situation of suppression. While all the three countries have adopted democratic governance system, however, the government and non-government groups have been controlling the civic and democratic space of people. Both the government and non-government groups are controlling and shrinking the civic and democratic space both formally and informally.

It is necessary to make aware the campaigner, human rights activists and the representatives of CSOs on the shrinking of civic and democratic space of people all around the world. This learning document shall be an important for promoting the awareness in the community. This document shall help them learn what is the civic and democratic space, how this space has been shrinking around the world, what are the procedures of measuring the shrinkage and the way the stakeholders should act in future to save the civic and democratic space of people.

Civic space is the base of any open and democratic society. When civic space is open, citizens and CSOs can organise, participate, and communicate without any obstacles in the community. They can claim their rights and influence the social, political, economic, and cultural structures around them. This can only happen when a state holds, by its duty, to protect its citizens and respects and facilitates their fundamental rights to associate, assemble peacefully and freely express ideas, thoughts, views, and opinions. There are three basic components of the civic and democratic space which are as follows.

Freedom of Association

The first components is the freedom of association. The right to the freedom of association is the right of any citizen to join a formal or informal group to take collective action. This right includes the right to form a new group and join an existing group. Associations can include CSOs, Community Based Organizations (CBOs), youth clubs, trade unions, women groups, cooperatives, NGOs, political parties, religious associations, foundations, and online associations etc. Under the right to freedom of association, groups have the right to access funding and resources as well.

Freedom of Expression

Second one is the rights to the freedom of expression which includes the right to access information, critically evaluate and speak out against the policies and actions of state and non-state actors. Similarly, publicly draw attention to and carry out advocacy actions to promote shared concerns, without fear. CSOs should be assured the freedom to carry out investigations and document their findings under this right.

Freedom of Peaceful Assembly

Third component is rights to freedom of peaceful assembly. The right to the freedom of peaceful assembly is the right of citizens to gather publicly or privately and collectively express, promote, pursue, and defend their own and common interests. This right includes the right to participate in meetings, demonstrations, peaceful assemblies, strikes, protests, and other types of gatherings for personal or public purpose. States have an obligation to protect peaceful assemblies and facilitate them as well.

The shrinking of civic and democratic space has a serious problem to achieve the Sustainable Development Goals (SDGs) which accord to a central role to civil society. In goal 16 of SDGs, government and other development actors commit to building 'responsive, inclusive, participatory and representative decision-making at all levels.' Similarly ensuring public access to information and protecting fundamental freedoms in accordance with national legislation and international agreements issue has been included under the same goal. Furthermore, in goal 17 'encourage and promote effective public, public-private and civil society partnerships have been stated.

The shrinking of the civic and democratic space puts progress towards those goals at risk. So, CSOs can play a critical and vital role in advocating for the achievement of the remaining SDGs. The CSOs can coordinate and work in partnership with the government to help it fulfill the commitment of SDGs, pressurize the government, and can coordinate and work in partnership with the international institutions. This helps to put positive impact in implementation of SDGs on one hand and on the other hand it will help to protect civic and democratic space.

Why Learning Documents?

The study on the civic and democratic space and activities for its protection have been increasing day by day. United Nations also give more priority on public participation and civic space in 2020. This document shall provide the information to women and youth

led CSOs in marginalized communities and encourage them to protect the civic and democratic space from the community level. The information incorporated in the document shall be useful resource for the CSO activists, and practitioners to support their work on promoting civic space. The readers shall basically get information in the learning documents as listed below. The document shall help to:

- Understand and define the civic and democratic space.
- Learn what the attempts to close civic and democratic space look like in practice.
- Learn how civil society impacts civic and democratic space.
- Learn measures of civic and democratic space including strength and weaknesses of different sources of information.
- Learn a few practical action points for incorporating the issues of civic and democratic space into work.
- Understand the importance of civic and democratic space in terms of active citizenship.
- Learn how to increase the involvement and participation of women, *Dalit*, *Janajati* and youth in civic and democratic space.
- Monitor the civic and democratic space and claim the right as an active citizenship for the practitioners.

How Made this Learning Documents?

This document has been prepared based on the theoretical and practical experience-based interactions, discussions, interviews, and profound study and analysis of the previously published materials, policies, acts, regulations, and directives. Qualitative methodology has been used during the study. Similarly, both the primary and secondary data have been collected for preparing this learning document. For data collection, basically three kinds of tools and techniques have been used. The first tool is the content analysis. Under content analysis, the Constitution, acts, regulations, directives, action plans, strategies, government plans, civic and democratic space, strategies, programs and budgets and other related policies were reviewed and analysed. Similarly published and unpublished books, journals, research works, articles, notes, newspapers, magazines, online information, country report, newsletters, and newspaper reports were reviewed and analysed.

Second tool is the conduction of a national level workshop with stakeholders. The workshop with youth and women from CSOs were conducted on 14 December 2022 in Lalitpur. The workshop gathered much information on the democracy, governance, civic and democratic space. The inclusive theory was used while selecting the participants ensuring that priorities are given to women, *Dalit*, *Janajati*, *Madhesi*, *Muslim*, Persons with Disability (PWD), and people from marginalized regions. A total of 35 different stakeholders participated in the workshop.

Third tool is the Key Informant Interviews (KII). KIIs were conducted to generate reflections and insights from the youth and women groups. Bangladesh and Thailand responded to the questions in writing while other opted for oral interviews. Total 13 interview was taken from the informants.

Target Groups of the Documents

The target groups of this learning documents are working in civil rights, democracy, rule of law, civic and democratic rights. Besides, other target groups include:

- CSO activists
- Human Right Defenders
- Good Governance Campaigners
- Ecology Preservation Campaigners
- *Dalit* Campaigners
- *Janajati* Right Activists
- Women Rights Activists
- Democracy Practitioners
- Journalists
- Law Professionals
- Campaigners active in promoting civic and democratic space
- General people are the target group of this document.

Who is this learning document for?	This learning document has been designed for the civil society activists. It intends to be useful resource to all practitioner who are working for strengthening the democracy, protection of human rights and civic space. The document should also be made accessible to the CSOs and its members who work with, to help build a shared understanding and knowledge of civic and democratic civic space.
How to apply the learning document?	The document has been designed to be a resource material that can be used when designing activities on civic and democratic. There is a comprehensive guide to undertake a civic and civic space in the document. The readers of the document can gain the knowledge of civic and democratic space and evaluate the local context. The document can also be used as a quick reference guide with key definitions and concepts on the civic and democratic space as well as a range of resources available on working with marginalized youth and women groups.

Chapter Two:

Understanding Civic and Democratic Space

Definition of Civic and Democratic Space

Civic Space

Civic space is the environment that enables people and groups or actors to meaningful participation in political, economic, social, and cultural life of their local communities and circumstances. Government formulates the legal and policy space within which people can express their views, assemble, associate, and engage in dialogue with one each other and with authorities about issues that affect their life. CSOs activists including human right defenders, women advocates, child right activists, youth activist, members of minorities and indigenous groups, trade union activists, and journalists should be able to express themselves freely in full security and effect change peacefully and effectively.

Civic space relies on formal and informal channels through which individuals and groups can play a role in policymaking process. They also can contribute to decision-making and political processes. Civic space includes the freedoms of expression, including access to information, of peaceful assembly and association always apply both online and offline. An open and strong civic space requires an open, secure, and safe environment that is free from all acts of fear, harassment, and reprisals, whether online or offline. Any restrictions on such a space must comply with international human rights law.

Various institutions carrying out research and study on civic space have been defining civic space and importance in different ways. CIVICUS explains about the importance of the civic space 'by forming associations, by speaking out on issues of public concern, by gathering in online and offline, and participating in public decision making, individuals use civic space to solve problems and improve lives. A robust and protected civic space forms the cornerstone of accountable, responsive democratic governance and stable societies. Civic space is the set of conditions that allow civil society and individuals to organize, participate and communicate freely and without discrimination, and in doing so, influence the political and social structures around them ².

This learning document follows the definition of civic space as expressed in the UN Guidance Note on Civic Space, which states "Civic space is the environment that enables people and groups, or – 'civic space actors' – to participate meaningfully in the political, economic, social, and cultural life of their societies. Civil society actors should be able to express themselves freely in full security and, affect change peacefully and effectively³.

Civic Space¹

Civic space is the environment that enables civil society to play a role in the political, economic, and social life of our societies. Civic space allows individuals and groups to contribute to policy-making that affects their lives, including by:

- accessing information
- engaging in dialogue
- expressing dissent or disagreement, and
- joining together to express their views.

An open and pluralistic civic space that guarantees freedom of expression and opinion as well as freedom of assembly and association, is a prerequisite for making development and peace sustainable.

Key Indicators of CIVIC Space

- Freedom of association
- Freedom of peaceful assembly
- Freedom of expression
- Human rights protections
- Political violence and terror
- The state duty to protect

1 www.ohchr.org/en/civic-space

2 <https://monitor.civicus.org/whatis-civicspace/>

3 https://www.ohchr.org/sites/default/files/Documents/Issues/CivicSpace/UN_Guidance_Note.pdf

Democratic Space

Democracy is a form of government in which the people have the authority to deliberately decide legislation and choose governing officials to do so. Foundations of democracy include rights of association, freedom of assembly, freedom of religion, property rights, freedom of expression and speech, consent of the governed, inclusiveness and equality, voting rights, freedom from unwarranted governmental deprivation of the right to life and liberty, and minority rights.

Democratic space is a useful concept that helps to facilitate analysis and understanding of censorship of traditional and digital media, attacks on journalists, arrests of human rights defenders and incidents of religious extremism and political violence and its trends⁴. The term refers to the arena that exists between the state and the individual in which people interact to hold the state accountable, participate in politics, express their needs and opinions, and shape public debate. It can only be deemed to be democratic when it is underpinned by the values of liberal democracy such as individual autonomy, political freedom, representative leadership, accountable governance, and respect for human rights.

Indicators of Democracy²

- Civil Rights
- Economic and Social Rights
- Civil and Political Participation
 - Political Parties
- Free and Fair Elections
 - Rule of Law
- Military and Police Control
- Government Accountability
 - Corruption Control
 - Free Media
 - Government Responsiveness

Civil Society and Civil Society Organizations

Various formal and informal organizations working in the sector of social and human welfare and other community organizations fall under the CSOs. These are the active people and organizations which work for protection and promotion of human rights, strengthening the civic and democratic space of people, and strengthening the democratic governance system. Similarly, bringing the voice and issues of general people in discussion, and the media which help in finding the solutions by drawing attention of the stakeholders are also the CSOs. These organizations include women, mother, children, youth, senior citizen, *Dalit*, *Janajati*, religious and professional organizations, labour unions, advocacy groups, various social and cultural groups such as *Guthi*⁵, *Rodhi*⁶, and so on.

4 <https://gsdrc.org/document-library/democratic-space-in-asia-pacific-challenges-for-democratic-governance-assistance-and-deepening-civic-engagement/>

5 *Guthi* is an important social organization prevalent among the *Newars*. *Guthi* is traditionally a patriarchal kingship based on certain norms that are moderated by the *Guthi* system.

6 *Rodhi*, an age-old tradition where the youth come together to sing and dance to folk music, is popular in and around Western Nepal.

Civil Society is an extended network of organizations. This includes in it, the community groups, non-government organizations, labour unions and organizations, professional organizations and their foundations. It is a group of people outside of the government. Civil society and civil campaigns both are non-governmental. These kinds of groups and campaigns are registered as non-governmental organizations for getting legal accreditation. The basic characteristics of all the CSOs are to raise the voice of people, represent their needs and desires to draw attention of the stakeholders and strengthen them to involve themselves in the process as main actor.

Civic Engagement

Civil engagement refers to the physical presence of general people, expression of their ideas, presentation of their concerns and needs, expression of their proposition in government policies and activities, taking concern on public issues and searching for the possible means to solving an issue in various governance activities through democratic process and sensation. Similarly, involvement of general people individually, in a group or institutionally in all steps and procedures of the issues of their concern and creating an effect in their well-being also refers to civic engagement. United Nations Children's Fund (UNICEF) defines civic engagement as "civic engagement is an individual or collective actions in which people participate to improve the well-being of communities or society in general⁷."

Looking at this definition, any youth, women or other people can act individually or as part of a movement. They are not required to have a formal position in CSOs when they carry out their activities as part of the civic engagement. Involvement of all people who claim and take up the spaces in the public, political, economic, social, and cultural life in their societies is called civic engagement.

Civic Space and Civil Society

The core issue of the Civic Space is freedom of association, freedom of peaceful assembly, freedom of expression, human rights protection and civic engagement in law and policy making process. This right has impact on every individual of the society. The free exercise of fundamental rights by citizens and civil society is key condition of the respect of civic space. As CIVICUS⁸ observes: "civic space is the root of any open and democratic society. When civic space is open, citizens and civil society organizations can organize, participate and communicate without hindrance. In doing so, they can claim their rights and influence the political and social structures around them. This can

⁷ <https://www.unicef.org/adolescence/participation>

⁸ <https://monitor.civicus.org/whatiscivicspace/>

only happen when a state holds by its duty to protect its citizens and respects and facilities their fundamental rights to associate assemble peacefully and freely express views and opinions.

Importance of Civic and Democratic Space for Active Citizenship

An open civic space enables civil society and a wide range of actors to fulfil their roles and act freely in pursuit of democracy, human rights, inclusive participation, and good governance. Citizens should be able to express themselves freely, to organize in groups for a common purpose, and to gather to make their voices heard: the freedoms of expression, association, peaceful assembly, protection of human rights and inclusion which are understood as civic space. Citizens must have the ability to define, shape, and monitor government policies and programs, and should be protected from unwarranted intrusions into their personal spheres; these rights to public participation and privacy are critical components of civic space too. The civic and democratic space provides opportunity to every citizen for freedom of expression, freedom of association and expressing their thoughts publicly. It creates vibrant civil society and citizens to promote human right, economic, social, cultural and political right. While the civic and democratic space are shrinking, there will be infringement in human right and freedom as well. Thus, civic, and democratic space is important for a citizen

Likewise, civic and democratic space can be guaranteed only when women and youth are institutionally involved. With the institutional and meaningful involvement of economically, socially, politically, and culturally marginalized women and youth, the citizens of these communities become aware of their rights. Which makes an important contribution to protect civic and democratic space in the community.

Measuring the Civic and Democratic Space

Responsive governments have used complex techniques and approaches to shrinking the civic and democratic space for civil society. Measuring the detention of government in civic space is a complicated task. However, many organizations have developed few tools to measure the situation of civic space of a country. These different tools consider various factors comprised in civic space. These measurements provide resources to understand the legal situation of a country and carry out advocacy. Some of the tools are as follows:

S.N.	Tools	Description	Link for further study
1	CIVICUS Monitor Tracking Civic Space	<p>CIVICUS has developed the tool to monitor and measure the civic space. This tool is an online tool which allows practitioners to access live update from civil society around the world, track threats to civil society and learn about the ways in which the individual's rights to participate is being realized or challenged.</p> <p>This tool is useful to expand CSOs advocacy in-country. It rates about 195 countries on a five-point scale (closed, repressed, obstructed, narrowed, open) from open to closed. It also tracks news and developments in real time related to civic freedom.</p>	https://monitor.civicus.org/
2	Freedom House Report	Freedom house monitors the civic and democratic space. Freedom house's annual report assesses the condition of political rights and civil liberties around the world. It provides a good analysis of the civic liberties and rights and is focused on 'associational and organizational rights.	https://freedomhouse.org/explore-the-map?type=fotn&year=2022
3.	V-Dem Database	V-Dem database pursued to measure democracy through a multidimensional lens from 1789. It provides an analysis from a dataset of 450 V-Dem indicators in 201 countries. V-Dem provides a very useful scores on a very detailed set of indicators including indicators that measure respect for civil and political rights. It may help to identify countries where closing civic space is occurring or is at risk.	https://www.v-dem.net/data/the-v-dem-dataset/
4	World Bank's Indicators	World Bank governance indicators explain about approach of policymaker's interaction with stakeholders on shaping regulations. It covers 187 countries. It scores 0 (worst) and 5 (best). It gives a practical picture of the situation of civic engagement in policy and rule making process of a specific country.	https://rulemaking.worldbank.org/en/rulemaking

S.N.	Tools	Description	Link for further study
5	ICNL's Civic Freedom Monitor	It provides up-to-date information on legal issues affecting civil society and civic freedoms. It also includes freedoms of expression, association, and peaceful assembly. Currently it includes 8 multilateral organizations and 54 countries in the report. ICNL overviews the major civic freedom related legal issues, barriers to civil society activity. Furthermore, the multilateral organization report provides an overview of the organization with a focus on legal issues affecting civic freedom and civic participation.	https://www.icnl.org/resources/civic-freedom-monitor

The data sources stated above are more useful for measuring certain types of indicators of the civic and democratic space. CIVICUS and ICNL database are more useful to measure freedom of assembly. Freedom house report, CIVICUS monitor is also useful to measure the freedom of association and freedom of speech. CIVICUS monitor is useful to measure human rights protections. Furthermore, V-Dem and World Bank Indicators are useful to understand state-civil society relations.

Similarly, in some cases, such indicators can be created based on local conditions and needs. The local situation can also be identified based on the indicators of civic and democratic space formulated in this way. For example, the questionnaire at the end of this learning documents can be taken. Practitioners can measure civic and democratic space by analyzing the local situation properly and creating indicators by themselves.

Chapter Three:

Civic and Democratic Space in Thailand, Bangladesh, and Nepal

International Provision

There are various international conventions, declarations and protocol that are related to the protection of civic and democratic space. The article 20 (1) of the Universal Declaration of Human Rights 1948 has ensured the right of every individual to peacefully participate in an assembly and establish an organization. Similarly, according to the article 21 (1) of the International Covenant on Civil and Political Rights every individual has right to establish organizations and be associated with them. The covenant has ensured that nobody in any situation shall be prohibited with the national security, public provisions, public moral and others' rights, freedom, and respect.

Article 5 of the Universal Declaration of Human Rights 1998 has spelled out about the union related to the national or international non-governmental organizations. The article 71 of the UN charter 1945 has provided legitimacy of the social, economic, cultural, educational status of the non-government organizations. Furthermore, Declaration on Human Rights Defenders has ensured the freedom to establish the organizations. The declaration has focussed that the member country should protect the human rights. The major 7 theories have been rendered International Principles Defending Civil Society. These include freedom of association, right to operate free from government interference, right to free expression, right to information, right to peaceful

assembly, right to seek and secure resources and state's duty to protect and promote respect for human rights.

Paris principles, which promotes the adoption of principle of pluralism of human rights, has focussed on ensuring the participation of CSOs in various state structures for protection of human rights. Similarly, Accra Agenda for Action has also focussed on the important participation of CSOs in state structures.

International Covenant on Civil and Political Right and UN protocol and UN declaration all have mentioned the freedom of association as a fundamental right. The article 22 (1) of the covenant states that every individual has a freedom of association as well as can establish trade union for their wellbeing and can be associated with it. The article 22 (2) states that no prohibition can be rendered to the individual unless it is the matter of fulfilling the need of democratic society such as protection of national security, public security, public health, public probity, and other rights.

The countries which have signed the declaration or covenants or are the UN member countries like Nepal, Bangladesh or Thailand cannot formulate constitution and laws against the international legal provisions, protocols, or conventions. This is because international laws come before the national laws. The constitutions and national laws should be amended according to the international laws or the definition of the provisions in the national laws should be within the international law's assertion. Thus, these international conventions play important role in promoting the civic space.

Civic and Democratic Space: Context of Thailand and Bangladesh

Status of Civic and Democratic Space in Thailand⁹

a) Freedom of peaceful assembly and association

The Constitution of Thailand provides for the right to freedom of peaceful assembly and association. Section 44 of the Constitution upholds the freedom of any person to assemble peacefully which is subject to the security of the State. Section 42 stipulates freedom of association, but it can be restricted for the purpose of public interest, public order, or good morals.

⁹ This sub-chapter is based on Joint UPR Submission: Civic Space in Thailand UN Universal Periodic Review of Thailand – 3rd UPR Cycle 39th Session of the UPR Working Group.

However, pro-democracy and political opposition parties, which after the 2019 elections gained a large political support, have been facing continuous challenges in peaceful assembly and association.

The 2015 Public Assembly Act imposes measures to restrict and interfere with public assemblies. It requires anyone seeking to hold a public assembly to notify the authorities at least 24 hours in advance of the time, place, and aim of the assembly under Article 10. Failure to provide such notice is an offense with a possible penalty of up to 10,000 Thai baht. It also excessively limits protest locations by prohibiting all assemblies near many of the locations such as royal palaces and residences, the National Assembly, Government House, and the Thai courts under Articles 7 and 8. The law gives authorities sweeping powers to instruct the organizers to modify or prohibit the assembly if it is deemed to breach the Act. Additionally, the Act provides for liability of organizers and participants under Articles 15 and 16, including punishment with a fine of up to 10,000 Thai baht or imprisonment for the breach of vaguely worded “duties”, such as a duty not to cause “unreasonable inconvenience” to any person.

In March 2020, under the pretence of containing the spread of COVID-19, the government invoked a state of emergency and ban on public gatherings, which was originally scheduled to last a month but repeatedly renewed. The government in October 2020 declared a more stringent “severe state of emergency” which banned the gathering of more than five people, and arrested at least 87 protesters, before revoking this decree one week later.

b) Freedom of expression, independence of the media and access to information

The Constitution stipulates freedom of expression and liberty of communication in Sections 34 and 36. Yet such liberty can be restricted for the purpose of maintaining the state’s security, protecting the rights or liberties of other persons, maintaining public order or good morals, or protecting people’s health. Freedom of media is guaranteed under Section 35 of the Constitution that prohibits “censorship of any news or statements prior to publication in a newspaper or any media unless the state is at war.” It also acknowledges the right to access information under Sections 41 and 59. Despite these provisions, challenges remain in peacefully exercising the rights to freedom of expression and access to information.

Section 9 of the Emergency Decree allows for censorship to impede on freedom of expression and media as it prohibits the sharing of news that is “false or may instigate fear among the people.” The government also monitors media content from all media sources under laws curtailing the independence of the press. The Broadcasting and Television Business Act empowers the National Broadcasting and Telecommunications Commission

(NBTC) to suspend or revoke the licenses of radio or television operators broadcasting content deemed false, defamatory to the monarchy, harmful to national security, or critical of the government. Thai publications have been undergoing self-censorship. During the 2020 youth-led pro-democracy movement, many TV stations decided to stop the livestreaming before certain anti-monarchy speakers appeared and only included reports about politicians warning protesters. Due to the strict media control, Thai people and news outlets are turning to online platforms to exercise their rights to expression and information. This has led to the expansion of the government's crackdown to the internet. With authorities exploiting repressive laws, individuals continue to face charges for expressing views critical of the monarchy and government both online and offline

Several laws have been repeatedly used by the state to arrest and prosecute human rights defenders, resulting in a chilling effect on activists.



A Twitter user called Niranam was arrested in February 2020 for posts about the king. This case is pending in the court now and if found guilty, he can face up to 40 years in prison. In another case, activist Karn Pongphrapan was arrested and charged simply for "sharing" a Facebook post referencing the historic downfalls of European monarchies. He is now on bail and awaiting trial. At least 28 people have also been charged for social media posts questioning the government's measures to tackle COVID-19. For example, in March 2020, Danai Usama, an artist who had criticized a lack of screening measures for COVID-19 symptoms at the Suvarnabhumi Airport, was arrested.

Civic and Democratic Space in Bangladesh¹⁰

When Bangladesh emerged as an independent country in 1971, civil society had played a pivotal role in the country's liberation. After the 1975 assassination of President Bangabandhu Sheikh Mujibur Rahman, widely hailed as the Father of the Nation, the country went into the hands of military rulers. For the 15 years that followed, the country was governed by a military-bureaucratic alliance that foiled democratic institutions.

After the fall of General Hussain Ershad from power in 1990, parliamentary democracy was restored through general election in 1991. However, even the post-1991 period has seen an ebb and flow of attempts made to continue to restrict civic space. The country saw the rise of Islam-based politics with the Bangladesh Nationalist Party (BNP)-Jamaat-e-Islami alliance coming to power in 2001, with the religious minority communities, mainly Hindus, facing violence.

¹⁰ This sub-chapter is based on <https://thesouthasiacollective.org/wp-content/uploads/2020/12/SASM2020-Bangladesh.pdf>

Since 2004, there has been a rise of religious militancy, and recurrent attacks on secular thinkers, as well as enactment of suppressive laws that go against the spirit of the Constitution and human rights norms. The current ruling party, the Awami League, that also led the country's independence movement, has been in power since 2009, having won the elections three times—in 2009, 2014 and 2018—although the credibility of the elections held in 2014 and 2018 has been questioned.

During the 2009-2014 period, the government enacted some progressive legislation, including those aimed at protecting the right to information, the formation of a National Human Rights Commission (NHRC), restoration of original constitutional principles and so on. The enactment of these laws had been widely celebrated. However, the post-2014 environment has been marked by political vandalism and destruction, including enforced disappearances and apprehension of opposition political figures. The misuse of social network platforms by the vested groups and terrorists led to the formulation of national broadcasting policies, regulation of the activities of non-state actors, and the enactment of Digital Security Act 2018. On many occasions, the new legislative measures have been useful in addressing the rumours, militancy, online harassment, etc. But they have substantially curbed the liberty of citizens and groups those working for the protection and promotion of minority rights have been affected severely, including those focused on religious minorities, indigenous peoples, refugees, LGBTIQ+ communities, and labour rights. There is an adverse environment for CSOs and human rights defenders in Bangladesh. According to media reports, a total of 1,417 cases on cybercrime charges were filed with the police between 2012 and mid-2017. A total of 1492 people were arrested in Dhaka alone in these years, with 490 cases still under investigation.

a) **Dispensation**

Bangladesh adopted the Constitution in 1972, nine months after its emergence as an independent country. The Bangladesh constitution incorporated 'secularism' as one of the guiding principles, in line with what the founding President, Bangabandhu Sheikh Mujibur Rahman, had envisioned an independent country free from religious bias. As a reflection of his political vision, principles of nationalism, secularism, democracy, and socialism were adopted as the four basic pillars of the Constitution. Article 12 of the Constitution defined secularism as the freedom to practise one's own religion and non-use of religion towards political ends. Similarly, Article 38 allowed citizens to form associations or unions. Article 41 guaranteed freedom of religion subject to law, public order, and morality. After 1975, once the military regime was in place, constitutional theocracy became triumphant and religious expressions started to get a place in the constitutional framework.

b) **Freedom of Expression and Press**

Article 39 of the Constitution of the Bangladesh ensures freedom of expression and press in a qualified manner. Article 39 subjects this freedom to certain restrictions such as security of the state; friendly relations with foreign states, public order, decency, or morality, among others. These grounds are vague and subject to interpretation. The Constitution also gives power to the state to make laws limiting freedom of expression on the grounds mentioned in Article 39.

c) **International Human Rights Law and Bangladesh's Obligation**

Bangladesh has ratified several international treaties that protect civil and political rights, right to freedom of speech, expression, and opinions, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD). In several reports, various international human rights bodies have drawn Bangladesh's attention to pertinent issues with relevance to civic rights and freedom of expression. For instance, an Anti-Discrimination Bill in the process of enactment needs to address caste-based discrimination, decriminalisation of homosexuality, and harassment and stigmatisation of the LGBTIQ+ community. There is also international concern about the high rate of extrajudicial killings and enforced disappearances in Bangladesh. The accountability measures in responding to the issue are inadequate and need to be addressed.

Civil and political rights in Bangladesh are being increasingly curtailed due to the presence of laws and practices inconsistent with the protection of fundamental human rights. The situation can be attributed to the absence of strong opposition political parties, concentrated governmental power, and lack of accountability. The government's actions towards opposition political activists, civil society, and the media has been increasingly hostile since the 2014 national election. It has also failed to protect free-thinkers, bloggers, and minorities from attacks by militant groups. Although there are more than 30 private TV channels operating in the country, people seem to be fearful and anxious when it comes to expressing themselves on social media, owing mainly to the fear of being prosecuted under the 2018 Digital Security Act. As foreign assistance has dwindled in the country, CSOs have maintained engagement with the government on 'safe and soft' issues instead of advocacy of minority rights. The voice of the religious minority, never strong in Bangladesh, is at its lowest level at present.

Civic and Democratic Space in Nepal

a) **Constitutional Provision of Nepal**

Nepal must formulate law in accordance with the international legal provisions, protocols and conventions. The article 5(3), "state policy" of the Constitution of Nepal mentions about the implementation of the international convention Nepal has signed. In this way, the government of Nepal has accepted the right to association, assembly, and expression equal to the fundamental right of an individual.

Similarly, the preamble of the constitution has vowed on eliminating all forms of discrimination based on class, caste, region, religion, gender and caste based untouchability to ensure economic equality, prosperity and social justice and creation of an equitable society through, proportional, inclusive and participatory theory. Similarly, the freedom of expression and freedom of association has been included in the article 17(2) of the constitution of Nepal as the fundamental right of an individual. The fundamental rights that support the protection of the civic and democratic space are as follows:

- **Right to live with Dignity:** Article 16 of the Constitution of Nepal has ensured the right of every individual to live with dignity.
- **Right to freedom:** According to article 17, no individual will be deprived of freedom except in accordance with law. Similarly, the right to freedom include freedom of opinion and expression, peaceful assembly and without arms, freedom to form political parties, freedom of union and association, freedom to move and reside in any part of the country, and freedom to practice profession, occupation, establish trade, business or industry in any part of the country.
- **Right to Equality:** Article 18 of the Constitution of Nepal has safeguarded the right to equality. According to this right, no individual shall be denied legal protection. Similarly, no individual shall be discriminated in the application of general law based on origin, religion, race, caste, sex, tribe, physical condition, disability status, health condition, marital status, pregnancy, economic condition, language, region, ideological conviction, or other grounds. However, nothing shall be deemed to prevent making special law in favor of the socially and culturally backward groups including *Dalit*, women, and others for their protection, strengthening and development.
- **Right to communication:** The article 19 of the Constitution of Nepal has acknowledged that no censorship shall be done on publication, dissemination, or broadcasting of any kind of news, editorial, feature or any kind of reading materials. However, nothing shall be deemed to prevent making the law and act that will restrict the act of hatred to labor, incitement to caste-based untouchability and gender discrimination.

- **Right against Untouchability and Discrimination:** The article 24 of the Constitution of Nepal remarks about the right against untouchability and discrimination. This includes:
 - i) No individual should be subjected to untouchability and discrimination in any public or private place based on his/her origin, caste, community, tribe, profession, occupation, and physical condition.
 - ii) No person shall be discriminated against in distributing any goods, services or facilities based on caste or tribe and no goods, services or facilities shall be produced for certain tribe or caste.
 - iii) No act of demonstrating any person or community superior or inferior based on origin, tribe, caste, or untouchability or propagating ideology of untouchability or caste-based discrimination.
 - iv) No discrimination shall be made in workplace with or without caste-based untouchability.
 - v) All kinds of caste-based discrimination acts are punishable by law as a severe social offense and the victim has right to get compensation according to law.
- **Right against exploitation:** The article 29 of the Constitution of Nepal ensures the right against exploitation. Any individual shall not be exploited based on religion, custom, tradition, usage, practice or any other ground.
- **Right of Dalit:** Based on principle of proportionality, *Dalit* shall have right to participate in any bodies of state. Special provisions for empowerment, representation and participation of *Dalit* shall be made by law in public and other sectors of employment.
- **Right to social justice:** The article 42 of the Constitution of Nepal has ensured the right to participation of the socially back ward women, *Dalit*, *Janajati*, *Khas Arya*, *Madheshi*, *Tharu*, *Muslim*, back ward classes, disabled people, marginalized, gender and sexual minorities, oppressed or citizens of back ward regions, shall have right to participate in all bodies of state based on principle of proportionality. However, the article 51(10) includes policy on social justice and inclusion, the 14th point of the policy includes provision making the investment and role of national and international non-governmental organizations (NGOs/INGOs) accountable and transparent by adopting one-door system for establishment, approval, regulation, and management of these organizations, and engaging these in national priority sectors. It seems that this provision gives right to the state control these organizations on its will. The laws drafted for regulation of the organizations also states the same. The provisions of the present constitution are controlling in comparison to the provisions in the constitution of 2047 and 2063.

b) **Laws and Acts**

Various laws have been in implementation in affecting the CSOs and civic space directly. Similarly, some work procedures also affect directly to the CSOs. Some of the acts and directives related to the CSOs and civic and democratic space are listed below:

Few acts related to CSOs	Directives promulgated by the Social Welfare Council for regulating the CSOs.
Organizations Registration Act 2034 Cooperative Act 2048 Social Welfare Act 2049 Company Act 2063 National Youth Council Act National Women Commission Act 2074 Caste-based Discrimination and Untouchability (Offense and Punishment) Act 2068 Local Government Operation Act 2074 Right to Information Act 2064	Foreign Aid Directives 2071 Directives on the Association with Organizations 2071 Directives on the General Agreement and Facilities 2071 Directives on Monitoring, Supervision and Evaluation of the Social Organizations 2071 Project Agreement Directives 2071

Organization Registration Act 2034: This act is the prime act governing the registration of CSOs in Nepal. The act states that organizations cannot operate without registration and if found operated without registration is subject to punishment. The organization established in accordance with this act can be women, *Dalit*, *Janajati* and others have been associated. Being associated, they have been collectively raising the issues of democracy, human right, good governance, poverty alleviation, *Dalit* right, *Janajati* right among others peacefully.

- **Company Act 2063:** Under the company act, both the profit making, and non-profit making companies can be registered. According to the act, the companies can be registered which have the objective of promoting or developing any profession or protecting the professionals or achieving special objectives like educational or social cause without sharing the profit. The companies are registered in the Office of the Company Registrar. These kinds of companies can be established with at least five people. The companies registered in this way have been working in the field of raising awareness among people, uniting them, and raising collective voice for protecting human right, *Dalit* right, women right and back ward class and community right.
- **Forest Act 2049:** The forest act has objectives of managing the forest, developing, protecting, and utilizing the forest resources for fulfilling the basic need of people and socio-economic development. The District Forest Officer has the right to hand over part of the national forest to the consumers' groups as community forest. In accordance with this act, more than 20 thousand community forest consumers' groups have been formed in all the 77 districts of the country. These groups can be

considered civil society organizations. These consumers' groups have been gathering, discussing, and raising collective voice for their rights.

- **Cooperative Act 2048:** With the objective of exchanging support for social and economic development of the farmers, class with low capital and income, labors, landless and other general people, there is provision of the formulation of cooperative act. To the date, more than 35 thousand cooperative organizations are operating. These cooperatives can be established with at least 25 people each. The cooperatives have been carrying out the democratic practice of promoting the protection of civil rights among others.
- **Social Welfare Act 2049:** The Social Welfare Act has been formulated with the objective of coordination with the activities of the CSOs working for the welfare of the helpless people in the society integrating various social service activities with the development activities. According to this act, the international organizations which wish to work in Nepal should get pre-approval from the Social Welfare Council. Similarly, the approved project should be implemented in coordination and support from the respective local government.
- **Right to Information Act 2064:** The Right to Information Act incorporates the CSOs within the definition of the public entities and has made provisions decided various obligations. The objective of the act is to make the information of public significance accessible to the general people. According to the act, the representatives of CSOs or the general people have the right to get all kinds of public information from the sources.
- **The Caste-Based Discrimination and Untouchability (Offense and Punishment) Act:** The preamble of the act states the objective of this act is based on custom, tradition, religion, culture, ritual or any other name, while recognizing the principle that every person is equal in terms of rights and human dignity, to make punishable the acts of untouchability, exclusion, restriction expulsion, contempt or any other discriminatory act that is against humanity, to provide compensation to the victims of such acts, to keep intact the national unity and create an egalitarian society, by strengthening the relationship subsisting among the general public.
- **The directives formulated by the Social Welfare Council for regulating the CSOs and the effect of the directives:** The Social Welfare Council endorsed the directives for regulating the CSOs in 2071. These are stated as follows:
 - a) The first amendment of the Project Agreement Directives 2071 has made provision of mandatory involvement of local organizations and states that if it is proved that there are no local organizations within a district that can perform certain works then only other organizations can conduct activities. This provision has shrunk the workspace of the non-government organizations.

- b) The Foreign Aid Directives 2071 has made the provision that the organizations submitting the project or program should include the pre-approval of the respective ministry. Similarly, while formulating the project, at least 60 percent of the budget must be allocated for development works. This kind of provision has created complications during project preparation. In addition, this kind of provision has shrunk the civic and democratic space of the organizations.

Critical assessment of Civic and Democratic Space in Nepal

It has been 33 years since the establishment of democracy in Nepal. However, the organization registration act and national direction act which were endorsed since the Panchayat regime have been in implementation until 2079. These acts have clear provision on the registration and renewal of the organizations, there are no provisions on regulation and operation of the organizations. The article 4 of the Organization Registration Act has stated that after receiving the application for registration of organization, the local official examines on the application and if found appropriate, the certificate of registration is issued. During the Panchayat system, the officials would examine if the organization would be loyal to the government or not. The provision of the act persists today too. However, the trend of deciding the registration of the organizations seeing the face of the people has been ended. After 2046, though the law from the Panchayat system persists, the development and expansion of the CSOs have been rapid.

Legally, the registration process is governed by the will of government body responsible for the registration of the organizations. The District Administrative Office (DAO) asks for various documents, recommendations, and other conditions for the renewal of the organizations as well.

Due to the constitutional guarantee, the establishment of the CSOs cannot be denied, however, various conditions are laid which discourage the registration and renewal of these organizations. There is no provision of closure of the organization because of lack of timely renewal. However, on 7 June 2018, the Ministry of Home Affairs released a notice which stated that the registration of the organizations which were not renewed for more than 3 years would be dismissed. This act seems to have put restriction on the civic space.

The renewal process of the organizations in Nepal is troublesome. The administration office asks for various documents other than stated in the law and regulations. According to law, the documents and information that should be submitted during the registration

include constitution of the organization, the decisions made during the meeting of the members on formation of the organization, name of the organization, objectives, ad hoc committee name, address, and profession, financial source of the organization, and address of office. However, the DAO asks for the recommendation from the local level, and police report as well. Similarly, the act has not spelled about the documents that should be submitted during the renewal process of the organizations. The regulations only state that the working committee members' names should be submitted along with the renewal application. Since 2019, the DAO has been asking progress report of the respective fiscal year, audit report, minute of annual general meeting, renewal of organization in the local level and recommendation. This can be clearer from the following table.

<p>Organization Renewal Process</p>	<ul style="list-style-type: none"> • Recommendation from the office related to the project. • Recommendation from the respective local level. • Tax clearance certificate. • Copy of the Registration Certificate • Annual administrative report • Annual financial report • After submitting the application to the District Coordination Committee with the documents, a recommendation can be obtained for the District Administrative Office. • The copy of the decision made on renewal of general assembly. • Certificate of renewal of the auditor. • Authority certificate. 	<p>The registration certificate is issued by the District Administrative Office.</p>
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Similarly, if any CSOs are conducting the project with foreign aid, the organization must get pre-consent from the local level for conducting any kind of activities. The completion certificate should also be submitted if the project is completed and if the project is running, the field monitoring report or recommendation of the local level should be submitted with the renewal application. Similarly, the acceptance letter from the Social Welfare Council for conducting the project and the monitoring and evaluation report from the council after the completion of the project should be submitted. Most of the participants of the FGD asserted that without the documents the renewal of the organizations is not possible. Collecting the documents is equally difficult. These harsh provisions did not exist before but are added in the latest time.

The registration and renewal of the CSOs are not limited to the district or central level.

Contribution of Youth Club

In Kalikot District, Khandachakra Municipality, Ward No. 1, local youth have formed a Samaj Sudhar Youth Club. The youth are working institutionally to increase citizen participation in the process of local development and planning through the club. The youth have been involved in the governance process by organizing regular discussion and interaction programs with the municipality. At the same time, the Ward Office has given responsibility to the Club to select plans for the policy and programs of the Ward for the financial year 2022/2023. A discussion program has been conducted at the settlement level on the question of what kind of programs should be conducted for the issue of young women and Dalits in the ward. Based on such discussions, a campaign has been started to declare Ward No. 1 of Khandachakra Municipality as an ending the caste-based discrimination in Ward. In this process, the club is actively working for social transformation and development by organizing its regular meetings, preparing annual action plans, and coordinating and collaborating at the city and ward levels. In the future, the aim is to work for social equality and development by taking into consideration the questions of the youth.

After the implementation of the federal system in Nepal, the amendment on the local government operation act has made provision for registration and renewal of the organizations also in the local level. Also, the provincial governments have been active in making new legal provisions for CSOs' operation and regulation. The registration and renewal process seems to be more complicated in the coming days.

The Revenue Office had been providing the certificate of tax exemption and had been renewing the CSOs until 2073/74. In the latest time however, the office has been refusing to provide tax exemption certificate. Many organizations with tax exemption previously are paying the tax these days similar to the profit-making companies.

Chapter Four:

Shrinking of Civic and Democratic Space

If space exists for civil society to engage, there is a greater likelihood that all rights will be better protected. Conversely, the closing of civil society space, and threats and reprisals against civil society activists, are early warning signs of instability. Over time, policies that delegitimize, isolate, and repress people calling for different approaches or legitimately claiming their rights can exacerbate frustrations and lead to instability or even conflict.”

UN High Commissioner for Human Rights (UNHRC)

Attempts to Close Civic Space

The closure of civic space manifests in many ways and affects a broad range of actors including the human rights defender’s media, faith-based groups, professional NGOs, and trade unions. The key drivers of shrinking civic and democratic space directly relate to power relation, where those that have the benefit from power are afraid of losing it. CIVICUS notated that 87 percent of the world’s population live in countries rated as ‘closed,’ ‘repressed,’ or ‘obstructed of civic space in 2020.

A study carried out by International Centre for Non-for-Profit Law (ICNL) active in civic space rights showed that during a period of 3 years from 2012 to 2015, 60 countries around the world adopted 120 restrictive civil society laws. Among the 120 restrictive laws, 20 percent of laws were directly against freedom of assembly³.

During the last 10 years an increasing number of governments have adopted new laws and practices that restricts or constrain civic and democratic space. These policies and practices have restricted people to organize, participate and communicate freely and without discrimination. These constraints have taken a wide variety of forms and affect a diverse range of actors but many have targeted formal CSOs. Civil Society does not exist in isolation but an integral part of democratic systems and societies. Due to this, current efforts by governments around the globe is to 'shrink' the space for civil society or to keep the civic and democratic space at very minimal level.

The governments in many countries have been adopting the tactics and approaches to shrink the civic and democratic space. For example, the Ethiopian government had imposed various obstructions on CSOs in 2009 and implemented the strict monitoring system over the activities of the CSOs. It has had a big impact on civil society and those working on issues related to human rights, good governance, and democracy. Many CSOs and their cadres vanished during this. This kind of situation is taken as shrinking of the civic and democratic space. Activists and practitioners have highlighted how closing civic space limits the operational effectiveness of CSOs, constrains their geographic reach and heightens security risks for activists and human right defenders. There are many ways in which governments can close civic space. Some of them are direct measures while the rest are indirect measures.

Freedom of Association

Governments, and fundamentalists restrict the freedom of association of the people in various forms and medium and shrink the civic and democratic space. The government enact legislation to govern and limit the operation of NGOs in many Asian countries. The restrictions include the re-registration of the I/NGO, tax rules, restriction on getting approval on receiving foreign funding, requirement for memorandums of understanding (MOU) from local authorities prior to registering an NGO, working in certain geographical locals and so on. In many extreme cases, government are seen to restrict the I/NGOs to work in governance, rule of law, human and civil rights. In many cases, the directives have been developed which restricts the civil society activist and I/NGOs representatives to work.

In many countries, freedom of association is strongly guaranteed in the law and regulations. However, harassment, bureaucratic registration, procedures, imprisonment of CSO leaders, surveillance, defamation campaigns against CSOs have been seen in these countries. In some countries CSOs are blamed to be an agent of the west. Majority

of the participants of the group discussion admitted that CSOs are taken as the foreign agents and many obstructions are created for those CSOs.

Civic and democratic space are shrunk in two ways under freedom of association. First is the registration through legislative and regulatory process. For example, police report is mandatory for registering any kind of organization in Nepal. The organization renewal needs recommendation from every municipality in which project or programs are implemented. Second is the restriction on foreign funding. At present there is restriction on support to the local CSOs and communities directly. Also, for any organization to take the foreign fund, the Social Welfare Council should provide approval which is a complicated and lengthy process. Many laws define the program cost as the administrative cost. For example, monitoring and evaluation, research, publication, local staff's salary, and benefits, capacity building of staffs, partners and local government representatives, and policy advocacy. These legal provisions have been shrinking the civic and democratic space.

Interference of right to assembly during COVID-19 pandemic.

The government had prohibited from an assembly of more than 25 people in public places during COVID-19 pandemic. The meeting of Covid-19 Crisis Management Coordination Centre (CCMC) made this decision on Poush 25, 2078. Similarly, crowd was prohibited in any political, administrative, and social programs. Also, for conduction of regular programs, the local administration must have given approval. The CCMC had ordered the Ministry of Home Affairs for monitoring the rule strictly.

Many CSOs are facing difficulty to get approval from the SWC. In many cases, the local government and administration have been creating legal and regulatory restrictions for the CSOs. The registration needs a police report. The renewal of the organizations is equally complicated. The government explicitly or implicitly prohibits the CSOs from working on good governance, human rights, and policy advocacy. The NGO Act prohibits NGOs from carrying out activities in any part of the country unless they have got approval from both the local level monitoring committees.

While we study on the issues all around the world, we find that the governments may seek to close civic space by restricting freedom of association. This may take the form of excessive interference, delay, or costs associated with the formation of non-commercial organizations. The countries are found to have used the following processes to create restriction against freedom of association:

- Create barriers to CSOs for obtaining legal status and entering public life.
- Expressive demands on CSOs with respect to supervision, enforcement, and reporting.
- High interference in CSOs operations such act governance, structure, and activities.
- Create obstacles and restrictions on CSO's access to resources including fundraising, receiving foreign funding, and imposing income tax.
- Blame the CSOs as being the foreign agent.

Dilip Mahato: Interference from the Non-Government sector.

Dilip Mahato is a 24-year-old resident of Mithila Municipality-5, Shreepur, Dhanusa who is an environment preservation campaigner. He conducted an active campaign against the illegal exploitation of river materials in his village. There had been excessive illegal extraction of river materials from Aurahi river in his village. He had been active for stopping this exploitation since long. On Poush 25, 2076, an exploiter of the river materials killed Dilip by smashing him by his tripper. The crusher businessman Bipin Mahato had threatened Dilip of killing him just before 3 days of this incident. When Dilip raising campaign against environmental exploitation got killed, the environment preservation campaigner and CSOs around the country protested. The National Human Rights Commission issued a press release on this incident on Poush 27, 2076 stating that Dilip murder case is a heinous act and instructed the government for neutral investigation. The government of Nepal studied about this incident detailly and filed the case on the District Court, Dhanusa. Among the six culprits associated with the incident, three were proved guilty and were sent to jail on Falgun 2, 2076 and three were released with bail amount.

Freedom of Assembly

The state and non-state actors attack the right to freedom of assembly to shrink the civic and democratic space. In many countries around the world, freedom of assembly is under attack or denied. Protestors have been arrested, killed, tortured, or detained when peaceful demonstration are dispersed using excessive force. Bangladesh is a state party to the 1966 ICCPR. Article 21 governs the right of peaceful assembly, providing that: *'The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law, and which are necessary in a democratic society in the interests of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others'*¹¹.

¹¹ <https://ccprcentre.org/simple-guide/pages/article-21.html>

The article 37 of the constitution of Bangladesh also states that *“Every citizen shall have the right to assemble and to participate in public meetings and processions peacefully and without arms, subject to any reasonable restrictions imposed by law in the interests of public order or health.”* Despite such constitutional provision, the country has been shrinking the right to freedom of assembly. Restricting peaceful assembly of people, particularly those holding dissenting views, have become somewhat of a routine matter for law enforcement over the years. In 2020, on least 17 occasions the Dhaka Metropolitan Police (DMP) blocked 17 meetings. In some instances, force was used. From December 2, 2021, the DMP authorities-imposed restrictions on rallies without permission and in the first two months of 2021, two major rallies were foiled as the authorities declared Section 144 under the 1860 Code of Criminal Procedure.

In many cases, CSOs holding planned meetings were to get prior approval. Similarly, in many cases, administration has been imposing restriction in planned peaceful demonstration.

Governments may seek to close civic space by restricting freedom of assembly. This may take the form of interference with people’s ability to come together to collectively express, promote, pursue and defend their ideas. While analysing on the event of restriction on freedom of assembly imposed by the governments around the world, the following medium are seen to be applied:

- Incidences of police violence in peaceful movement.
- Failure to protect assemblies from violence by non-state fundamentalist or extremists’ groups.
- Restrictions on assembly include limits on the size of meetings.
- Restrictive permitting processes for assembly.
- Excessive responses to unpermitted assembly.

Freedom of Expression

Governments in Bangladesh, Thailand, and Nepal all have enacted legislation on freedom of expression, prevention of electronic crimes, cybercrimes, access to information, information and communication technology, access to information and privacy and media and newspapers. Those legislation are aimed to providing grounds for restricting access to public information, providing the space for the judicial and legal harassment, harassment to journalists, human right defenders and civil society activists. During the Maoist armed insurgency in Nepal from 1996 A.D., there had been extensive attacks on journalists. The government are seen to restrict the right to free expression, using methods such as intimidation and attacks against independent journalists from state and non-state both sides.

Governments may seek to close civic space by eroding freedom of expression. This can include interference with people's ability to voice opinions and share and impart ideas. In the countries where right to information, access to public information, and freedom of expression is guaranteed by law, in practice, harassment of journalist and the use of public media to perpetuate negative narratives of CSOs by state non-state actors is rampant. For example, there were 335 violations of the right to freedom of expression in Bangladesh in 2017. More than 70 percent of violations were against journalists working at grassroots level. In the latest time, criminalization of expression and the use of laws to restrict expression have been a rising trend in Bangladesh¹².

In all countries even those with right to information laws, it is difficult for human rights defenders and CSOs activists to access the public information. Countries are seen to restrict over freedom of expression using following ways:

- Censorship of the mass media
- Online discrimination, such as blocked political content, spying and surveillance.
- Web blackouts, including closing the internet or various social media platforms during the major political movement, controversies, and protests.
- Bans on speaking out against the government, and other institutions and groups.
- Highly imbalanced applications of laws related to defamation and slander discouragement to free speech on pain of high financial penalties.

Comedian Apurba Singha

Comedian Apurba Singha had posted a comedy video about Newar tradition in his YouTube channel Comedy Café. The Newar community had expressed their objection on his mockery over the language, tradition, food habit of Newar community. When the comedy was debated, he deleted the video. But, on Bhadra 12, 2079, he was arrested by Nepal Police. While being arrested Singha was accused of hurting the faith of Newari community. The police put him in custody for 12 days. Later, he was infected with COVID-19 and then was released. But on Kartik 3 he was again arrested and was released after paying a bail amount of 250 thousand rupees. Even after being proved guilty, he was to pay only 100 thousand rupees. However, he had to pay 250 thousand rupees. This is one of the examples of attempt to close the civic and democratic space.

Freedom of Expression

According to a study carried out by Freedom Forum, during the Maoist insurgency, 23 journalists were killed from 2052 Falgun to 2078 while 5 journalists were disappeared.

¹² <https://www.article19.org/resources/bangladesh-violations-right-freedom-expression-2017/>

Human Rights Protection

Countries around the world are seen to have shrink the civic space by violation of human rights. Human rights defenders in many countries have faced forced disappearance, physical assault, threats, intimidation, kidnapping by both state and non-state actors. This act has directly affected human rights defenders working on rule of law, women rights, *Dalit* rights, anti-corruption, good governance, indigenous peoples' rights, rights to land, environment and natural resources, journalist, and other activists. In many cases, human rights defenders and their families have been attacked specially from both state and non-state fundamentalist groups. These incidents occur basically in the conflicted areas.

Human rights in Bangladesh are enshrined as fundamental rights in the Constitution of Bangladesh. However, abuses by security forces, including extrajudicial killings, torture, and enforced disappearances, remain pervasive throughout the country, taking place in an environment of absolute impunity. In a 2019 report of the World Organization Against Torture (OMCT) and its partner, more than 300 reported torture incidents have been highlighted in a 9-year period¹³. According to National Human Rights Commission of Bangladesh, about 70 percent of allegations of human rights violations are against law enforcement agencies¹⁴. The situation of Nepal is similar. Report of Human Rights Watch, 2022 states:

A pervasive culture of impunity continues to undermine fundamental human rights in Nepal. Ongoing human rights violations by the police, including cases of alleged extrajudicial killings and custodial deaths resulting from torture, are rarely investigated, and when they are, alleged perpetrators are almost never arrested¹⁵.

Governments may seek to close civic space by undermining the protection of human rights using one or all the following ways:

- Specific harassment of community groups particularly minority groups, political opposition, *Dalit*, *Madheshi*, endogenous nationalities, women, youth, and other marginalized community.
- The harassment of human rights activists, individuals, and organizations by the state and non-state actors.
- Failure to prevent the killing and control the violence over human rights and civic activists.

¹³ <https://www.omct.org/en/resources/statements/bangladesh-serious-human-rights-violations-must-end>

¹⁴ <https://www.dandc.eu/en/article/bangladeshs-crisis-civil-liberties-and-human-rights>

¹⁵ <https://www.hrw.org/world-report/2022/country-chapters/nepal>

Gender and Social Inclusion

Social inclusion is the process of improving the terms on which individuals and groups take part in society improving the ability, opportunity, and dignity of those disadvantaged based on their identity. Majority of the countries around the world are seemed to have been captured by a limited class, caste, religion, gender, or region while the back warded class, community, region, gender or caste people have not been included. Many of these countries have made provision of inclusion in their constitution. Some of the countries have formed acts for the provision of inclusion. However, the marginalized class and community people have not got equal opportunity to enjoy the civic and democratic space. Rather, they have been socially excluded. Social exclusion is when individuals or groups are unable to participate in the economic, social, political, and cultural life of their society. The marginalized groups are also denied access to powerful institutions and organizations. They are deprived of their personal agency and control over important decisions, often leading to feelings of alienation and inferiority.

According to a study carried out by in 2018, worldwide, six in every ten countries are seriously restricting people's fundamental freedoms of association, peaceful assembly and expression. In several countries widespread repression and violence against the marginalized community and socially excluded groups are seen.

Local and indigenous communities, and specific groups such as women and youth, often have insufficient access to and involvement in decision making from local to

Widespread Discrimination

Mahesh B.K. working as an amin surveyor in Survey Office, Bajhang did not get the room to rent because he belongs to Dalit family. When he was shifted from the headquarter of Bajhang, Chainpur to Dewal, he could not get the room. Mahesh had an experience of the house owners from the whole town not offering him room. Even if they offered the room in the morning, they would restrict him from getting into the house in the evening giving various reasons knowing he was a Dalit. The member of parliament from Baitadi, Chandra Joshi had also said that their house had a room to rent but later in the evening Mahesh was denied in the house. Chandra denied Mahesh to rent a room in his house because he knew Mahesh was Dalit. For eradicating the caste-based discrimination and untouchability, the Caste based discrimination and untouchability (Offense and Punishment) Act 2068 was endorsed in 2068. The act has ensured the equality, freedom and respectful living of every individual based on culture, tradition, religion, or rituals has made the act of discrimination, untouchability, prohibition, exclusion punishable. However, the act has not been implemented effectively yet.

national level. In this situation, providing special attention, gender-mainstreaming and inclusion of *Dalit*, indigenous nationalities, ethnic minorities, *Madheshi*, and other marginalized community peoples and local communities in all sectors of the state mechanism is a must. State and non-state actors may seek to close the civic and democratic space by excluding the people based on sex, caste, ethnicity, religion, region etc. In this process, following are the ways applied:

- Giving priority to one caste, one religion, one language or one gender in state mechanism.
- Excluding women, *Dalit*, *Janajati*, *Adibasi*, marginalized communities structurally.
- Not carrying out the investigation and punishment process in the events of discrimination incidents.
- Discriminating women, *Dalit*, *Janajati*, and other marginalized community people by the non-state sectors in public and private spaces.
- Not providing the opportunity to these excluded groups in public entities, local government, consumers committee, various religious and cultural organizations and so on.

Chapter Five:

Key Actions and Stakeholders

“People wish to be heard and to participate in the decisions that affect them. Institutions could establish better ways of listening to people whom they are meant to serve and taking their views into account, especially groups that are frequently overlooked, such as women, young people, minority groups or persons with disabilities⁴.”

António Guterres, Secretary-General of the United Nations

Key Actions to Promote Civic and Democratic Space

Promoting the civic and democratic space can be done in various ways. CSO members, human rights defenders, and other activists have adopted various strategies to support their activities with state requirements or to avoid attacks from the state in civic and democratic space. Below are few strategies that can be taken for this:

Critically Assess Current Trends in the Political and Legal Context of the Country

As a beginning of promoting civic and democratic space of a country, it is crucial that overall trend of in civic space, political and legal status of the country should be critically assessed. The issues such as relation between government and CSOs and their behaviour towards each other should also be assessed. While doing the critical

assessment, the legal and constitutional provisions, the extent of competition in the election, the status of free environment provided to the CSOs to work, the extent of liberation in funding to the CSOs should be studied. There are three major steps can be taken to critically assess trends. First, overall assessment of civic space trends and identification of warning signs. Second, identification of laws restricting civic space. And finally, identification of the laws and rules promoting civic space.

Promote the Civic Engagement in Policy Making Process

There are many ways for CSOs to participate in the policy making and parliamentary process. Many countries around the world have ensured the formal involvement of CSOs in policy making process. The common way for CSOs to participate in policy making process is through providing oral evidence in open or closed hearing. Similarly, CSOs also provide written evidence to the parliamentary committees. Parliamentary committees are the best place to foster such kind of collaboration with CSOs as they discuss public issues and agendas and seek public input beyond constituency concern and party politics. After establishing strong coordination and partnership between the CSOs and the parliamentary committees, the committees can request written or oral submission to the CSOs that have expert knowledge on the respective issues. There are other informal ways of participating of the CSOs in the policy making process.

Similarly, indirect lobbying and advocacy for expansion of civic and democratic space can be done in policy making level. For this, engaging with donors and the government to open civic and democratic space, especially on protection of *Dalit*, women, indigenous nationalities, youth, and marginalized people rights can be done. CSOs can engage in constructive dialogue on the impact of the law governing civil society on civil society and on the need for a review of the law.

Open Government Partnership (OGP) promote civil society participation in parliament¹⁶. Parliaments have begun to innovate in this field realizing that CSOs are not just a spectator of parliamentary work but has a real added value and role to play. In some countries, CSOs are considered as 'member' without voting rights in the parliamentary committees as well. The involvement of the CSOs in policy making level through establishing cooperation and coordination with the parliament shall help promote and protect the civic and democratic space. For this, advocacy should be done to institutionalizing CSOs representation in parliamentary committees.

¹⁶ For more information <https://www.opengovpartnership.org/>

Support to Youth, Women and Marginalized Community People Led CSOs

CSO's ability to exercise the fundamental rights of assembly, association, and expression is what defines its space to exist and operate in a country. To protect this right and promote the democratic and civic rights, the CSOs led by youth, women, and other marginalized class and community people can be provided with supports. During this, different types of support for those CSO can be considered, including brokering access between CSOs and political structures, creating an enabling environment for CSOs, capacity building for CSOs members, and providing technical capacity to CSO representatives among others. Through the support, these organizations can regularly monitor the status of civic and democratic space and can raise voice collectively for promoting it. Similarly, support to strengthening financial system of these CSOs can equally help them.

In Nepal, CSOs led by *Dalit* women, *Adibashi/Janajati* and youth working in local levels are providing essential contributions in promoting civic and democratic space of people. Similarly, community forest groups, women groups, drinking water users' committees are equally contributing. However, very less work has been done to empower these organizations to raise relevant issues. Thus, strengthening these organizations means contributing in promoting the civic and democratic space.

Building Strong Coalition and Network.

Coalitions are informal ways to gather support from CSOs, political party members, members of parliaments, human rights defenders, activists for the establishment of an enabling environment for civil society and promoting civic and democratic space.

A strong coalition can be built among the institutions working in common sectors and issues. Common voice can be raised through strong coalition among the women right defender groups, *Dalit* network, youth clubs, human right networks and so on. Not only in the local level, but coalition can also be built in the national as well as international level.

Through these networks, people can be mobilized including peers and the communities for protection and promotion of the civic and democratic space in the society. Such kind of coalition can challenge the closing and shrinking of the civic space. Cross-party parliamentary groups would be important while forming coalition. These groups offer great informal opportunities for supporting the CSOs. The networks of these coalition groups can be expanded as and when needed.

Contribution of CSOs in 2006 Movement in Nepal

As a result of the people's movement in 1990, the autocratic panchayat regime was collapsed, and democratic regime was established in Nepal. But the multi-party system could not run smoothly in Nepal for a long time. Due to the disagreement and conflict of the political parties. In 2052, the CPN (Maoist) stated Maoist movement began.

After this, on February 1, 2005, the then King Gyanendra Shah took over the government and started an autocratic regime. An undeclared ban was imposed on political parties. There was no condition for political parties to organize citizens, to gather, to hold general meetings, and for the media to convey ideas freely on that time.

In such a situation, the CSOs that are operating formally and informally contributed to organizing, gathering, and spreading ideas among the citizens against dictatorship across the country. CSOs were directly took initiative in the protection of civic and democratic space in Nepal. They formally came to the streets and protested autocracy. As a result, there was a people's movement in Nepal in 2006. The movement, which lasted for 19 days, ended the autocratic monarchy, and established a democratic system in Nepal.

Seeking Collaboration with Government in Implementation of Activities

The local CSOs can remain in low profile, identify the non-controversial areas and work in promoting civic and democratic space through coordination with the local government. In doing so, the CSOs can increase their national visibility and build relationship with government offices. Many CSOs can involve in various national communities instituted by government to influence policies and processes from within.

Supporting Advocacy to Defend and Expand Civic and Democratic Space

CSOs can continuously work in strengthening the capacity of *Dalit*, indigenous nationalities, women, young people in non-violent activism. These groups can support CSOs to challenge the repressive laws. For this, these groups can end the legitimacy of the repressive laws by filing cases in the court through public interest litigation. Similarly, the groups can support CSOs to counter negative narratives perpetuated by the state on the civic and democratic space. In the meantime, the strategic engagement can be done with international community including donor agencies, media, and influential people within the state machinery to defend civic and democratic space.

Legal, Financial, Security Training and Psychosocial Support to CSOs Members and Activists

The people active in protecting the civic and democratic space such as CSO activists and human right defenders can be supported with financial help. Similarly, they can be provided with training related to law and security, socio-mental consultancy, and other support that will put positive sensations on them. Through financial, legal, social and socio-mental support, the activists and defenders can raise campaigns for promoting civic and democratic space.

Improved the State-Civil Society Relations

If state-civil society relations are weak or antagonistic, it will shrink or close the civic space. Governments seeking to close or shrink the civic space may adopt formal and informal measures to restrict the access of CSOs with public officials. Government may infrequently consult civil society on policy making process or not at all. In many cases, the civil society also create the antagonistic environment through agitation and movement rather than protecting civic space. In this way, if state-society relation is weak, it will shrink the civic space. The existence of 'anti-system' groups within civil society may be a sign that state-civil society relations are weak.

Contribution of CSOs

Historically, the Dalit community in Nepal has faced social discrimination, economic inequality, and political exclusion. After the political change of 2006, there were organized and collective movements by CSOs to mainstream the marginalized classes and communities in the state mechanism. CSOs working in the field of *Dalit* and women's rights, including the FEDO, raised the voice that Dalit women should be compulsory in local ward committees. During the drafting of the Local Government Operation Act 2074, the CSOs pressed for the amendment proposal by lobbying through the member of parliament (MP).

Movement was made by empowering the Dalit community. Continuous flow of ideas through mass media. As a result, Act provisioned the at least one out of the two women in the local ward committee was to be a Dalit woman. Representation of Dalit community has increased since Dalit women members have been made mandatory in Ward Committees. At present, 6,567 women Dalit members have been elected as people's representatives across the country. It has made it possible for the voices of marginalized classes and communities to reach the local level.

Role of Stakeholders to Promote Civic and Democratic Space

Various stakeholders play important roles in promoting the civic and democratic space. This have been defined as follows:

The Role of International Community

International actors play important role in the issues related to closure of the civic and democratic space such as getting registered, harassments, funding among others. International law, regulation, conventions always provide an important part of the rationale for action by international actors with respect to civic and democratic space. International laws and conventions such as human rights conventions, protect a variety of right, and freedom of civil society. Universal Declaration of Human Rights (UDHR), The European Charter of Human Rights (ECHR), American Convention of Human Rights (ACHR) are few other examples. The commitments over these conventions and instrument compel the states to the protect rights to personal liberty and security, freedom of association, assembly and expression of opinion. The United Nations Human Rights Council (UNHRC) passed a resolution in 2016 which calls for the state to ensure that civil society actors can seek, secure, and use resources. The other international organizations that are playing a role in promoting the civic and democratic space are World Bank, CIVICUS, and OGP, among others.

Furthermore, partnerships with civil society have long been instrumental for UN and its entities, at the global, regional, and national levels, to implement their mandates. The UN has also sought to promote and protect civic space in a multitude of ways, e.g., through rule of law programming, capacity development, advocacy in support of open space, including through the work of UN human rights bodies and mechanisms. The UN is therefore committed to stepping up efforts towards joint strategies to promote and protect civic space.

Donor's Support to CSOs in Nepal

With the 2006 democratic movement, many donors channeled their funding to local NGOs for the delivery of their programmers. This led to a surge of NGOs, some of which substituted the role of the state in the delivery of public services. This increase of NGOs made it very difficult to track who was behind the organizations, including which ones were directly controlled by political parties. The financial support of some of these organizations meant that donors were directly supporting the delivery of activities of specific political parties. In doing so, donors indirectly influenced the democratization process in Nepal.

The Role of Parliaments and Parliamentarians

The governments often use try to use legislation to shrink and close civic and democratic space. Thus, parliament plays an important role in shaping the civic and democratic space. However, the government not only use the legislation, but also it adopts non-legislative ways to harass CSOs and close or shrink the civic space. While analysing the trend of shrinking the civic and democratic space by the countries in the past, legislative restrictions are applied more. This is because legislations they allow government to control civil society without out right repression. Parliamentary endorsement of anti-civic space laws provides a veneer of legitimacy. Thus, the autocratic rulers always use legislation to shrink the civic space. The authoritarian rulers use parliamentary votes very strategically to justify their actions as 'democratic'.

We can take Kazakhstan as an example¹⁷. The restrictive civil society law was imposed in Kazakhstan in 2015 through parliamentary process. While the law was endorsed, the members of the parliament got out of it saying they could do nothing. Similarly, Bangladesh also imposed restrictive laws of civic space in 2016 despite the international appeals and domestic civil society campaigns raised by the members of parliament. The members of parliament are not meant to pass the legislation only, but they can also play important role in protecting the civic and democratic space. The member of parliament can resist the suppressing law. For an example, the Kyrgyzstan's parliament rejected the proposed 'Foreign Agents Law' in 2016. So, parliament can play a vital role and act to defend democracy by resisting the closure of civic space.

However, it is difficult for civil rights and democracy supporters to develop effective responses to the use of legislation to close civic and democratic space. While looking at the global experiences, the relationships between civil society and parliamentarians seem to have distrust and adversarial. The CSOs, activists and human rights defenders around the world are more focused on protest and opposition to the government rather than constructive engagement with member of parliaments. While only the protest and opposition are shown the member of parliament may genuinely believe that increasing regulations for CSOs is necessary.

The Role of Media

Media is an important component of civic space. Not least of all because of the importance of the fundamental freedom of expression, but also because media has the power to hold governments to account, shine a spotlight on violations, and be a platform for the most marginalised voices to be heard. More than ever before, media and

¹⁷ <https://www.wfd.org/sites/default/files/2021-11/Civic-space-v1-1%281%29.pdf>

journalists have a vital role to fulfil. The rights to speak out, organise, and act affect everyone, everywhere. Connecting with civil society and exploring some of the topics raised in this learning documents can provide new and unique stories to readers, viewers, and listening audiences.

CSOs are engaged to reputable and independent local, national and international media outlets to advance their campaign for the promotion of the civic and democratic space. In Nepal, many CSOs have established media centre and radio stations to help in promoting the civic and democratic space. In Thailand, CSOs are actively engaged with mainstream and digital medial to counter government propaganda against the civic and democratic space. CSOs in Bangladesh use the media to counter the narratives perpetuated by government and opposition cadres against the civic and democratic space. In many cases CSOs have been informing and making aware to mainstream media to response against shrinking civic and democratic space. In the latest time, CSOs have been using the social networks such as facebook, twiter, whatsapp, viber, signal to promote and protect civic and democratic space.

Role of Media to Protect Civic and Democratic Space

Jagaran Media Center (JMC) is a non- governmental organization established in 2000, established and run by journalist from *Dalit* community. The organization advocates in eliminating caste-based discrimination and creating a more equitable, inclusive, and secular society through media mobilization at local, national, and international level. JMC established Community Radio " Radio Jagaran 93.6 MHz" in Butwal in January 2007. This is the first radio station run by *Dalit* community in South Asia. The Radio produces and broadcasts a wide range of issues on Dalit, women, indigenous peoples, differently able people, Madhesi, LGBTIQ, and Muslims to ensure their social justice and equality in society. The listeners in three adjoining districts of Butwal have started forming Jagaran Groups to involve them with the Radio station. More than 30 groups and 20 information centres have been established. They have been continuously engaging in initiating door-to-door campaigns, street drama, and other activities organized by information centres to end caste-based discrimination. This has been providing important contribution in promoting civic and democratic space.

The Role of Civil Society Organization

Civil Society Organizations play an important role in promoting and protecting civic and democratic space. Right of assembly, association, and expression are vital to the existence of the CSOs. For promoting these rights, the formal and informal CSOs established with various objectives play important roles. The CSOs have stood their

ground and defended their right to participate in public affairs. CSOs, and defenders continue to engage in activities aimed at defending civic and democratic space in their contexts despite oppositions to their activities. CSOs carry out various activities such as protest and opposition to promote civic space. Also, they mobilize political parties, donor community and media as for their indirect engagement.

***Guthi* protected through civic movement**

The contemporary government of K P Oli registered the *Guthi* Bill through the Ministry of Land Management, Cooperatives and Poverty alleviation on Baisakh 17, 2076. In that bill it was proposed that all the *Guthi* around the country were to be nationalized and a strong commission was to be established instead of *Guthi* Corporation. The government had proposed the commission to regulate and manage the religious places and events. *Guthi* is a CSO of the Newar community inside the Kathmandu valley. Through *Guthi*, the community used to be united and exercise the freedom of expression and collective bargaining. The Newar community protested the government proposal saying that their civic and democratic space had been restricted by the government. Thousands of people came out for the protest. The community considered the bill as the attack over their religious and cultural heritage. The government was then compelled to take back the bill formally on Ashad 3, 2076.

In this way, various CSOs led by youth, women, *Dalit*, marginalized class, and community people can work regularly in monitoring, pressurizing the government, holding discussion in policy level to promote and protect civic and democratic space. From the informal networks like *Guthi* to the CSOs such as community forest groups, mothers' group, drinking water users' groups can play role in protecting the civic space.

The Role of Political Party

The political parties play an important role in protecting the civic and democratic space. The political parties can be also considered as the political civil society. The parties reflect the interests of certain groups. Also, the government can act as a catalyst between citizen-CSOs and decision-making institutions. The political parties safeguard the fair and periodic election which contributes to forming pluralist society.

While there is an important role of political parties in protecting the civic and democratic space most of the political parties do not focus on protecting and promoting civic space. While government restricts the civic and democratic space, the political parties, in many cases, stay silent.

There is stressing need of a vibrant civic space in democracy. The political party manifestos and policy making process should obviously include the issue of promoting civic and democratic space. Political parties have an important role to play in resistance to closing or shrinking of the civic space. For this, the political parties should build coalition between the parties and civil society.

Reformasi movement in Malaysia⁵

The Reformasi is a political movement in Malaysia which was initially established in September 1998, by a collaboration between civil society and opposition parties, to call for the resignation of Malaysia's longest serving prime minister and induce political transformation. Civil society, which is usually quite resistant to aligning itself with political parties, realised that broad-based cooperation on common aims, such as the promotion of human rights and good governance, including repeal of unjust laws, expunging corruption, press freedom, judicial independence, and social justice, was the best strategy available. The opposition won over 40 percent of the votes in the 1999 elections with three times the usual number of people registered to vote. The government was pressured to respond and initiate reforms. The Reformasi movement led to a change in Malay political culture away from blind loyalty and clientelism and towards more critical engagement with political processes, and the development of a dominant opposition coalition, hence guiding to a more liberal form of parliamentary democracy.

The role of Judiciary

Judiciary is one of the important stakeholders in promoting the civic and democratic space. The judiciary can contribute in ensuring the right of the citizens by eliminating the attack and restriction on civic and democratic space by the governmental and non-governmental sectors. There are various examples of contribution in promoting civic space by filing the cases of Public Interest Litigation in the Supreme Court. The No, Not Again prohibited by the Election Commission of Nepal (ECN) before the election of 2079 was eliminated by the Supreme Court and protected the freedom of speech of the people. The lawyers prepared a strong case and challenged the ECN's actions. As a result, the court made decision against the prohibition. Thus, judiciary can play an important role in protecting and promoting civic space.

The freedom of speech protected by the Supreme Court

Just before the general election of 2079, the No, Not Again slogan created vibration in the Nepali politics. Some youth started a campaign of No, Not Again against the peoples' representatives who had been elected time and again but did not work for benefit of the country and its citizens. They carried photo of the candidates with their name tags and told that they would not vote these party leaders again. The ECN ordered for closure of such social networks on Kartik 8, 2079 and warned for the punishment to the network user according to the Electronic Transaction Act and Election (Offense and Punishment) Act. A senior advocate Dinesh Tripathi filed a writ petition in the Supreme Court on Kartik 14 against ECN's information mentioning that this act of ECN was against the freedom of speech of people.

The Supreme Court made its decision on Kartik 25 mentioning that the act of ECN was against the freedom of speech of people and that the ECN should respect this. The decree of the court also mentioned that the freedom of speech such as 'No, Not, Again' is an important prerequisite for free and effective election. Also, the court has mentioned on its decision that the right of citizen to vote freely should be protected which would also contribute to protection of democracy and that the ECN should not punish as mentioned in the release of Kartik 8, 2079.

Active citizenship and Civic Space

Active citizenship means people getting involved in their local communities and democracy at all levels, from towns to cities to nationwide activity. Active citizenship can be as small as a campaign to clean up streets or as big as educating the minorities and socially excluded group people about democratic skills, values, and engagement. Active citizenship is one of the most important steps towards healthy societies in democracies like Nepal, Bangladesh, and Thailand. Active citizenship plays an important role to allow citizens to interrogate real solutions to problems rather than indulging in scapegoating, discrimination and other tactics peddled by government, fundamentalists, and extremists.

Civic space is important for an active citizen. When civic and democratic space is shrunk or closed, citizens cannot use their right to freedom of speech and expression, peaceful assembly, and discussion. The civic space provides environment to the people of the multilingual, multicultural, multiethnic, and multireligious country like Nepal where *Dalit*, *Janajati*, women, youth, marginalized class people get chance to be united and raise voice for the benefit of their groups. Civic and democratic space provides an environment for these class and community people to actively become united for their rights and play the role of active citizenship.

Chapter Six:

Structure of Civic and Democratic Space in Nepal

Eradicating the traditional centralized governance system, the federal democratic republican system is established in Nepal. The Constitution of Nepal has restructured the country into three levels of government. There is provision of Ward Committees, Municipalities and District Assemblies in local level. Similarly, there are provincial and federal governments. All three tiers of government have been designated with rights to use state power. In this way there are altogether six government structures including settlement level, ward level, municipality level, district coordination committee level, province, and federal government. The CSOs can work for promoting the civic and democratic space of people in all these structures carrying out the activities such as being united, associated, conducting peaceful assembly, and expressing.

The Non-Governmental Structures of Civic and Democratic Space in the Local Level.

There are various formal and informal non-government organizations working at the local level which are contributing to promoting the civic and democratic space.

Non-Governmental Structure	Activities that can be done for promoting civic and democratic space.
Women and Mothers Group Senior Citizen Union <i>Dalit</i> Network <i>Janajati</i> and <i>Adibasi</i> Group Religious and Professional Organizations Labor Unions Advocacy Groups Community Forest Consumers' Groups Settlement Development organizations Ward Citizen Forum Social Movements Professional Unions Youth Club and Network Human Rights Defender Network Cooperative Organizations etc.	<ul style="list-style-type: none"> • Being associated with these organizations • Participating in the programs organized by these organizations • Participating in the pressure programs conducted by these organizations • Raising the issues of peoples' concerns through these groups and networks. • Discussing on the civic and democratic space by being associated with these organizations and organizing pressure programs if seen shrunk. • Regularly meeting and raising the voice for protecting the right of the back ward class such as right to assembly, association, expression and opinion, human right protection and equality among others. • Participating in the meetings in ward and settlement level for discussion on plan formulation. • Participating in collective bargaining for policy formulation in the municipality level and promoting the civic and democratic space • Organizing the social accountability promoting activities such as public hearing through these networks and groups for making the government officials accountable to the general people.

Government Structures of Civic and Democratic Space

From the local level to the federal level, there are various formal government structures. Being associated with these structures, the officials can be made accountable to the general people which will contribute to promoting the civic and democratic space.

The plan formulation meetings in settlement level, ward level local assembly for promoting the quality of goods and services provided by the ward offices, are the structures for making the overall governance system people friendly. The CSOs can make meaningful participation in these structures and mechanisms to make these structures accountable. This participation shall help promote the civic and democratic space of people.

There are structures like judicial committee, social development section, subject committees in chairmanship of vice chairman and deputy mayor in the rural municipalities and municipalities. These structures provide civic space at the municipality level. There is space for the people to participate in monitoring and evaluation activities carried out by the District Coordination Committee. Similarly, at the province level there are various ministries such as the Social Development Ministry and other entities. There

are provincial level executive and legislative bodies. The citizens and CSOs can be involved in these provincial structures and mechanisms in plan formulation, policy and law making, development activities, implementation of these, monitoring and evaluation. Likewise, the civic and democratic space can be strengthened through involvement in the federal parliament and its committees.

The Constitution of Nepal has speculated of fair election in all the structures from the settlement level to the federal level. In other word, the constitution has ensured the civic and democratic space of every Nepali citizen. People, through fair elections, expand their citizen and political right strengthening the democracy.

Level	Structure	Activities that will help promote the civic and democratic space
Settlement Level	Plan formulation meeting, assembly, budget allocation Formation of consumers' group	<ul style="list-style-type: none"> • Participating in all the plan formulation stages and budget allocation process. • By ensuring the participation of all the class and communities in the settlement level including <i>Dalit</i>, women, <i>Janajati</i>, <i>Adibasi</i>, <i>Madheshi</i>, <i>Muslim</i>, <i>Tharu</i>, minority group, marginalized group, youth, children, senior citizen, gender, and sexual minorities, disabled during the project selection in settlement level. • Making participation from the local level in settlement level assembly, discussion and encouraging others to participate. • The consumers' group, networks, clubs, and committees formed by the local level should ensure the democratic process of formation. • Ensuring meaningful and active participation of the locally active community organizations such as settlement development organizations, mothers' group, youth group, citizen awareness center, consumers' groups, other groups and networks formed form various entities in plan formulation in local level.
Ward Level	The Local Government Operation Act 2074 has made provision of ward offices in every ward. There are altogether 6743 ward committees around the country.	<ul style="list-style-type: none"> • Every ward has 4 peoples' representatives including ward chairman elected through fair election. Thus, electing the candidates with positive attitude towards civic and democratic space. • Making participation from civil society during plan formulation, implementation, monitoring and evaluation in ward committees. • Participating through ward committees in project demand collection, prioritization, and selection, formation of settlement development organization and mobilization, formation of consumers' groups and participating in monitoring through these groups. Promoting democratic practice in these activities by ensuring participation of backward and excluded communities. • Collectively protesting if the ward committees try to shrink the civic and democratic space.

Municipality level.	753 local levels including 6 metropolitan cities, 11 sub-metropolitan cities, 276 municipalities and 460 rural municipalities. Judicial committee, Social Development Section and Subject Offices at the local level.	<ul style="list-style-type: none"> Participating in the mechanisms and structures including judicial committee and social development, section, raising voice, participating in assembly to utilize the civic space. The Constitution of Nepal has allocated 22 single rights. Participating in policy formulation in local legislative in implementation of all 22 rights. Involving in advocacy for expanding the civic and democratic space during formulating policy and making law. Participating and raising voice in public hearing, public audit, social audit organized by the local levels.
District Level	Coordination committees in all 77 districts	<ul style="list-style-type: none"> CSOs can coordinate and work in partnership in activities such as establishing coordination between government provincial and federal bodies in the district, municipalities, and rural municipalities. Also, CSOs can be involved in monitoring of the development Works for balancing the development activities. The meaningful participation of the CSOs can be ensured in activities of the district coordination committees for making the effective service delivery. CSOs can work with local media and governance activists for these activities.
Provincial Level	The seven provinces and committees under the province. Province Planning Commission Province Government and ministries.	<ul style="list-style-type: none"> The CSOs can be involved in activities for promoting the civic and democratic space of people. The CSOs can work in coordination with the province assembly and subject committees under the province assembly to make law for promoting civic and democratic space, raise voice by coordinating with the members of provincial assembly if the province government tries to shrink the civic and democratic space during the implementation of these laws. The CSOs can be involved in plan formulation, policy formulation, implementation of development activities and monitoring those activities at the province level to promote the civic and democratic space.
Federal Level	Federal Parliament, Subject Ministries, Various Constitutional Commissions, National Planning Commission	<ul style="list-style-type: none"> The CSOs can be involved in formulation of acts and laws which promote and protect the civic and democratic space of people by coordinating with the various subject committees under the federal parliament. If civic and democratic space is found to have shrunk, interaction can be conducted with the locally elected member of parliament. CSOs can ask them to raise their voice against the implementation of such law in the parliament. If the government tries to shrink the civic and democratic space, public interest litigation can be filed in the supreme court. Similarly, participating in formulation of plan, policy and programs and their implementation of the single and concurrent right of the federal government. Similarly, participating in monitoring of the implementation. Work in coordination with the constitutional commission including National Human Right Commission for making the government aware about the civic and democratic space.

The general people can actively participate from stage 3 to stage 6 of the local level plan formulation process. They can strengthen the civic and democratic space by participating this way from lowest level of the society.

Stage	Activities	
Stage one	Submitting description including data on assessment of income and expenditure	
Stage two	Source assessment and budget ceiling	
Stage three	Selecting projects in settlement level	
Stage Four	Project selection and prioritization in ward level	
Stage five	Budget allocation and program formulation	
Stage six	Program and budget approval from local executive body	
Stage seven	Approval of program and budget from rural municipality assembly.	

The CSOs have stood their ground and defended their right to participate in public affairs. CSO defenders continue to engage in activities aimed at defending civic and democratic space in their contexts despite opposition to their activities.

- Educate people on the need for rights to assembly, association, freedom of expression, human rights, freedom of religion and belief, and strengthening of a pluralistic society, through an educational policy.
- Implement effective and holistic action to eliminate the underlying motives for threats to minorities and to combat growing fundamentalist voices threatening the foundation of a free democratic society.
- Allow opposition political parties to express their concerns. Ensure transparency and accountability and due process of law in taking actions against political vandalism.
- Take swift action to tackle rising terrorism and violence, ensuring impartial investigations and prosecution of those responsible for attacks against minority groups and human right activists, to end the culture of impunity.
- Identify and amend provisions in laws and policies to eliminate discrimination based on caste, ethnicity, religion, region, gender, and sex. Take steps to incorporate comprehensive inclusion education in the local and national curriculum. Adopt specific laws or policies to ensure recognition of caste, ethnicity, and gender identities.
- Recognize Dalits as a 'special' community, produce disaggregated data along with the poverty status of this community, and undertake special employment and livelihood development program for them.

**What is the situation of civic and democratic space in your place?
Self-assessment form¹⁸**

Step 1: Answer the questions on the following scale:

Absolutely Not: 1

Mostly Not: 2

Sometimes: 3

Mostly Yes: 4

Absolutely Yes: 5

S.N.	Question	Marks
1	Are people free of physical violation of their person or property?	
2	Do people have the freedom of movement, expression, and association?	
3	Do people have the freedom to practice their own religion, language, or culture?	
4	Is there a wide range of voluntary associations, citizen groups, social movements, etc. and are they independent of political parties and the government?	
5	Do women participate in political life and public office at all levels?	
6	Do all social groups have equal access to public offices and are they fairly represented within it?	
7	Is there academic freedom and is the educational system free of extensive political influence or indoctrination?	
8	Are there any unnecessary hassles in registration and renewal of NGOs?	
9	Is there freedom of assembly, demonstration, and open public discussion on all issues?	
10	Are religious institutions, civic organizations, student organizations, unions, and other organizations free of government and political pressure?	
11	Is the media independent from the government?	
12	Is the media representative of different opinions and accessible to different sections of society?	
13	Are the media and other independent organizations effective in investigating the government, political parties, and powerful corporations?	

¹⁸ This assessment form is based on https://www.ndi.org/sites/default/files/2147_ww_democracy_indicators_040407.pdf

S.N.	Question	Marks
14	Are journalists free from restrictive laws, harassment, and intimidation?	
15	Does the elected legislature reflect the social composition of the population?	
16	Are there open and systematic procedures to allow the public to consult on government policy and legislation?	
17	Are elected representatives accessible to their constituents?	
18	Are public services accessible and reliable for those who need them?	
19	Do the people have confidence in the ability of government to solve the main problems confronting society?	
20	Do the people have confidence in their own ability to influence the government?	

Step 2: Add the scores to get a total score.

Step 3: Divide the total score by 60 to get a “civic and democratic space” according to the following scale:

1 to 1.9 Least civic and democratic space

2 to 2.9 Less civic and democratic space

3 to 3.9 More civic and democratic space

4 to 5 Most civic and democratic space



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