

Legislation Drafting and Oversight Function of Nepalese Parliament

A Process Review

Report

June 2015

Nepal Constitution Foundation
Kathmandu

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Preface

The presented report *Legislation Drafting and Oversight Function of Nepalese Parliament: A Process Review* study aims to identify the challenges and solutions pertaining to parliamentary procedures. Parliament is an institution of the elected representatives of the people. It plays a major role in governmental accountability system and the implementation of democratic norms. Internal functioning and procedures define the effectiveness, capabilities and result oriented nature of the parliament. Therefore, this topic is of enormous significance.

Nepal Constitution Foundation (NCF), acknowledging the significance of this review study, is presenting this report containing three months of extensive study of parliamentary affairs. In this process, NCF conducted interactions and discussions with various parliamentarians, politicians, stakeholders, experts and civil society members. Initial reports based on the findings from these programs were presented during the field visits in five development regions around Nepal: Biratnagar, Dhangadi, Pokhara, Nepalgunj and Hetauda. The inputs received from all quarters have been synthesized and incorporated in the final document.

Constitutional expert Dr. Bipin Adhikari, Associate Professor Mr. Ganesh Datta Bhatta, Advocate Mr. Dinesh Tripathi, Advocate Phurpa Tamang, Advocate Sombojhen Limbu, Mr. Namit Wagley, Mr. Bhupendra Huzdar and Mr. Sabin Rana have all played a major part in the completion of the report. We are grateful for the assistance of Senior Advocate Dr Surya Dhungel. This report contains invaluable inputs from various parliamentarians representing diverse constituencies in the country. In addition, the report contains all the names of the participants who have contributed to the brainstorming sessions, discussions and field programmes. We are also thankful to the Parliamentary Secretariat for its continuous support in getting through this study. In addition, I would like to thank the assisting administrative staff involved in the project including Ms. Sabita Nakarmi, Mr. Lalit Chaudhary, Ms. Shanti Poudel and Mr. Umesh Gautam.

This report is first of its kind in Nepal. Representing the perspectives of civil society, this study aims to provide recommendations to make the parliamentary procedures more effective in the future. This review will not only help reform the procedures of national parliament but also of provincial legislatures being devised in the forthcoming federalism process.

We would also like to extend our gratitude to The Asia Foundation (TAF) for its financial support to conduct this process review. Nepal Constitution Foundation reserves the right for the concept and analysis of this report. We would also like to inform that, pertaining to the contents of the report, there is no requirement for consent and approval from the assisting institution.

The original version of this review study is published in Nepali language. This is not a literal translation of the original report. However, efforts have been made to keep the essence of the original report intact.

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Expert, Constitutional Law
June 2015

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Legislation Drafting and Oversight Function of Nepalese Parliament: A Process Review

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Legislation Drafting and Oversight Function of Nepalese Parliament: A Process Review

EXECUTIVE SUMMARY

Legislation drafting and oversight are two of the fundamental functions of the parliament. In addition, in a parliamentary system, the formation of government and passing of budget is also undertaken by the parliament. As a body elected by the people, parliament is obliged to represent the people in effective government administration and management. In terms of the separation of powers, parliament has the full authority to draft and enact legislations as per the requirements of the state or its citizens. Similarly, through oversight process, parliament provides constant evaluation, monitoring and investigation of government functions. In this way, government is made accountable and responsible to the people's representatives. To make these functions more effective, parliamentarians, both collectively and individually, must play an effective role. In this regard, parliamentary procedures also play a significant role.

Nepal's parliamentary practice is not a long one. Within parliamentary practice, if we take into account a democratic form of governance, the practice shortens to just over two decades. In addition, in the past, parliaments have been a victim of political instability. Similarly, procedural aspects of parliamentary process have been perennially disregarded. As a result, traditional parliamentary practices in Nepal have failed to institutionalize. In the last seven years, due to the merging of Constituent Assembly and Legislature-Parliament into one body has diverted much of parliamentarians' focus onto development projects and government formation neglecting vital commitments such as legislation drafting and oversight. At a personal level, it has been observed that, there are only a handful of parliamentarians dedicated towards meaningful contribution to the legislation drafting and clause-by-clause discussion

process. In Nepal's case, more than 90 percent of the proposed Bills are presented by the government. As a result, it is starting to appear more and more as if government is the actual law makers rather than the parliament. Procedural inconsistencies and lack of participation has played a major part in the origination of such misconception.

In light of this, this process review shows that there is a need for change in the attitude concerning Bill presentation. Government and Private Members both need to take collective responsibility to present pertinent Bills in the parliament. Similarly, there is a need to be more flexible regarding the areas classified and restricted as requiring Government Bill. The practice of Explanatory Notes whilst presenting a new Bill also needs to be introduced. Also, the existing provisions on limitation period for proposing amendments to the Bill needs to be upgraded. By the same token, there is a need to make all the clauses of the proposed new Bills open for extensive discussions in the House or committees. Currently, only select Clauses proposed for amendments are given extensive consideration in the clause-by-clause discussion sessions. Moreover, there is a need for training, for parliamentarians, in the law making process. For this, elected Members themselves need to increase their individual drive for law making process. Further, Members need to prioritize law making obligations and the attendance of relevant Ministers in Committee Sessions should be encouraged. Committees should also have the authority to ascertain public opinion whilst discussing the Bills including Public Hearing of Bills. Similarly, there is a need to modernize the law making participatory process by gathering feedback on Bills through electronic mediums. Also, Civil Society Organizations, NGOs, Think Tanks should be incorporated in the law making process. Further, the deprived groups of Nepal like *Dalits*, *Janajatis* and *Madhesis* should be granted meaningful access in the legislation drafting process through Special Committees. The use of women caucus should also be institutionalized through appropriate legislation. Special provisions should be established to maintain an uninterrupted correspondence between the parliament and the media. Moreover, members of ruling party must take an active role in parliamentary processes.

In terms of oversight procedures, there is a need, for parliamentarians, to familiarize with the concept of parliamentary oversight. In addition, parliament and parliamentary secretariat needs to initiate a set working calendar. Similarly, Question Time needs be re-initiated in the House as an oversight mechanism. Also, parliamentary committees should give directives based on thorough evaluation. There shouldn't be duplication in the works of various parliamentary committees. Committees should provide special care whilst identifying areas or particular subjects for evaluation. Moreover, parliamentary committees should give more focus to Member, herein referred to as Member of Parliament, participation and meaningful discussions. Also, committees need to provide justifications prior to undertaking field visits. Furthermore, government needs to have a positive outlook and be sensitive to parliamentary oversight and the capacity of parliamentary secretariat should be increased.

Moreover, parliamentary oversight is taken as a “parliamentary obstacle” or an unjustified intrusion into governmental affairs by the government. On the flip side, parliament has started to misconstrue their role as a people's representative dedicated to monitoring the implementation of the government. Rather, more and more parliamentarians have started viewing oversight process as a parliamentary political glamour rather than a checks and balances mechanism. In this context, focusing on the parliament's legislation drafting and oversight functions in Nepal, this process review study presents the challenges pertaining to the formulation of Bills in the Ministry, legislation drafting and oversight. Further, NCF, through this study, proposes suggestions for reform to make the parliament and its processes more efficient and effective in the long run.

Chapter One

LEGISLATION DRAFTING PROCESS AND THE ROLE OF PARLIAMENT

Nepal Constitution Foundation (NCF) is an independent, non-governmental, not-for-profit civil society organization working to support the constitution building and its institutionalization process, public policy analysis and the development of constitution sensitive socio-economic and political leadership in the country. This organization has significant interest in parliament and parliamentary affairs. In this context, NCF has been conducting parliamentary Bill review programs for the last five years. Nepal's parliamentary practice, principally and procedurally, is based on the widely acknowledged parliamentary traditions prevalent in many countries around the world. However, in Nepal, over the past few decades, it has been evident that the practices of such parliamentary traditions are on the decline.

1.1 Background

Legislative, Executive and the Judiciary form the three major organs of the state. Legislative is an organ that represents the citizens (i.e. Parliament) and is vested with the task of drafting legislation, forming government, proposing and finalizing budget, and providing oversight (monitoring the government's execution of the implemented policies, rules and laws.) These are the major elements of the *modus operandi* of the legislative body. In terms of the functions of the legislative, whilst forming government and passing the budget are less recurrent in the daily workings, drafting Bills and providing oversight are more routine practices. In light of this, the effectiveness of the legislative is judged on the basis of its effectiveness in implementing the latter functions of the parliament. On a personal level, the abilities of legislators (i.e. parliamentarians) are also judged on the basis of their contribution to the legislation drafting and oversight process. As a representative of various diverse constituencies, the legislators are obliged to provide, whilst representing their respective constituencies, services, to both their respective political parties and the local people, and effectively perform the legislative and oversight functions. The effectiveness of their work is highly dependant on the implementation of appropriate procedures. However, there is lack of clarity, both in principle and practice, among the local people, civil institutions and, in some instances, even the parliamentarians regarding the role of parliament in

legislation drafting and oversight functions. Therefore, this study presents a review of the process of legislative and oversight functions of the Nepali Parliament. The study is intended to eliminate the lack of clarity in the principle and practical aspects of the procedural functions of the legislative and provide suggestions for reform to strengthen the process.

1.2 Objectives of the Study

The main objective of the study is to review the parliamentary process, i.e. legislation drafting and oversight functions of the parliament, and provide analytical assessment of the overall procedures. The study aims to highlight the current trend prevalent in the Nepali parliament and propose reform geared towards strengthening the legislation drafting and oversight capacities. Further, in order to accomplish the aforementioned objectives, the following areas will be assessed in detail:

- 1) The study of parliamentary process, including legal procedures and its challenges, prior to tabling a Bill at the parliament.
- 2) Parliamentary Hearings: The study of parliamentary works and procedures pertaining to the extensive discussions on proposed draft Bills, amendments and ordinances in the Parliament, prior and post enactment of legislation, both in terms of principle behind the proposed draft Bills and the point wise justifiability of the proposed draft Bills.
- 3) The study of the effectiveness of oversight functions undertaken by the parliament and parliamentary committees.
- 4) The identification of key areas for reform as regards to the strengthening of the legislation drafting process, both in principle and practice, in the parliament.
- 5) The identification of key areas for reform as regards to the strengthening of the oversight capacity process, both in principle and practice, in the parliament.

1.3 Research Methodology

The study contains both principle and practical aspects relating to parliamentary process. The study is conducted using both quantitative and qualitative data acquired through interviews, brainstorming sessions, literature, legal documents, focus group discussions and observation.

Furthermore, the study utilizes Nepal Constitution Foundation's correspondence with both former and incumbent parliamentarians, officials of the parliamentary secretariat, experts on parliamentary affairs and also reports of the parliamentary secretariat, legislative committees, and literature on parliamentary procedures, comparative studies and relevant legal mechanisms governing parliamentary process. In order to provide a holistic analysis and non-partisan review of the parliamentary process, NCF conducted brainstorming sessions with major stakeholders including Members of Parliament (both former and current), leaders from political parties, bureaucrats, parliamentary secretariat representatives, civil society members and experts. Similarly, field studies were conducted in five development regions to ascertain the public view on parliamentary process. Members of NCF also conducted observations of the parliamentary committees on legislation drafting and the assessment has been incorporated in the study. In addition, to validate the report and authorize the legitimacy of claims made in the report, it was reviewed by relevant institutions, major stakeholders and parliamentary experts.

1.4 Limitations of the Study

There are other functions of the parliament in addition to the legislation drafting and oversight components. These functions are formation of a government, discussion of the government plans and policies, in alignment with the president, in the parliament, budgetary discussions and approvals. Similarly, the other parliamentary functions include involvement in the development of diverse constituencies represented in the parliament, ratification of international convention and treaties, representation of Nepali parliament in international conferences and perennial discussions on key issues concerning the nation in the parliament other than legislations. However, due to the limitation of time and resources, the study will focus only on the two major components of the parliamentary functions, i.e. legislation drafting and oversight capacity. Furthermore, the study is also limited to the study of parliamentary processes in Nepal subsequent to the re-establishment of multiparty democratic system in 2048 B.S. (1990 A.D.).

1.5 Relevance of the Study

The representative capabilities of the parliament are made effective by the effectiveness of its procedures. In this context, parliamentary procedures have a huge significance. Procedures are not only important for the participation but also the deliverance of results. Therefore, questions

pertaining to the prevalent parliamentary procedures, its impact and the areas of concern will only serve to make the procedures further effective.

There is a general understanding among the stakeholders and the public as regards to the basic functions of the parliament. "Parliament is an elected body representative of the people" is an assertion widely acknowledged by the majority of the Nepali population. However, as we delve deeper into the subject, especially into the detailed technicalities of the functions of the parliament and the processes undertaken by either the parliamentarians, committees or the secretariats in fulfilling those functions, the understanding, amongst the public and the parliamentarians alike, becomes much blurrier. In any parliamentary system around the world, legislation drafting and oversight are regarded as the two major functions of the parliament. However, in Nepal's context, Members of Parliament seem to invest less time on these major components and more time on other matters. Similarly, in Nepal, it has been acknowledged that, in some cases, there has been a lack of clarity and appreciation among the government, its secretariats and officials as regards to the functions of the parliament. Further, we have to acknowledge that parliamentary procedure based on parliamentary model stems not only from an understanding and acceptance of how things have been done in the past, but is embedded in a particular culture that evolves along democratic principles.

In light of this, the study aims to provide an assessment of the major functions of the parliament to raise awareness among the general public, major stakeholders, parliamentarians, government officials and secretariat representatives alike towards the prevalent parliamentary processes in Nepal. Further, the study aims to highlight the shortcomings inherent in the Nepali parliamentary system and suggest reforms for strengthening of the legislation drafting and oversight capacity of the parliament to ensure that the representative functions of the parliament (oversight, lawmaking etc.) are performed in order for better contribution to open and collaborative development. It is also intended through this study that this will provide the former, incumbent as well as future parliamentarians an opportunity to introspect on their roles and responsibilities as functionaries of the parliament and help them assess the effectiveness of the overall process.

Chapter Two

LEGISLATION DRAFTING PROCESS AND THE ROLE OF PARLIAMENT

2.1 Parliament and Law Making

In Nepal, parliament is widely renowned by the word "*Sansad*". In essence, parliament is an elected body vested with the major responsibilities of enacting new laws, ordinances, regulations, rules, directives, codes etc. As a representative of the people, parliament has many other functions, as mentioned above, such as forming government, passing budget, representing constituencies, initiating development works, oversight etc. In this chapter, we are focused on review of the law making process in the parliament and its effectiveness. In a democratic nation, where constitution is the supreme law of the land, the enactment of constitution is undertaken by nationally elected Constituent Assembly Members. In Nepal's case, the current Constituent Assembly serves as both an elected body vested in promulgating a new constitution as well as a parliamentary body capable of initiating and passing new laws in the absence of a regular parliament. For this purpose, governed by the Interim Constitution 2007, in Nepal, the Constituent Assembly serves all the functions of the parliament. Under the mandate of the constitution, the parliament initiates, enacts and amends laws, formally known as "Acts" of parliament.

Through delegated legislation, the parliament devolves power to the executive to establish rules based on the guidelines of parent acts. The executive, whilst issuing new rules and regulations, directives and ordinances, needs to implement the delegation of power within the ambit of parliamentary laws. In principle, parliament has the responsibility to supervise and oversee whether or not the mandate granted by the people's representatives, i.e. legislature, have been properly implemented by the executive. However, in Nepal, the supervision or oversight functions undertaken by the parliament, thus far, have been deemed inadequate at best. The parliament of 2048 B.S, i.e. 1992 A.D, was a bicameral system consisting of the upper and lower houses of the parliament. The lower house consisted of the directly elected Members of Parliament whereas the upper house contained the indirectly elected Members. In that system, in the Upper House, among the four thematic committees, a delegated legislation committee was established with a view to supervise the parliamentary

functions. In the current unicameral system such a committee has not been established. In light of this, the current procedural code for parliament, i.e. Constituent Assembly (Conduct of Business of Legislature-Parliament) Rules 2065 (2008), has vested the job of delegated legislation within the thematic committees and not a specific delegated legislation. This has largely reduced the effectiveness of parliamentary procedures.

In addition, in a parliamentary system, whilst the government creates rules, ordinances and formulates Bills, the sole authority to enact legislation is vested with the Legislature-Parliament. However, there is a difference between the parliamentary system and a presidential system. In a presidential system, the legislature, without support from any other public institutions including the government, is solely involved from the conceptualization to the enactment of legislations. In contrast, government and government institutions, especially Law Ministry, in Nepal are the leading protagonists in presenting Bills to the parliament. In this context, they are involved from the conceptualization of the Bill to the formulation of the draft and presentation to the House. Therefore, study of the parliamentary process should include chronological analysis of the procedural aspects of Bill conceptualization and formulation in the Ministry to the presentation, discussion and enactment process in the House/s.

2.2 Process: Legal Formulation (Legal Drafting) Prior to the Tabling of the Bill in Parliament

In Nepal, the process of formulating laws, ordinances, rules, codes or regulations pertaining to the governing principles of the nation is called "*Kanoon ko Tarjuma*". In this process, the relevant governing principles are given a legal language and drafted in representation to the policies of the state. This is also known as the drafting stage of any proposed legislation. In the drafting stage, including the stage prior to approval from the parliament and official enactment, the proposed legal document is called a "Bill". Prior to submission of the Bill in the legislative parliament, there are certain major steps that the Bill approval process must go through. Initially, the Bill must get approval, from the Ministry of Law and Justice. Secondly, the Bill must get the approval, in principle from the Council of Ministers. Thirdly, the Bill must be further approved subsequent to the discussions in specific Bill committees of the Council of Ministers. Finally, the Bill must pass the final approval stage of the Council of Ministers prior to its presentation in the parliament.

2.2.1 Formulating a Bill: Concept Note and Approval from the Ministry

The first stage of formulating a Bill includes the official unveiling of concept note by the relative Ministry. Either formulating a new Bill or an amendment Bill or an ordinance, the relevant Ministry initially submits the concept note to get the Bill principally approved by the Council of Ministers and the Ministry of Law and Justice. In the past, there was a tendency, whilst presenting a concept note for approval, not to provide valid justifications for the formulation of Bill including the objectives, impacts sought, significance and the basis for deliverance of desired output. Therefore, there has been a change in the procedure to get a concept note accepted. In doing so, the relevant Ministry must disclose the following information, stipulated by the Council of Ministers in its decision dated 14 August, 2014:

- The need for formulation of the draft Bill: Constitutional Reasons, International Treaty Commitments, Supreme Court Orders, Government Plans and Policies etc.
- The impact and results expected from the proposed Bill.
- The description of prevailing laws on pertinent proposed topics of the Bill, if available.
- The reasons for probability of desired effects, expected from the proposed legislation, unattainable through amendments in prevailing laws.
- The description of government policy assessment based on either Rational, Incremental or Mixed methodologies.
- The names of leading officials to undertake the discussions on the formulation of the Bill.
- The presentation of any legislation, or model legislation proposed in another country pertaining to the topic being proposed in the host country.
- The presentation of any suggestions, if available, on the topic provided by other institutions working in the relevant sector.
- The description of financial implication of the Bill on the state, if any.
- The description of any other special requirement pertaining to the implementation of the Bill.
- The need for consultation: If consultation is required for the formulation of the Bill from any relevant institutions then the proposing ministry must provide, if available, the reports of such consultation.
- The key elements being proposed in the Bill.

Once the concept note, based on the aforementioned framework, is presented to the Council of Ministers and the Ministry of Law and Justice, the Ministry may, based on the need for a new legislation, propose amendments to the prevailing laws deeming it sufficient to garner the same effect as enacting a new legislation or approve, in principle, the proposed formulation of the Bill. Subsequent to this, the relevant ministry proposing the concept note may present the proposition for formulation, as a legal document, to the Ministry of Law and Justice. In the current system, however, there aren't any provisions for the submission of concept note from either a public or private sector. Similarly, there are no mandatory obligations to initiate formulation based on the appeals from stakeholders. However, the usefulness of such a procedure is not irrelevant despite its exclusion from the process.

2.2.2 Formulation of the Bill: Ministry of Law and Justice

Government of Nepal (Allocation of Business) Rules, 2012 and Good Governance (Management and Operation) Act, 2008 has unanimously provided the Ministry of Law and Justice the sole authority to draft acts, ordinances, rules and orders principally approved by the Council of Ministers. In practice, however, the Ministry, in alliance with key stakeholders, experts, civil society organizations and Nepal Law Commission, through taskforce or committees formulate the draft and present it for the review of Ministry of Law and Justice. Subsequently, the draft may be used as a legal document or a peripheral document facilitating the formulation of the official Bill by the Ministry. For this, the Ministry has 2 special branches and 5 sub-branches pertaining to drafting Bills. Prior to the initiation of the formulation process, the branches ascertain whether or not the relevant document has met all the pre-requisites including, in principle approval from the Ministry, relevant directives of the government, prevailing laws in cases of amendment Bills, objectives, impacts and the results expected from the Bill etc. Once all the criteria have been met, the ministerial drafting branches commence the formulation process.

During the formulation process, legal drafters work in tandem with key stakeholders, legal experts and ministry officials in formulating a coherent document in line with the constitutional, legal and justice principles of the state. In many ways the work of a legal drafter requires utmost professionalism and expertise. Whilst formulating a draft Bill, the drafters must take into consideration; *inter alia*, the legislative scheme, the general welfare of the people, equal treatment principle, undue influence and coercive manoeuvres, public participation along with stakeholders and expert

consultation. Further, underlying these governing principles, the drafters mould the legal document into a presentable Bill giving it a preamble, introductory sections and specific provisions governing the proposed principles. In doing so, internal consultation among the drafters also play a role in the finalization of the draft Bills.

Bill drafters are not policy makers, rather; they are the facilitators in the policy making process and as such there must be a constant communication line between the relevant ministry and the drafters. A Bill can be drafted in any sector ranging from agriculture, forestry, environmental to commercial, health and education. In light of this, Bill drafters must have an excellent understanding of the relevant topic proposed for regulations including research and investigation abilities. Further, drafters must be able to receive constructive criticisms and maintain cordial relationships with their superiors as well as colleagues. In case the drafter is not an expert on the pertinent topic, he/she or they must seek consultation from the relevant ministries, key stakeholders and experts of the field. A coherent legal document is based on the technical skills of the drafters as well as a thorough understanding of the issues and the onus is on the drafters to finalize the legal draft utilizing both the aforementioned attributes.

In a parliamentary democratic framework, people choose to be bound by the law enacted by the parliamentary representatives chosen by them. In other words, the power to enact legislations is granted, albeit indirectly, to the people. In light of this, it is imperative that public participation is afforded to the people during the conceptualization and formulation stage. The participation of key stakeholders, specialists, relative experts both national and international in the legislation formulation process further strengthen and legitimize the overall enactment process. In principle, the government aspires to involve as many as possible, aforementioned stakeholders and experts, in the conceptualization and formulation process. However, in practice, it has been observed that the public participation process does not commence until after the Bill has been formulated and tabled in the parliament. These concerns have been voiced by many stakeholders and experts in the prior Bills pending for enactment or enacted legislations. Moreover, there are provisions for ministerial committees and relative ministerial officials to interact with the stakeholders and provide certain justifications for the formulations; however, these are few and far between. In addition, despite having limited avenues for governmental experts, non-governmental experts and even foreign experts have found it increasingly harder to gain access in

the formulation consultation process. In light of this, the need to end the disparity between principle and practice seems abundantly evident.

2.2.3 Discussions on the Bill: Council of Minister Committees

Once the concept note is approved by both the Council of Ministers and the Law Ministry, the Bill is formulated by the drafters of the Ministry of Law and Justice. Once the finalized draft is approved by the Ministry, the proposed Bill is presented to the Council for subsequent approval. The Council may then, depending upon the size, nature and urgency of the Bill, either accept the Bill itself or refer it to special committees for provision wise discussions. The discussion committee is chaired by the incumbent Law and Justice Minister and comprises of participants like other Ministers, ministerial officials, Attorney General, relative government secretaries, officials representing Nepal Law Commission, drafters and relevant experts. The committees have the authorization to propose amendments or revisions and for this purpose, they are authorized to establish sub-committees or task force. In the committees and sub-committees, opportunity is granted to stakeholders and experts along with Ministers and relative government officials to participate in the finalization process. Once the findings of the sub-committees or task forces are tabled in the committees and discussions are concluded, the finalized Bill is presented back to the Council for final approval.

2.2.4 Approval for Presentation to the Legislative Parliament

Subsequent to the finalization of the draft Bill in the ministerial committees, the Council of Ministers stamp a final approval on the proposed Bill and register it, through Chief Secretary, in the parliamentary secretariat. In doing so, the proposing ministry must provide the brief explanatory notes highlighting the objectives and reasons behind the proposition, financial implications of the Bill, adequate copies of the Bill for the distribution to individual Members of the parliament and an official letter requesting the presentation of the Bill, in the legislative parliament, addressed to the Chief Secretary.

2.2.5 Challenges to the formulation of Bills

- There is an increase in the trend, amongst government representatives, to seek out formulations for those Bills that, with less effort, can yield relatively larger transformation in society. In the budget announcement

of fiscal year 2071/72 B.S. (2013/14 A.D.), 47 different Bills were slated to be passed by the legislative.

- In many instances it is sufficient for laws to represent the development in society rather than attempt to lead the society.
- There seems to be a lack of clarity in political policy directives. In many instances, formulators have had a hard time identifying the relevant government officials to discuss policy issues. Further, during the formulation process, there is a lack of participation from the proposing Ministry.
- In many instances, the political motive has remained hidden. Instead, undue influence and coercive manoeuvres are applied on the drafters for speedy resolution. This hampers the open debate process in the formulation of Bills.
- There is usually a lack of clarity behind the motive of the proposed Bill resulting in poor implementation of the laws.
- Implementation of the legislation is unsatisfactory mainly due to the lack of control of government in public offices.
- The trend to venture outside the purview of the Constitution is on the rise.
- The trend to ignore the Court Orders is also on the rise.
- There is a lack of specific program, curriculum, orientation or work experience to train professional and determined legal document drafters well versed in handling the rigours of the job.
- There is a trend of initiating amendments to legislations that haven't yet fully come to implementation. This has posed further challenges to the formulation process.
- There is a lack of participation of key stakeholders and experts in the formulation process including the facilitation of committees, time and resources. In this regard, there needs to be clarity in relation to the necessities of credible Bill formulation process.
- There is a trend of proposing legislation even to create a public post or institution.

2.3 Bill Presented in the Parliament

The process of law making in Nepal is mainly governed by two major segments of law. The first one is the Interim Constitution of Nepal, 2007 and the second one is the Constituent Assembly (Conduct of Business of

Legislature-Parliament) Rules 2008. Part 8 Article 84 of the Interim Constitution regarding legislative procedures, grants the authority to any Member of the parliament to introduce a Bill in the house excluding, as per Article 84 (2), “...money Bill and a Bill concerning the Nepal Army, Armed Police Force, Nepal Police as well as security body.” which can only be introduced by the government. On the other hand, Constituent Assembly (Conduct of Business of Legislature-Parliament) Rules 2008 provides legal frameworks for the Legislature-Parliament to, *inter alia*, conduct its businesses, maintain process, form and regulate committees and supplement the law making process. These two major segments are further supported by the Act relating to Legislature-Parliament Secretariat 2008. This Act, following the mandate of the constitution, establishes an independent and autonomous body committed to the management of the parliament and its affairs. Combined, all three segments of law strive to institutionalize an effective mechanism for law making in the parliament.

In a two tier, i.e. bicameral, system the normal practice is that proposed Bills can be submitted to either of the chambers excluding certain types of legislations such as money Bills which, as per the constitution of the state or other laws, have to be initiated in the lower house. For example, in the United Kingdom, Bills imposing a tax, or involving public expenditure, are introduced into the House of Commons whereas Bills proposed by the Law Commission and consolidation Bills traditionally start in the House of Lords. In the 1992 parliament, in Nepal, under the bicameral system, a similar process was utilized. However, under the current unicameral system there are no distinctions as to the classes of Bills to be introduced in the parliament. However, the current Constituent Assembly, subsequent to the promulgation of new constitution, envisages a reversal back to the two tier system. In such a scenario, the procedures for introducing Bills are also envisaged to revert back to the prior system.

2.3.1 Types of Bills

There are many types of Bills and each has been classified according to different attributes. For example; In terms of the subject of the Bills, there are either Money Bills or Ordinary Bills, In terms of presenters, there are Government or Private Bills, In terms of content, there are either New Bills or Amendment Bills etc. For this purpose, some of the major classifications are defined as follows:

a) Government Bill: All Bills pertaining to state governance are usually initiated by the government or concerned ministry and presented to the parliament. These Bills are known as government Bills. In countries such as Spain and Portugal, government initiated Bills are called “proposition” whereas non-governmental Bills are called “Private Member’s Bill.” Prior to the submission of a government Bill/s in the parliament, the “proposition” goes through an extensive process of review within the relative ministry, law ministry and the ministerial committees. Pursuant to the review, once the Bill has been approved for submission in the parliament, the relevant minister signs the Bill and presents it to the parliament.

b) Private Bill: Any Bills excluding government Bills and those excluded by section 84 (2) of the Interim Constitution can be initiated by any Members of the parliament. These Bills are called Private Bill. In practice, a private Bill does not go through the same level of scrutiny as a government Bill, prior to the submission in parliament, and usually is created through the help of legal experts and key stakeholders. In some countries, assistance is provided to the Members of Parliament through parliamentary secretariat in drafting and editing proposed Bills prior to the submission in the chambers. However, in Nepal, such facilitation is not afforded to Members of the Parliament till date.

In Nepal’s case, it has been observed that 97% of the Bills presented in the chambers are government Bills. Subsequent to 1992, only three private Bills have been successfully introduced and passed by both the chambers, i.e. houses of parliament. (Nepal Health Professional Council Bill 1996 presented by Dr. Shankar Upreti, Legal Aid Bill 1996 presented by Mr. Subash Nembang and Human Rights Commission Bill 1996 presented by Mr. Mahesh Acharya) It is worth noting that all the presenters of the aforementioned Bills were the Members of the National Assembly, i.e. upper house of the parliament, at the time of the presentation of the Bill. There have been attempts to propose other private Bills in the past; however, approval by parliament has been elusive.

c) New Bills: New Bills are introduced, either by the government or Members of Parliament, in circumstances where there is a need for new laws in pertinent national areas, for e.g. Anti-Witchcraft (Crime and Punishment) Bill, 2013. Additionally, new Bills are introduced in other circumstances where there is a need for a major revamp in prevailing legislations. These situations occur when the prevalent acts of parliament no longer meets the

changing requirements of society or are deemed no longer equipped for the purpose they were enacted for. Currently, the *Muluki Ain* 1963, which is the General Code of Nepal, is in the process of being replaced by The Draft Civil Code 2013 and the Draft Criminal Code 2013. Active discussions are taking place in the legislature parliament to revamp the decades old system. When a new Bill is introduced in the legislative parliament, there is an internationally prevalent practice of attaching Explanatory Notes from the proposal presenter. However, till date, such practice has not developed in Nepal.

d) Amendment Bills: Amendment Bills are introduced in legislature parliament where certain provisions of the previously enacted legislations need to be re-adjusted, changed, supplemented, reformed or removed. For e.g. Civil Service Act 1993 (Third Amendment) Bill 2011. Amendment Bills seek to reform part of the previously enacted legislation whilst keeping the integrity of the overall Act intact. In doing so, contrary to new Bills, an amendment Bill must provide, whilst being presented to the legislature parliament, three pertinent chapters on current scope of the Act, scope of the amendments and the need for amendments to the current Act.

Prior to presenting any Bills, new or amendment, any Member of Parliament or the government have to first register the Bill at the parliamentary secretariat. Thereupon, such Member is obliged to give a notice to the Secretary General or Secretary along with a copy of the Bill and a statement of purpose and reasons at least seven days in advance. However, as per article 84, Interim Constitution of Nepal, a notice of five days prior will suffice in case of government proposed Bills. Similarly, preliminary to presentation of any Bill before the legislature parliament, a copy of the Bill should be disseminated to all the Members of the Parliament at least two days prior.

2.4 General Discussions on the Bill

The presentation of the Bill, in either of the chambers of parliament, is followed by the general discussions on the Bill also known as the “principle” discussion session. In this session, the principles inherent in the proposed Bill, context, content and its relevance are ascertained amongst the parliamentarians. Moreover, in general discussion session, focus is given to the main reasons behind such proposal including the legal principles governing the Bill, its impact to specific target sectors and the intention behind establishing such law. Once the session commences, parliamentarians can pose questions and raise issues in the chambers regarding the proposition and the relevant presenters, i.e.

either the presenting Member of Parliament or Government Minister, have to respond to the issues and questions raised. This session is limited to the principle aspects governing the Bill and as such does not include section/provision wise discussions or amendments. Upon parliamentary session observations, it has been reported that general discussion sessions have had systematic problems in the past. Similarly, it has been observed, in many cases, that substantial headway have not been made pertaining to the principle discussions on the Bill. This has happened due to several reasons including lack of participation in general sessions, lack of orientation for parliamentarians as regards to specific roles to be performed during specific sessions. As a result, many parliamentarians seek to initiate point wise discussions on the Bill from the offset. In essence, it has been observed that, among the limited regular participants of general discussions, many have a legal academic qualification or inclination to legal field. In light of this, the need to increase participation in this process becomes evident.

Upon reservations from the house or any Member of Parliament as regards to the proposed Bill, a note of dissent can be lodged in the house. Once the reservation is lodged, the filing Member of Parliament is allocated time in the parliamentary hearings to voice his/her complaint based on valid grounds. Subsequently, the motion to initiate the Bill is either approved or rejected by the house. If the motion is approved, then the house grants the presenting Member of Parliament or Government Minister a prerogative to officially introduce the Bill for enactment. Upon rejection of the motion, the Bill cannot be presented in the house.

Once the Bill is principally approved by the parliament, the presenting Member of Parliament can propose further discussions on the Bill in the parliamentary chambers or propose publication of the Bill to ascertain the general public's views. Contempt of Court Bill, 2013 is a prime example of the legislation being proposed by the then Law and Justice Minister for publication, subsequent to general approval, to gather public opinion on the proposition. However, there is a lack of clarity as to which Bills necessitate public opinion in the parliamentary procedural rules. On the one hand, Contempt of Court Bill contained issues that generally concerns legal practitioners, media and civil society. But the governing ministry thought it was necessary to gather public opinion on the matter. On the other hand, however, the much anticipated Draft Civil Code; Criminal Code etc mooted to replace *Muluki Ain* (Nepali General Code) have not yet been published in order to gather public opinion despite being of utmost importance to the

general public. In light of this, the need to coherently state the circumstances under which a Bill can be sent for public opinion has become increasingly apparent.

2.5 Proposed Amendment to the Bill: Process

Following the general discussions on the Bill, regardless of the type, amendments can be proposed by the Members of the parliament. As per Section 67 of the Constituent Assembly (Conduct of Business of Legislature-Parliament) Rules 2008, “Any Member intending to move an amendment to a Bill shall give a notice to the Secretary General or Secretary with the amendment proposed by him/her within seventy two hours of the completion of the general discussion on the Bill.” Then, as per the Bill, the Secretary General makes the amendment available for the review of other Members of the Parliament. In proposing amendments, the relevant Member must take into consideration, as per Section 68, the following rules:

- (a) The amendment must be relevant to the subject matter of the Bill and within the scope of the Bill.
- (b) The amendment must not be inconsistent with the inherent principles of the Bill.
- (c) The amendment must not be vague, meaningless or trivial.
- (d) The amendment sought to be made in any Section must be relevant to the subject matter of such a Section.
- (e) The amendment must not be inconsistent with any previously accepted principles or previous decision of the House.
- (f) The amendment must clearly and specifically suggest the particular provision or words substituting any provision or words in the Bill.

Despite clear frameworks for submitting amendments to a proposed Bill, there are still many instances where Members of Parliament have overlooked the procedural rules. As a result, the parliamentary secretariat officials have had to modify their submissions onto the given framework. The prevalent practice is that the secretariat officials correspond with the proposing Members whilst formulating the amendments prior to submission to the Speaker. The Speaker has the authority to “...to accept or refuse any amendment or to call upon the concerned Member to make improvement thereon, or to accept them by consolidating more than one amendments of

the same intention into a single amendment.” (Section 68 (2)) Once the amendments are approved by the Speaker, they are submitted for extensive discussions in the committees.

2.6 Extensive (Clause-by-Clause) Discussion on the Bill

Subsequent to the approval of the amendments, as per Section 70, clause by clause discussion along with amendments is commenced in the House. Withdrawal of amendment is also possible in the course. The slated “Clause by Clause” or extensive discussions could take place in three stages, depending upon the decisions in the House: i.e. extensive discussion in the House, extensive discussion in the committees and extensive discussions in the sub-committees.

2.6.1 Extensive Discussion in the House

Once the Bill is presented for clause-by-clause discussion, the parliamentarian introducing the Bill may move a motion either for the clause-by-clause discussion in the House or to refer the Bill to the Legislative Committee. Subsequently, a decision is taken whether to refer the Bill to the Legislative Committee or continue the discussions in the House. In cases where time is of the essence, it is generally the norm, in Nepal, to commence clause-by-clause discussions in the House. Under this process, time is allotted, in turn, for other Members to propose their amendments to the specific clauses in the proposed legislation. In doing so, informal consultation between the Members and the relevant Ministry governing the Bill could take place. This presents the Members with the opportunity to know beforehand the likelihood of success for their amendment proposal. In other cases, once the proposed amendments are tabled, the relevant Minister is allotted time to evaluate the legitimacy and adequacy of the proposed amendments. The Minister, after thorough assessment, then announces the amendments that have either been accepted or rejected and provides justifications for their decisions.

Discussions in the house is usually conducted for either new or amendment Bills, especially for Money Bills such as Credit and Bail Bill etc. In terms of Ordinary Bills, the general practice is to refer the Bill to the Legislative Committee for clause-by-clause discussion. However, there are instances, in cases of politically significant Bills, where Ordinary Bills have been passed by bypassing the committee stage. For example, Far Western University Bill 2010, Mid-western University Bill 2010 and Agriculture and Forestry

University Bill 2010 were all passed in the house without ever being referred to the committees. Similarly, there are instances where a particular Minister proposes to get the Bill approved from the house subsequent to the clause-by-clause discussions. However, in cases where the house cannot form an agreement to do so then the general practice is to refer the Bill to the committees for further discussion.

2.6.2 Extensive Discussion in the Committees

In practice, there are various types of parliamentary committees such as: Legislative Committees, Select Committees, Ad hoc Committees, Standing Committees, Thematic Committees and Joint Committees. It is international parliamentary practice to conduct thorough scrutiny of Bills in committees. The same process is applied in Nepal. In doing so, the presenting Minister or Member proposes for the Bill to be discussed in Legislative Committees. Subsequently, the Legislative Committee invites the amendment proposing Members, relevant Ministry Officials including Ministers and Chief Secretary to participate in the committee sessions. In the first committee session, even though legal authority is granted to initiate clause-by-clause discussion, the general practice is to introduce the Bill. This is usually done by the presenting Minister or Member of Parliament. The introduction includes the general purpose of the Bill, the amendments made in the general discussion sessions, the impacts and results expected from the Bill etc. Similarly, in these sessions, time is allocated for amendment proposing Members to present their justifications, in brief, for the proposal. Proximately, the clause-by-clause discussion is initiated.

It has been observed in Legislative Committees, depending upon the nature of the Bill and amendments proposed on the Bill, that key stakeholders and experts are also invited to participate in the discussion sessions. In recent times, there has been an increase in the parliament's tendency to incorporate stakeholders' views in the overall parliamentary legislation drafting process. Similarly, in cases where there has been a research, a study or a project conducted by non-governmental organizations on the relative Bill in question, then such work, in practice, have been used as a feedback for the parliamentary discussions in the committees.

In essence, the assessment of the proposed amendments is provided by the representing ministry through Ministers, Chief Secretary or relevant officials. In doing so, the Ministers, or officials representing the ministry in case the

Minister is not present in committee hearings, have to provide, based on justifications, decisions on the approval or rejection of particular amendments. If, during the proceedings, the relevant Minister is not present then the decision is provided by officials representing the Ministry. In this case, the absent Minister takes ownership of the official's decision.

In committee procedures, partisan interests are not entertained and decisions are based on the collective approval of the participants. This is one of the reasons behind committee processes being lengthy and arduous. In general, committee processes tend to last for 3-4 months in Nepal. However, it has been observed, in the past, that there have been committee sessions that have concluded, in some instances, in less than a month while others have lasted more than a year. One fourth of the total number of Members or 25 percent of the participants have to be present for any meetings of the Legislative Committee. Once an amendment proposal is rejected, the proposing Member is requested to withdraw the proposal. If the withdrawal is not forthcoming then the committee, based on majority principle, makes a decision. The committee may have a maximum of seventy-five Members and the representation of all political parties involved in the Legislative-Parliament is mandatory. In addition, proportional representation of women, indigenous/tribal people, Madhesi, Dalit, backward regions and other communities must also be guaranteed. Once the clause-by-clause discussion is concluded in the committees, report of the decision of the committee is prepared and the Chairperson, or in his/her absence, a Member of the Legislative Committee designated by the Speaker, submits the Bill along with the report to the House. After the report of the Legislative Committee is tabled; the report is circulated to all Members for their review.

2.6.3 Extensive Discussion in Sub-Committees

The trend of forming sub-committees is on the rise in recent parliamentary practice in Nepal, although, the decision to form a sub-committee is purely discretionary. As such, the Chairperson of the Legislative Committee is empowered to form sub-committees to further discuss the intricacies and contentious aspects of the Bill. Such committees tend to be formed to conduct internal proceedings or to submit report guided by the processes of the overriding committee. Also, in practice, the time frames for sub-committees as well as the *modus operandi* are pre-determined. The decisions of the sub-committees are taken with same process as the aforementioned

committees. Once the sub-committee sessions have concluded, the reports and findings are presented to the committee for review.

2.7 Withdrawal of the Bill

A proposed Bill, until authentication or enactment by the Legislative-Parliament, can be withdrawn at any point during the parliamentary session by the respective proposer, i.e. Government Minister in case of Government Bill and Member of Parliament in case of Private Bill. If the proposed Bill has not yet been presented to the parliament and has just been submitted to the parliamentary secretariat, the withdrawing Member must request to the parliamentary secretariat, through an official letter, for the withdrawal of the Bill. If the Bill has already been presented in the House, official request to withdraw is sought from the House. In this case, the House has to approve the withdrawal of the Bill. In case the Bill has entered the committee phase, an official request to withdraw must be presented to the committee. The committee is then obliged to report it back to the House. The House then makes a final decision on withdrawal. Recently, the proposed V.I.P Security Bill 2014 was withdrawn from the House by the Home Minister through official letter request.

2.8 First, Second and Third Reading of the Bill

The concept of First, Second and Third Reading of Bill by the Legislative is a prevalent practice in all the different models of governments in the world, i.e. presidential, parliamentary or mixed. From the initiation of the Bill to the authentication, the process is divided into the aforementioned three stages. In Nepal, albeit not expressly stipulated in the legislation, the authentications of any Bills are understood to pass through the three stages of parliamentary practice. (Satyal, 2048, pg. 29)

First Reading: In the First Reading stage, the Bill presenter, upon permission from the Speaker, requests for the presentation of the Bill to the House. Once the approval is granted, the presenting Minister or Member presents the title, objectives, reasons for the proposal and other important aspects contained in the Bill to the House. This stage is also known as a formality stage.

Second Reading: The Second Reading stage consists of the period subsequent to the presentation of the Bill in the parliament and conclusion of the First Reading stage. In this stage, the general discussions and the clause-by-clause discussions take place on the proposed Bill. This stage is considered a crucial stage in the legislation drafting process. On the one hand, the principle discussions on the objectives and impacts of the Bill are accessed. On the other hand, the specific clauses of the Bill are scrutinized and amendments are proposed in either the House or the committees.

Third Reading: Once the Second Reading stage is concluded, the presenter of the Bill proposes a motion to authenticate the Bill containing the approved amendments, ascertained through general and extensive discussions on the Bill, from the House and committees. This stage is referred to as the Third Reading stage. The inclusion of amendments in the main Bill is also conducted in this stage. Proximately, the Speaker proposes, in the House, to authenticate the Bill and subsequent to the majority approval from the House, the Bill is declared authenticated.

In Nepal's context, the concept of First, Second and Third Reading is delineated in the Introduction, General Discussion, clause-by-clause Discussion and Authentication phases.

2.9 Final Amendment to the Bill

The preparation of the final draft of the authenticated legislation, containing the approved amendments, is conducted by the legal drafting section of the Ministry of Law and Justice. In this stage, sole authorization is provided to the Speaker to amend the grammatical and editorial mistakes contained in the legislation. With the assistance of legal drafters, the final version of the authenticated legislation is prepared either eliminating the errors or adding missing words or phrases.

2.10 Validation of the Bill: Chairman of the House and President

In Nepal, a Bill passed by the Legislature-Parliament becomes an Act only after its authentication by the President. Thus a Bill passed by the Legislature-Parliament is certified by the Speaker and then submitted to the President for authentication. In other nations, a monarch may also provide assent to the proposed Bill and subsequent to this, it is presumed to be

authenticated. In instances where the President or the King/Queen does not agree with portions or some clauses of the Bill, s/he may refuse to assent to the Bill or send it back to the House for re-consideration. In the United Kingdom, for example, the Queen provides royal assent or formally approves an Act of parliament, thus making it a law or letting it be promulgated as law.

In Nepal, however, the Interim Constitution 2007 does not grant any veto power to the President to refuse validation of Bill once it has been approved by the House and certified by the Speaker. In instances where the President simply wants clarifications as to certain provisions of the Bill, he/she may seek clarification from the proposing Minister, Member or the Speaker.

Upon receipt of notice of the President's authentication, the Speaker reads out the notice to the House. If House is not in session at a time of receiving such notice then the Speaker can pursue to publish such a notice in the bulletin of the Legislature-Parliament and also pursue to publicize the notice.

2.11 Suggestions for Reform

Legislation drafting is a long and arduous process. Moreover, law and decision making are vital components of state's functioning apparatus. In Nepal, the concept of legislation drafting has been deemed inadequate in so many levels ranging from over dependency to donor interests to outside influence to sheer lack of commitment from parliamentarians. Interim Constitution 2007 and Act Relating to Legislative Parliament 2007 provide that House, committees or Members can propose and amend legislations to transform the country as per its policy directives. However, in practice, it has been observed that parliamentarians have accorded very little emphasis to their legislation drafting obligations rather focusing on other matters such as government formation, power delineation and development initiation projects etc. In light of this, the suggestions to make the Legislative-Parliament and parliamentarians more effective and increase the standard of legislations are as follows:

- 1. Need for change in the attitude concerning Bill presentation:** In general, it is considered that the government introduces Bills in the Legislature-Parliament on a needs basis. This misconception has largely affected the registration of Private Bills in the House. The current attitude is best described by the phrase: "If and when needed, government will

bring a Bill, so why should we worry?” This attitude, by the parliamentarians, has been regarded as detrimental to the law making process. The Members seem to have forgotten that legislation drafting is one of the most important obligations of the parliament. It is imperative that we change this attitude so that government is not over burdened to constantly propose pertinent new legislations. This responsibility should be shared collectively by all the representatives.

2. **Need to amend the areas classified and restricted as requiring Government Bill:** As it stands, Money Bill, Bills pertaining to Nepal Army, Police and Armed Forces can only be presented as a Government Bill. In light of this, the restriction for Government Bills should only include Money Bills and matters relating to the Army, Police and Armed Forces etc should be made accessible for Members of Parliament to be presented as a Private Bill. Members of Parliament are representative of the people and as such more flexibility should be afforded to them, as far as different areas for legislation is concerned, in order to provide more legitimacy to the legislation drafting process. In a democratic state, security forces and institutions should be controlled by the people. If we are to accept this theory then it seems highly inappropriate to restrict people’s representatives in making legal initiatives in these aforementioned areas. Moreover, allocating a wider scope for legislations will enhance the capacity of parliamentarians, collectively as well as individually, in familiarizing them in a diverse range of state affairs. This is conducive to a productive and effective parliament.
3. **Need for Explanatory Notes whilst presenting a New Bill:** Whilst presenting either a Government or Private Bill, an explanatory note to accompany the Bill should be mandatory practice. This practice is prevalent in other countries, however; in Nepal, the concept of explanatory notes hasn’t yet been introduced. Explanatory notes provide a good introduction to the Members regarding the nature, scope and objectives of the Bill. In addition, it eases the process of making amendments later on in the House sittings. In light of this, explanatory notes should be incorporated in the parliamentary procedural rules as a mandatory requirement.
4. **Need for separate section (Unit) in the Parliamentary Secretariat to assist in formulating a Private Bill:** Expert services should be made available to Members in the parliamentary secretariat to assist them in formulating a Private Bill. A separate section (Private Bill Formulation Section) or a division can be established to achieve this objective.

Government Bills go through extensive discussions and formulation process in the Ministry. As a result, the final product is more polished and coherent. The same facilitation should be provided to the Members initiating a Private Bill. Once the concept has been identified along with the content by the Members, formulators draft the document in a legal language. In this way, the secretariat could thus assist the Members in becoming bona fide lawmakers.

- 5. Need for a reform in the limitation period for proposing amendments to the Bill:** In Nepal, as per the Conduct of Business of Legislature Parliament Rules 2008, in any Bills: long or short, Government or Private, the Members are allotted a maximum of 72 hours to propose amendments to the presented Bill/s. This time frame is highly insufficient. In light of this, the members should be afforded the time frame of at least 3 to 10 working days to propose amendments. This will give the Members ample time to thoroughly study the legislation and identify the areas in need for modification or alteration. The legislative process would be a failure if Members, despite their wishes, could not register proposed amendments due to the time restrictions.
- 6. Need to make all the Clauses of the proposed New Bills open for extensive discussions in the House or Committees.** In current parliamentary practice, for either New Bills or Amendment Bills, the clause-by-clause discussion is afforded, unless otherwise decided by the House, only to the sections of the presented Bill where amendments have been proposed. However, clause-by-clause discussion should be afforded, during the extensive discussion stage, to every single clause contained in the presented Bill including the name of the Bill. In essence, the ownership of the entire Bill is taken by the people's representatives, i.e. parliament, and as such it would be appropriate to grant access to the Members, to assess, every single provision in the Bill at all stages including committees and sub-committees etc. It is understandable to afford clause-by-clause discussions on limited sections on Amendment Bills; however, there is a need to change the current practice in terms of New Bills. This will make the law making process more effective in the long run.
- 7. Need for Training in Law Making Process:** After the people's representatives are elected and prior to the commencement of House sessions, the elected Members should be given an orientation and appropriate training on the process relating to law making and legislation drafting. Parliamentary secretariat and Ministry of Law and Justice should

periodically conduct training sessions on the principle and practical aspects pertaining to law making process and the role of Members of Parliament.

- 8. Need for elected Members to increase their individual drive for law making process:** To make the law making process more effective, elected Members must raise their individual enthusiasm in the law making process. In Nepal, during the parliamentary review, it has been observed that a lot of factors contributed to the ineffectiveness of the law making process. This ranged from lack of participation in the General Discussion Sessions of the Bill presentation to the disparate attendances in the Committee Discussion Sessions. The matter was further aggravated by Members constantly losing the distributed Bills and other materials despite multiple distributions. This demonstrated a lack of enthusiasm amongst Members to become active proponents of the law making process. In light of this, it is urged that the parliamentarians raise their motivation to endorse the legislation drafting process and provide quantitative and qualitative support to the overall parliamentary process.
- 9. Members need to prioritize law making obligations:** In Nepal, there is a prevalent misconception brewing over the roles of a parliamentarian. In recent times, parliamentarians have prioritized their concerns on development initiatives at the expense of law making responsibilities. The amount of 15 Lakhs presented to each Member and 1 Crore delineated for the development of their respective constituencies has further raised questions marks as to what is the priority obligation of an elected Member. Is it as a law maker? Or as a proponent of critique of development initiatives? As people's representatives, it is without doubt the responsibility of Members to pursue development projects for their respective communities. However, this shouldn't be done at the expense of law making responsibilities. In light of this, there is need to assess priorities for Members of Parliament.
- 10. The attendance of relevant Minister in Committee Sessions should be encouraged:** In recent times, it has been observed that the attendances of Bill presenting Minister in committee sessions are on the decline. The absence of relevant Minister would largely hamper the discussion process. Citing excessive workload, Ministers have had the tendency to refrain from attending committee sessions instead giving the responsibility to other Ministry officials. In some instances, it has been observed that, despite presenting the Bill, the relevant Minister have been reluctant to get involved in the clause-by-clause discussions. In other instances, there

have been no representations from the proposing Ministry in the committee sessions. As a result, officials from Ministry of Law and Justice have had to represent the proposing Ministry in the discussion sessions. Without the participation of presenting Minister, the clause-by-clause discussion process cannot be deemed effective. In light of this, the practice of involving Ministers in the committee discussions should be regularly implemented. In cases of sub-committees, ministerial representation could be sought from other officials from the Ministry who, on the behalf of the Minister, conveys the Ministry's stance on the matter.

11. Committees should have the authority to ascertain public opinion whilst discussing the Bill:

As per the current rules, public opinion can only be sought subsequent to the approval from the House. However, it seems highly appropriate to include, in the rules, authorization to the committees to seek public opinion during the clause-by-clause discussion sessions. This would increase participation, legitimize the law making process and make legislation drafting more effective. For example, such provisions should be afforded to the Draft Civil Code and Criminal Code 2014 currently under discussion.

12. Need for Public Hearing of Bills:

When a Bill is introduced in the House that pertains to the general interest of public at large, open public hearings could be conducted to ascertain public opinion on the matter. This would help the Members get valuable opinions from the stakeholders and facilitate the amendment process so that the legislation could be acceptable to all. This would not only further legitimize the legislation drafting process but also make implementation process less complicated.

13. Need to gather feedback on Bills through electronic medium:

The impact of internet on modern society has been limitless. As a result, there is a large increase in the number of internet users especially in the cities and amongst Nepalese living abroad. In light of this, it is suggested that presented Bills could be published online, for a limited period, to gather valuable feedback, opinions and concerns regarding the Bill. Tapping into the new phenomenon that is internet is another creative way of making the law making process more effective.

14. Need to incorporate Civil Society Organizations, NGOs, Think Tanks in the law making process:

In Nepal, there are thousands of civil society organizations, NGOs, Think Tanks and professional institutes working in various sectors ranging from constitution, law making, human rights to environment, public policy and education etc. Depending upon the nature of the Bill, any relevant publication or opinions from the relative

organizations could be utilized as reference materials during the Bill drafting, discussions and authentication process. This would encourage participatory law making process and the parliament along with its committees should seriously consider these avenues.

15. Need for Special Committees to incorporate involvement and participation of Dalits, Janajatis and Madhesis Members in the legislation drafting process: Nepal's parliament is not based on a presidential model and as such the use of "caucus" is procedurally flawed. At present, there aren't adequate provisions or institutions for the involvement of Dalits, Janajatis and marginalized Madhesis Members in the legislation drafting committees. The ones (committees) that are present have failed to acknowledge the wishes, concerns and views of these perennially marginalized communities. It is recommended that special committees, either a united umbrella committee or separate committees, clearly delineating the jurisdictions and their issues should be established. This will strengthen the state's commitment towards a proportional representation and inclusion enshrined in the constitution. Also, this will contribute towards a more effective and meaningful discussion in relation to the financial, social and cultural issues pertaining to these groups. In addition, this will provide constant capacity building opportunities to the marginalized communities and make the overall legislation drafting process more effective.

16. The use of women caucus should be institutionalized: In recent Nepalese parliamentary experiment, the practice of women caucus, despite its absence in legislations, was introduced to protect women's rights, encourage women leadership and acknowledge matters concerning women in parliamentary process. In such women caucus, regardless of different political affiliations, women from all the different parties come together, discuss on women related issues including representation and establish agendas for the mutual benefit of all women. However, as of now, there haven't been any steps undertaken to make this caucus more effective. In committee system, serving either of the parliamentary functions i.e. legislation drafting or oversight, it is recommended that women related issues should be specifically handled by the women caucus in parliament. Keeping in mind the essentials of parliamentary system and its fundamental characteristic including the parliamentary whipping system, there is a need to further strengthen the women caucus processes in the parliament.

17. Special provisions should be established to maintain an uninterrupted correspondence between the parliament and the media:

Opposition play a vital role in a parliamentary system. Opposition continuously look to provide resistance or dissent often expressed in action or argument to any government policies or decisions. In doing so, the opposition presents the government with viable alternatives. It isn't always possible to remove or dissolve the cabinet either. In any case, the focus of targeted programs towards government is, in addition to raising responsibility and making government more accountable, to make the general public aware of the government plans and policies. In this context, the correspondence of parliamentary committees with media is of high significance. Radios, televisions, newspapers and online outlets have been given high importance in the constitution building process. However, the same levels of correspondence and significance have not been granted to the media as regards to the communication of parliamentary affairs such as legislation drafting and oversight. In light of this, the continuous correspondence with media will not only serve to strengthen the parliamentary process but also the general public.

18. Members of ruling party must be given an active role in parliamentary processes:

In a parliamentary process, Members of a ruling party neither have the objectives of obstructing governmental affairs nor have the objectives of removing or replacing of the incumbent government. Members of the ruling party have the objective, as far as possible; to assist the ruling government achieve its timely goals. Government can get a lot of assistance from the discussions undertaken within the parliamentary committees and the House. In essence, the role of the government is to become a good government. In that regard, the suggestions and opinions provided by the ruling Members can be highly constructive and valuable. Therefore, in this process, it is recommended that ruling party Members should be granted a more active role. This is based on the idea that continuous criticism of the government, as prevalent in Nepal, makes the government weak and ineffective.

Chapter Three

Oversight and the Role of Parliament

3.1 Parliamentary Oversight

In a parliamentary system, the formation of government and nomination of the executive head is performed by the parliament. In that regard, in parliamentary practice the government is accountable to the people's representatives, i.e. parliament. Based on this principle, the monitoring of the functioning of government and government institutions/ public agencies, to ensure that approved policies are properly implemented and delivered to target citizens, is conducted by the parliament. The term "Parliamentary Oversight" is used to denote the supervision, monitoring, management, evaluation, assessment and inspection work carried out by the parliament in respect to the executive government. Similarly, under the oversight functions, parliament scrutinizes the policies and programs of the executive and provides guidance on pertinent subject matters. The parliament, if needed, could also ask for clarifications or justifications as regards to the works of the government. In doing so, parliament provides constant checks and balances to ascertain whether or not their policies, laws, regulations and budgetary allocations have been properly implemented by the government.

Have there been any irregularities in the implementation of budget, allocated by the parliament, by the government or any government institutions? Have there been any misuses of power by the executive or its members/officials? Have the government undertakings been targeted, as per the parliamentary mandates, and met the allocated deadlines? In all these aforementioned instances, the parliament provides oversight to the government with a view to protect the rights and liberties of citizens and improve the effectiveness and efficiency of government operations. In addition, through oversight, the parliament seeks to make the government implementation more transparent and accountable to the local people. (Parliamentary Tool for Oversight Function, 2007) In many ways, the effectiveness of the parliament of any country can be judged upon its legislation drafting and oversight capacities. Based on the global principles of parliamentary oversight, Nepali parliament has been carrying out its obligations through either the Parliamentary Chambers (House), Standing Committees such as: Thematic Committees or Special Committees and *Ad Hoc* Committees.

3.2 Parliamentary Sessions and Oversight

In parliamentary sessions, the incumbent government presents their plans and programs to the parliament. Subsequently, the Members, upon thorough study of the proposal and discussions in the House, decide whether to accept the plan or reject it. This practice also falls under the oversight component. In Nepal, there is an annual practice of presenting government plans and programs, via the President, along with the budgetary implications from the Finance Minister to the parliament. This is then requested for the evaluation and approval from the House pending discussions in the Legislature-Parliament. This practice has made the government completely responsible and accountable to the parliament.

Similarly, parliament can simply ask the government for information or ask the government for public clarification of policies, orally or in writing, and it can express its views to the government and the public. In addition, the oral questioning can be of two types: Oral Questioning with prior notice or Oral Questioning without prior notice. In response, the relevant Minister has to respond to the queries raised by the parliament. The practice of parliament seeking clarifications from the government is widely practiced in other jurisdictions around the world. Similarly, in Nepal, in the 1991 parliament, the customs of seeking clarifications were practiced in both the Houses, i.e. Lower House and Upper House. However, subsequent to 2006, the clarifications custom has not been practiced in either of the Interim Parliament, First Constituent Assembly or the Second Constituent Assembly. In this regard, in recent times, the oversight functions through questionings in the House have not taken place in Nepal. In addition, the various proposals presented by the executive go through a similar approval process in the parliament. Much alike, in relation to government policies and plans, the relevant Minister must, upon request, provide clarifications to the parliament. This process also strengthens the accountability of the Government towards the parliament. For example, in May 2015, subsequent to the disastrous earthquakes in Nepal, a meeting of the Legislature-Parliament passed unanimously the Resolution Proposal concerning distribution of relief to the earthquake victims and their rehabilitation. Once a proposal is approved by the House, the relevant Ministry takes ownership of its implementation.

In addition, parliamentarians, through Zero Hour, Special Hour or any time allocated by the Speaker, may draw the attention of the House towards any pertinent issues or incident concerning their constituencies, state or society.

This process of highlighting pertinent areas of concern in the House also falls under the purview of parliamentary oversight. The questions and the clarification sought in the House are communicated to the government by the Speaker. In case any pertinent areas of concerns have been raised by any Member, the Speaker has the authority to provide guidance to the government to implement a certain task. This is also known as “Speaker Rulings”. Speaker Rulings are also considered a major component of parliamentary oversight process. Mainly, the effectiveness of parliamentary oversight and the accountability of government towards the Legislature-Parliament is dependant on two major aspects: Government response to the queries and directions provided by the House and the implementation of Speaker Rulings.

3.3 Parliamentary Committees and Oversight

In practice, majority of parliamentary oversight functions are undertaken by the House through parliamentary committees. This is precisely the reason why the committees are also known as “Mini Parliament”. A parliamentary committee comprises of a group of Members appointed by the House (or Houses in case of bicameral system) to undertake specified tasks. Committees can offer an appropriate setting for the facilitation of, *inter alia*, oversight of government activities and establish linkages with external actors. In order to make the government more responsible and accountable to the parliament and to monitor and evaluate the works of the government, majority of the parliamentary works, in modern parliamentary systems, are conducted by smaller committees than the House. In Nepali practice, the function of oversight is predominantly carried out through Thematic Committees, Special Committees or *Ad Hoc* Committees.

3.3.1 Oversight through Thematic Committees

All committees established by the parliament have pre- specified jurisdiction. The number, scope and nature of thematic committees to be formed by the Legislature-Parliament depend on each individual state’s requirements. In Nepal, pursuant to Article 58 of the Interim Constitution, in order to make the government responsible to the Legislature-Parliament and provide necessary direction and suggestion to the government, having made evaluation and monitoring of the activities of the government, a total of 12 Thematic Committees have been established. (Section 110, Constituent Assembly Conduct of Business of Legislature-Parliament Rules, 2008). These are as follows:

S.N.	Name of Committee	Working Areas
1.	Legislative Committee	Ministry of Law & Justice, Ministry of Constituent Assembly & Parliamentary Affairs and Office of Attorney General
2.	Finance Committee	Ministry of Finance, Ministry of Cooperatives & Poverty Alleviation and National Planning Commission.
3.	International Relations and Labour Committee	Ministry of Foreign Affairs, Ministry of Labour & Employment, Ministry of Tourism, Civil Aviation & Culture
4.	Industry, Commerce and Consumer Welfare Committee	Ministry of Commerce & Supplies, Ministry of Industry and Consumer Protection matters.
5.	Committee on Women, Children, Elderly Citizen and Social Welfare Committee.	Ministry of Women, Children and Social Welfare, Ministry of Health and Population, Ministry of Education and Ministry of Youth & Sports
6.	Committee for Social Justice and Human Rights	Ministry of Peace & Reconstruction, National Human Rights Commission and Human Rights matters.
7.	Public Accounts Committee	Public Accounts and Report of the Auditor General
8.	Agriculture and Water Resource Committee	Ministry of Agricultural Development, Ministry of Water Resources, Ministry of Land Reform and Management
9.	State Management Committee	Ministry of Home Affairs, Ministry of Defence, Ministry of General Administration, Public Service Commission and Election Commission
10.	Committee on Environment Protection	Ministry of Forests & Soil Conservation, Ministry of Science, Technology & Environment and Ministry of Urban Development
11.	Development Committee	Ministry of Physical Infrastructure and Transportation, Ministry of Federal Affairs and Local Development and

		Ministry of Information & Communication
120	Good Governance and Monitoring Committee	Office of Prime Minister and Council of Ministers and Commission for the Investigation of Abuse of Authority

Source: Constituent Assembly Rules, 2014.

Thematic committees, based on their jurisdiction, evaluate the policy and programmes, resource mobilization, management, and other similar activities of the Ministries, Departments and the Public Offices and give necessary directives to the concerned bodies whilst introducing an annual report along with appropriate comments, recommendations and directives to the House. In addition, the committees, check the estimates relating to revenue and expenditure of the Ministries, Departments and the Public Offices and give necessary directives to the concerned bodies on the methods of preparing the annual estimates, the alternate policy that could be adopted instead of the current policy in annual estimates and the savings that could be made on the amount of annual estimates. Furthermore, the committees conduct studies, monitoring and evaluation on whether or not the public property of a government body concerned with the subject has been misused and give necessary directives on the implementation of certain tasks based on prevailing legislation. Also, the committees monitor on the implementation of the reports of the Investigation Commissions/Committees and probe commissions/committees to be formed by the government from time to time, and give necessary opinions, advices, and directives. In doing so, the committees exchange ideas with the representatives of the concerned Ministries and Departments and with the experts on the subjects.

3.3.2 Oversight through Special Committees

Special committees are employed, in parliamentary practice, to undertake specialized tasks mandated by the House. The works undertaken by special committees also fall under parliamentary oversight component. However, special committees are not afforded the same jurisdictions, like thematic committees, as regards to Ministries and Constitutional bodies. Special committees are created upon a motion declaring the functions of such a committee, its term of office and the names of the Members to be comprised in such committee by the Speaker to the House. Special committees generally have the specialized responsibility to either endorse or investigate/evaluate, subsequent to extensive discussions, special decisions

from the government and constitutional or diplomatic appointments. In case a special committee has been established to perform a certain task, the government cannot move forward with any plans without its endorsement. In Nepal, as per Constituent Assembly Rules 2014, two such special committees are prevalent in parliamentary practice: Security Special Committee and Parliamentary Hearing Special Committee.

Security Special Committee: Except in cases where the Nepalese Army has been mobilized for the reason of occurrence of a natural calamity as referred to in Sub-Article (5) of Article 145 of the Constitution, the mobilization of Nepalese Army in any other context would require the approval of security special committee in the Legislature-Parliament. Such committee is created based on the principle that security agencies must be under the control of the people's representatives. Through this committee, the parliament provides oversight of the government's function to mobilize the Nepalese Army based on valid grounds and sound justifications. The provisions for mandatory requirement of approval of special committees from the government, as regards to the mobilization of army troops, are contained in Section 117 of Constituent Assembly Rules, 2014. In the second Constituent Assembly elections in 2013, the government mobilized the Nepalese Army. However, due to the dissolution of parliament at that particular time, an approval from the security special committee was not possible. Subsequent to the elections and establishment of security special council in the parliament, any governmental decision, in relation to the mobilization of Nepalese Army, must be passed from the Security Special Council.

As per the Constituent Assembly Rules 2014, the security special committee can have a maximum of eighty-one Members comprising of the Prime Minister, Defense Minister, Home Minister, three Ministers designated by the Prime Minister in the National Security Council, the Chairperson of the State Affairs Committee, along with representatives of all political parties representing to the House having regard to proportional representation on the basis of presence in the House of women, indigenous/tribal people, Madhesi, Dalit, backward regions and other communities. Also, as per the Rules, the Speaker and Deputy Speaker shall be the *ex-officio* Chairperson and vice Chairperson of the Committee and the term of office of the Committee can be up to the term of the Legislature-Parliament.

Parliamentary Hearing Special Committee: The evaluation of people proposed for appointment as the justices of the Supreme Court, Ambassadors and the Constitutional positions, which are appointed on the recommendation of the Constitutional Council, Election Commission Officials, Public Service Commission Officials and National Human Rights Commission Officials fall under the purview of Parliamentary Oversight. Under this component, as per Constituent Assembly Rules 2070, parliamentary hearing special committees serve to ascertain the validity of government or Constitutional Council's proposals and, based on extensive discussions, provide approval or endorsement to the proposals. In doing so, the committee has to ascertain, upon discussion, the suitability of the person in the proposed roles. To fulfil its obligations, the committee also has the authority to make a publication of the ongoing evaluation and may receive any reservation or recommendations regarding the proposed candidates from the public. After receipt of the proposed names, committee has the authority to conduct hearing within fifteen days to the date of receipt of the letter from the concerned body and send its report to the concerned body having prepared the opinion of the committee for the concerned offices. In case the proposed name has not been rejected by opinion of the committee by two thirds majority, the concerned body can then appoint the proposed candidates in concerned offices. In case the committee rejects the candidate by two thirds majority, the concerned body cannot appoint the proposed candidate. Although, it is worth noting, in Nepal, there has not yet been an instance where a parliamentary special committee has rejected a proposed candidate.

3.3.3 Oversight through Ad Hoc Committees

In addition to the aforementioned standing committees, Parliament can create *Ad Hoc* (temporary) Committees for a specific task or objective, and dissolve them after the completion of the task or achievement of the objective. *Ad hoc* committees assist in evaluating and investigating, studying and researching key policy decisions and matters normally outside the purview of thematic and special committees. These integral elements of parliamentary affairs also fall under the parliamentary oversight component. Revenue Leakage Investigation Parliamentary Committee 1996, Nagarkot Massacre Investigation Committee 2006, Belbari Massacre Investigation Committee 2007, Constituent Assembly Election Study, Investigation and Suggestion Committee 2014 are some examples of *ad hoc* Committees established in the past by Nepali Parliament to carry out specific research, investigation and evaluation work and report back to the House. *Ad hoc* committees also have the authorization to invite government and government officials for

committee discussion sessions and conduct field studies. In doing so, the committees may request for clarifications, evidence or supporting documents from public offices or government officials. In this regard, parliament, through *ad hoc* committees, makes the government accountable and responsible to them.

3.4 Parliamentary Oversight and Government Response

Parliamentary oversight is also based on the doctrine of Separation of Powers, whereby each of the three branches, i.e. Legislative, Executive and Judiciary, would have defined abilities to check the powers of the other branches. In that regard, government, government officials and other public institutions have the obligation to implement the decisions pursuant to investigation evaluation and discussion from the Parliament or any of its committees. As parliament itself does not implement its rules, policies and directives, the effectiveness of parliamentary oversight is demonstrated with the implementation of rules, policies and directives, from the parliament, by the government. However, in practice past governments have been accused of not implementing the rules, policies and directives given by the parliament. Similarly, accusations have also been made, as regards to parliamentary affairs, concerning the imposition of impractical mandates, un-justified obstruction of government plans, and imposition of directives and orders based on little investigation or discussions to the government. In addition, it has also been observed that in many instances committees have invited, without valid grounds for invitation, government officials, representatives, secretaries and experts to participate on the same topics.

Generally, governments have obligatory responsibility towards implementation rather than mandatory with regards to the directives given by the parliament. In parliamentary practice, the repercussions of non implementation of parliamentary directives by the government are more political in nature rather than legal. In addition, the opposition fulfils a special function in the committees and informs the public about its alternative views and recommendations. In some cases, committee discussions could result in the resignation of relative Ministers or change of government altogether. In Nepali practice, government is usually formed by the majority party or coalition of majority parties in the House. As such, the upheaval of government due to lack of enforcement of parliamentary directives hasn't been observed yet. Therefore, committee directives and response could be made public in order to make the government continuously accountable and responsible to the people's representatives.

3.5 Parliamentary Oversight and the Role of Parliamentary Secretariat

Parliamentary Secretariat, as per Article 61 Interim Constitution 2007, serves the purpose of conducting and managing the business of Legislative-Parliament. The secretariat conducts the business of the Legislature-Parliament, and makes arrangements, *inter alia*, for the smooth operation and management of the Legislature-Parliament. The secretariat is an independent and autonomous body. In order to effectively manage it, an Operation and Management Committee comprised of the Speaker, (who preside as chairperson), Deputy Speaker, the Secretary General and Secretary as members, and the Secretary of the Secretariat as the Member-Secretary has been established. Further, the Secretary General acts in the capacity of administrative Chief of the Secretariat. With a function of making the Legislative-Parliament more efficient and effective, parliamentary secretariat plays a vital role on parliamentary oversight. In principle, the secretariat officials do not partake in the decision making process of the parliamentary committees, however; they provide continuous assistance through research, data collections and suggestions to help parliamentarians, if needed, in the evaluation, discussion and decision making process. In Nepal, it has been observed that, unlike other parliamentary practices, there is an excessive dependence of parliamentarians on the secretariat. Further, the Secretariat acts as communication link between oversight decisions undertaken in the committees and the government.

Secretariat officials perform key roles as either secretaries or in some other vicinity in Legislative, Thematic, Special and Ad Hoc committees. In this regard, the individual ability and capacity of the Secretariat officials could play a major role in the overall effectiveness of the parliamentary oversight component. In addition to the functions of the secretariat stipulated in the Act, it has been observed that secretariat officials assist in annual reports and conduct field studies pertaining to jurisdictional matters for the parliamentary committees. As per majority of the members of parliamentary committees, the effectiveness of committee works are largely dependant on the secretariat officials. However, in Nepal, there is a lack of resources, human and technical, available to the secretariat to conduct its businesses smoothly. For example, there are 601 Members of Parliament in the incumbent Constituent Assembly, also the Legislative-Parliament, whereas there are only 300 secretariat officials to look after the works of both the Constituent Assembly and the Legislative Parliament. In addition, there is a lack of experts well versed on technical issues, such as jurisdictional issues pertaining to

committees or conduct development field studies etc, in the Secretariat whilst there is an abundance of administrative staffs. As a result, the disparity in the quality and, in some instance, quantity has largely hampered the effectiveness of Parliamentary Secretariat.

3.6 Suggestions for Reform

In a democratic state and as the house people's representatives, parliament has the prerogative to make the government and its institutions, public offices and representatives responsible and accountable, via the Legislative-Parliament, to the people. By dividing the legislature into subgroups of parliamentarians, parliament can simultaneously work on many different tasks. A parliament with committees can thus be more productive and achieve more outcomes than a parliament without committees. Committees also provide specialization and inclusion, as regards to parliamentary process, to the parliamentary back-benchers. For this, parliament can seek clarifications from the Prime Minister, Minister, head of constitutional bodies, secretaries, public officers etc regarding any plans and policies of the government through various committees. After thorough investigation, evaluation, monitoring and discussion the committees provide directives to the government and its representatives as regards to the implementation of the plans and policies in question. In Nepal, similar system has traditionally been practiced. However, in order to make the parliamentary oversight component more effective, some suggestions for reform are as follows:

1. **Need, for parliamentarians, to familiarize with the concept of Parliamentary Oversight:** In principle there are two major functions, *inter alia*, pertaining to the Parliament, i.e. legislation drafting and oversight. In practice, however, very few parliamentarians seem to be well versed on the conceptual, principle and practical aspects of parliamentary oversight. In other words, it has been observed that there is still quite an abundance of Members among whom the actual meaning and functional scope of oversight component is ill-defined. In light of this, it is imperative that parliamentarians undertake courses, self study or training sessions to clearly understand the principle and practical aspects of oversight including the different roles and functions of government, committees and the parliamentary secretariat. In addition, it is recommended that parliamentarians also conduct research on the parliamentary practices of other countries to help ascertain comparative analysis. This will increase the individual capacity of parliamentarians

to undertake any oversight task with due diligence. As a result, this will make the overall oversight component more effective.

- 2. Parliament and Parliamentary Secretariat needs to initiate a set working calendar:** Establishing and adhering to a set working calendar is key identity of a well institutionalized parliamentary practice. Similarly, majority of the parliaments around the world work according to a set working calendar. However, in Nepal, setting a calendar and adhering to a specific time frame with regards to either legislation drafting or oversight or any other parliamentary works is not practiced. In light of this, it is recommended that Nepalese parliament establish and adhere to a set working calendar and set out a time frame to divide and conduct all the functions of the parliament, i.e. law making, oversight and others. This would smoothen the functioning of the parliament and as a result improve the efficiency and effectiveness of the parliament.
- 3. Question time should be re-initiated in the House:** Question time in a parliament occurs when members of the parliament ask questions of government ministers (including the prime minister), regarding the works of the government, jurisdictions, plans and policies which they are obliged to answer. This practice instils the responsibility and accountability of the government towards parliament. Question time originated in the Westminster system of the United Kingdom, and occurs in other countries, mostly Commonwealth countries. This practice is regarded as a highly important component of parliamentary oversight. Also, through question time, the knowledge and information of the relevant Ministers (or Prime Ministers) regarding the governments' ongoing plans and programs are evaluated. However, in Nepal, subsequent to the Interim Parliament 2006 and election of the Constituent Assembly 2007, the practice of question time has been non-existent. In light of this, it is recommended that the parliament initiate the practice of question time as a valuable component of parliamentary oversight.
- 4. Impact of Parliamentary Oversight must be seen:** Parliament and its committees must not evaluate its work and sessions based on the numbers. It should be able to impact and contribute to the improvement in the functioning of government and governmental institutions.

Generally, it is hard to assess the impact of any activity in a short period of time. However, when a nation's top institution such as parliament conducts an activity; either legislative or oversight, the assessment of positive impacts should be abundantly accessible. In current Nepali practice, according to parliamentarians themselves, little impact has been noticed. In light of this, the parliamentary committee meeting need to focus on the impact of the meetings rather than the frequency of meetings. Similarly, Parliamentary Hearing Special Committee has also been accused of being ineffective and lacking impact. Rather than conducting proper evaluation of proposed candidates in the committees, it is done as a mere ritual of requesting appearance for the candidates before approval for appointment. As a result, there hasn't yet been a disapproval of any proposed candidate by the Parliamentary Hearing Special Committee. It could also mean that all the candidates proposed, so far, have been deserving of an appointment. However, that seems like a rather far-fetched ideology, especially keeping in mind Nepal's history.

- 5. Parliamentary Committees should give directives based on thorough evaluation:** One of the main reasons behind the non-implementation of parliamentary directives by the government, it has been argued, is the lack of thorough evaluation and discussions, behind such directives, in the parliamentary chambers and oversight committees. In practice, committees are not courts. As such, they don't have the judicial authority to enforce their directives like courts. In any case, this isn't the objective of the committees. Committees should be able to demonstrate the amount of work they have put into the overall evaluation, monitoring and questioning of government works. Furthermore, the committee directives should also be acceptable in general to the people. If that happens, then the government will have added obligation to implement such directives. However, questions have been raised on the effectiveness of both the House and its oversight committees. In many instances, it has been observed, that the government continues to go back and forth in its decisions proving a major hindrance to the execution of government plans and programs. In other instances, government or governmental institutions have chosen to ignore the directives of the parliament citing it as impractical and unattainable. The main reason behind it, as per experts, is the lack of appropriate procedures applied into the evaluation, monitoring, research, study and discussion of pertinent issues, in the committees, prior to handing out directive orders. In recent times, this negative trend is on

the rise. In light of this, it is recommended that parliamentary committees give directives based on thorough evaluation and discussion.

- 6. There shouldn't be duplication in the works of various parliamentary committees:** One of the biggest criticisms, in Nepal, of the parliamentary committees includes the tendency of one or more committees to venture into the same areas causing duplication of works. In other words, the tendency to call upon the Ministers, constitutional body officials, secretaries and other representatives in the various committees, multiple number of times on the same issues, has caused a lot of discontent among government officials. This tendency is especially prevalent in Finance Committee, Agriculture and Water Resource Committee, Public Account Committee, Development Committee, Good Governance and Monitoring Committee.

In one recent event, Commission for Investigation of Abuse of Authority (CIAA) had directed the Ministry of Energy to cancel licence pertaining to Hydro-Power project. In this context, the Finance Committee called upon the Chief Commissioner of CIAA for clarifications regarding the directive. The Chief Commissioner obliged but voiced his concern as to the lack of jurisdiction with Finance Committee regarding CIAA's affairs. Similarly, pertaining to the same incident, Agriculture and Water Resource Committee also sought CIAA's clarifications in the particular matter. CIAA, citing Constituent Assembly Rules 2014, stated that all CIAA affairs falls under the jurisdiction of the Good Governance and Monitoring Committee and as such wrote a written response to Water Resource Committee stating the fact that CIAA is not obliged to answer to any other committee. In addition, the Chairperson of the Good Governance and Monitoring Committee then clearly stated that the Chief Commissioner is only obliged to answer to the Governance Committee. This caused a lot of controversy in the media.

In light of this, the duplication of the works of the committee causes discontent among government and its institutions, delays the oversight procedures and undermines the whole oversight process. It is recommended that the committee members along with the Chairperson look seriously into the matter and ascertain a viable solution to eradicate duplication problems and make parliamentary oversight more effective.

7. **Committees should provide special care whilst identifying areas or particular subjects for evaluation:** It has been criticized that a lot of the parliamentary works are conducted in a biased and prejudiced manner. In terms of jurisdictions, it appears that the parliamentary committees have a wide ranging scope. In the past, parliamentary committees have been accused of choosing and deciding on agendas based on whimsical demands of certain prominent individuals. As people's representatives, parliament is bound to receive agendas for reform, complains and concerns in specific subject matters from the general public. However, there should be a thorough evaluation scheme to judge the validity of such concerns for committee discussions. If the committee is to entertain individual complaints then that might leave the door open for more frivolous complaints.

In light of this, committees should make proper evaluation of the pertinent areas they entertain in their sessions. If committees do decide to entertain individual claims then there should be a proper mechanism in place to ascertain its validity and necessity including set provisions in the governing legislations. Otherwise, committees will cease to exist as a people's institution dedicated to the monitoring and evaluating the government (including its institutions and officials) rather becoming a complaint hearing administrative office.

8. **Parliamentary Committees should give more focus to Member participation and meaningful discussions:** The participation of Members and relevant officials in the committee sessions are a problematic area often cited in the media and other news outlets. The committees often invite a lot of government representatives (including Ministers, secretaries, officials etc) to provide clarifications and response to parliamentary queries. However, in those sessions, if the Members themselves refrain from participating then it sends a very wrong message to the government and its officials. It shows a lack of commitment and enthusiasm on part of the parliamentarians to execute their responsibilities. In addition, during the committee sessions, there is a tendency amongst parliamentarians to often deviate from the topics under discussions or whilst seeking clarifications from the government officials. In light of this, it is recommended that committee members look into the matter and find an appropriate framework to produce efficient output.

- 9. Committees need to provide justifications prior to undertaking field visits:** Parliamentary committees have the authorization to conduct field studies in order to ascertain the scope of their jurisdiction in certain matters. Such practice is prevalent in Nepal too. In fact, in recent times, there has been a sharp increase in the number of field visits undertaken outside Kathmandu valley for this particular reason. These field visits have cost implications and in some cases, parliamentarians conducting such field visits have expected some contribution from the government institutions as well. As a result, field visits have become a very expensive affair. In recent times, the field visits conducted by the committees have become more like the general follow up and routine check up visits conducted by the government institutions. In some instances, it has been observed, some parliamentary field visits have been conducted to fit the personal schedules and for personal reasons of Members. In light of this, it is imperative that parliamentary field visits must be validated publicly prior to the journey. In general, it is recommended that committees should, as a matter of priority, evaluate, prior to undertaking the field visits, whether or not the government have implemented the plans and programs according to the mandate provided by the parliament (either policy, program or budgetary) and if needed undertake field visits to supplement the initial enquiries. In this context, it is recommended that committees should seek to limit the number of field visits and only conduct visits under valid circumstances.
- 10. Government needs to have a positive outlook and be sensitive to Parliamentary Oversight:** In general, there is bound to be a difference, in principle and practice, between two institutions both serving different functions for the state. One (government) executes and implements plans and policies while other (parliament) provides evaluation, monitoring and oversight to its works. In this context, it is apt to find the need for such delineation in the state's constitution. However, it is not enough to simply state, in the constitution or relevant legislation, that the government will be responsible and accountable to the parliament. It should be implemented in practice too. For example: Government and its institutions should comply with the timely submissions of clarifications and information sought by the parliament during oversight works. Similarly, Ministers should take the primary responsibility to provide assurance and execution to the directives given by the committees. In addition, in some instances, committee members have been very vocal during committee sessions on certain pertinent issues.

However, upon appointment in the Ministry, the very same Members have refrained from implementation of directives on same pertinent issues. Parliament itself cannot execute and implement the various plans, policies, laws and regulations. Government is obliged to do these tasks. In light of this, to make the oversight process more effective, parliament and the government must work hand in hand.

- 11. There is a need to strengthen the capacity of Parliamentary Secretariat:** To make the oversight component more effective, parliamentary secretariat needs to enhance its human as well as technical resource capacities ranging from hiring qualified candidates to employing computer mechanised systems in the committees. In addition, internet based relaying of information and documentation to modernize the committee oversight process should also be employed. In current state, it has been observed that, the parliamentary secretariat does not have either the manpower or the infrastructural capacity to conduct general committee sessions. There is an urgent need to modernize and standardize the parliamentary secretariat. In the current situation, parliamentary secretariats haven't been able to provide meaningful contribution to the committees in their technical works pertaining to Human Rights, Consumer Rights conducted by the government, constitutional bodies and public offices. Similarly, there haven't been any opportunities for secretariat officials to receive any training, as regards to parliamentary oversight, from either national or international institutions. In light of this, the secretariat needs to revamp its employment policies to hire candidates based on the specific qualifications required for specific jurisdictions. According to Members, parliamentary secretariat needs to seriously evaluate and explore avenues to improve the infrastructural, technical and other necessary resources. The Chairperson of the committee and committee members have also voiced their concerns at the lack of manpower and other infrastructural resources available to the committees. In light of this, there is a need to modernize the current secretariat in terms of human, technical and infrastructural resources.

Chapter Four

Conclusion

Legislation drafting and Oversight are two of the fundamental functions of the parliament. In addition, in a parliamentary system, the formation of government and passing of budget is also undertaken by the parliament. As a body elected by the people, parliament is obliged to represent the people in effective government administration and management. In terms of the separation of powers, parliament has the full authority to draft and enact legislations as per the requirements of the state or its citizens. Similarly, through oversight process, parliament provides constant evaluation, monitoring and investigation of government functions. In this way, government is made accountable and responsible to the people's representatives. To make these functions more effective, parliamentarians, both collectively and individually, must play an effective role. In this regard, parliamentary procedures also play a significant role.

Nepal's parliamentary practice is not a long one. Within parliamentary practice, if we take into account a democratic form of governance, the practice shortens to just over two decades. In addition, in the past, parliaments have been a victim of political instability. As a result, parliamentary practice in Nepal is still far from being institutionalized. In the last seven years, due to the merging of Constituent Assembly and Parliament into one body has diverted much of parliamentarians' focus onto development projects and government formation neglecting vital components such as legislation drafting and oversight. At a personal level, it has been observed that, there are only a handful of parliamentarians dedicated towards meaningful contribution to the legislation drafting and clause-by-clause discussion process. In Nepal's case, more than 90 percent of the proposed Bill is presented by the government. As a result, it is starting to appear more and more as if government are the actual law makers rather than the parliament. Procedural inconsistencies and lack of participation has played a major part in the origination of such misconception.

Moreover, parliamentary oversight is taken as a "parliamentary obstacle" or an unjustified intrusion into governmental affairs by the government. On the flip side, parliament has started to misconstrue their role as a people's

representative dedicated to monitoring the processes in implementation of the government. Rather, more and more parliamentarians have started viewing oversight process as a parliamentary political glamour rather than a checks and balances mechanism. In this context, focusing on the parliament's legislation drafting and oversight functions and processes in Nepal, this process review study presents the challenges pertaining to the formulation of Bills in the Ministry, legislation drafting and oversight. Further, NCF, through this study, proposes suggestions for reform to make the parliament and its processes more efficient and effective in the long run.

Appendix-1: Law Formulation Process in Nepal: A Brief Observation

1. Introduction to Law Formulation

Law formulation (legal drafting), in brief, can be described as the process of creating, initial and subsequent, drafts of the legislation. In detail, it can be used to describe the formulation of all the legislative instruments including constitution, Acts, rules, ordinances, guidelines etc. In essence, the translation and drafting of state's policies in a legal document (consisting of legal language) is called the formulation of law.

According to Black's Law, law formulation is process of technical writing used by lawyers, judges, legislators, and others in law to express legal analysis and legal rights, entitlements and duties. Similarly, OECD defines law formulation process as the institutionalized mechanism authorized to translate policies into appropriate legal documents.

As per India's professional legal drafter B.R. Attre, law formulation is a skill that requires years of experience, dedication and hard work in the field. There are two sides to legal drafting. It includes knowledge of principle aspects as well as necessary language and writing skills, knowledge of the law and translation abilities. Therefore, law formulation is both a science and an art.

It is a well established principle that, whilst drafting legal documents, drafters should take special measures for simplicity, comprehensibility, coherence and precision. In addition, following these principles, drafters should give special attention to the practical aspects concerning law formulation such as: relevant constitution of the state, economic, social and cultural impacts of the proposed policies, governing precedence, analytical capabilities, interest in the pertaining field, ability to entertain constructive criticisms and due diligence to formulate amendments etc.

Historical Development of Law Formulation in Nepal

Law formulation (legal drafting) is a right vested in the Legislative-Parliament of the state. The history of Nepali Kingdom is ancient. In the

same vein, the history of law formulation in Nepal is ancient too. If we take a look back at the history books, we can go back up to Iman Singh Chemjong's codified Kirati *Mundhum* (sacred text). This document was regarded more as a religious text than a legal one. However, the implementations of the rules were undertaken as if it were the law. Created in an era devoid of literature and scripture, there isn't a lot, as regards to the structure or the frameworks of the *Mundhum*, which can be traced. As a result, the fundamentals of the *Mundhum* are not available till date.

Following the Kirat, in Lichhavi era, religious texts were followed as law. Even though scriptures were gradually emerging in this era, the practice of writing texts on paper had not yet developed. As a result, the formulation of any other documents was not plausible at the time. The development of law formulation can be seen following the rise to power of the Malla dynasty in the 13th century. King Jayasthiti Malla, in B.S. 1437, using five Brahmans formulated the very first of its kind legal code named "*Nyaya Shastra*" containing legal and social rules. From a framework perspective, the code contained in the first part the objectives behind the code and moved into specific sections with titles and subsections chronologically. In this regard, some of the principles inherent in present day law formulation processes have been derived from this document. In terms of contents, the code contained provisions on, *inter alia*, transfer of immovable properties, transactions, measurements, rights and responsibilities etc. Another of the reformatory Malla King Mahindra Malla has been noted, in historical texts, for formulating governing code. However, the inscription and frameworks of the document have not yet been traced.

Similarly, during Malla era, Ram Shah commenced law reform by establishing "26 *Thiti* (Rules)". The rules issued by Ram Shah contained chronological provisions and were written in laymen terms to increase the comprehensibility of locals. Moreover, the rules contained provisions on, among others, measurements, tree plantation, grassland and meadows, royal prerogatives for imposing punishments etc.

In B.S. 1825, King Prithvi Narayan Shah conquered and united the scattered kingdoms into a unified Nepali state. Subsequent to this, the concept of formulating laws pertaining to the unified state started gathering steam through circulars from the centre. However, during Prithvi Narayan Shah's reign, most of the time was spent fighting wars and expanding unification

campaigns. As a result, Jayasthiti Malla's code and Ram Shah's rules were given continuance. Through *Divya Upadesh* (Divine Wisdom) Prithvi Narayan Shah stressed the importance of laws for effective governance and communicated his intentions to enact 12 thousand laws, if time permitted, to further support the pre-existing rules and codes.

Further, if we look at the decrees issued during King Girvanyuddha's reign in B.S. 1859 (known as "*Kapardari Sawaal*") and King Rajendra's reign in B.S. 1885, the framework has been chronologically arranged to include: royal introduction/presentation, granting of authority, point wise provisions including subjects and the date of issuance. In Shah Reign, even though there were provisions for issuing decrees and orders by the royals, the practice of law formulation was not evident. Further, if we look at all the laws of that era, there were clear differences in the frameworks and structures of various legal documents as well as lack of uniformity in the use of languages.

During the Rana regime, dating from B.S. 1910 to 2007, the gradual emergence of constitutional laws, Acts, circulars, decrees and rules become evident. Subsequent to Janga Bahadur Rana's United Kingdom visit, a law commission named "*Kaushal*" was established for the unification and codification of relevant laws in the state. In B.S. 1910, through royal seal "*Lalmohar*" *Muluki Sawal* or the general decree was enacted in Nepal. This code contained 5 parts containing chapters, sections, sub-sections and tables highlighting crime and punishment provisions. The authority to amend the code was given to the incumbent Rana Prime Minister.

In order to establish new public institutions, courts or delegate powers, Rana Prime Ministers used to issue circulars, also known as "*Sanad*". However, these ordinances did not have uniformity as regards to the structure of the document. The circulars used to govern the executive works were known as "*Istihar*". An *Istihar* generally did not contain any introductory parts prevalent in other legal documents.

If we take a look at the constitutions of that era, special mention needs to be afforded to the Constitutional Act of 2004 B.S. and Interim Governance Constitution of 2007 B.S. In B.S. 2004, in order to formulate the Constitutional Act, Padma Shamsher established a 7 member law reform committee. In that committee, along with Prakash Gupta, 4 expert members

were invited from neighbouring India and 3 members were appointed by Padma Shamsheer himself. Similarly, as regards to formulation techniques and process, modern English and Indian legal drafting practices were implemented. This Act contained a preamble, introduction, 6 parts, 68 sections and schedules. However, the process involved in the formulation of the 2007 B.S. Interim Governance Constitution is unclear. It is nevertheless known that this document was authenticated by the then King Tribhuwan Shah. In that document, any changes to be made were undertaken through amendments.

Subsequent to the formation of Ministry of Law and Justice in 2013 B.S., the main responsibilities of formulating laws were delegated to the Ministry. This marks the modernization and institutionalization of law formulation process in Nepal. However, the current format, including procedures, for law formulation is in dire need for reform.

2. Preparation of Concept Note from relevant Ministry

Law formulation process hugely depends on the institutionalized form of governance of any state. In that regard, there are some fundamental differences between a presidential form of governance and a parliamentary form of governance. In a presidential system, the legislative, whilst formulating laws, is not dependent on the executive or the government. In a parliamentary system, however; the legislative is dependant on the executive while drafting laws. In a parliamentary system, there are 4 stages in the law formulation process as follows:

- Prior to the initiation of drafting Stage
- (During) Law drafting Stage
- Ministerial Stage
- Parliamentary Stage

The parliamentary stage of law formulation has not been included in the paper. Only the prior, during and ministerial stages of legal drafting processes have been discussed.

Bills are the initial legal documents created through the legal drafting process. In doing so, there are many types of Bills and each has been classified according to different attributes. For example; In terms of the subject of the Bills, there are either Money Bills or Ordinary Bills, In terms of presenters,

there are Government or Private Bills, In terms of content, there are either New Bills or Amendment Bills etc.

As per the Interim Constitution, Money Bills, Bills pertaining to Nepal Army, Armed Police Force, Nepal Police and other defense related issues can only be tabled as government Bills. Government of Nepal (Allocation of Business) Rules, 2012 and Government of Nepal (Work Division) Rules, 2008 provide procedural clarity as regards to the formulation of laws.

Either formulating a new Bill or an amendment Bill or an ordinance, the relevant Ministry initially submits the concept note to get the Bill principally approved by the Council of Ministers and the Ministry of Law and Justice. In the past, there was a tendency, whilst presenting a concept note for approval, not to provide valid justifications for the formulation of Bill including the objectives, impacts sought, significance and the basis for deliverance of desired output. Therefore, there has been a change in the procedure to get a concept note accepted. In doing so, the relevant Ministry must disclose the following information, stipulated by the Council of Ministers in its decision dated 14 August, 2014:

- The need for formulation of the draft Bill: Constitutional Reasons, International Treaty Commitments, Supreme Court Orders, Government Plans and Policies etc.
- The impact and results expected from the proposed Bill.
- The description of prevailing laws on pertinent proposed topics of the Bill, if available.
- The reasons for probability of desired effects, expected from the proposed legislation, unattainable through amendments in prevailing laws.
- The description of government policy assessment based on either Rational, Incremental or Mixed methodologies.
- The names of leading officials to undertake the discussions on the formulation of the Bill.
- The presentation of any legislation, or model legislation proposed in another country pertaining to the topic being proposed in the host country.

- The presentation of any suggestions, if available, on the topic provided by other institutions working in the relevant sector.
- The description of financial implication of the Bill on the state, if any.
- The description of any other special requirement pertaining to the implementation of the Bill.
- The need for consultation: If consultation is required for the formulation of the Bill from any relevant institutions then the proposing Ministry must provide, if available, the reports of such consultation.
- The key elements being proposed in the Bill.

Once the concept note, based on the aforementioned framework, is presented to the Council of Ministers and the Ministry of Law and Justice, the Ministry may approve in principle, based on the need for a new legislation or propose amendments to the prevailing laws deeming it sufficient to garner the same effect as enacting a new legislation, the proposed formulation of the Bill. Subsequent to this, the relevant ministry proposing the concept note may present the proposition for formulation, as a legal document, to the Ministry of Law and Justice. In the current system, however, there aren't any provisions for the submission of concept note from either a public or private sector. Similarly, there are no mandatory obligations to initiate formulation based on the appeals from stakeholders. However, the usefulness of such a procedure is not irrelevant despite its exclusion from the process.

3. Formulation Process subsequent to the conceptual approval by Council of Ministers

As per Government of Nepal (Allocation of Business) Rules 2012 and Good Governance (Management and Operation) Act 2008, has unanimously provided the Ministry of Law and Justice the sole authority to draft Act, ordinance, rule and order conceptually approved by the Council of Ministers. In practice, however, the Ministry, in alliance with key stakeholders, experts, civil society organizations and Nepal Law Commission, through taskforce or committees formulate the draft and present it for the review of Ministry of Law and Justice. Subsequently, the draft may be used as a legal document or a peripheral document facilitating the formulation of the official Bill by the Ministry.

4. Formulation of the Bill: Ministry of Law and Justice

Ministry of Law and Justice have the sole authority to draft Acts, ordinances, rules and orders principally approved by the Council of Ministers. In practice, however, the Ministry, in alliance with key stakeholders, experts, civil society organizations and Nepal Law Commission, through taskforce or committees formulate the draft and present it for the review of Ministry of Law and Justice. Subsequently, the draft may be used as a legal document or a peripheral document facilitating the formulation of the official Bill by the Ministry. For this, the Ministry has 2 special branches and 5 sub-branches pertaining to drafting Bills. Prior to the initiation of the formulation process, the branches ascertain whether or not the relevant document has met all the pre-requisites including, in principle approval from the Ministry, relevant directives of the government, prevailing laws in cases of amendment Bills, objectives, impacts and the results expected from the Bill etc. Once all the criteria have been met, the ministerial drafting branches commence the formulation process.

During the formulation process, legal drafters work in tandem with key stakeholders, legal experts and ministry officials in formulating a coherent document in line with the constitutional, law and justice principles of the state. In many ways the work of a legal drafter requires utmost professionalism and expertise. Whilst formulating a draft Bill, the drafters must take into consideration; *inter alia*, the legislative scheme, the general welfare of the people, equal treatment for all, undue influence and coercive manoeuvres, public participation along with stakeholders and expert consultation. Further, underlying these governing principles, the drafters mould the legal document into a presentable Bill giving it a preamble, introductory sections and specific provisions governing the proposed principles. In doing so, internal consultation among the drafters also play a role in the finalization of the draft Bills.

6. Contents of the Bill and relationship with Ministry of Law and Justice

Bill drafters are not policy makers rather they are the facilitators in the policy making process and as such there must be a constant communication line between the relevant Ministry and the drafters. A Bill can be drafted in any sector ranging from agriculture, forestry, environmental to commercial, health and education. In light of this, Bill drafters must have an excellent understanding of the relevant topic proposed for regulations including

research and investigation abilities. Further, drafters must be able to receive constructive criticisms and maintain cordial relationships with their superiors as well as colleagues. In case the drafter is not an expert on the pertinent topic, he/she or they must seek consultation from the relevant ministries, key stakeholders and experts of the field. A coherent legal document is based on the technical skills of the drafters as well as a thorough understanding of the issue and the onus is on the drafters to finalize the legal draft based on both the aforementioned attributes.

7. Involvement of Governmental and Non-Governmental experts and Stakeholders in the Formulation process

In a parliamentary democratic framework, people choose to be bound by the law enacted by the parliamentary representatives chosen by them. In other words, the power to enact legislations is granted, albeit indirectly, to the people. In light of this, it is imperative that public participation is afforded to the people during the conceptualization and formulation stage. The participation of key stakeholders, specialists, relative experts both national and international in the legislation formulation process further strengthen and legitimize the overall enactment process. In principle, the government aspires to involve as many as possible, aforementioned stakeholders and experts, in the conceptualization and formulation process. However, in practice, it has been observed that the public participation process does not commence until after the Bill has been formulated and tabled in the parliament. These concerns have been voiced by many stakeholders and experts in the past. There are provisions for ministerial committees and relative ministerial officials to interact with the stakeholders and provide certain justifications for the formulations; however, these are few and far between. In addition, despite having limited avenues for governmental experts, non-governmental experts and even foreign experts have found it increasingly harder to gain access in the formulation consultation process. In light of this, the need to end the disparity between principle and practice seems abundantly necessary.

8. Capabilities and Opportunities of the Council of Minister: Bill Committees

Once the concept note is approved by both the Council and the Law Ministry, the Bill is formulated by the drafters of the Ministry of Law and Justice. Once the finalized draft is approved by the Ministry, the proposed Bill is presented to the Council for subsequent approval. The Council may then,

depending upon the size, nature and urgency of the Bill, either accept the Bill itself or refer it to special committees for provision wise discussions. The discussion committee is chaired by the incumbent Law and Justice Minister and comprises of participants like other Ministers, ministerial officials, Attorney General, concerned government secretaries, officials representing Nepal Law Commission, drafters and relevant experts. The committees have the authorization to propose amendments or revisions and for this purpose, they are authorized to establish sub-committees or task force. In the committees and sub-committees, opportunity is granted to stakeholders and experts along with Ministers and relative government officials to participate in the finalization process.

9. Approval from the Council of Minister: Bill Committees

Once the extensive discussions are concluded in the committees, having completed the necessary amendments, the proposed Bill is motioned for approval. In case the Bill has been sent to sub-committees, once the findings of sub-committees or task forces are tabled in the committees and discussions are concluded, the finalized Bill is presented back to the Council for final approval.

10. Approval for Presentation to the Legislative Parliament

Subsequent to the finalization of the draft Bill in the ministerial committees, the Council of Ministers stamp a final approval on the proposed Bill and register it, through Chief Secretary, in the parliamentary Secretariat. In doing so, the proposing ministry must provide the brief explanatory notes highlighting the objectives and reasons behind the proposition, financial implications of the Bill, adequate copies of the Bill for the distribution to individual Members of the parliament and an official letter requesting the presentation of the Bill, in the legislative parliament, addressed to the Chief Secretary.

Challenges to the formulation of Bills

- There is an increase in the trend, amongst government representatives, to seek out formulations for those Bills that, with less effort, can yield relatively larger transformation in society. In the budget announcement of fiscal year 2071/72 B.S. (2013/14 A.D.), 47 different Bills were slated to be passed by the legislative.

- In many instances it is sufficient for laws to represent the development in society rather than attempt to lead the society.
- There seems to be a lack of clarity in political policy directives. In many instances, formulators have had a hard time identifying the relevant government officials to discuss policy issues. Further, during the formulation process, there is a lack of participation from the proposing Ministry.
- In many instances, the political motive has remained hidden. Instead, undue influence and coercive manoeuvres are applied on the drafters for speedy resolution. This hampers the open debate process in the formulation of Bills.
- There is usually a lack of clarity behind the motive of the proposed Bill resulting in poor implementation of the laws.
- Implementation of the legislation is unsatisfactory mainly due to the lack of control of government in public offices.
- The trend to venture outside the purview of the Constitution is on the rise.
- The trend to ignore the Court Orders is also on the rise.
- There is a lack of specific program, curriculum, orientation or work experience to train professional and determined legal document drafters well versed in handling the rigours of the job.
- There is a trend of initiating amendments to legislations that haven't yet fully come to implementation. This has posed further challenges to the formulation process.
- There is a lack of participation of key stakeholders and experts in the formulation process including the facilitation of committees, time and resources. In this regard, there needs to be clarity in relation to the necessities of credible Bill formation process.
- There is a trend of proposing legislation even to create a public post or institution.

Appendix -2 : Participants List

Brainstorming Session 1: April 3, 2015 - Kathmandu

Name	Title/Organization
1. Mr. Ganesh Datta Bhatta	Nepal Constitution Foundation (NCF)
2. Dr. Bipin Adhikari	Kathmandu University School of Law (KUSL)
3. Mr. Dinesh Tripathi	Constitutional Expert
4. Ms. Bindu Devi Rana	NC CA Member
5. Ms. Radha Timilsena	NC CA Member
6. Ms. Ang Dawa Sherpa	Former CA Member
7. Mr. C.P. Mainali	CPN (MC) CA Member
8. Mr. Jayant Chand	RPP(CA Member)
9. Mr. Jeetendra Dev	MJF(D)(V. President) CA Member
10. Mr. Jitu Gautam	CPN UML CA Member
11. Ms. Nav Devi Pun	CPN UML CA Member
12. Ms. Shree Maya Thakali	CPN UML CA Member
13. Mr. Dilman Pakhrin	Nepali Congress CA Member
14. Ms. Jeevan Kumari Ghimire	CPN UML CA Member
15. Ms. Lila Magar	CPN UML CA Member
16. Mr. Pyare Lal Rana	Nepali Congress CA Member
17. Mr. Sombhojen Limbu	Advocate
18. Mr. Man Mohan B.	Nepali Congress CA Member
19. Mr. Lakshman Lal Karna	Sadbhawana Party CA Member
20. Mr. Dimpal Jha	Nepal Sadbhawana Party CA Member
21. Mr. Nabin Rana	NC
22. Mr. Sabin Rana	NCF
23. Mr. Namit Wagley	NCF

Brainstorming Session 2: April 6, 2015 - Kathmandu

Name	Title/Organization
1. Mr. Ganesh Datta Bhatta	Nepal Constitution Foundation (NCF)
2. Dr. Bipin Adhikari	Kathmandu University School of Law (KUSL)
3. Mr. Dinesh Tripathi	Constitutional Expert
4. Mr. Sakhat Aara Khanam	Nepali Congress CA Member
5. Ms. Sabiya Praween Ansari	CPN UML CA Member
6. Ms. Asha Yadav	CPN UML CA Member
7. Ms. Anarkali Miya	CPN UML CA Member
8. Ms. Kumari Teku Nepali	CPN UML CA Member
9. Mr. Badshah Kurmi	NC CA Member
10. Mr. Nar Bdr. Chand	NC CA Member
11. Ms. Geeta Chettri	Forum (Democratic) CA Member
12. Mr. Karna B. Thapa	CPN UML CA Member
13. Mr. D.R. Paudel	UCPN(M) CA Member
14. Mr. Lal Babu Pd. Yadav	CPN UML CA Member
15. Mr. Amrit Lal Rajbanshi	NC CA Member
16. Ms. Laxmi Rai	NC CA Member
17. Ms. Tara Devi Rai	CPN UML CA Member
18. Mr. Sakaldas Sutilal	NC CA Member
19. Mr. Bharat Saud	CPN UML CA Member
20. Ms. Gita Wagle	NC CA Member
21. Mr. Radha Krishna Kandel	CPN UML CA Member
22. Mr. Aditya Narayan Kasaudhan	CPN UML CA Member
23. Mr. Dhyan Govindha Ranjeet	NC CA Member
24. Ms. Kalpana Chaudhari	Madhesi Janadhikar Forum (Loktantrik) CA Member
25. Ms. Asha B.K	NC CA Member
26. Mr. Narayan B.K	NC CA Member
27. Mr. Jitendra Thapa	NC CA Member
28. Mr. Padam Bohar	FECOFAN
29. Mr. Namit Wagley	NCF

30. Mr. Sabin Rana	NCF
31. Mr. Sombhojen Limbu	Advocate
32. Dr Surya Dhungel	Senior Advocate

Brainstorming Session 3: April 12, 2015 - Kathmandu

Name	Title/Organization
1. Mr. Ganesh Datta Bhatta	Nepal Constitution Foundation (NCF)
2. Dr. Bipin Adhikari	Kathmandu University School of Law (KUSL)
3. Dr. Surya Dhungel	Senior Advocate
3. Mr. Dinesh Tripathi	Constitutional Expert
4. Mr. Abdul Hamid	NC CA Member
5. Mr. Maiku Lal Balmiki	NC CA Member
6. Ms. Ranjana Sarkar	CPN UML CA Member
7. Mr. K.B. Thapa	NC CA Member
8. Mr. Sheshnath Adhikari	NC CA Member
9. Mr. Kashi Nath Adhikari	UML CA Member
10. Mr. Ram Krishna Ghimire	NC CA Member
11. Mr. Bharat K. Shah	NC CA Member
12. Mr. Sabin Rana	NCF
13. Mr. Namit Wagley	NCF
14. Mr. Sombhojen Limbu	Advocate
15. Mr. Phurpa Tamang	Advocate
16. Mr. D.R. Poudel	UCPN(M) CA Member
17. Ms. Ambika Khawan Rajbanshi	CPN UML CA Member

Brainstorming Session 4: April 15, 2015 - Kathmandu

Name	Title/Organization
1. Mr. Ganesh Datta Bhatta	Nepal Constitution Foundation (NCF)
2. Dr. Bipin Adhikari	Kathmandu University School of Law (KUSL)
3. Mr. Dinesh Tripathi	Constitutional Expert
4. Mr. Baijanath Chaudhry	CPN UML CA Member
5. Mr. Tika Ram Chomjong (Limbu)	CPN UML CA Member
6. Ms. Rita Shahi	NC CA Member
7. Mr. Jay Dalle Joshi	CN CPMU

8. Mr. Khadak Bahadur Bashyal	NC CA Member
9. Mr. Ram Bir Manandhar	CPN UML CA Member
10. Mr. Hari Bahadur Rajbanshi	C.A Member
11. Mr. Shiva Kumar Gautam	CPN UML CA Member
12. Mr. Laxman Rajbanshi	NRP CA Member
13. Mr. Binod Shrestha	CPN UML CA Member
14. Mr. Abadhul Rajhak Gadhi	NC CA Member
15. Mr. Sabin Rana	NCF
16. Mr. Namit Wagley	NCF
17. Mr. Sombhojen Limbu	Advocate
18. Mr. Phurpa Tamang	Advocate

Brainstorming Session 5: June 18, 2015 - Kathmandu

Name	Title/Organization
1. Dr. Surendra K.C	Professor, TU
2. Dr. Bipin Adhikari	Kathmandu University School of Law (KUSL)
3. Mr. Kapil Shrestha	Senior Human Rights Activist
4. Ms. Sanu Tiwari	Advocate
5. Ms. Babita Mahara	Student
6. Mr. Dinesh Harijan	Chamar Welfare Society, Nepal
7. Ms. Vijaya Laxmi Aryal	Nepal Law Commission
8. Mr. Gyanu Timilsena	Secretary, Nepal Student Union
9. Ms. Mandira	PO, Hits FM
10. Mr. Nishan Bhattra	UNAF, Nepal
11. Mr. Dambar Bikram Thapa	UNAF, Nepal
12. Mr. Ganesh K. Mandal	Madhesi Nagarik Forum
13. Mr. Mohan Khadka	Social Worker
14. Mr. Darshan Rauniyar	M4C
15. Mr. Yagya Prasad Adhikari	NHRC
16. Mr. Khemraj Regmi	Nepal Civil Society
17. Mr. Keshar Mani Aryal	Advocate
18. Mr. Ravindra Adhikari	CPN UML CA Member

19. Mr. Rameshwor Upadhyaya	NUTA
20. Mr. Basudev Sharma	Advocate
21. Mr. Riwaz Neupane	Secretary, Youth Initiative
22. Ms. Sarita Bartaula	President, Youth Initiative
23. Ms. Sabita Nakarmi	NCF
24. Ms. Shanti Poudel	NCF
25. Mr. Sombhojen Limbu	Advocate
26. Mr. Phurpa Tamang	Advocate
27. Mr. Ganesh Datta Bhatta	NCF

Brainstorming Session 6: June 22, 2015 -Kathmandu

Name	Title/Organization
1. Dr. Bipin Adhikari	KUSL
2. Ms. Amuda Shrestha	Professor, TU
3. Mr. Satya Prakash Upadhyay	Nepal Civil Society
4. Ms. Hema Thapa	Nepal Civil Society
5. Ms. Manju Ansari	Federal Socialist Forum Nepal
6. Mr. Mahamuni Acharya	Human Rights Activist
7. Ms. Rajju Malla	ED, SACEPS
8. Ms. Namrata Sharma	Editor, Nariswor
9. Mr. Motilal Nepali	Dalit Welfare Association
10. Ms. Padmini Pradhananga	Sashakti Nepal
11. Mr. Rajeswor Acharya	Former Ambassador to China
12. Mr. Dwarika Nath Dhungel	Senior Researcher /Social Sciences
13. Mr. Shyam Biswokarma	Advocate
14. Ms. Prapanna Mishra	WPLUS
15. Mr. Eros Sharma	Associate Professor, TU
16. Ms. Anjal Maskey	Civil Society
17. Mr. Rudra Prasad Pathak	Advocate
18. Mr. Namit Wagley	NCF
19. Ms. Sabita Nakarmi	NCF
20. Ms. Shanti Poudel	NCF
21. Mr. Sombhojen Limbu	Advocate

22. Mr. Phurpa Tamang	Advocate
23. Mr. Ganesh Datta Bhatta	NCF

Preliminary Discussion on Report 1: June 26, 2015 - Pokhara

Name	Title/Organization
1. Mr. Surendra Thapa Magar,	Advocate
2. Ms. Susma Ojha,	Sayapatri Samaj
3. Mr. Uma Nath Baral,	Associate Professor, PN Campus
4. Mr. Tilak Acharya,	Senior Advocate
5. Ms. Sarala Kumari Pande,	Advocate
6. Mr. Giridhari Subedi, Secretary,	Sayapatri Society & Dept. of Pol. Science.
7. Mr. Padma Regmi,	Associate Professor
8. Mr. Ram Chandra Baral,	Lecturer
9. Ms. Rachcu Ale,	LLB Student
10. Mr. Than Bahadur Chetri,	Chairman, Sayapatri Sewa
11. Mr. Jana Kalyan Pangali,	Advocate
12. Mr. Hari Prasad Subedi,	Advocate
13. Ms. Anusmriti Wagle,	LLB Student
14. Mr. Krishna Gurung,	Senior Advocate
15. Mr. Indra Prasad Baral,	Advocate
16. Mr. Dhruva Bahadur Khetri,	Advocate
17. Mr. Magh Man Pande,	Advocate
18. Mr. Kamal Pd. Aryal,	Advocate
19. Mr. Khagendra Raj Acharya,	President, Pokhara Bar Association
20. Mr. Padam Pani Devkota,	Advocate
21. Mr. Lekhnath Bhattarai,	Professor, PN Campus
22. Mr. Khadga Raj Acharya,	Ex-Coordinator/Member, NCSFP
23. Mr. Ganesh Datta Bhatta	NCF
24. Dr. Bipin Adhikari	KUSL
25. Mr. Namit Wagle	NCF

Preliminary Discussion on Report 2: June 27, 2015 - Biratnagar

Name	Title/Organization
1. Mr. Vijay Prasad Mishra	Advocate/Journalist
2. Mr. Bharat Bahadur Thapa,	Advocate
3. Ms. Aasha Tumbahangpne,	FNJ
4. Mr. Bhooshan Dhungel,	President, TUTA
5. Dr. Raj Narayan Yadav,	Associate Professor
6. Ms. Nira Bhagat,	Social Worker
7. Dr. Ramaratan Sharan,	Lecturer
8. Mr. Khadga Niraula,	Advocate
9. Ms. Binita Timilsena,	Lecturer
10. Mr. Navin Karma,	Reporter
11. Mr. Lila Ballav Ghimire,	Journalist
12. Ms. Devi Niroota,	Lecturer
13. Mr. Sanjay Kumar Deo,	NID Morang
14. Mr. Parmeshwar Nepal,	Advocate
15. Mr. Yam Pd. Magal,	Advocate
16. Dr. Apar Kr. Lamsal,	Lecturer
17. Mr. Raj Kumar Rajput,	Advocate
18. Mr. Mahendra Narayan Yadav,	Lecturer
19. Mr. Baburam Timalsena,	Lecturer
20. Ms. Gita Silwal,	Nepali Congress
21. Mr. Hari Narayan Chaudhary,	Advocate
22. Mr. Vijay Prasad Mishra	Advocate/Journalist
23. Mr. Bharat Bahadur Thapa,	Advocate
24. Ms. Aasha Tumbahangpne,	FNJ
25. Mr. Bhooshan Dhungel,	President, TUTA
26. Mr. Sabin Rana	NCF
27. Dr. Bipin Adhikari	KUSL

Preliminary Discussion on Report 3: June 28, 2015 - Hetauda

Name	Title/Organization
1. Dr. Ganesh Lama	TU
2. Ms. Pabitra Biswakarma	Member FEDO
3. Mr. Gopal Prasad Acharya	Advocate
4. Ms. Apsara Basnet	Advocate
5. Mr. Krishna Prasad Bhandari	Advocate
6. Mr. Shiv Koirala	Nagarik Sarukar Manch
7. Mr. Subash Dangal	Lecturer MMC
8. Mr. Uday Adhikari	Lecturer MMC
9. Mr. Lalit Shrestha	Advocate
10. Mr. Abhimanyu Humapain	Asst. Lecturer MMC
11. Mr. Lok Raj Sharma	Lecturer MMC
12. Mr. B.C. Koirala	President BP Bichar Samaj
13. Mr. Rammani Dahal	Radio Makawanpur
14. Mr. Shyam Subedi	Lecturer MMC
15. Mr. Rajan Dahal	Journalist Radio Makawanpur
16. Mr. Mukunda Adhikari	Advocate
17. Mr. Pushkar Bahadur Thapa Kshetri	Advocate
18. Mr. Samsodin Hawari	Advocate
19. Mr. Hareram Acharya	Asst. Lecturer MMC
20. Mr. Ganesh Datta Bhatta	NCF
21. Mr. Umesh Gautam	KUSL

Preliminary Discussion on Report 4: June 29, 2015 - Dhangadi

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6. Ms. Gita Solari,	Social Worker
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8. Mr. Tek Raj Joshi,	Reporter
9. Ms. Laxmi,	Social Worker
10. Mr. Himlal Joshi,	News Editor
11. Ms. Kamala Pande,	WATS Nepal
12. Mr. Yam Bam,	Sub-Editor
13. Mr. Dil Bahadur Chhatyal,	Reporter
14. Dr. Rajendra Shah,	Associate Professor
15. Ms. Parwati Giri,	Social Worker
16. Mr. Rajendra Chand,	President, KMC
17. Ms. Anu Hamal,	Social Worker
18. Mr. Padam Raj Sharma,	President, KDC
19. Dr. Surendra Chand, Campus Chief,	Kailali M. Campus
20. Ms. Nirmala Rijal,	Politician
21. Mr. Deepak Joshi,	Reporter
22. Ms. Goma Acharya,	Politician
23. Mr. Deepak Oli,	Social Worker
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5. Ms Shobhna Mishra	AFHA Banke
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10. Mr. Yam Lamichhane	Reporter
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12. Ms. Rupani G. M.	Reporter
13. Mr. Deepak Kumar Regmi	Advocate
14. Mr. Laxman Parajuli	Advocate
15. Mr. Prakash Upadhyaya	Journalist
16. Mr. Hemanta Karmacharya	Editor Kapristha Daily
17. Mr. Bal Bahadur Chand	Advocate
18. Mr. Prabhakar Bhattarai	Advocate
19. Mr. Khim Raj Giri	Advocate
20. Mr. Govinda Ram Paswan	Activist
21. Mr. Narayan Ganapur	Activist
22. Ms. Sanu Ojha	Secretary AFHA Banke
23. Ms. Shabnam Praveen	General Secretary Fatima Foundation-Nepal
24. Mr. Uday Raj Verma	Advocate
25. Mr. Ram Kumar Dixit	Social Worker
26. Mr. Basanta Gautam	Advocate
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32. Ms. Ruby Khan	Director, Nepal Muslim Samaj Bikash Chetna Kendra
33. Ms. Chandrakala	CVSJ
34. Mr. Padam Shahi	Reporter
35. Mr. Thakur Singh Sharma	Reporter
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Bibliography

1. Nepal Law Commission, *Law Formulation Guide 2009* (Kathmandu, Government of Nepal, 2009)
2. Law Books Management Board, *Interim Constitution of Nepal 2006* (Kathmandu, Government of Nepal, 2006)
3. Constituent Assembly (Conduct of Business of Legislature-Parliament) Rules, 2013
4. Act Relating to Legislature-Parliament Secretariat, 2008
5. Jeevan Lal Satyal, *Inside Parliament* (1992)
6. Nepal Law Commission, *Law Review Strategy*, 2014 (Unpublished)
7. Hironori Yamamoto (ed), *Tools for Parliamentary Oversight: A Comparative Study of 88 National Parliaments* (Inter-Parliamentary Union, 2007)
8. *Prolonged Legislative Process: Law Making in Nepal, Citizens' Campaign for Right to Information* (Kathmandu: CCRI, May 2012)
9. Malcolm Jack (ed), *Erskine May's Parliamentary Practice*, Twenty-fourth Edition (London: LexisNexis, 2011)
10. R. Eric Petersen, *Parliament and Congress: A Brief Comparison of the British House of Commons and the U.S. House of Representatives*, CRS Report for Congress, Order Code RL 32206, Updated May 19, 2005.

