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discussion

committee

PARLIAMENTARIAN PARTICIPATION

Attendance Trends and Committee Participation



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Executive Summary

With the successful completion of federal parliamentary elections and provincial parliamentary elections we now have an image of how the parliament looks like. Members of the parliament are often dubbed as lawmakers, given their role in the law-making function of the parliament. Yet it is also true that the parliament never makes the law in the truest sense of the word. Drafts of legislation originate within the upper echelons of bureaucracy; they are scrutinized first by the executive and then finally sent for the parliament's approval. Scholarly work has often labelled parliament as merely a rubber stamp, especially parliament's that are modeled after Westminster. Nepal's law-making process is not different from the rest of the world in so far as the origination of the draft legislation and its scrutiny first by the executive is concerned. In recent years, equal emphasis has also been placed on the policy power of parliaments. This has followed from a detailed analysis of how parliamentarians use speech and their own participation in house sessions and committee meetings to influence policies and legislation. With the new session of parliament beginning soon, it is pertinent to analyze whether or not for the past five years, Nepal's parliament has influenced policies through speech and participation.

During its five-year tenure, Nepal's parliament successfully passed 95 laws, with the house of representatives passing 73 and National assembly passing 25. This is a remarkable feat when we consider the number of obstructions the house has faced in the form of two dissolutions and the covid-19 pandemic. Official attendance records to a larger degree suggest that any session of the House of representatives has been attended by at least 200 members of parliament. This figure is comparable to Nepal's counterparts in south Asia, where average attendance trends for Members of Parliament has hovered around 80 percent. It is suggestive that for a large number of laws that has been approved by the House of representative, lawmakers have participated in some form of debate or deliberation. Yet we have also seen visuals of a thin house. In fact, whenever questions of quorum i.e., the fulfillment of the presence of at least 25 percent of members of parliament before presenting any proposal for decision, has been raised, the number of members present during the quorum call is drastically lower than what attendance records have suggested. Members of the parliament often shirk post meeting the attendance requirement. Of the 33

times, a question of quorum has been raised, there are only 17 instances when 69 or more members of the parliament were present. Indeed, these numbers do suggest that house floors debates and deliberations are not how policy gets influenced. In Nepal, the other mechanism is more likely to occur.

Except for perhaps the Finance bill, Appropriation bill, no other bill is discussed within the floor of the parliament. It is always discussed and deliberated by a small group of people within specialized thematic committees. Committees in the House of representatives have 23-25 members. Unlike the house floor, committees require a quorum of at least 51 percent. During the past five years, average committee attendance hovered around 69 percent of its members. On average, a committee prepares the draft report of the bill after two meetings. Despite the low figures, members of the parliament have been able to influence policies through committee meetings, which is evident from the proposed amendments to the draft bill proposed by committees.

Not all bills are discussed and deliberated for a long period of time and in the presence of large numbers of members of parliament. For instance, except perhaps for the Insurance bill, the Finance Committee has generally presented its report within two meetings, where each meeting was attended by an average of 69 percent of the members. In contrast, however, nearly all bills discussed and deliberated on by the State-affairs committee has seen the presence of 78 percent of its members and meetings have been held more than two times before a report is finally prepared.

In general, members of the parliament devote more time to bills that are political in nature. By political we mean, bills that are drafted on issues that were a major part of the political manifestos of the political parties or bills that have received significant attention from the media and civil society organizations for either their apparent shortcomings or the potential for foul play. It is also in these bills that we truly find, the policy making power of the parliament.

Nepal's parliament is not merely a rubber stamp, although not all bills are scrutinized, deliberated on as they should be. During the past five years, it has become evident that the decision for a parliamentarian to participate in any deliberation of a particular bill is driven by the relative importance of that bill within the political sphere. The parliament indeed does have policy making powers, but its exercise has been limited, as the parliamentary practice of Nepal itself grows, so can the policy making power of parliament.

1.

Introduction

The advent of modern nation-states brought with it the concept of representative democracy. Whereas before the origins of the modern nation-state, people themselves assembled together to decide on the issues of governance, the current modern nation-states are characterized by their focus on periodic elections, parliaments that function as both law makers and oversight agencies (Kashyap, 2004). In large parts this is due to the gradual increase in size and population of political units to the extent that it becomes nearly impossible to arrange for any mechanism to assemble people at one place and arrive at decisions (Liiphart, 1999). Modern democracy thus needs to be representative and at the heart of it lies the parliament. In a majority of modern nation-states that have adopted a written constitution as the guiding law of the land, the words "Representative Parliamentary Democracy" are often found. The combination of these words symbolizes a cardinal feature of most political system i.e., the right of the people for self-determination, the acknowledgement that sovereignty lies in the people and the creation of an institution to harness said sovereignty (Kashyap, 2004). The latter two features are of crucial importance. While there is an acknowledgement that sovereignty rests in the people, it is merely an abstraction in the sense that it requires an institution or instrument to harness said sovereignty. To that end, except perhaps in the Swiss cantons, modern nation states make use of specialized institutions that are formed of the people selected by electorate (Norton, 2017).

Nepal is no stranger to this practice. In fact, Nepal's parliamentary practices are neither new nor devoid of any obstacles (Rose, 1963; Kumar, 1964; Gaige & Scholz, 1991; Hachhethu, 1997; Dahal & Head, 2010). The first parliamentary election was held in 1959, a little over seven years after the restoration of democracy and the end of the Rana regime (Whelpton, 2005). In relative terms, this was seven years after India held her first parliamentary election. It is a remarkable feat that without any colonial influences, Nepal was able to forge her own path to parliamentary democracy (Hachhethu, 1997). However, the fate of the first parliament was short lived. From December 1960 to April 1990, Nepal was an absolute monarchy, the system defined by the Constitution of Kingdom of Nepal was a party less Panchayat system. The king was both the head of the state and the head of the government, he was aided in his affairs by the council

of ministers and the palace secretariat. Originally, the party less system was based in four tier system, representation and power followed from village to the district, district to zone and zone to the national legislature. Till, 1980, elections were held on a non-partisan basis, some reforms in the December of 1980 allowed for direct elections, however a prohibition on political parties remained (Whelpton, 2005). The system finally came to an end in April 1990. After which period, on May 12, 1991, Nepal held a general election. The structure of the parliament was deemed to be bicameral, since then the bicameral nature of the parliament has continued save for one instance, the number of representatives to be directly elected or based on proportional representation however have changed over the years.

Nepal's adoption of the Constitution of Nepal in 2015 and the subsequent changes brought about by it have implications for the parliament as well. Whereas previously, there was only one law making body that had any representative character, now, there are three, namely the federal parliament, the provincial parliament and the local parliament. The federal democratic republic system of Nepal relies heavily on these three distinct but related entities to function properly. The structure of these entities is not entirely the same. The federal parliament is bicameral in nature, whereas the provincial and local parliament are unicameral in nature.

Nepal's parliament which is commonly referred to by its Nepali nomenclature "Sanshad" is the supreme law-making institution of Nepal and is modeled after the Westminster style of parliament (Adhikari, 2015), naturally the criticisms of the Westminster parliament are applicable here as well. It is thus not surprising that Nepal's parliament is considered merely a rubber stamp for approval of legislation. During the earlier decades, the deficiencies regarding parliaments role and contribution to the legislation were made evident through contributions in the field of political science (See for instance Olson & Mezey, 1991; Lijphart, 1999; Griffith, 1974; Brazier, Kalitowski, Rosenblatt & Korris, 2008). Olson (1994) noted that the notion of legislative control of the executive could in practice work the other way around because of the fusion of the legislative and the executive branch and the dependence by ministers on legislative confidence. Parliaments in advanced economies like Canada and Britain have been criticized for their nearly non-existent role in the law-making process (See for instance, Lijphart, 1999; Griffith, 1974; Brazier, Kalitowski, Rosenblatt & Korris, 2008; Norton, 2017; Atkinson & Thomas, 1993). The word parliamentary democracy to that extent is trite in so far as the limited role of decision making in the Westminster model is concerned.

A bill does not originate in either house¹ of the parliament where a bicameral legislature exists. Contributions in the field of political science (See for instance, Lijphart, 1999; Griffith, 1974; Brazier, Kalitowski, Rosenblatt & Korris, 2008; Norton, 2017; Atkinson & Thomas, 1993) has always centered around the non-decisional roles of the parliament vis-a vis the law-making process. Parliament and by extension parliamentarians have had little engagements in the legislation formulation and initiation process. While it is fair to assume or even to conclude that parliament has never been a law-making body, it would be regretful to conclude that parliament is merely a rubber stamp for approval of all bills that are made by the cabinet or by the machinery of bureaucracy (Atkinson & Thomas, 1993; Russell & Cowley, 2016). More recent scholarships (see for instance Russell & Cowley, 2016, Russell, Gover & Wollter, 2016; Proksch & Slapin, 2015; Halligan, 2008; Giuliani, 2008) have focused their attention on the influence on parliament in the law-making process. Rather than looking at laws as the sole outcome, recent scholarship now focuses more on the broader processes through which a draft eventually becomes a law. By looking at the law-making process as the outcome of distinct phases and different institutions, recent scholarship (see for instance Russell & Cowley, 2016) has been able to establish that the parliament particularly of the Westminster model may be more influential than is widely believed. The approaches taken to these studies are also varied, with more focus on deliberations and debates that take place in plenary session and more specialized sessions in committees. While literature with regards to the law-making process in general and the role of legislative committees, the formation of legislative assemblies and the influence of ruling elites already exist, to the best of our knowledge, no significant study to date has analyzed Nepal's parliament vis-a vis the role of parliamentarians in the law-making process. Our approach therefore is to shed light on Nepal's law-making process by analyzing attendance records, debates and deliberations on bills. We rely largely on attendance records and reports presented by the parliamentary secretariat that contain details on proceedings for all days the parliament is in session. This is not entirely a new approach to ascertain the participation of parliamentarians and by extension of the parliament in the law-making process (see for instance Russell & Cowley, 2016). We, however, must state that our analysis is subject to the caveat that it is based largely on secondary data.

Detailed minutes of parliament proceedings when the parliament was in session could not be obtained when requested, to that extent we cannot present a robust analysis.

¹ Strictly in terms of the drafting process. A bill is usually drafted by the concerned Ministry of and then presented in the parliament by the incumbent minister of the concerned ministry. This practice is common across all systems that follow the Westminster style of parliament.

2.

A brief overview of Nepal's parliamentary practice

The formation of a democratic governance system and by extension the supremacy of the parliament as the law-making agency was greatly helped by movements both within Nepal and outside of Nepal (Whelpton, 2005). In terms of a strictly south Asian perspective, Nepal's parliamentary practices i.e. the election of representatives and the formation of government through elected representatives is not entirely new. Nepal's first parliamentary election was held on 1959. In-fact Nepal was the third country in all South Asia to hold a general election² symbolizing a shift in the governance structure. The first parliament of Nepal was bicameral in nature. The Constitution of Kingdom of Nepal, 1959, article 18 provided the structure of the parliament. The lower house was named the House of Representative consisting of 109 members elected through direct representation, the upper house was termed the Senate (Maha Sabha) consisting of thirty-six senators, of which 18 were to be elected by the House of Representatives and the remainder to be nominated by His Majesty the King. Article 51 of the Constitution of Nepal established the parliament as the law-making institution of Nepal. In terms of the political parties, Nepali Congress secured a majority with 74 seats followed by Nepal Rashtrabadi Gorkha Parishad (19), Samyukta Prajatantra Party (5), Communist Party of Nepal (4), Nepal Praja Parishad Mishra (1), Nepal Praja Parishad Acharya (2), and other independent candidates (4). The fate of the first parliament however was short lived. The then King Mahendra instituted a party less panchayat system on 5th January 1961. The party-less panchayat system was not however without a parliament. A constitutional body to make laws did exist that consisted of representatives from panchayats prevalent at the time³. After the restoration of the parliament in 1990⁴,

2 Sri Lanka was the first country to hold elections in 1947 followed by India in 1951.

3 Constitution of Nepal, 1962, Article 34 laid out the provisions for the formation of a National Panchayat which consisted of members elected by Zonal assemblies, members elected by the class organizations and professional organization and members nominated by His Majesty the King. The details for Village Panchayat, Town Panchayat, District Panchayat and zonal assemblies that form an integral part of the Panchayat system is provided in Articles 30 through 33.

4 A new Constitution was promulgated in the aftermath of successful resistance against the panchayat system. Constitution of Kingdom of Nepal, 1990, provided for a bicameral parliament with a 205 member House of Representative and a sixty-member National assembly.

elections for the 205 member House of representatives were held on 12th May 1991. The Nepali Congress won 110 seats forming a majority government. The fate of the parliament, however, was short-lived. Tensions and conflicts within the Nepali congress led the then Prime Minister Girja Prasad Koirala to recommend for House dissolution after he lost the vote of no-confidence motion. Midterm elections were held on November 1994, and Nepal had its first hung parliament. CPN-UML formed a minority government. Manmohan Adhikari's proposal to dissolve the parliament was deemed unconstitutional following calls for a vote of no confidence after the Rastriya Swatantra Party withdrew its support from the minority government. The 1994 parliament became the first parliament to serve its full term, although it was also a time where frequent changes in the composition of the cabinet were witnessed. Elections were held in 1999 after the end of the parliament's, Nepali congress came out as the majority party winning 111 seats of the House of representatives.

The armed insurgency prevented the next general elections from taking place⁵. Negotiations with the Maoists took place on several occasions from 1999 to 2005, however it failed to produce any significant results. On 1st February 2005, the then King Gyanendra seized power and declared a state of emergency. The result was the formation of the seven-party alliance which sought to abolish monarchy and restructure the governance structure of the country. After multiples stages of peaceful demonstration, the parliament was reinstated on 24th April 2006 with all its members assuming their position. The Interim parliament on 15th January 2007 promulgated the Interim Constitution of 2007, which converted the Interim parliament into a unicameral Legislature parliament with 330 members. Per the Provisions of the Interim Constitution of Nepal, 2006, Constituent Assembly⁶ elections were held on 10th April 2008. The constituent assembly was unicameral in nature, with 240 members elected through the First-Past-the-Post system, 330 from the Proportional representation system and 26 nominated by the Council of Minister. After failing to draft a constitution within its prescribed time of two years, the term of the constituent assembly was extended multiple times over the years, when it was finally dissolved on 27th May 2012. Elections for the second constituent assembly were held on 19th November 2013. The Nepali Congress emerged as the strongest party, with the Maoists losing a significant number of their seats. Unlike the first constituent assembly, the second CA successfully promulgated a new constitution. General elections in accordance with the new constitution were held in two phases in 2017. The alliance of CPN-UML and CPN-Maoist became successful with the

⁵ The armed struggle officially began on 13th February 1996, but it was only in 2000 when the armed conflict escalated drastically.

⁶ The constituent assembly was responsible for both the formulation of legislation and the making of a new constitution in accordance with the Comprehensive peace accord.

former winning 121 seats and the latter winning 53. The Federal parliament as it was termed by the constitution is bicameral in nature.

Over the years, the players in the law-making process have remained almost the same. The Nepali Congress, CPN-UML, Rastriya Prajatantra party have been represented in almost every parliament of Nepal. Some new players like the CPN-Maoist center, Janata Samajwadi party, Loktantrik Samajwadi party have emerged after the civil war. Their representation although minimal (except for CPN-Maoist) in comparison to already established party is nonetheless significant in terms of the constituencies they represent⁷. Influences of party ideology on the legislation made is clearly seen. For instance, the Nepali Congress is a liberal party, it therefore should not surprising that during its tenure, several laws were passed that opened the economy in terms of free trade, lower barriers to entry and exit, and decentralization. CPN-UML and CPN-Maoists, identify themselves as socialists, parliaments that have had a majority representation of either of these parties have made laws that guarantee social security, free education, better working conditions and labor protection. Other than the political parties, the machinery of bureaucracy is equally important. Afterall, in Westminster parliamentary systems representatives of the people rarely make the law, it is usually the bureaucrats that do so (Atkinson & Thomas, 1993).

One thing to note however is that Nepal's parliament, at least the predecessors of the federal parliament have never really had the chance to exercise its lawmaking function completely. Nepal's parliamentary history is full of instances that either undermine the legitimacy of the parliament in Nepal or prevent it from functioning in its fullest capacity. That we still have 340 primary legislations in Nepal is no less a surprising feat when we consider the historical timeline in which our parliamentary system has evolved. The splitting of political parties and factionalism within a particular political party has also not helped either. The latter half of the 1990s was spent on restoration of democracy, the earlier half on negotiating a suitable governance structure for the republic of Nepal. Law-making has never been, at-least after the end of the civil war, the primary concern of the parliament. Indeed, the parliament was named the Constituent Assembly, to signify the parliament's dual role but its major role remained the drafting of a new constitution.

Nepal's parliamentary trajectory, however, have one significance, it has helped establish the rules of law making. Our system of law-making, as will be discussed

⁷ Loktantrik Samajwadi Party and Janata Samajwadi party are Madhesh based parties and largely represent constituencies and the demands of Madhesh as a whole. The parties themselves have their own history of amalgamation and split, however, it is not the subject matter of our concern here, therefore we do not deal with it.

later, is close to the Westminster style of parliament. It is also a system that recognizes the necessity to debate and deliberate between a small group rather than the house floor.

Our focus on the federal parliament of Nepal for the purposes of our analysis stems from the fact, that in the history of Nepalese parliament, it is only the second to have a clear mandate to make laws and one that served its full term⁸. Although the parliament of 1994 did serve a full term, no political party had a majority, therefore, it is better suited for a study on law making in minority governments or hung parliaments. Additionally, the Federal parliament of Nepal also had the clear task of formulating laws to transition completely into a federal structure. These included making laws for matters enumerated in the exclusive list, matters enumerated in the concurrent list, and repeal/amendment of existing laws in line with the new governance structure.

⁸ Although the federal parliament has not been without its fair share of abruptions, data necessary for any analysis that follows is readily available. This also forms a major reason for our focus on the federal parliament.

3.

The rules of the game

Like the political parties that are involved in the law-making process, the procedures for how a bill get transformed into a law have also remained similar over the years. The legislation making process in Nepal too can be understood as taking places in three phases i.e. pre-legislative, legislative and post-legislative scrutiny. Identification of the issue demanding a legislation, drafting and scrutiny are parts of the pre-legislative phase. The responsibility to undertake this action falls with the concerned ministry⁹. The concerned ministry either on their own or by delegating the responsibility to other agencies prepares the draft of the legislation¹⁰. Although the concerned ministry is responsible for drafting the legislation, it does not do so in isolation. The first stage in the drafting process is a consultation with the Ministry of Law Justice and Parliamentary affairs. This consultation is important in the sense that inputs with regards to the content of the law, the existence of similar laws and the constitutionality of the proposed law are areas where the Ministry of Law, Justice and Parliamentary affairs has expertise. Additionally, if a proposed legislation covers areas that fall under the jurisdiction of more than one ministry, similar consultation with such ministries is also held. If legislation also includes the use of funds from government coffers or could potentially have provisions that influence government accounts, consultation with the Ministry of Finance should also follow. After receiving inputs from all concerned ministry, the proposed draft of the legislation is sent to the council of ministers for approval. Often the council of ministers approves the draft as is and permits the concerned ministry to register it in the parliament. There are no specific laws that detail out the provisions for the pre-legislative phase. The processes are based on continued practice, to the extent that one might argue that it has the force of the law given its continuity.

Unlike the pre-legislative phase, the procedures of the legislative phase are clearly laid out in the Constitution of Nepal, Part 9, Articles 109 through 114 and the House of Representatives rules 2018 and National Assembly Rules, 2018. A bill may be introduced in either house of the parliament except for the Money

⁹ The Allocation of Business rules, 2018 is the guiding legislation that defines and details the number of ministries in Nepal, their functions and their jurisdiction. Similar laws exist for provincial ministries as well.

¹⁰ For instance, the Public Private Partnership and Investment act was drafted by Delloitte consulting India, Legislations related to secured transaction and credit bureau information were drafted with the technical support of World Bank and International Finance Corporation

bill, which must originate in the House Of representatives. The Constitution of Nepal and the regulations combined detail out the types of bills in Nepal, the procedure for their transformation into the law and the procedure for dissent to registered bills. Generally, bills are introduced as government bills by the minister of the concerned ministry. A bill is first registered with the Parliament secretariat, which is then circulated to all the members of parliament. After a bill is registered and circulated, a general discussion is held. The general discussion is merely a discussion on the need for the legislation, the rationale behind the legislation and the problems it seeks to resolve or address. The Member of parliament responsible for the registration lay out all the major reasons for the proposal without ever going into the actual contents of the proposed legislation. Parliamentarians can pose questions during the session which must be answered by the presenter of the bill. A note of dissent or reservation to the proposed legislation may also be lodged. Upon the receipt of such a request, adequate time is allocated to the member of parliament that has registered for it. During the general discussion sessions, the speaker or the deputy speaker presents a motion to have the bill move further. The proposal is always followed by a voice vote.

Once a Bill has been principally approved by the parliament, the presenter may propose either a clause wise discussion in the house or discussion in the relevant committee. Clause-wise discussion is only proposed when time is of the essence (Adhikari, 2015). Currently there are 16 thematic committees in the parliament, with their members ranging from 23-25 in case of committees in the House of Representatives and 13-15 in case of National Assembly. The committees have their own set of working procedures and work on the basis of the rules set by them. Deliberations on proposed legislations mostly take place in the committees themselves, whereas the floor of either chamber is reserved for merely making proposals and approving/disapproving them.

Amendments to the bill may also be proposed by any member of parliament within seventy-two hours from the end of general discussion by registering it with the parliament secretariat. The amendment may either be approved or disapproved by the speaker. If the amendments are approved by the speaker, it is then forwarded to the committees for discussion. After a committee has completed its discussion, it prepares a report along with the recommendations of the committee and any amendments proposed thereof. The presenter of the report then proposes that the report be approved, and the amendments proposed by the committee be formally a part of the bill. Once the proposal is approved, a proposal to either approve or disprove of the bill is made by the speaker. The decision is then taken by voice voting.

Nepal's law-making process is not different from systems found elsewhere. The only point of deviation is the substitution of First reading, second reading and third reading with general discussion, clause wise discussion and extensive discussion.

The general discussion and Committee system in Nepal

A member of parliament influences the law-making process in two ways. Both are formal mechanisms of influence. Informal mechanisms, although not a focus of this paper, may still exist. Their relative importance too also remains unknown. As stated earlier, Nepal's law-making process is close to the Westminster style of parliament, with the general discussion and clause-wise discussion substituted for First reading and the Second Reading.

The general discussion and the clause-wise discussion are both designed to facilitate a parliamentarian to influence the policy making process through speech. Whereas the former is only limited to the principles and the intention of the bill, the latter is more focused on the detailed architecture of the bill. In principle the general discussion is a mechanism to establish a consensus among the parliamentarians about the need for a particular bill, the latter is more focused on bringing parliamentarians to a common understanding about the provisions of a legislation.

Nepal follows a committee system, to that end as noted earlier, bills are discussed extensively in the committees rather than house sessions. The reliance on the committee system finds its rationale in the fact that, a mass meeting of legislators is not an outstanding place to get things done (Shaw, 1998). Indeed, the house floor and the plenary sessions are of great importance, yet most discussions take place within smaller groups. A unanimous conclusion as to the nature of almost all public affairs conducted by small groups is evident (Wheare, 1955; Shaw, 1998). It is also equally true that most meetings of the house are attended by small number of parliamentarians (Shaw, 1998), as latter sections will detail out, the case is strikingly evident in the case of Nepal going by attendance trends when questions of quorum have been raised. The devotion of Westminster style of parliament thus to specialized committee is both a solution to the problem of mass meetings within the floor and relatively low participation in the house meetings.

Comparative study of committee system highlights the strengths and weakness of committees (see for instance Shaw (1979); Ochoa (1994); Dorings (1996). Parliamentary democracies depend crucially on its committee arrangements. For a legislature to have either a strong or influential policy making power, it needs to have a highly developed committee system that generated policy expertise (Mezey, 1979). In most advanced countries it is then not surprising to witness a focus on reforming existing committees. It is also equally important to recognize that there hasn't been an exhaustive study on the workings of the parliamentary committees. As Shaw (1998), notes most studies have barely scratched the surface and his observation remains true today. There is however no contention to the law-making function of the parliamentary committees, the importance of small group of MPs debating and deliberating on bills drafted by the executive or more essentially the upper echelon of bureaucracy is neither debated nor dismissed. Committees within any parliament (where they exist) perform a majority of the law-making function of the parliament.

As noted earlier, Nepal's constitution and parliamentary practices borrows heavily from other systems. It is then not surprising that Nepal's first parliament had several committees. The intent for establishment of committees within the lower house i.e. House of representatives has always been to create specialized agencies. The house of representatives' rules, 1960 made provisions for five committees. As opposed to the current practice of the executive branch drafting the laws, the first parliament was relatively strong, in so far as the drafting of legislation was concerned. Since, Nepal was still in its earliest stages of parliamentary practices and its bureaucracy weak, the parliament oversaw the law-making function in its truest sense. During the tenure of the first parliament, the eminent committee was responsible for drafting, deliberating and debating on five bills. The first parliament's committee workings were different from the current practice in another aspect. Unlike the current system, where thematic committees are responsible for clause-wise discussion of bills, the first parliament had only one committee i.e. eminent committee that was responsible for the law-making function in its entirety. Other committees such as the Revenue committee, accounts committee, jurisdiction committee, did not undertake any law-making function.

The party-less panchayat system also saw the formation and workings of committee, albeit in a different manner. Clause wise and general discussions of bills were done entirely during house sessions. The existence of committees served a different function. The national panchayat regulation envisioned the formation of committees as specialized agencies like its predecessor, the House of Representatives regulations. Over the time period in which the panchayat

rule was in effect, the revenue committee, public accounts committee, water resources committee, development committee and directives committee were formed, they were responsible for projections related to Nepal's economy, they were however not involved in the policy process.

The practice of committee found continuation after the restoration of democracy and the end of the panchayat system. The first parliament (read as the first parliament after the end of panchayat system, successive parliaments will be named accordingly), had seven parliamentary committees each with its defined working area and jurisdiction. The second parliament increased the number of committees from seven to nine, with this increase the jurisdiction of each committee shrank, as did its members. The nine parliamentary committee system was given continuation in the third parliament and until the restored parliament of 2006. The interim parliament of 2007, with its 329 members however, changed the number of committees from 9 to 14, additionally over its tenure seven special committees were also formed. Guided by the Interim Constitution of Nepal, 2007, the first Constituent assembly formed only eight committees. Since the constituent assembly had the primary mandate of drafting a new constitution, law-making functions took a backseat, as did the workings of the committees.

However, the second constituent assembly, increased the number of committees to 12, after the successful promulgation of Constitution of Nepal, the Constituent assembly was automatically transformed into the legislative assembly following the promulgation of the new constitution. During its two-year period, the twelve committees were given continuation.

Over the years, the number and jurisdiction of committees have either increased or decreased. The reasons for such changes as noted by Bhusal (2020) lies in the setup in which the parliament operated, this includes the political parties in power, the relative strength of each party and the bargains that followed. Although Bhusal (2020) is not specifically clear as to how this transpired over the years, parliamentary committees and their evolution itself presents a topic to be explored more in the future. The current parliament of Nepal has 16 thematic committees (including both the House of representatives and the National Assembly). Currently, the committees of the House of representatives have members ranging from 23-25, while National Assembly committees have members ranging from 13-15.

5.

Some key trends in Attendance during general discussion

A thin house is a label that is particularly damaging for any parliamentary institution. Nepal's parliament has often been labeled as a thin house due to the visible lack of parliamentarians during sessions. It is not uncommon for parliamentarians to shirk responsibilities. Scholarly work (for instance Besley & Larcinese, 2005; Campbell & Cowley, 2014; Frech, Goet & Hug, 2021; Frank & Stadelmann, 2021) highlight the correlations between the constituency represented, income, expenses, opportunities that lie outside of the parliament and/or voting pattern or attendance trends. Although public choice scholars focus on the harm of rationalizing politicians being motivated by intrinsic values and purposes, there is also significant evidence to suggest that this might be the case.

Regardless of the motivation of members of parliament to attend sessions or vote on matters, attendance trends in house sessions to a certain degree have certain implications for participation in parliamentary sessions. Although attending merely does not mean participation, a greater presence of members of parliament would certainly signify increased participation by parliamentarians in terms of questions and answers that have been raised to any given proposal. Our analysis is only limited till the sixth session of the house. Official attendance records suggest that on average at least 200 members have attended house sessions during general discussion of the bill (See Annex 1 for details). A total of 42 bills were passed on average attendance records show that 200 members of parliament had participated. Since Nepal practices voice voting for almost all proposals, attendance records would suggest that most of the parliamentarians voted in favor of the proposed legislation. Ideally this would signify a greater acceptance of the proposed legislation, its rationales and the provisions contained therein. Indeed, greater acceptance of the proposed legislation is crucial for representative democracy and for parliamentarians to exercise the sovereignty of people through representation.

In particular, official attendance records from the parliament secretariat show

almost complete attendance in sessions of parliament when a proposal for the passage of bills has been adopted. Members of the parliament are allotted special hours and zero hours for their participation. Records were not readily available for zero hours and special hours, thus we do not readily know if attendance translates to active participation in the house. Regardless, one thing to note is that attendance records show similar scenario when compared to Nepal's counterpart India. Members of the parliament in the Rajya Sabha, averaged around 80 percent attendance records, Nepal's HoR MP's also have a similar record.

Yet, the current narrative of parliamentarians shirking responsibilities soon after the house sessions is too pervasive to ignore. Nepal follows a pre-attendance measure i.e. a parliamentarian is said to have attended a session if the parliamentarian has marked their presence in the record books during the start of the session. When it comes to the actual number of parliamentarians that are engaged in the law-making process and during the general discussion, attendance trend is not a good measure. A quick recourse to the number of times a question of quorum¹¹ has been raised in the parliament, and the number of times it has been fulfilled, raise serious concerns about the phenomenon of shirking.

The parliamentary sessions of 2018-2022 witnessed 33 questions of quorum being raised, of these there were only 17 instances when the quorum requirements were fulfilled (see Annex 3). It is interesting to note that questions of quorum were raised in the parliamentary sessions during the law-making process. Members of the Parliament have raised the question either when a general discussion is being proposed, a passage of bill is being proposed or when committee reports are being proposed to be integrated into the bill. The number of parliamentarians in presence during the 33 times questions have been raised bring to light an important issue. The practice of shirking parliamentary discussion is evident in Nepal. In so far as attendance records is concerned, a roll call of members of parliament is usually taken before the start of the session. The current narrative of Members of the parliament attending the sessions for a few minutes for an obligatory signature to be marked as "attended" and duly leaving is evident from a comparison between official attendance records and when

11 The current rules on quorum dictate that no proposal can be presented for a decision until and unless one-fourth of the member of parliaments are present. At least 69 members of parliament need to be present at any given time for the speaker to present a proposal for decision making including but not limited to the different phases of the legislative phase. The speaker of the house operates under the assumption that the required quorum has been met, whether it has or has not been, is not a matter of concern for the speaker. A member of parliament can ask the speaker for a roll call if they are under a belief that the quorum requirements have not been fulfilled. Upon a request, the speaker/deputy speaker is under a duty to ascertain whether quorum has been met (For more details about the history and rationale of quorum see Annex 2).

questions of quorum have been raised. For instance, the proposal to pass Anti-dumping safeguards and countervailing bill was met with a question to ascertain the quorum. Upon roll call, only 41 members of the parliament were present, however official attendance records show that 210 members of parliament had attended the session. To that end, shirking in the federal parliament of Nepal does not necessarily happen by MPs not attending, it rather takes the form of attendance for a minimal amount of time without participation.

On occasions where the quorum requirement has been met, the number of members present isn't significantly higher than the quorum requirement of 69. The highest number of MPs present during instances when quorum requirement has been questioned is 94, this is merely 34 percent of the total number of members, and nine percent higher than the quorum requirement. If instances of quorum questions are to be taken as a metric of participation, it would certainly seem that Nepal's parliament lacks adequate participation on most occasion.

Additionally, the situation is not any different across different parliaments. The question of quorum had been raised 25 times during the 2015-2017 parliament (See Annex 4). The requirements for quorum had only been fulfilled 11 times. Unlike the 2018-2022 parliament, the parliament of 2015-2017 had 601 members and was unicameral in nature, however the requirement for quorum remained the same i.e., the presence of 25 percent of the members. The highest number of MPs in attendance when the question of quorum has been raised is 200 i.e., 33 percent of the total MPs. Evidence of shirking is evident in 2015-2017 parliament, however unlike the 2018-2022 parliament questions for ascertaining the fulfillment of quorum requirement has not been made just for the legislative process but also proposals to ratify international agreements and the formation of commissions. The question of quorum had been raised 25 times. The requirements for quorum had only been fulfilled 11 times. Unlike the 2018-2022 parliament, the parliament of 2015-2017 had 601 members and was unicameral in nature, however the requirement for quorum remained the same i.e., the presence of 25 percent of the members. The highest number of MPs in attendance when the question of quorum has been raised is 200 i.e., 33 percent of the total MPs. Evidence of shirking is evident in 2015-2017 parliament, however unlike the 2018-2022 parliament questions for ascertaining the fulfillment of quorum requirement has not been made just for the legislative process but also proposals to ratify international agreements and the formation of commissions.

6.

Selected Workings of Committees in Nepal

Much of the Committee's time is spent on discussing and deliberating on bills registered in parliament; this is apparent since almost all bills registered in parliament have been sent to the sectoral committees for clause-wise discussion. Committees therefore are mechanisms by which parliamentarians participate in the law-making process. Annex 4 presents the details of number of meetings held by thematic committees and the presence of members of the committees in the meeting¹². We present details of five committees of the House of representatives and the details of selected bills that were deliberated on. Our criteria for the selection of the five committees relies on the rationale that the five committees have been the most active in the parliament, given the nature of bills registered in the parliament. Similarly, we only present details of a select few bills, these bills have been selected because of two reasons first is the relative impact of the bill on the national treasury and the second is the relative importance of the bill within the political sphere. By impact on the national treasury, we mean bills that will either increase the government spending or decrease it. By importance within the political sphere, we mean bills that are drafted on issues that were a major part of the political manifestos of the political parties or bills that have received significant attention from the media and civil society organizations for either their apparent shortcomings or the potential for foul play. A bill may fall under both categories too. For instance the Free and Compulsory education bill has an affect on the national treasury while also being an important agenda of the political parties. The case is similar with the Social Security Bill.

As noted, before, a House of representative committee has 23-25 members. We start our analysis by looking at bills that have an impact on the treasury of the country. The Pension fund bill¹³, the Audit bill¹⁴, Public private partnership and Investment Bill¹⁵, Industrial Enterprise Bill¹⁶ and Anti-dumping, Safeguards and

12 Data related to the time-period of the meetings could not be obtained.

13 Has provisions for contribution-based pension fund scheme for government employees with the employee contributing 6 percent of their basic remuneration and the government matching the same amount.

14 Has provisions relating the procedures for accounting and auditing of government accounts maintained at all levels

15 Has provisions for Viability Gap funding for large-scale infrastructure projects.

16 Has provisions for tax exemptions to selected industries.

Countervailing Bill¹⁷ have been all passed by the lower house and the upper house and have been authenticated. Of the five bills, three were deliberated by the finance committee and two were deliberated by the Industry Commerce Labor and Consumer Protection Committee. In terms of the total number of times allocated for the deliberation, the exact start-time and the end-time for the meeting could not be obtained. single meeting. The report prepared by the committee did not make any major changes to the bill, except a few corrections to minor clerical errors and changes to the wording of the provisions that have no significant effect on the provision itself.

Anecdotal evidence however suggests that a committee meeting usually lasts for 90-120 minutes. However, for discussions and deliberations on the Pension fund Bill and the Audit Bill, the quorum has been barely met. In the case of the former bill, the deliberation was done despite the lack of quorum¹⁸. For the Audit bill and the Public Private Partnership and Investment bill, 51 percent and 69 percent of the members were present respectively. Additionally, the committee prepared its report after one meeting. In contrast to bills that influence the treasury, bills that are politically important¹⁹ see much more participation. For instance, for the 11 bills that were important to the political sphere, an average of 70 percent of the members of the committee were present for any clause-wise discussion. It is also worth noting that the number of meetings for bills that are important politically, was higher than those that were important for the treasury position. For instance, while the finance committee held one meeting for the pension fund bill, the State Affairs Committee had a total of 24 meetings in addition to one public consultation meeting for the Nepal Citizenship (Amendment) Bill by April 2019. Additionally, 11 further meetings were held for the same bill before the committee presented its report. It is not surprising for the committee to deliberate for a long time on the Nepal Citizenship (Amendment) Bill since, the issue of citizenship has been a long-debated issue both within the floor of the parliament as well as outside of it. In fact, one of the contentions for Madhesh based parties had been the articles concerning the citizenship, especially naturalized citizenship when the Constitution of Nepal was being drafted.

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- 17 Has provisions for restrictions on import of certain goods if they fall under the definition of anti-dumping, safeguards and countervailing.
 - 18 House of Representatives rules, state that a committee meeting must have at least 51 percent of its members present to deliberate on anything, however if in cases when a meeting has been adjourned for three times and the quorum requirements are still not met, the meeting can be initiated in the presence of 25 percent of the members.
 - 19 The senior Citizen Bill , Social Security Amendment Bill contains provisions for old age pension scheme for senior citizens, which has been an agenda for political parties in Nepal as evidenced by their inclusion in the party manifesto, The Nepal Citizenship (amendment) bill is an important politically since the issue of citizenship has long been debated especially among Madhesh Based parties, The Nepal Medical Education Bill courted controversy early on and was heavily covered by media outlets for its apparent provisions to benefit certain medical colleges and their owners in Nepal,

Similarly, the Education and Health committee held nine meetings, before it presented its report on the Nepal Medical Education Bill. The bill was passed by the House of Representatives amidst protest from the main opposition Nepali Congress. The bill had courted protest even before it had reached the committee for clause-wise discussion²⁰. Given, the protests it had sparked from both the opposition and medical practitioners, it is then not surprising to see that multiple meetings for discussion and deliberations were held along with the participation of more than 50 percent of the members of the committee.

It is also worth noting that the report of committees for bills that are political in nature, do not just contain suggestions for minor clerical error but either remove or add certain provisions. For instance, the Senior Citizen (Amendment) Bill report contained suggestions to include provisions that would allow senior citizens to file charges for negligence against their guardians/caretakers which later became a part of the amendment bill. The report prepared by the State Affairs Committee contained several proposed amendments to the Nepal Citizenship (Amendment) bill in the form of addition of provisions for naturalized citizenship, removal of several provisos contained in the original draft bill that limited the right to naturalized citizenship.

An analysis of reports prepared by committees for National Identity Card Registration Bill, Public health services bill, Provincial public service commission bill and Arrangements regarding adjustment of civil service bill also show similar trend in so far as the proposed suggestions are concerned. A crucial reason for the finance committee and Industry, Commerce Labor and Consumer Protection Committee making only minor changes that too of clerical nature could be the lack of any expertise on the given field. Annual reports of both the Finance Committee and Industry, Commerce Labor and Consumer Protection committee highlight the lack of technical expertise as a major challenge for their effective functioning. Whereas the report of other committee's report describes the lack of any co-ordination mechanism between ministries and lack of any consultation during the drafting phases as major challenges faced by them. While we cannot say with certainty that the lack of any technical expertise is the sole reason for low participation and sub-optimal deliberation, the issue was raised most by the Finance Committee and Industry, Commerce Labor, and Consumer protection committee²¹.

20 Dr Govinda KC had started a fast unto death in response to the flawed provisions of the bill. A nine-point agreement had been subsequently reached to amend the provisions.

21 Insights received from personal communication

7.

What drives participation of Parliamentarians?

Attendance trends and committee participation highlight that not all bills get the same amount of attention. Some legislations are a culmination of lengthy hearings and showcase more influence, whereas for other bills, the bureaucracy is more influential. Parliamentarians selectively participate in the general discussion and the committee system. A bill may be categorized into two categories depending on its nature. To the first category bills that have an impact on the national treasury, the second category consists of those bills that have an affect on the political sphere.

Parliamentarians tend to focus more on bills of a political nature, this is at least evident through their participation in the general discussion and committee meeting proceedings. Two reasons that have been outlined²² for this phenomenon.

First and foremost, a parliamentarian is driven by the prospect of being re-elected. To that end, their focus is solely on their constituency. Bills that are of political in nature are widely covered by media outlets, this provides ample opportunity for parliamentarians to be recognized by their constituency. Similarly, bills that have a direct impact on their constituency would also drive active participation and lobbying. The incentive for a parliamentarian to participate is not the fulfillment of a duty, it is rather securing the next term. More often than not, this incentive mechanism also means that a parliamentarian's time is spent on development efforts rather than on the law-making process. Development efforts require the involvement of multiple government agencies, it should then not be surprising that a parliamentarian's time is spent navigating through the bureaucracy to ensure that visible development works take place in their constituency.

Secondly, a parliamentarian is bound by the workings and the institutions of their political party. Recognition within a political party and prospects of climbing up in the party structure rely on participation in issues that are important for the political party. This means securing alliances within the political party itself, both to gather support during the elections and to be noticed by the leadership.

²² Insights from personal communication with Parliamentarians.

Parliamentarians do not function in isolation. They are rather a part of a system that consists of the political parties, their constituency, the media and civil society, and rules of engagement. Their decision to participate either during the general discussion or during the committee system is a conscious decision based on the system itself. This would explain why, some bills get more attention than others. For instance, In the general discussion of the pension fund bill that has provisions for six percent contribution of the a civil servants basic remuneration by the government, only four parliamentarians participated, whereas, for Free and Compulsory Education bill 35 parliamentarians actively engaged. The former bill is relatively less important to parliamentarians since, it does not affect the constituency of the parliamentarians, its coverage by media outlets has remained minimal and it is not a major agenda of political parties as suggested by the manifestos. On the other hand, the Free and Compulsory Education bill ticks all the boxes.

Yet not all matters raised in the general discussion are addressed by the committees during the clause-wise discussion phase. The Amendment to Nepal Police and Provincial police act contained a provision whereby the Nepal police i.e., federal entity would be responsible for the peace and security matters of three districts i.e., Kathmandu, Bhaktapur and Lalitpur. Of the 17 parliamentarians that participated in the general discussion, 15 explicitly raised the issue that the bill was against the spirit of the constitution and most importantly against the spirit of federalism itself. When the bill was finally approved by the parliament, the issues raised during the general discussion remained unaddressed. Increasingly, the general discussion has become a procedural aspect of the bill making process. This is in parts because there is no mechanism to allow, committees to deliberate on issues raised in the general discussion, neither is there an incentive to do so. Although, parliamentarians deliberate during the general discussion phase especially for bills of political nature, their deliberations have not resulted in concrete changes to the final design of the legislation, this might disincentivize parliamentarians from participating.

On the other hand, however, the political party leadership is highly influential in the law-making process. Nepal's political landscape is such that no political party has been able to secure a majority since 1994. Alliances across ideological lines to that end need to be forged. One effect of this phenomenon is that when alliances are forged, support for a particular bill that a political party wants to table and approved is often sought. This further limits the scope of any deliberation. This also explains why some bills get less attention. Additionally, there are a few instances when the shape of a particular bill has been changed entirely to please an alliance member. Most recently, this was the case with the

Public Transport Management Authority Bill. Whereas previously the bill only contained provisions for three districts i.e. Kathmandu, Bhaktapur and Lalitpur, the approved bill contained provisions for the whole of Nepal. Anecdotal evidence suggests that the changes were made to appease co-party chair Pushpa Kamal Dahal of the then Nepal Communist Party. Similarly, such instances have also been suggested in the case of Nepal Citizenship amendment bill, Social Security bill, Nepal Medical Education bill and Free and Compulsory education bill.

The selection criteria remain true for both general discussion and clause-wise discussion of bills. The finance committee, which largely discusses bills that have an impact on the national treasury has relatively lower rates of participation than the State affairs committee. Similarly, the number of meetings too is lower in case of the former.

8. Conclusion

By providing parliamentarians with an open forum for Members of Parliament to express their views on both legislative and non-legislative matters, democracy thrives through debate. Participation within the process of making a legislation to that end involves the use of legislative speech and debates. Yet it is also equally important to recognize that parliamentary debates rarely look like debates. They are well thought of speeches that are prepared in advance and seldom in response to other members of parliament. This is especially true during the law-making process. Participation of members of parliament during the parliament's legislative process is more akin to deliberation rather than actual debates.

Nepal's rules for law-making, allow for deliberations to either happen within the house committees or in selected thematic committees. Indeed, a deliberation within the floor would be ineffective in so far as allocation of time to members of parliament is concerned. Deliberation in the house session is only reserved for those instances when a bill needs to be approved by the parliament in a short amount of time. Fast track process²³ has only been used for passage of the finance bill and the appropriation bill. For all other bills, at least for the parliament of 2018-2022, discussions and deliberations have taken place in the committees.

Our analysis considered attendance records for the days on which general discussions were held and on the day on which the proposal to pass the bill from the house session was made as a proxy for participation. Although, this may not entirely be active participation, the act of voting either in favor of or dissenting is a reasonable metric. Official records suggest that on average at least 200 members of parliament out of the 275 are present during the two stages. Yet, anecdotal evidence has always suggested that the number of members present is lower than this; shirking post marking the attendance has been a phenomenon that is well reported by media outlets. To that end we also looked at instances when questions of quorum have been raised. We find that whenever questions of quorum has been raised, it has either been not met or even when it has been made, it is significantly less (by 50%) than what official attendance records show. Since the speaker or the deputy speaker assumes the

²³ The common terminology used for bills that are discussed and deliberated in the House session rather than committees.

fulfillment of quorum unless a question has been raised, the actual number of people in attendance throughout the house session is never ascertained, to that end, one implication of our research is that Nepal is at the risk of minority law making.

We also looked at the number of meetings and the number of members present for discussions and deliberations within the house committee. Unlike the house floor, the chairperson of the house committee cannot assume the fulfillment of quorum. At least 51 percent of the members must be present for any deliberation to take place. We find that participation in house committee meetings are a strategic decision taken by parliamentarians. For bills that are political in nature, parliamentarians spend more time deliberating and the presence of parliamentarians in committee meetings is higher. Additionally, amendments proposed to the bill through committee meetings are substantive in nature rather than clerical errors. Whereas for other bills participation in committee meetings and the number of meetings itself is lower, in addition to committees making only minor clerical changes to the original draft bill. This does not entirely mean that parliamentarians are at fault. They work in a environment of limited resources. Constraints as to the budget and the capacity of parliamentarians to deliberate adequately on bills have been noted. To that end, the budget of the committees should themselves be increased in order to allow parliamentarians to approach external consultants for greater deliberation.

Several committee reports highlights lack of quorum as a major reason for their ineffective functioning²⁴. However, the requirement of quorum is the only thing preventing minority decision making in both the committees and house floor. Although, the need to ascertain quorum in committee meetings prevents the committee from making minority decision making, no such safeguards exist for the house of representatives. It is also equally important to note that voice voting mechanisms are not helpful in determining if most of the parliament supports a particular proposal. The lack of participation or more appropriately the evident shirking of responsibilities post meeting the attendance requirement is also not helped by how rules of the game are framed in Nepal. There exists no mechanism for penalizing shirking, nor is there any mechanism to ask for a leave of absence (this mechanism only exists when a parliamentarian cannot attend more than 10 consecutive sessions). Additionally, since attendance records are not made public by the parliament secretariat themselves, accountability of parliamentarians is affected insofar as attendance to parliamentary sessions and deliberation is considered. Moving forward, it is important to make proceedings

²⁴ See for instance Finance Committee Annual reports, 2020, 2021, 2022, Industry Commerce Labor and Consumer Protection committee Annual report, 2021, 2022, Education and Health Committee Annual report, 2021, Women and Social Committee Annual report, 2020

of the parliament public. Indeed, a general report on all proceedings is prepared, however, it is not detailed enough to be taken as a means to scrutinize parliamentary proceedings. Verbatim, meeting minutes, attendance of parliamentarians and amendments proposed by parliamentarians should be disclosed, or at least be made accessible to all digitally. Parliamentarians do not work in an isolated environment. Their decision to selectively participate is driven by incentives and most importantly structures around them. To that end, it is necessary to at least take measures that allow the general citizenry to scrutinize a parliamentarian's work, thereby creating some form of feedback loop.

Overall, the number of meetings and presence of members during committee meetings suggests that participation in the law-making process by parliamentarians is a strategic decision. This is not entirely a new phenomenon. What motivates parliamentarians to participate in certain deliberations? is not explored here. This is an area where knowledge can be significantly generated, we must also note that the Nepalese parliament has not been fairly studied in literature. Our attempt here is a modest one to shed light on participation mechanism and the actual rate of participation, yet our analysis also suffers from the availability of adequate data, most of all, of legislative speech and committee meeting minutes.

9.

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Annex 1: Presence of parliamentarians during different phases of the legislative process (Till the sixth session)

Session	Name of Bill	Distribution Date	Presented at the House of Representatives	Numbers of members present	General Discussion	Number of members present	Passed by HoR	Number of Members Present
2	Services and facilities of secretary of HoR and NA Bill	24/06/2018	27/06/2018	219	28/06/2018	218	30/06/2019	165
2	Audit Bill	28/06/2018	04/07/2018	218	12/07/2018	196	18/02/2019	191
2	National Medical Education Bill	06/07/2018	27/07/2018	219	29/07/2018	216	25/01/2019	223
2	Pension Fund Bill	05/08/2018	13/08/2018	206	15/08/2018	214	13/01/2019	176
2	Consumer Protection Bill	07/08/2018	13/08/2018	206	15/08/2018	214	14/09/2018	218
2	Passport(amendment) Bill	08/08/2018	13/08/2018	206	14/08/2018	214	27/08/2019	191
2	Right to safe motherhood and reproductive health bill	08/08/2018	13/08/2018	206	15/08/2018	214	14/09/2018	218
2	Payment and settlement Bill	12/08/2018	17/08/2018	194	20/08/2018	213	13/01/2019	176
2	Public Health Services Bill	14/08/2018	20/08/2018	213	21/08/2018	198	14/09/2018	218
2	Right to housing Bill	15/08/2018	20/08/2018	213	21/08/2018	198	14/09/2018	218

2	Food sovereignty Bill	19/08/2018	24/08/2018	201	26/08/2018	212	14/09/2018	218
2	Privacy Bill	21/08/2018	26/08/2018	212	28/08/2018	214	15/09/2018	198
2	Right to Employment Bill	22/08/2018	28/08/2018	214	03/09/2018	212	14/09/2018	218
2	Compulsory and Free education Bill	22/08/2018	28/08/2018	214	03/09/2018	212	15/09/2018	158
2	Land Act (Amendment) Bill	22/08/2018	28/08/2018	214	03/09/2018	212	14/09/2018	218
2	Social Security Bill	24/08/2018	28/08/2018	214	03/09/2018	212	15/09/2018	198
2	Caste Discrimination and Untouchability (Amendment) Bill	24/08/2018	28/08/2018	214	03/09/2018	212	15/09/2018	198
3	Safe and peaceful use of nuclear and radioactive substances Bill	25/12/2018	01/01/2019	199	13/03/2019	186	12/02/2020	172
3	Pesticides Management Bill	25/12/2018	03/01/2019	215	09/01/2019	214	18/02/2019	191
3	Some Nepali acts (Amendment) Bill	25/12/2018	01/01/2019	199	03/01/2019	215	17/01/2019	193
3	Some Nepali acts (Amendment) Bill	04/01/2019	09/01/2019	214	13/01/2019	197	12/02/2019	192
3	National identity card registration Bill	06/01/2019	13/01/2019	99	18/01/2019	206	27/08/2019	188
3	Nepal police and state police Bill	14/01/2019	06/02/2019	70	12/02/2019	192	11/08/2019	208

3	Land use bill	14/01/2019	03/02/2019	139	06/02/2019	205	10/03/2019	177
3	Special Economic zones Bill	14/01/2019	03/02/2019	190	06/02/2019	205	10/03/2019	177
3	Staff adjustment Bill	01/02/2019	08/02/2019	170	08/02/2019	170	17/01/2019	143
3	Financial procedures and financial accountability Bill	18/02/2019	26/02/2020	183	10/03/2019	177	20/08/2019	207
3	Safeguards, Antidumping and Countervailing Bill	24/02/2019	06/03/2019	199	10/03/2019	177	08/08/2019	210
3	Public-private partnerships and Investments Bill	27/02/2019	06/03/2019	199	07/03/2019	174	13/03/2019	186
3	Foreign Investment and Technology transfer Bill	27/02/2019	06/03/2019	199	07/03/2019	174	18/03/2019	173
3	Industrial Business Development Foundation Act (Amendment) Bill	13/03/2019	20/05/2019	197	22/05/2019	186	08/08/2019	210
3	Land Act (Amendment) Bill	13/03/2019	20/05/2019	197	21/05/2019	189	20/08/2019	207
3	Nepal police and state police (Amendment) Bill	13/03/2019	20/05/2019	197	22/05/2019	186	11/08/2019	208

4	Industrial enterprise bill	24/04/2019	20/05/2019	197	22/05/2019	186	04/09/2019	201
4	Revenue Leakage act (Amendment) Bill	02/05/2019	20/05/2019	197	22/05/2019	186	08/09/2019	189
4	Public Security Act (Amendment) Bill	02/05/2019	16/05/2018	221	18/05/2018	232	15/08/2018	214
4	Forest Law (Amendment) Bill	07/05/2019	20/05/2019	197	21/05/2019	189	22/08/2019	196
4	Environment Protection Bill	10/05/2019	20/05/2019	197	21/05/2019	189	11/08/2019	208
6	Ordinance replacement Bill	29/05/2019	01/06/2020	243	10/06/2020	228	18/06/2020	246
6	Constitution of Nepal (Amendment) Bill	29/05/2019	31/05/2020	251	09/06/2020	261	22/06/2020	252
6	Public Debt Bill	29/05/2019	01/06/2020	243	10/06/2020	228	22/06/2020	246
				199.8780488	203.2439024		199.8536585	

Annex 2: The rationale of quorums

The theoretical underpinnings of the quorum rule are not well established. Apart from perhaps Bentham's passing remarks i.e. "if satisfactory statutes were enacted to prevent non-attendance, there would be no need of recourse to the quorum or the determination of the number of representatives necessary to constitute an assembly; that the principal aim of the quorum is to compel attendance through respect for public opinion; that those who direct assemblies are forced to take vexatious measures to insure the presence of a complete number; and that rigorous measures are excusable if the negligence be extreme; adding that the quorum is the last expedient to which recourse should be had to obtain the desired result", there hasn't been much discussion with regards to why the quorum rules exist or, what the adequate number should be (Bentham, 1791).

Most parliamentary systems of government and group decision making systems are based on the assumptions that the individual is capable of self-government, yet to realize this assumption some standards of representation must occur as part of the democratic process if the wish of the individual is to be truly effective. The quorum rule thus is an integral part of assuring adequate participation of the individual and by extension a government of majority rule and minority protection (Squire, 2013).

Scholars of political science, especially those that study parliamentary practices stress the importance of quorum, yet very little remains known about what exactly would constitute a quorum and how one arrives at a specific number (Laruelle & Valenciano, 2011). The general acceptance that a majority of a group is required to take decisions for the group seems to have been the driving factor for the quorum rule. Yet, the opposite could also be true. A study of the Westminster Parliament reveals that the quorum rule was not the basis for ensuring that the majority make decisions for the majority but rather the other way around (Martinez, 1892; Stanton, Ruchonnet, Levetzow, Brisson, Meline, Hogsro & Chiavassa, 1891). Its usage simply is to restrict decision making by the minority for the majority or more appropriately decision making by a thin house. The same principle seems to have fond continuation in Nepal, although it would also be reasonable to assume that constitutions of advanced nations had some influence over our own constitutional provisions for the quorum rule. For instance, Sir Ivor Jennings, was consulted in the drafting process of the Constitution of Nepal 1961. The British influence over the constitution of Nepal in that time period is evident and to that extent the constitution paid special attention to preserving the position of monarch within the parliamentary

system of governance and that the quorum rule was made a constitution provision (Malagodi, 2016). Nepal's constitutional history has never been devoid of any influences. Each successive constitution takes inspiration from other constitutions to that end the quorum rule in Nepal as is in most countries is merely a basis for preserving minority decision making which the majority would be bound by.

Annex 3: Instance of questions of quorum being raised in the 2018-2022 parliament.

Date	Member of Parliament	Issue	Total Number	Outcome	Session
3/12/2079 (6/26/2022)	Jhapat Bahadur Rawal	Proposal to pass Policy Research Institute Bill	63	Meeting adjourned for 30 mins	Eleventh
3/20/2079 (7/4/2022)	Prem Suwal	Proposal to pass Madan Bhandari Institute Bill	84	Quorum Met	Eleventh
3/22/2079 (7/6/2022)	Prem Suwal	Proposal to pass Medicine (Third Amendment) Bill	63	Meeting adjourned for 15 mins	Eleventh
3/22/2079 (7/6/2022)	Prem Suwal	Proposal to pass Medicine (Third Amendment) Bill	76	Quorum Met	Eleventh
3/22/2079 (7/6/2022)	Japat Bahadur Rawal	Proposal to pass Social Security (First Amendment)	67	Meeting scheduled for another date	Eleventh
3/23/2079 (7/7/2022)	Yagya Bahadur Bogati	Proposal to pass Drinking water and Sanitation Bill	89	Quorum Met	Eleventh
3/27/2079 (7/11/2022)	Jhapat Bahadur Rawal	Proposal to pass Sexual Harassment act (Amendment) Bill	77	Quorum Met	Eleventh
3/27/2079 (7/12/2079)	Bhupendra Thapa	Proposal to accept amendments proposed by MP Krishna Bhakta Pokharel to Nepal Railway Bill registered by	61	Meeting scheduled for another date	Eleventh
4/8/2079 (7/24/2022)	Prem Suwal	Prposal to accept Amendments to Jail Bill as suggested by Governance Committee	67	Meeting Adjourned for 15 minutes	Eleventh
4/8/2079 (7/24/2022)	Prem Suwal	Proposal to pass Madan Bhandari Institute Bill	57	Meeting scheduled for another date	Eleventh
4/17/2079 (8/2/2022)	Prem Suwal	Proposal to pass Bill relating to Oaths	94	Quorum Met	Eleventh

4/17/2079 (8/2/2022)	Ghanshyam Khatiwada	Proposal to accept Amendment to Standards weights and Measurement act	71	Quorum Met	Eleventh
4/25/2079 (8/10/2022)	Prem Suwal	Proposal to pass Drinking water and Sanitation Bill	70	Quorum Met	Eleventh
4/25/2079 (8/10/2022)	Prem Suwal	Proposal to pass Bill relating to Kathmandu Valley Transport Authority	67	Meeting adjourned for next day	Eleventh
4/29/2079 (8/14/2022)	Prem Suwal	Proposal to pass Bill relating to Kathmandu Valley Transport Authority	90	Quorum Met	Eleventh
4/29/2079 (8/14/2022)	Prem Suwal	Proposal to amend Public debt management bill in accordance with committee report	67	Meeting adjourned for 15 minutes	Eleventh
4/19/2079 (8/4/2022)	Prem Suwal	Proposal to amend Public debt management bill in accordance with committee report	67	Meeting scheduled for another date	Eleventh
4/31/2079 (8/16/2022)	Prem Suwal	Proposal to accept Bill relating to Animal health and Animal services commission	89	Quorum Met	Eleventh
5/13/2079 (8/29/2022)	Ghanshyam Khatiwada	General Discussion of Commission for Investigation Disappearance of enforced person (Third Amendment)	45	Meting scheduled for another date	Eleventh
5/21/2079 (9/6/2022)	Prem Suwal	Proposal to retrieve Amendments proposed by MP Sher Bahadur Tamang on Some Nepalese Acts Amendments Bill	58	Meeting scheduled for another date	Eleventh

5/21/2079 (9/6/2022)	Prem Suwal	Proposal to retrieve Amendments proposed by MP Sher Bahadur Tamang on Some Nepalese Acts Amendments Bill	71	Quorum Met	Eleventh
5/22/2079 (9/7/2022)	Prem Suwal	Proposal to Send Nepal Medical Council Bill to the respective committee for discussion	77	Quorum Met	Eleventh
5/31/2079 (9/16/2022)	Jhapat Bahadur Rawal	Proposal to accept Amendments proposed by National Assembly to Animal Health and Services Council	92	Quorum Met	Eleventh
5/31/2079 (9/16/2022)	Prem Suwal	Proposal to accept Amendments made to the Insurance Bill by National Assembly	87	Quorum Met	Eleventh
11/13/2076 (2/25/2020)	Dev Prasad Timilsina	General Discussion of Public Debt Management Bill	70	Quorum Met	Fifth
11/13/2076 (2/25/2020)	Athar Kamal Musalman	General Discussion of Banks and Financial Institutions (First Amendment) Act	58	Meeting adjourned for 15 minutes	Fifth
11/15/2076 (2/27/2020)	Dev Prasad Timilsina	General Discussion of Bill on Interrelationship between Federal, provincial and local government	58	Meeting scheduled for another date	Fifth
11/18/2076 (3/1/2020)	Prakash Rasaile (Snehi)	General Discussion of Nepal Rastra Bank (First Amendment) act	54	Meeting scheduled for another date	Fifth
11/19/2076 (3/2/2020)	Parbati DC (Chaudhary)	General Discussion of Jail Bill	65	Meeting scheduled for another date	Fifth

5/23/2076 (9/9/2019)	Dev Prasad Timilsina	Proposal to accept Amendments proposed by Industry Commerce and Labor & Consumer Protection Committee on Safeguards Anti- Dumping and Countervailing Bill	41	Meeting adjourned for 15 minutes	Fourth
11/26/2075 (3/10/2019)	Dev Prasad Timilsina	General Discussion of Financial Procedures and Fiscal Accountability Bill	96	Quorum Met	Third
5/29/2075 (9/14/2018)	Prem Suwal	General Discussion of Nepal Citizenship (First Amendment) Bill	81	Quorum Met	Second
5/18/2075 (9/3/2018)	Dev Prasad Timilsina	General Discussion of Land Related (Seventh Amendment) Bill	74	Quorum Met	Second

Annex 4: Instance of questions of quorum being raised in the 2015-2017 parliament.

Date	Member of Parliament	Issue	Number	Outcome	Session
9/12/2072 (12/12/2015)	Ramhari Khatiwada	General Discussion of Manmohan Adhikari Science Corporation Bill	124	Meeting adjourned for 15 minutes	First
10/11/2072 (1/25/2016)	Ramhari Khatiwada	Proposal to ratify International Agreement	142	Meeting adjourned for 15 minutes	First
5/24/2073 (9/9/2016)	Dilli Prasad Kafle	Proposal for discussion on report of Legislation committee on Judicial Service Council Bill	126	Meeting scheduled for another date	Second
6/12/2073 (9/28/2016)	Dilli Prasad Kafle	General Discussion of Madhesh Commission	125	Meeting adjourned for 30 minutes	Second
6/18/2073 (10/4/2016)	Prem Suwal	General Discussion of Election commission Bill	153	Quorum Met	Second
6/18/2076 (10/4/2016)	Prem Suwal	Proposal to ratify International Agreement	149	Meeting Scheduled for another date	Second
9/25/2073 (1/9/2017)	Dili Prasad Kafle	General Discussion on Local level election bill	116	Meeting adjourned for 30 minutes	Second
11/27/2073 (3/10/2017)	Prem Suwal	Election Constituency Delimitation Bill	125	Meeting scheduled for another date	Second
1/7/2074 (4/20/2017)	Prem Suwal	General Discussion on Electricity Regulatory Commission	90	Meeting scheduled for another date	Second
1/13/2074 (4/26/2017)	Prem Suwal	General Discussion on Constitution of Nepal (Second Amendment) Bill	151	Quorum Met	Second

4/25/2074 (8/9/2017)	Dilli Prasad Kafle	General Discussion Health Insurance Bill	157	Quorum Met	Third
4/25/2074 (8/9/2017)	Dilli Prasad Kafle	Proposal to accept suggestions made by legislation committee on Criminal Offences (Sentence determination and Implementation) Bill	137	Meeting scheduled for another date	Third
5/12/2074 (8/28/2017)	Dilli Prasad Kafle	Proposal to ratify International Agreement	86	Meeting scheduled for another date	Third
5/19/2074 (9/4/2017)	Prem Suwal	General Discussion on Election of House of Representatives Member Bill	200	Quorum Met	Third
5/23/2074 (9/8/2017)	Prem Suwal	General discussion on Madhesi Commission	136	Meeting adjourned for 15 minutes	Third
5/23/2074 (9/8/2017)	Prem Suwal	General discussion on Madhesi Commission	157	Quorum Met	Third
5/23/2074 (9/8/2017)	Prem Suwal	General Discussion on Tharu Commission	127	Meeting scheduled for another date	Third
6/3/2074 (9/19/2017)	Prem Suwal	Election of President and Vice-president	175	Quorum Met	Third
6/9/2074 (9/25/2017)	Prem Suwal	Proposal to accept Amendments proposed by MP Jayanti Devi Rai on Education Bill (Ninth Amendment)	155	Quorum Met	Third
6/9/2074 (9/25/2017)	Prem Suwal	Clause-wise discussion on Disaster Risk Reduction and Management Bill	162	Quorum Met	Third

6/9/2074 (9/25/2017)	Prem Suwal	Proposal to accept suggestions made by legislation committee on Civil Code bill	151	Quorum Met	Third
6/20/2074 (10/6/2017)	Dilli Prasad Kafle	Proposal to accept suggestions made by Finance Committee on Inter-Government Fiscal transfer Bill	165	Quorum Met	Third
6/20/2074 (10/6/2017)	Prem Suwal	Proposal for passage of Election of President and Vice president bill	110	Meeting scheduled for another date	Third
6/22/2074 (10/8/2017)	Dilli Prasad Kafle	Proposal for passage of National Women Commission	170	Quorum Met	Third
6/24/2074 (10/10/2017)	Dilli Prasad Kafle	Proposal for the passage of National Language Commission	90	Meeting scheduled for another date	Third

Annex 5: Details on select bills deliberated by Parliamentary committees.

Name of the bill	Name of the committee	Total number of meetings	Dates of the meetings	Total members present in each meeting
Pension fund Bill	Finance committee	1	4th December, 2018	10
Payment and settlement Bill	Finance committee	1	21st December, 2018	13
Audit Bill	Finance committee	1	18th December, 2018	18
Public Private Partnership & investment Bill	Finance committee	2	6th January, 2019	13
			11th March, 2019	14
Senior Citizen Bill	Women and Social committee	11	21st June, 2019	18
			24th June, 2019	15
			26th June, 2019	16
			28th June, 2019	13
			7th July, 2019	15
			25th July, 2019	16
			26th July, 2019	16
			1st August, 2019	13
			23rd December, 2019	15
			30th December, 2019	14
			5th January, 2020	13
Right to Privacy Bill	State Affairs-Committee	5	9th September, 2018	16
			10th September, 2018	15
			11th September, 2018	16
			13th September, 2018	13
			14th September, 2018	16
Caste discrimination & Untouchability Bill	State Affairs-Committee	1	11th September, 2018	17

Social Security Bill	State Affairs-Committee	2	14th September, 2018	17
			5th October, 2018	18
Consulting with the stakeholders regarding citizenship Bill	State Affairs-Committee	1	18th November, 2018	18
Nepal Citizenship Bill	State Affairs-Committee	24	25th November, 2018	17
			28th November, 2018	17
			30th November, 2018	17
			7th December, 2018	17
			27th December, 2018	16
			28th December, 2018	16
			24th January, 2019	17
			27th January, 2019	17
			28th January, 2019	17
			29th January, 2019	17
			30th January, 2019	17
			1st Feb, 2019	17
			3rd Feb, 2019	17
			4th Feb, 2019	17
			11th Feb, 2019	17
			27th Feb, 2019	16
			5th March, 2019	16
			7th March, 2019	16
			10th March, 2019	16
			11th March, 2019	16
			15th March, 2019	18
			19th March, 2019	18
			21st March, 2019	18
			18th April, 2019	17

National Identity card and registration Bill	State Affairs-Committee	7	14th Feb, 2019	16
			20th Feb, 2019	16
			21st Feb, 2019	16
			24th Feb, 2019	16
			27th Feb, 2019	16
			12th Aug, 2019	15
			14th Aug, 2019	14
Arrangement regarding staff adjustments Bill	State Affairs-Committee	2	15th Feb, 2019	16
			20th Feb, 2019	16
Provincial Public Service Bill	State Affairs-Committee	2	12th March, 2019	16
			14th March, 2019	16
National Medical Education Bill	Education and Health committee	8	19th Aug, 2018	15
			28th Aug, 2018	15
			29th Aug, 2018	15
			30th Aug. 2018	15
			6th Sept, 2018	18
			31st Oct, 2018	25
			7th Jan, 2019	21
			9th Jan, 2019	19
Right to safe motherhood and reproductive health bill	Education and Health committee	2	10th Sept, 2018	20
			11th Sept, 2018	18
Public Health Service Bill	Education and Health committee	1	12th Sept, 2018	19
Industrial Enterprise Bill	Industry Commerce Labor and Consumer Protection Committee	4	26th June, 2019	14
			27th June, 2019	14
			26th July, 2019	15
			22 August, 2019	12
Anti-dumping, Safeguards and Countervailing Bill	Industry Commerce Labor and Consumer Protection Committee	1	31 May, 2019	14

