

## **Parliamentary Verbatim in Nepal: The Role of Records in Judicial Interpretation**

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### **Abstract**

*Imagine a courtroom scenario in which the judge explores the discussions, disputes, and compromises that gave rise to the legislation straight out of the halls of the Parliament, rather than only relying on the language of the law. This is the power of parliamentary records, such as the well-known Parliamentary verbatim, which provide a window into the legislative soul by exposing the legislation's underlying meaning and essence and the legislators' intents.*

*Currently, Nepal does not have an extensive record of its legislative history. This essay examines the significant ramifications of this omission. It makes the case that a strong system of legislative record-keeping is essential to good governance and goes beyond administrative effectiveness. This paper makes a strong argument for embracing the authority of parliamentary records by exploring the lengthy history of legislative interpretation, comparing it to common law nations, and examining the particular difficulties Nepal faces.*

**Keywords:** Parliamentary verbatim, Parliamentary records, Legislative intent, judicial activism, judicial interpretation.

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## **1. Background**

Parliament is not only a legislative organ but also in the words of Lord Denman – a grand inquest of the nation.<sup>\*</sup> Parliament is where people's elected representatives discuss and pass bills that come as law. Parliament functions through free discussions, open debate, and the exchange of arguments and criticism. Dynamic discourse and debate occur among the parliament members during the lawmaking process. Each member of the parliament is encouraged to engage in the lawmaking process.

Democracy thrives through debate. Democratic parliaments are open forums where elected representatives engage in arguments over policy. Parliamentary debate is, therefore, a fundamental part of democratic lawmaking- in all parliaments, member's debate bills before they vote on them.<sup>†</sup> When the participation and these discussions among the participants are transcribed, recorded, and stored, we call it 'Parliamentary verbatim'.<sup>‡</sup> It sets the standards for transparency and accountability during the lawmaking process.

The Parliamentary verbatim i.e. recorded parliamentary verbatim is the primary source for diagnosing the legislative intent. Legislative intent refers to the purposes and objectives lawmakers aim to achieve through legislation. It conveys the essence of the laws and provisions therein. It is crucial to interpret laws in a manner consistent with their original motives and objectives. They provide insights into the lawmaker's discussion, the rationale behind specific

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<sup>\*</sup>Ramachandran, V.G. (Year). *Chapter I: Lord Denman in Burdet v. Abbot, 14 Last 138*. Scribd. URL: <https://www.scribd.com/document/505391102/08-chapter-1>

<sup>†</sup>Proksch, S.-O., & Slapin, J. B. (2015). *The politics of parliamentary debate: Parties, rebels, and representation*. Cambridge University Press. URL: <https://doi.org/10.1017/CBO9781139680752>

<sup>‡</sup> Brudney, J. J. (2007). Below the surface: Comparing legislative history usage by the House of Lords and the Supreme Court. *Washington University Law Review*, 85(1), 71. URL: <https://journals.library.wustl.edu/lawreview/article/6729/galley/23562/view/>

provisions, and the context of their enactment ultimately playing an important role in the judicial interpretation of law.

### **1.1. Introduction to Parliamentary Verbatim**

Parliamentary verbatim is an edited verbatim record of what was said in Parliament. It also includes records of votes and written ministerial statements. The report is published daily covering the preceding day, followed by a bound final version.<sup>§</sup> It refers to the published transcripts of proceedings of elected assemblies. Excerpts from “the parliamentary verbatim” are occasionally presented in court to support or oppose particular interpretations of a statute, and when used in this manner, parliamentary verbatim evidence is an extrinsic aid to statutory interpretation.<sup>\*\*</sup>

Extrinsic sources are the second category of sources that judges may consider when discerning meaning which include materials that are outside of the official act but are part of the legislative process that created the act like earlier drafts of the bill, legislative history (written and oral statements made during the enactment process), statutory purpose and so on.<sup>††</sup>

The courts in the UK frequently refer to the Parliamentary verbatim when there arises any ambiguity in the interpretation of the statutes. The House of Lords in 1993 in the case of *Pepper v Hart* established principles for the use of parliamentary debate as a tool for statutory interpretation in English law.

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<sup>§</sup> UK Parliament. (n.d.). URL: <https://www.parliament.uk/>

<sup>\*\*</sup> Magyar, J. (2012). The evolution of harsard use at the Supreme Court of Canada: A comparative study in statutory interpretation. *Statute Law Review*, 33(3). URL: <https://doi.org/10.1093/slr/hms030>

<sup>††</sup> Jellum, L. D. (2020). *Mastering legislation, regulation, and statutory interpretation* (3rd ed.). Mercer University School of Law. URL: <https://cap-press.com/books/isbn/9781531012021/Mastering-Legislation-Regulation-and-Statutory-Interpretation-Third-Edition?srsItd=AfmBOoojL5H9s7cPxgzMtpRs2KEYI0Hsem3zvSY-PIIZL9ZpG-Wn8nMe>

Many countries are adopting the Parliamentary verbatim such as Australia, Canada, and South Africa to boost their parliamentary accountability and transparency. It has evolved and is being developed as admissible evidence in court in the countries mentioned above during the interpretation of the statutes.

## **2. Literature Review**

As we delve into literature that supports the idea of parliamentary verbatim in legal research, ss noted in *Parliamentary Records and Legislative History: A Resource for Legal Researchers in the Harvard Law Review*, Parliamentary verbatim provides comprehensive verbatim records of parliamentary debates and proceedings, making it an essential research tool in legal academics. Shedding light on legislators' backgrounds and intentions throughout the drafting and enactment processes provides legal scholars with access to the legislative intent behind statutes. This is particularly important when reading vague clauses or comprehending how legislative frameworks have changed over time. Researchers can determine if legislation is in line with democratic values and constitutional principles, track the evolution of policies, and find past legal precedents by examining Parliamentary verbatim. It is a cornerstone of the law because it bridges the gap between the language of the law and the deliberative processes that developed it.

Bipin Adhikari emphasizes the importance of parliamentary verbatim and legislative record-keeping in Nepal's federal transition in *Federal Nepal: Trials and Tribulations*. He highlights how, during a time of significant change in Nepal's governance, these recordings are essential for accountability, transparency, and the preservation of parliamentary discussions. The book emphasizes how the thorough recording of discussions and legislative procedures in Nepal's federal parliament has improved information availability for the general public and given scholars and decision-makers a trustworthy tool for examining the goals of legislation and the course of federal reforms. According to Adhikari, these documents are essential for assessing the achievements and difficulties of Nepal's federalization, allowing for a better comprehension of how laws and policies conform to the principles of federalism and democratic governance.

## **2.1. Legislative Record-Keeping and Digital Transformation**

Parliamentary verbatim-like systems have been transformed globally by digital transformation, which has improved legislative processes' accessibility and transparency. Comprehensive digitized parliamentary record systems have been put in place in nations like the UK and Canada, giving citizens, scholars, and policymakers internet access to debates, legislative history, and committee deliberations in real-time as well as in the past. These systems enable users to effectively monitor parliamentary accountability and assess legislation purpose by integrating open data formats, multimedia records, and sophisticated search tools. Additionally, by making parliamentary proceedings more inclusive and accessible to a wider range of people, digitization lowers the expenses associated with keeping physical records and promotes greater civic engagement.

It is feasible to implement such a system in Nepal, however, certain obstacles must be overcome. Although administration in Nepal has advanced significantly as a result of the federal transition, the nation's digital infrastructure is still in its infancy. A digital parliamentary verbatim-like system would require significant expenditures in IT infrastructure, parliamentary staff capacity building, and citizen digital literacy. Furthermore, regional languages and decentralized record-keeping systems for provincial assemblies would need to be incorporated to adapt this to Nepal's multilingual and federal environment. Notwithstanding these obstacles, a change of this kind might greatly improve openness, accessibility, and public involvement in Nepal's developing democracy and bring its governance procedures into compliance with global norms.

## **2.2. Comparative Perspective: The Role of Legislative Intent in the International Jurisdictions**

In common law jurisdictions including the UK, the US, and India, legislative intent is a crucial aspect in interpreting statutes. In these legal systems, the role of the legislature in the process of developing law is considered to be dominant. This supremacy reaches into the courts, which frequently look to legislative debates and other records to clarify ambiguities in statutory

language. Indeed, the use of parliamentary verbatim and similar debates illustrate how the courts try to stay true to the intention of the legislature.

A landmark case in the UK that set the precedent for using parliamentary verbatim as an interpretative tool is *Pepper (Inspector of Taxes) v Hart* [1993] AC 593. In this case, the House of Lords ruled that parliamentary verbatim could be consulted to clarify ambiguous statutory provisions, provided certain conditions were met. This decision acknowledged the value of parliamentary debates in shedding light on the purpose behind specific legislative provisions. Another significant case, *R v Secretary of State for the Home Department, ex parte Brind* [1991], examined the presumption that Parliament does not legislate in contravention of international treaty obligations. The case demonstrated how courts interpret legislation granting ministerial discretion to align with overarching principles, such as those in the European Convention on Human Rights. Here, parliamentary verbatim was pivotal in discerning whether Parliament intended for such discretion to respect treaty obligations.

Similarly, in *Atkinson v. United States of America Government* [1971] AC 197, 232-233, Lord Reid highlighted the legislature's intention to ensure justice in the extradition process. He interpreted the Extradition Act 1870 as granting the Secretary of State discretionary power to refuse extradition when it would be "wrong, unjust, or oppressive." This interpretation was based on the presumption that Parliament must have envisioned this safeguard, even though it was not explicitly stated in the original statute. This presumption was later codified in section 11(3) of the Extradition Act 1989. Such cases illustrate the judiciary's reliance on legislative intent to ensure the application of laws aligns with the principles of justice and fairness.

These cases pose a deep and timely question: Constitutions empower legislatures to draft and enact laws, but do they also empower these bodies to determine the meaning, essence, or spirit, the guiding norm of the laws? Or is it the role of the judiciary, the ultimate guardian of constitutional principles, to interpret, uphold, and enforce values and purposes that are integral to the purpose of these laws? Essentially, this question comes down to the separation of powers and the tension between the legislative and judicial branches that

goes into maintaining the rule of law and the democratic principles that underpin our system of constitutional government.

In India, the reliance on legislative debates, including parliamentary verbatim, is equally significant. A striking example is *Union of India v H.S. Dhillon* (1972), where the renowned advocate Nani Palkhivala used extracts from Constituent Assembly Debates to establish the legislative intent behind the residuary powers of the Union Parliament. He cited key documents, such as the Union Powers Committee report dated July 5, 1947 (Constituent Assembly Debates, Vol. 5, page 58), and the Expert Committee on Financial Provisions report dated December 5, 1947 (Constituent Assembly Debates, Vol. 7, page 53). These documents included observations like, “*We must also mention that no material has been placed before us to show that it was ever in the mind of anybody, who had to deal with the making of the Constitution, that it was the intention to prohibit all the legislatures in this country from legislating on a particular topic.*”

Palkhivala also referred to speeches by notable members of the Constituent Assembly, including Sardar Hukam Singh (Constituent Assembly Debates, Vol. 9, page 854), Mr. Nazimddin Ahmad (Vol. 9, page 855), Prof. Shibban Lal Saksena (Vol. 9, pages 855-856), and Dr. B.R. Ambedkar (Vol. 9, pages 856-857), to further elucidate the legislative intent. These debates provided a rich repository of insights into the rationale and purpose behind specific constitutional provisions. They served not only to clarify ambiguities but also to reinforce the democratic values that underpin the law-making process.

While courts use interpretation to protect the application of laws by making sure they are in line with justice and constitutional principles, legislatures design laws with a vision for society's governance. Legislative purpose is important, but it doesn't work alone, as this relationship shows. Rather, it complements judicial review to produce a dynamic and equitable legal system.

### **2.3. Pepper v Hart: A special mention**

There has always been a contest and debate about the roles of legislative history as a resource for interpreting statutes. This spirited conversation, which parallels debates between textualists and intentionalists in the American legal community, was sparked by the House of Lords' 1992 decision in *Pepper v. Hart*.<sup>††</sup> The judicial arm of the House of Lords, known as the Law Lords, overruled more than two centuries of precedent in *Pepper* when it held that courts were allowed to rely on parliamentary verbatim—the official parliamentary record of committee proceedings and floor debates—to assist them in construing enacted laws.

The *Pepper v Hart*<sup>§§</sup>, case established parliamentary verbatim as important admissible evidence in the English court during the interpretation of statutes. The House of Lords (now the Supreme Court of the United Kingdom) abolished the ' 'exclusionary rule" that reports of parliamentary debates could not be consulted by the courts when seeking guidance as to the meaning of a particular piece of legislation.

In *Pepper v. Hart* [1993] AC 593, [1993] 1 All ER 42 heard by seven Law Lords, the leading judgment was given by Lord Browne-Wilkinson.<sup>\*\*\*</sup> Lord Browne-Wilkinson thus lays down three criteria for the admissibility of statements from parliamentary verbatim as aids in the construction of a statute: the ambiguity test statutory provision in question must be ambiguous or lead to an absurdity; the relevance test statement must disclose the legislature's intention; and the authorship test-only statements made by a minister (in

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<sup>††</sup>Brudney, J. J. (2010). The story of *Pepper v. Hart*: Examining legislative history across the pond (Ohio State Public Law Working Paper No. 124). Fordham University School of Law. URL: <https://ssrn.com/abstract=1607959>

<sup>§§</sup>Styles, S. C. (1994). The rule of Parliament: Statutory interpretation after *Pepper v. Hart*. *Oxford Journal of Legal Studies*, 14(1), 151-158. URL: <https://doi.org/10.1093/ojls/14.1.151>

<sup>\*\*\*</sup> Zander, M. (2015). *The law-making process* (6th ed.). Cambridge University Press. URL: [https://assets.cambridge.org/97805216/09890/frontmatter/9780521609890\\_frontmatter.pdf](https://assets.cambridge.org/97805216/09890/frontmatter/9780521609890_frontmatter.pdf)



government-sponsored legislation) or the promoter (in back-bench sponsored legislation) are admissible as judicial aids to statutory interpretation.<sup>†††</sup>

### **3. Parliamentary verbatim in Nepal**

In Nepal, the parliament plays an active role as a legislator. However, there is a lack of proper recording and documentation of the parliamentary debates and discussions. Nevertheless, in some instances, the judiciary has referred to parliamentary records to ascertain the legislative intent during the judicial interpretation of the laws.

Nepal's parliamentary record-keeping started during the drafting of the Constitution of Nepal. However, there hasn't been significant development in record keeping in Nepal.

#### **3.1. National Legal Measures - Constitution of Nepal:**

The Constitution of Nepal has provided the base for parliamentary debates and discussions by allowing the parliamentarians to enjoy the privileges and freedom of speech. Privileges enable the members to discharge their duties and responsibilities effectively and efficiently without any interruption<sup>†††</sup>, especially the opposition bench which in a parliamentary polity has to build itself as an alternative government.

The Constitution of Nepal provides extensive privileges to members of parliament. Ensuring they can debate freely and without fear of legal repercussions. Freedom of speech is a particularly important privilege in that it enables members of either House to participate fully and with complete

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<sup>†††</sup>Brudney, J. J. (2010). The story of *Pepper v. Hart: Examining legislative history across the pond* (Ohio State Public Law Working Paper No. 124). SSRN. URL: <https://doi.org/10.2139/ssrn.1601291>

<sup>†††</sup>Kaul, M. N., & Shakhder, S. L. (2016). *Practice and procedure of Parliament* (Vol. I, p. 177). Metropolitan Book Co. Pvt. Ltd. URL: [https://eparlib.nic.in/bitstream/123456789/762633/1/Practice\\_and\\_Procedure\\_of\\_Parliament\\_7th\\_ed\\_2016\\_English.pdf](https://eparlib.nic.in/bitstream/123456789/762633/1/Practice_and_Procedure_of_Parliament_7th_ed_2016_English.pdf)

candor in the business of Parliament without fear of subsequent legal proceedings. §§§Notably: Article 103(1) guarantees freedom of speech in both houses of parliament and Article 103(5) protects individuals involved in the publication of parliament documents, reports, votes, or proceedings under the authorized conditions.

While these articles emphasize the protection and dissemination of parliamentary discourse, they do not explicitly mention the mechanisms for recording, preserving, or maintaining the debates in a systematic manner, similar to a parliamentary verbatim.

Similarly, Articles 110,111,198, and 199 establish procedures for introducing and passing bills at both federal and state levels but do not explicitly address how debates or discussions surrounding these procedures are to be recorded or maintained for future reference.

### **3.2. Procedural Provisions in the House of Representatives Rule, 2079, and National Assembly Rules, 2075**

The Constitution of Nepal has provided the power to frame rules for both houses to conduct their business and maintain order during its meetings under Article 104. Both houses of the federal parliament have framed their own rules which highlight processes of parliamentary business.

Rule no. 107 of House of Representatives Rule, 2079 provides for general theoretical discussions on bills, offering an opportunity for members to express their views. Rule no. 115 allows for section-wise discussion and amendment to the bills. Rule no. 121 of House of Representatives Rule, 2079 mandates the parliamentary committees to produce reports on the section-wise discussion of the bill presented in the committee which is to be published publicly and is to

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§§§ Parpworth, N. (2012). *Constitutional and administrative law (7th ed.)*. Oxford University Press.URL: <https://global.oup.com/academic/product/constitutional-and-administrative-law-9780192856579?cc=us&lang=en&>

be recorded and stored for future usage. National Assembly Rules, 2075 also mentions similar provisions of general theoretical discussions on bills in Rule 101, section-wise discussion and amendment to the bills in Rule no. 109, and parliamentary committees to produce reports in Rule no. 115.

These provisions indicate intent to document and preserve parliamentary proceedings, though the extent and methodology for doing so are not explicitly defined. The emphasis appears to be on committee reports rather than a verbatim of debates. Also, the committee reports include only the amendment clauses.

### **3.3. Judicial Trend**

Nepali courts are open to taking parliamentary discussion as a source of law during the interpretation of Law. The debates and discussions upon the case of parliament dissolution in the constitutional bench of the Supreme Court of Nepal can be taken as a reference. But, it should be admitted that there is no specific legal provision relating to this. Similarly, Nepali courts have increasingly acknowledged the importance of legislative intent in statutory interpretation.

The Truth and Reconciliation Commission Act debates in Nepal's legislature serve as an example of how legislative records can influence the way that judges review transitional justice procedures. The purpose of the legislation and the difficulties in redressing historical injustices within Nepal's post-conflict context are reflected in these debates. To provide a balanced approach to justice and accountability, courts can use these discussions to interpret transitional justice statutes in a way that is consistent with the spirit of reconciliation and constitutional mandates.

Both the advantages and disadvantages of employing parliamentary discussions for legal interpretation are demonstrated by the Supreme Court of Nepal's 2074 ruling on local governance regulations. The court emphasized the uneven reliance on such recordings because there was no systematic parliamentary verbatim recordkeeping, even while it recognized legislative

efforts to resolve issues. To ensure more uniformity and transparency in legal interpretation, this emphasizes the necessity of an organized

Particularly when it comes to topics like federalism, secularism, and inclusion, the transcripts of Nepal's Constituent Assembly (2008–2015) offer priceless insights into the architects' intentions. These documents serve as an essential point of reference for understanding constitutional provisions since they shed insight into the discussions that formed Nepal's fundamental legal concepts. Courts can guarantee that constitutional interpretation and the drafters' intent are in line by including these discussions in their reasoning, which will increase the credibility of court rulings.

#### **4. Implications for Legal Development in Nepal**

The use of legislative intent in shaping laws and addressing issues related to their implementation through parliamentary records is a promising tool in the context of Nepal in strengthening the legal framework and improving good governance. Not only do these records facilitate clarity in the law, but the judiciary's reliance on them also serves to enhance transparency, accountability, and the fine balance between judicial activism and judicial restraint.

##### **4.1. Clarity in Laws**

The legal system of Nepal, derived from common-law traditions in tandem with an idiosyncratic constitutional policy, often struggles with ambiguities and inconsistencies within statutes. Parliamentary reports like parliamentary verbatim can help resolve ambiguities by providing evidence as to the lawmakers' intentions. When a statute does not specifically address an issue, or is amenable to more than one interpretation, for example, courts may look to the debates and discussions that occurred during the legislative process to determine. For instance, if a provision in law does not provide ample information on an issue or when there are several meanings attached to it, courts can look into the proceedings of the legislature to ascertain its intent and its boundary. This is because it helps keep judicial interpretation close to what

the legislators had in mind at the time of enacting the law and is quite effective in curbing any possible excesses by the judiciary. To illustrate, a Part of the Local Government Operation Act, 2074 (2017) could be ambiguous regarding the provision of devolution of power to local or provincial bodies by themselves, but looking up the cross-parliamentary debates as to why it was enforced could be helpful. This kind of interpretation avoids unnecessary distortions and assists in the preservation of the integrity of Nepal's federal system of governance which is much needed in today's context of the country.

## **4.2 Transparency and Accountability**

The use of parliamentary documents by judges helps in the enhancement of transparent governance. Judicial decisions that do not hesitate to refer to the opinions expressed in the legislature show greater respect for the legal process of enacting the law. This tendency applies pressure on the legislators to speak more judiciously and convincingly during parliamentary debates, for these words and reasoning are bound to affect the outcome of litigation in the future. There is also a reaffirmation of the principle that laws are not made in a vacuum but after considerable arguments and consideration of the people's interests. This practice, by narrowing the divide that exists between the legislative and the judicial arms of government, increases the confidence that people have in both arms. In a young democracy like Nepal, this transparency will definitely have a positive impact on restoring faith in democratic and parliamentary practices.

## **4.3. Judicial Activism vs. Restraint**

Separation of powers concepts poses an existential threat while using legislative debates as a piece of evidence in judicial proceedings. Even though construing the law by looking at the scope of the legislature's intent can help courts make decisions in a way that corresponds with the expectations of the creators, such debates should not be patrimonial. In Nepal, where democracy and constitutionalism are more fluid, this world is reversed to a level of duality. Courts must take caution in practicing judicial activism, especially in instances where there is no legislation in place or where fundamental rights need to be safeguarded. Otherwise, it would mean undermining the supremacy of the

legislature. Courts must ensure that their use of voting records is streamlined to address constructive doubts and is not used as a pretext to rewrite laws or trump into the legislative domain.

As an example, in the context of the interpretation of the federal provisions under the constitution of Nepal, the courts are required to respect the essence of cooperative federalism. As for the debates in parliament, they may assist the judges in the comprehension of the legislature's will, but the courts must exercise self-restraint in order not to set out legal principles that might threaten the equilibrium between the federal, provincial, and local arms of the government.

Thus, the use of parliamentary documents in the process of judging does have the possibility to change the legal landscape in Nepal. This practice enhances the rule of law and democratic governance by addressing some of the issues that would otherwise inhibit its proper functioning including the overreliance on court or legislative activism and opacity. Nonetheless, to achieve these advantages, it is important for parliament and the courts to work together prudently. Parliament must ensure that when laws are being made adequate and well-reasoned debates are held, and the courts in turn should be conservative when it comes to interpreting and enforcing legislative intent. These bodies can work together to build a legal system in Nepal that is fairer, cleaner, and more accountable.

## **5. Interviews**

Hon. Dr. Ananda Mohan Bhattarai, former judge of the Supreme Court of Nepal Justice cited Mukunda Regmi's seminal work on the Constituent Assembly while noting, "It would be no secret that in our country, it has been the judicial practice that while passing judgment on the issues concerning interpretation of the constitution, the courts were considering the verbatim records of the Parliament. As a judge myself and, as I know from the experience of some other judges, especially in cases before the constitutional bench, these verbatim records have been routinely employed as part of our

interpretive process. But I am unaware of parliamentary verbatim ever being regularly called upon in the interpretation of Acts of Parliament.”

Moving onto the concept of judicial review, Justice Bhattarai offered his views arguing, ‘Concerning judicial review, judges are likened to writers and his or her objective is to write from complicated legal documents, and it is like a perusal theory for them, which is where the problem of judicial interpretation stems from. Such legal construction should do away with shackles and embrace the many ways a case can be decided. To this effect, while the judiciary has obligations to uphold the rule of law, the use of parliamentary verbatim, particularly parliamentary verbatim, can have a great deal of persuasive value.’

In addition, Justice Bhattarai analyzed the use of legislative records in court and pointed out that “parliamentary verbatim, if used appropriately, may assist in not only improving the courts’ efficiency but also enhancing the level of accountability of the parliamentarians. It could serve as a device to hold the members of the Parliament accountable to the exercise of their powers, thereby increasing the openness of the Parliament. Furthermore, such a practice would be of significance in protecting the institutional memory of the Secretariat by ensuring that the background and purpose of the legislation passed by the parliament are clearly preserved for the future.”

Advocate Hon. Sobita Gautam, Member of the Federal House of Representatives, emphasizes the dire need for providing a continuous, accurate record of all parliamentary activities. That documentation makes it possible for citizens to judge how well their representatives are doing who arrives with their homework done, who grounds their argument in data and evidence, and who engages in substantive argument instead of rhetoric, she stresses. In a democracy based on majority rule, a sound argument can be overwhelmed by brute numbers. When a government tries to steamroll inappropriate or dubious laws on the force of its majority, the public has the right to access the argument on both sides. This transparency allows journalists to shine a light on the broader impact of legislative decisions and empowers civil society to participate meaningfully in the dialogue surrounding laws that govern the country. Well-maintained parliamentary records create an atmosphere of

scrutiny and accountability, which leads to a more informed and participative democracy.

## **6. Current Challenges**

**Current Challenges** The rationales and explanations for restricting access to parliamentary records are both reasonable and practical. Nepal's legislative recordkeeping systems face significant challenges due to the lack of a codified parliamentary verbatim system. A major obstacle is the lack of a systematic framework for verbatim recording and argument preservation. Although the National Assembly Rules, 2075, and the House of Representatives Rule, 2079, both contain procedural rules that emphasize the creation of reports and summaries, they are not comprehensive records and archives of parliamentary debates. As a result, it becomes more difficult to precisely evaluate legislative meaning because specific arguments made during debates and contextual undertones that lead to legislative intent are forgotten. A significant obstacle is the lack of appropriate legal frameworks and regulations, which include several procedural obstacles to uphold. Nepal lacks a clear legal framework governing the admissibility of parliamentary records in judicial proceedings.

Additionally, there are various technical barriers which include, inadequate archiving infrastructure, inconsistent publication practices, limited accessibility, and so on, this lack of verbatim records diminishes transparency and impedes accountability, as stakeholders, including legal practitioners and researchers, cannot access complete and authentic documentation of parliamentary proceedings. These gaps undermine the democratic principle of informed citizen participation and the ability of courts and other bodies to rely on parliamentary records for interpreting laws and policies effectively.

## **7. Recommendations**

To address the shortcomings in Nepal's parliamentary record-keeping system and establish a parliamentary verbatim-like framework, a multi-faceted approach is essential. This involves reforms across policy, judicial practices, capacity building, and legislative amendments. The recommendations outlined



below are designed to foster transparency, enhance accessibility, and ensure the utility of parliamentary records for finding legislative intent during the judicial interpretation.

### **7.1. Policy Reforms**

Nepal must standardize its documentation practices by institutionalizing a system for comprehensive and verbatim recording of parliamentary debates. The Federal Parliament can introduce a policy mandating the creation and maintenance of a parliamentary verbatim, a complete, accurate, and publicly accessible transcript of all parliamentary proceedings. To enhance transparency and accountability, these records should be digitally archived and made easily accessible through an online platform.

### **7.2. Legal Amendments**

Comprehensive amendments to relevant laws and procedural rules are necessary to institutionalize these reforms. Some relevant laws are:

- Evidence Act, 2031- Amend provisions to explicitly include parliamentary records as admissible evidence in court proceedings, ensuring clear guidelines on their probative value.
- Interpretation of Laws Act, 2010 – Introduce clauses emphasizing the importance of legislative intent and the use of parliamentary records as interpretative tools.
- Parliament-related laws- Amend the House of Representatives Rule, 2079, and National Assembly Rules, 2075, to mandate verbatim recording, systematic publication, and digital archiving of parliamentary debates. These amendments should also include provisions for periodic review and auditing of record-keeping practices.

### **7.3. Strengthening Judicial Practices**

Clear and uniform guidelines should be developed to govern the admissibility and use of parliamentary records in judicial proceedings. The Supreme Court

of Nepal and the Federal Parliament of Nepal can collaborate and establish directives clarifying how legislative intent should be utilized in statutory interpretation. Additionally, regular judicial training programs should be conducted to familiarize judges, lawyers, and legal scholars with the role and significance of parliamentary records in resolving legal ambiguities and disputes.

#### **7.4. Capacity Building for Stakeholders**

Investing in capacity building is vital to ensure that lawmakers, parliamentary secretary staff, and legal professionals understand the importance of maintaining detailed documentation. Training programs can focus on the technical aspects of record keeping, the ethical implications of accurate documentation, and the utility of parliamentary records in legal, academic, and policy-making domains.

#### **7.5. Administrative and Technological Reforms**

An independent body under the parliamentary secretariat should oversee the record-keeping process, ensure compliance with standards, and address accessibility concerns. Also, the Parliament Secretariat should adopt advanced technologies such as automated tools for real-time recording and archiving of debates and discussions inside the parliament. These tools can enhance accuracy, efficiency, and consistency in the documentation process.

By implementing these recommendations, Nepal can strengthen its parliamentary documentation framework, thereby fostering transparency, and accountability and enhancing the interpretation of legislative intent.

### **8. Conclusion**

Parliamentary verbatim-like documentation plays an important role in enhancing legislative transparency and judicial liability towards parliamentary intentions. A parliamentary verbatim framework could fill important voids in governance and legal interpretation in Nepal, where parliamentary record-keeping is still in its infancy. Nepal can ensure the reliability and availability

of legislative records by establishing the verbatim recording of parliamentary discussions, revising relevant legislation, and utilizing advanced technology. The government cannot compromise on resources for live broadcasting and verbatim records of parliamentary sessions because parliament is where laws are made, and the law-making process must remain transparent. A well-documented record ensures accountability, strengthens democracy, and upholds public trust in legislative decisions. These modifications will uphold the ideals of democracy promoting accountability and transparency while giving judges the necessary tools to figure out the legislative meaning.

## References

1. Brudney, J. J. (2010). The story of *Pepper v. Hart: Examining legislative history across the pond* (Ohio State Public Law Working Paper No. 124). SSRN. <https://doi.org/10.2139/ssrn.1601291>
2. Budney, J. J. (2007). Below the surface: Comparing legislative history usage by the House of Lords and the Supreme Court. *Washington University Law Review*, 85(1), 71. <https://journals.library.wustl.edu/lawreview/article/6729/galley/23562/view/>
3. House of Commons. (1939-40). *Report of the Committee of Privilege in Captain Ramsay case* (House of Commons Papers, 164).
4. Jellum, L. D. (2020). *Mastering legislation, regulation, and statutory interpretation* (3rd ed.). Mercer University School of Law. <https://cap-press.com/books/isbn/9781531012021/Mastering-Legislation-Regulation-and-Statutory-Interpretation-Third-Edition?srsId=AfmBOoojL5H9s7cPxgzMtpRs2KEYI0Hsem3zvSY-PIIZL9ZpG-Wn8nMe>
5. Kaul, M. N., & Shakhder, S. L. (2016). *Practice and procedure of Parliament* (Vol. I, p. 177). Metropolitan Book Co. Pvt. Ltd. [https://eparlib.nic.in/bitstream/123456789/762633/1/Practice\\_and\\_Procedure\\_of\\_Parliament\\_7th\\_ed\\_2016\\_English.pdf](https://eparlib.nic.in/bitstream/123456789/762633/1/Practice_and_Procedure_of_Parliament_7th_ed_2016_English.pdf)
6. Magyar, J. (2012). The evolution of parliamentary verbatim use at the Supreme Court of Canada: A comparative study in statutory

interpretation. *Statute Law Review*, 33(3), 363-389.

<https://doi.org/10.1093/slr/hms030>

7. Parpworth, N. (2012). *Constitutional and administrative law* (7th ed.). Oxford University Press.  
<https://global.oup.com/academic/product/constitutional-and-administrative-law-9780192856579?cc=us&lang=en&>
8. Proksch, S.-O., & Slapin, J. B. (2015). *The politics of parliamentary debate: Parties, rebels and representation*. Cambridge University Press. <https://doi.org/10.1017/CBO9781139680752>
9. Styles, S. C. (1994). The rule of Parliament: Statutory interpretation after *Pepper v. Hart*. *Oxford Journal of Legal Studies*, 14(1), 151-158.  
<https://doi.org/10.1093/ojls/14.1.151>
10. UK Parliament. (n.d.). *parliamentary verbatim: What is parliamentary verbatim?* Retrieved from <https://www.parliament.uk/>
11. Zander, M. (2015). *The law-making process* (6th ed.). Cambridge University Press.  
[https://assets.cambridge.org/97805216/09890/frontmatter/9780521609890\\_frontmatter.pdf](https://assets.cambridge.org/97805216/09890/frontmatter/9780521609890_frontmatter.pdf)

## Case Studies

1. *Pepper (Inspector of Taxes) v. Hart* [1993] AC 593.
2. Constituent Assembly Debates (2008–2015)
3. Supreme Court Decisions Using Legislative Records
4. Parliamentary Debates on Transitional Justice

## Online Resources

1. UK Parliament's website - <https://www.parliament.uk/>
2. parliamentary verbatim Society (UK) - <https://www.parliamentaryverbatim.org.uk/>