

**(Unofficially Translated Draft)**

**THE INTERIM CONSTITUTION OF NEPAL, 2063 B.S.**

**[Yet to be promulgated]**

**(Note: The draft is being edited by legal experts)**

## **Contents**

|   |    |
|---|----|
| Preamble  | 1  |
| Part 1<br>Preliminary   | 2  |
| Part 2<br>Citizenship   | 3  |
| Part 3<br>Fundamental Rights                                      | 4  |
| Part 4<br>Duties, Directive Principles and Policies of the State  | 10 |
| Part 5<br>Executive   | 15 |
| Part 6<br>Legislature-Parliament                                  | 18 |
| Part 7<br>Constituent Assembly                                    | 23 |
| Part 8<br>Legislative Procedure                                   | 30 |
| Part 9<br>Financial Procedure                                     | 32 |
| Part 10<br>Judiciary  | 35 |
| Part 11<br>Commission for the Investigation of Abuse of Authority | 43 |
| Part 12<br>Auditor -General                                       | 46 |
| Part 13<br>Public Service Commission                              | 48 |
| Part 14<br>Election Commission                                    | 51 |

|  |    |
|--|----|
| Part 15<br>National Human Rights Commission                | 53 |
| Part 16<br>Attorney -General                               | 57 |
| Part 17<br>State Structure and Local Autonomous Governance | 59 |
| Part 18<br>Political Parties                               | 60 |
| Part 19<br>Emergency Power                                 | 62 |
| Part 20<br>Provisions Relating to Army                     | 64 |
| Part 21<br>Amendment of the Constitution                   | 66 |
| Part 22<br>Miscellaneous                                   | 67 |
| Part 23<br>Transitional Provisions                         | 70 |
| Part 24<br>Definition                                      | 73 |
| Part 25<br>Short Title, Commencement and Abrogation        | 74 |
| Schedule   | 75 |



## **Preamble**

We the Nepalese people endowed with Sovereignty and State authority,

Recognizing the mandate of the Nepali people expressed from time to time since 2007 (1951) through historical movements and people's movements for Democracy, Peace and Progress,

Expressing determination to restructure the state for advancement of the State and resolve the existing problems related to class, caste, regional, gender problems of the country,

Expressing full commitment to democratic ideals and norms, including Competitive Multi Party Democratic System, Civil Liberty, Fundamental Rights, Human Rights, Adult Franchise, Periodical Elections, Full Press Freedom, Independent Judiciary and principles of the rule of law,

Guaranteeing the basic rights of the Nepali citizen to formulate their Constitution for themselves and to participate in free and fair elections of the Constituent Assembly in a free-from-fear environment,

Keeping Democracy, Peace, Prosperity, forward-looking Economic-Social changes and the Country's Sovereignty, Integrity, Independence and self-respect at the centre of everything, and

In order to institutionalize the achievements hitherto made through revolutions and movements,

Hereby promulgate this Interim Constitution, 2063 of Nepal, drafted through political consensus, for an interim period until a New Constitution has not been drafted by the Constituent Assembly.

## Part 1

### Preliminary

1. **Constitution as the Fundamental Law:** (1) This Constitution is the fundamental law of Nepal. All laws inconsistent with it shall, to the extent of such inconsistency, be void.  
(2) It shall be the duty of every person to uphold the provisions of this Constitution.
2. **Sovereignty and State Authority:** The sovereignty and state authority of Nepal are vested in the Nepalese people.
3. **Nation:** Having common aspirations and united by a bond of allegiance to national independence, integrity, national interest and prosperity, the Nepalese people endowed with multiracial, multilingual, multi-religious and multicultural specialties collectively constitute the nation.
4. **The State of Nepal:** (1) Nepal is an independent, indivisible, sovereign, secular, inclusive and fully democratic State.  
(2) The territory of Nepal shall comprise:
  - (a) the territory existing at the commencement of this Constitution;  
and
  - (b) such other territory as may be acquired after the commencement of this Constitution.
5. **National Language:** (1) All languages spoken in Nepal as mother tongues are national Languages.  
(2) The Nepali Language in the Devnagari script shall be the official language for Government businesses.  
(3) Notwithstanding sub-article (2) the usage of mother language at local bodies and offices shall not be considered objectionable. Languages used in such manner shall be translated in the official language of the state for record.
6. **National Flag:** The national flag of Nepal, as handed down by the tradition, consists of two juxtaposed triangular figures with a crimson-coloured base and deep blue borders, there being a white emblem of the crescent moon with eight rays visible out of sixteen in the upper part and a white emblem of a twelve rayed sun in the lower part. The method of drawing out the flag and other particulars relating thereto shall be as set forth in the Schedule.
7. **National Anthem etc:**(1) The National Anthem and the coat-of-arms of Nepal shall be as specified by the Nepal Government.

(2) The Rhododendron Arboreum shall be the national flower, Crimson Colour shall be the national colour, the Cow shall be the national animal and the Lophophorous (Danphe Pheasant) shall be the national bird of Nepal.

## Part 2

### Citizenship

8. **Citizenship at the commencement of the Constitution:** (1) Those who have citizenship during the commencement of the Constitution and the people who qualify to get citizenship under this Part shall be the citizen of Nepal.
- (2) During the time of the commencement of this constitution the following person residing permanently in Nepal shall be considered the citizen of Nepal.
- (3) Every child found within the boundary of Nepal without parental identity shall be considered the citizen on the basis of lineage until the father or the mother of the child is found.
- (4) Whenever any area is acquired by way of incorporation into Nepal, every person who is the resident within such territory shall become a citizen of Nepal, subject to the provisions of prevalent laws.
- (5) Anyone born and has been residing in Nepal since 2046 BS mid Chaitra within the boundary of Nepal shall be able to obtain citizenship on the basis of the prevalent laws on the basis of birth right.
- But, in order to obtain the citizenship on the basis of this provision pursuant to the prevalent law they will have to submit an application within the given time frame.
- (6) If a woman of foreign nationality who has a matrimonial relationship with a Nepalese citizen if wants to then can obtain naturalized citizenship pursuant to the prevalent law.
- (7) Notwithstanding anything contained under this article the son or daughter or descendant of a citizen of Nepal married to a foreigner, born and who has been a resident of Nepal and hasn't taken citizenship of the another country on the basis of his/her father's citizenship shall acquire the citizenship of Nepal pursuant to provisions made by the prevalent law.
9. **Naturalized or Honorary Citizenship:** Notwithstanding anything contained under Article 8, the Government of Nepal may grant to a person naturalized or honorary citizenship of Nepal..
10. **Acquisition and Termination of Citizenship :** The necessary provisions for acquisition and termination of citizenship shall be made pursuant to the prevalent law.
11. **Deployment of Citizenship Team :** The Nepal Government pursuant to the prevalent law may deploy citizenship distribution team in order to grant citizenship to an eligible person.

## Part 3

### Fundamental Rights

12. **Rights to Freedom:** (1) Every person shall have a right to live with dignity and no law shall be made which provides for capital punishment.
- (2) No person shall be deprived of his personal liberty save in accordance with law.
- (3) Every citizen shall have the following freedoms:
- (a) freedom of opinion and expression;
  - (b) freedom to assemble peacefully and without arms;
  - (c) freedom to form political party or associations;
  - (d) freedom to form unions and associations;
  - (d) freedom to move and reside in any part of Nepal; and
  - (e) freedom to practice any profession, or to carry on any occupation, industry, or trade.
- but,
- nothing in sub-clause (a) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of Nepal, or which may endanger the harmonious relations subsisting among the peoples of various castes, tribes or communities, or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act which may be contrary to decent public behaviour or morality;
- (1) nothing in sub-clause (b) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty, integrity or law and order situation of Nepal which may instigate violence or which may be contrary to public morality;
  - (2) nothing in sub-clause (c) and (d) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of Nepal, which may endanger the harmonious relations subsisting among the peoples of various castes, tribes or communities;
  - (3) nothing in sub-clause (e) shall be deemed to prevent the making of laws which are in the interest of the general public, or which are made to impose reasonable restrictions on any act which may endanger the harmonious relations subsisting among the peoples of various castes, tribes or communities;
  - (4) nothing in sub-clause (f) shall be deemed to prevent the making of laws to impose restriction on any act which may be contrary to public health or morality, to confer on the State the exclusive right to undertake specified industries, businesses or services; or to impose any condition or qualification for carrying on any industry, trade, profession or occupation.

13. **Rights to equality:** (1) All citizens shall be equal before the law. No person shall be denied the right to equal protection of the laws.
- (2) No discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe or ideological conviction or any of these.
- (3) The State shall not discriminate among citizens on grounds of religion, race, sex, caste, tribe, or ideological conviction or any of these.
- Provided that special provisions may be made by law for the protection and advancement of the interests of women, Dalit, ethnic tribes, Madeshi, or farmers, laborers or socially or culturally backward class or children, the aged or those who are physically or mentally incapacitated or those who belong to a class which is economically, socially or educationally backward.
- (4) No discrimination in regard to remuneration shall be made between men and women for the same work.
14. **Rights against untouchability and racial discrimination:** (1) No discrimination against as untouchable shall be made against any person on the basis of caste, lineage, community or occupation. Such discriminating act shall be liable to be punished and the victim shall receive the compensation as determined by the law.
- (2) No person shall, on the basis of caste, be discriminated against as untouchable, be denied access to any public place, or be deprived of the use of public utilities or be denied entry into public religious places or be denied to perform any religious ceremony.
- (3) Any thing, service or benefits that is produced or distributed, anyone shall not be denied from purchasing or getting those services, benefits or things nor shall those things, services or benefits be sold or distributed to certain special caste or race.
- (4) Any caste, race or people of origin or exhibiting status of people's community, who thinks social discrimination on the basis of caste, race is righteous or advocates for caste supremacy and principles based on hatred or encourages any sort of racial discrimination shall be prohibited.
- (5) Any contravention of the sub-clause (2) (3) and (4) shall be punishable according to the law.
15. **Press, Publication and Broadcasting Right:** (1) No prior prohibition shall be made on publication, broadcasting or to print any news, editorial, write-up, writing, or any other book, audio visual clips along with Electronic publication, broadcasting and use of press.
- But nothing shall prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of Nepal, or which may endanger the harmonious relations subsisting among the peoples of various castes, tribes or communities; or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act against which may be contrary to decent public behaviour or morality.
- (2) Any audio, audio visual or material if produced and broadcasted or printed through any electronic device those materials produced and broadcasted or

- print radio, television, online or any other digital or electronic press or other media medium shall not be closed, seized or the registration be cancelled.
- (3) The registration of a newspaper, magazine or press shall not be closed, seized or cancelled merely for publishing or inserting of any news item, editorial, article or other reading material.
  - (4) Apart from in accordance with the law any press, electrical transmission and any other communication including telephone shall not be obstructed.
16. **Right to Environment and Health**: (1) All citizens shall have the right to live in clean environment.
- (2) Every citizen shall have the right to free basic health service in accordance with the provision made by the government in the law.
17. **Right to Education and Culture**: (1) Every community shall have the right to get basic education in their mother tongue in accordance with the provision made by the law.
- (2) Every citizen shall have the right to free education up to secondary level in accordance with the provision made in the law by the state.
  - (3) Every community residing in Nepal shall have the right to conserve and promote their language, script, culture, cultural civility and heritage.
18. **Right to Employment and Social Security**: (1) Every citizen shall have the right to employment according to the provisions made by the law.
- (2) Women, labourers, elder citizen, disabled and vulnerable and helpless shall have the right to employment in accordance with the provision made by the law.
  - (3) Every citizen shall have the right to food sovereignty in according to the provision made by the law.
19. **Right to Property**: (1) Every citizen shall have the right to property to acquire, own, sell, otherwise dispose employment according to the provisions made by the law.
- (2) Unless for social welfare the state shall not acquire or obtain nor shall they have any authority over such property.  
But this clause shall not be applicable on property acquired through illegal means.
  - (3) While implementing scientific land reforms or for social welfare reason if the state acquires or obtain any person's property or make authoritative claim on such property shall provide compensation in accordance with the law. The compensation and basis of it and working system will be in accordance with the decision made by the law.
20. **Right to Women**: (1) No one shall be discriminated merely for being a woman.
- (2) Every woman has the right to reproductive health and reproductive related right.
  - (3) No physical, mental or any other form of violence shall be inflicted to any women and such acts shall be punishable by the law.

- (4) Son and daughter shall have equal rights to their ancestral property.
21. **Right to Social Justice**: (1) Economically, socially or educationally backward women, Dalit, Ethnic Tribes, Madheshi community, oppressed class, poor farmers and labourers shall have the right to participate in the state restructuring on the basis of proportional inclusive principles.
22. **Right to the Child**: (1) Every child shall have the right to have their own identity and name.
- (2) Every child shall have the right to get nurtured, basic health and social security.
- (3) Every child shall have the right against physical, mental or any other form of exploitation. The exploiting actions shall be punishable by the law and the person who is treated in such manner shall be compensated in accordance with the law.
- (4) Helpless, orphan, mentally challenged, conflict victims, displaced and street kids at risk shall have the right to get special provision from the state for their secured future.
- (5) Any minor shall not be employed in factories, mines or for any other hazardous work or shall be used in army, police or in conflicts.
23. **Right to Religion**: (1) Every person shall have the freedom to profess and practise his/her own religion as handed down to him/her from ancient times having due regards to traditional practices
- But no person shall be entitled to convert another person from one religion to another and shall not take actions or behave that would create disturbances in other's religion.
- (2) Every religious community in accordance with the law shall have the right to maintain its independent identity and conserve and manage its religious places and trusts.
24. **Right Regarding Justice**: (1) No person shall be arrested without a clarification notice.
- (2) The arrested person shall have the right to consult a legal professional of his choice at the time of his/her arrest. The discussion between that person and the legal professional shall remain confidential and that person shall not be denied the right to appeal for trial by his/her legal professional.
- Clarification**: In this clause "Legal professional" means a person who has been authorized by the law to represent any person in any court.
- (3) The arrested person should be brought before judicial authority within 24 hours of the arrest excluding the time required to travel.

But notwithstanding what is written in clause 2 and 3 shall not be applicable to preventive detention or citizen of enemy state.

- (4) In case where any person does something that can not be punished under the prevalent law then that person shall not be punished and if any person commits a crime then that person shall not be punished more than what is decided by the prevalent law.
  - (5) No person who is accused of an offence shall be considered guilty unless the person's crime is proven.
  - (6) No person shall be prosecuted or punished for the same offence in a court of law more than once.
  - (7) No person who is accused of any offence shall be compelled to be a witness against oneself.
  - (8) Every person has the right to be informed about the proceedings of the trial.
  - (9) Every person has the right to a fair hearing from a competent court or judicial body.
  - (10) The unable party in accordance with the provision made by the law shall have the right to free legal service.
25. **Right against Preventive Detention:** (1) No person shall be held under preventive detention unless there are sufficient grounds of existence of an immediate threat to the sovereignty, integrity or public peace and management of Nepal
- (2) If any person is held under preventive detention and if his detention was found to be contrary to law or was in bad faith, then shall have the right to be compensated in accordance with the provision made by law.
26. **Right against Torture:** (1) No person who is detained during investigation or for enquiry or for trial or for any other reason shall be subjected to physical or mental torture, nor shall be given any cruel, inhuman or degrading treatment.
- (2) Actions in pursuant to clause (1) shall be punishable by the law and any person so treated shall be compensated in accordance to the decision determined by law
27. **Right to Information:** (1) Every citizen has the right to demand and obtain the information regarding any matters of their own or of public relevance.
- (2) But the information that should be kept confidential in accordance with the law, any person shall not be made compelled to provide such information.
28. **Rights to Privacy:** (1) Unless demanded by law, the privacy of the person's body, house, property, document, statistics, correspondence or photographs of anyone is inviolable.
29. **Rights against Exploitation:** (1) Every citizen shall have the right against exploitation.
- (2) No person shall be exploited in any form on the basis of custom, tradition or in the name of enforcement.
  - (3) No person shall be bought or sold, made slave or made bonded labour.
  - (4) No person shall be made to work against his/her wishes.

But, nothing in this clause shall be a bar the law from making a provision for compulsory service for public purposes.

30. **Right to Labour**: (1) Every employee and worker shall have the right to proper work exercise.  
(2) In accordance with the provision made in the law every employee and worker shall have the right to open trade unions, gather together and make group negotiation for their personal benefit.
31. **Right against Exile**: (1) No citizen shall be exiled from the country.
32. **Right to Constitutional Remedy**: The right to proceed in the manner set forth in Article 107 for the enforcement of the rights conferred by this Part is guaranteed.

## Part 4

### Duties, Directive Principles, and Policies of the State

**33. Duties of the State:** The State shall have the following duties: \_

- (a) Focus all its attention to conduct a free and impartial election for the members of the Constitutional Assembly within Jestha 2063 (June 2007), considering the matter to practically guarantee that the sovereign authority of the State inherently lies in the Nepali people.
- (b) Ensure forward-looking political, economical and social change in the country.
- (c) Adopt universally accepted fundamental human rights, multi-party competitive democratic system, ensure sovereign authority inherent in the people and supremacy of the people, constitutional check and balance, rule of law, equality and social justice, independent judiciary, periodical election, monitoring by the civil society, fully independent press, right to information of the people, transparency and accountability in the activities of political parties, people's participation, and a political system that fulfills the concept of an impartial, competent and clean administration, end corruption and lawlessness and maintain good governance.
- (d) End discriminations relating to class, race, language, sex, culture, religion, region, and the present centralized and unitary model, to address the problems of women, dalits, indigenous and ethnic groups, Madhesis, the disadvantaged and minority groups. Restructure the State to make it inclusive, democratic and forward-looking.
- (e) Fix and implement minimum common program for socio-economic transformation and end all forms of capitalism.
- (f) Pursue the policy of adopting scientific land reform programs by gradually ending capitalistic land ownership practices.
- (g) Follow the policy of protecting and maintaining national industries and resources of the country.
- (h) Pursue the policy of establishing the rights of all citizens to education, health, housing, employment, and adequate food.
- (i) Adopt a policy of providing economic and social security to the class that are socio-economically backward such as the landless, bonded labourers, tillers and shepherds.

- (j) Adopt the policy of taking strict action and punishing individuals who illegally amass property while holding government posts of profit making.
- (k) Build a common development strategy for socio-economic transformation, social justice, and rapid economic progress and prosperity of the country.
- (l) Follow a policy that ensures the professional rights of labourers, increases investment to promote industry, trade and import, and creates opportunity for employment and income generation.
- (m) Effectively implement international treaties and agreements of which the Nepali State is a party.
- (n) Terminate all discriminatory laws.
- (o) Use existing Hydro-electricity potentials and other natural resources in the interest of the nation.
- (p) Make arrangements for appropriate relief, recognition and rehabilitation for the families of those killed or disabled or made unable during the course of the conflict.
- (q) Provide relief to affected families of victims on the basis of the report of Investigation Commission constituted to investigate the cases of those who went missing during the course of the conflict.
- (r) Conduct special program to rehabilitate the displaced, provide relief for damaged private and public property, and rebuild infrastructures destroyed during the course of the conflict.
- (s) Constitute high-level fact-finding and reconciliation commission to investigate the facts regarding serious violation of human rights and crimes against humanity during the course of conflict, and create an atmosphere of reconciliation in the society.

34. **Directive Principles of the State:** (1) The main objective of the be to protect the lives, property and independence of people, maintain equality, establish a just system in social, economic and political spheres including all aspects of national life, and promote a democratic system based on an open society.

- (2) The objective of the State shall be to protect and maintain human rights, promote the welfare of the general public by establishing peace and order in the society, create opportunities through the medium of self governance for maximum involvement of the people in governance, and maintain a system wherein they can utilize the benefits of democracy.

- (3) The political objective of the State shall be to institutionalize democracy achieved through the struggle of Nepali people, create an atmosphere wherein its benefits could be used, and build a progressing and prosperous Nepal.
- (4) The fundamental objective of the State shall be to transform the national economy into an independent, self-reliant and growing economic system by not allowing economic resources of the country from being concentrated only in a limited section of the society, and making arrangements for equitable distribution of economic gains based in social justice, remove economic inequality by making provisions to prevent economic exploitation of any class, caste, sex, race or individuals, and by prioritizing and promoting national, private and public enterprises.
- (5) The social objective of the State shall be to establish and develop a healthy social life based on the foundation of justice and morality, by eliminating all types of economic and social inequality and establishing harmony amongst the diverse castes ethnic groups, religions, languages, races, communities and groups.
- (6) The international relations of the State shall be directed towards enhancing the dignity of the nation in the international arena by maintaining the sovereignty, integrity and independence of the country.

**35. State Policies:**

- (1) The State shall pursue a policy of raising the standards of life of the general public by developing basic infrastructure for education, health, transportation, and housing, and provide opportunities of livelihoods for the people of all the regions through equitable distribution of economic investment for balanced development of the country.
- (2) The State shall pursue a policy of economic development through government and private sectors, including cooperatives.
- (3) The State shall pursue a policy of strengthening national unity by maintaining the cultural diversity of the people through equal development of languages, literatures, scripts, arts and cultural heritage for healthy and harmonious social relationships based on equality and coexistence among people belonging to different religions, cultures, castes, communities, race, groups and language groups.

- (4) The State, while mobilizing the country's natural resources and heritage for the interest, utilization and benefit of the nation, shall pursue a policy of giving priority to local people.
- (5) The State shall make necessary provisions to keep the natural environment clean. The State shall also prioritize special arrangements for the protection of environment and endangered wildlife species by not allowing physical development activities to exert negative impact on environment, and generating awareness on environmental cleanliness. The State shall make provisions for equitable distribution of benefits from conservation and sustainable use of forests, plants and biodiversity.
- (6) The State shall develop agriculture as an industry by encouraging farmers and increasing agricultural productivity, and create a favourable atmosphere to improve economic conditions of majority of the people dependent on agriculture.
- (7) The State shall pursue the policy of increasing participation of the Labour force, the chief socio-economic force in the country, in the management of enterprises by providing employment, ensuring their right to work, and prioritizing their right and interest.
- (8) The State shall pursue the policy of encouraging maximum participation of women in national development by providing special provisions for their education, health and employment.
- (9) The state shall pursue the policy of making special social provision for the protection and progress of single women, orphans, children, the helpless, elderly, disabled, incapacitated persons, and the minority groups.
- (10) The State shall pursue a policy of uplifting economically and socially backward indigenous ethnic groups, Madhesis, Dalits, including marginalized communities, labourers and farmers living below poverty line by making provisions for reservations on education, health, housing, adequate food and livelihoods for a fixed period of time.
- (11) The State shall pursue a policy of prioritizing the development of Science and technology including local technology for progress in the country.
- (12) The State shall give priority to national investment, and pursue the policy of attracting foreign investment and technology for the development of the nation.

- (13) The State shall pursue the policy of gradually speeding the pace of rural development taking into consideration the interest of the vast rural population.
- (14) The State shall pursue a policy of making a special provision based on positive discrimination for women, Dalits, indigenous ethnic groups, Madhesis, Muslims, including minority groups, labourers, squatters, bonded labourers, physically impaired, backward communities and regions, and the victims of conflict.
- (15) The State shall pursue a policy of making a provision of providing adequate piece of land and livelihoods to the freed bonded labourers for their sustenance by determining their number.
- (16) The State shall pursue a policy of making basic infrastructure to impart technical education, training and orientation to farmers, labourers, and the class dependent on manual work, and seek their participation in the development process of the country.
- (17) A policy shall be pursued to make legal provision to provide allowance to the elderly, incapacitated women, and the unemployed.
- (18) The State shall pursue the policy of identifying and modernizing traditional knowledge, skill and practices existing in the country.
- (19) The State shall adopt a special policy to regulate the implementation and management of public and non-governmental organizations established in the country.
- (20) The State shall adopt a special policy to mobilize youth power for the development of the country.
- (21) Nepal's foreign policy shall be guided by the principles of the United Nations Charter, non-alignment, principles of Panchsheel, international laws and the norms and values of world peace.
- (22) The State shall adopt the policy of gradually institutionalizing peace in Nepal through international recognition and by maintaining cooperation and good relations with friendly neighbouring nations and all other countries of the world in economic, social and other spheres on the basis of equality.

36. **Questions not to be raised in Courts:** (1) No questions shall be raised in any Court regarding implementation or failure to implement the subjects stated in this Part.

(2) The State shall mobilize required resources for the implementation of

## Part 5

### Executive

**37. Executive Power:** 1) The executive power of Nepal shall, as provisioned in this Constitution and other laws, be vested in the Council of Ministers.

2) The Council of Ministers shall, remaining within the control of this Constitution and other laws, have the responsibility of issuing general directives, control and regulation.

3) The executive work of Nepal shall be in the name of the Nepal Government.

4) Any decision, order or certification issued in the name of the Nepal Government as provisioned in Clause (3) shall be as provisioned in the law.

**38. Constitution of Council of Ministers:** 1) The Prime Minister shall be selected by political consent and the Council of Ministers shall be constituted under his chairmanship.

**Explanation:** For the purpose of this constitution "political consent" means the political consent reached between the seven parties, Nepali Congress, NCP(UML), Nepali Congress (Democratic), Janamorcha Nepal, Nepal Sadbhawana Party( Anandadevi), Nepal Majdur Kisan Party, Samyukta Bam Morcha Nepal and NCP(Maoist) on 22 Kartik, 2063 (8<sup>th</sup> November, 2006).

2) If an understanding cannot be reached pursuant to Clause (1), the Prime Minister shall be elected by a majority of two-thirds of the members of Legislative-Parliament.

3) The structure and work division of the Interim Council of Ministers shall be determined by mutual consent.

4) The Council of Ministers shall include the Deputy Prime Minister and other Ministers as required.

**Explanation:** For the purpose of this Article the word Minister also includes the Minister of State who takes separate responsibility of a Ministry.

5) The Prime Minister while appointing Ministers from among the members of the Legislative-Parliament should do so on the recommendation of the concerned political party.

6) The Prime Minister and other Ministers shall be collectively responsible to the Legislative-Parliament, and the Ministers shall be individually responsible to the

Prime Minister and the Legislative-Parliament for the work of their respective Ministries.

7) The Prime Minister shall be relieved from his position in the following circumstances: -

- a) If he tenders written resignation to the Chairperson of the Legislative-Parliament,
- b) If he no longer remains a member of the Legislative-Parliament, or
- c) If he dies.

8) The Deputy Prime Minister, Minister, State Minister and Assistant Minister shall be relieved from their respective offices in the following circumstances: -

- a) If he tenders written resignation to the Prime Minister,
- b) If the Prime Minister is relieved from his position pursuant to Clause 7,
- c) If the Prime Minister relieves him from his position on the recommendation or in consultation with the concerned party, or
- d) If he dies.

9) Even if the Prime Minister is relieved from his position pursuant to Clause 7, the existing Council of Ministers shall continue to function until a new Council of Ministers is constituted.

10) In the case of the death of the Prime Minister, Deputy Prime Minister or the senior most Minister shall function as the Prime Minister until the selection of a new Prime Minister is held.

**39. State Ministers and Assistant Ministers:** 1) The Prime Minister can, on the recommendation of the concerned political party, appoint the Minister of State from amongst the members of Legislative-Parliament.

2) The Prime Minister can, on the recommendation of the concerned political party, appoint Assistant Ministers from amongst the members of Legislative-Parliament to assist any Minister in executing his duty.

**40. Appointment of a Non-Member of Legislature-Parliament as Minister:**

Notwithstanding anything contained in Articles 37 and 38, any person who is not a member of Legislative-Parliament may be appointed Deputy Prime Minister, Minister, State Minister or Assistant-Minister by the Prime Minister.

**41. Remuneration and Other Privileges:** The remuneration and other privileges of the Prime Minister, Deputy Prime Minister, Ministers, State Ministers and Assistant Ministers shall be as determined by law. Until so determined, it shall be as specified by the Nepal Government.

**42. Oath:** The Prime Minister shall take his oath of office and secrecy before the Legislative-Parliament and Deputy Prime Minister, Ministers, State Ministers and Assistant Ministers shall take their oath of office and secrecy before the Prime Minister.

**43. Conduct of Government Business:** 1) The work execution of the Nepal Government shall be inconsistent with the spirit of the joint People's Movement, political consent and the culture of mutual activity.

2) The work division and work execution of the Nepal Government shall be as per the approved regulation of the Nepal Government.

3) No question shall be raised in any court as to whether or not rules pursuant to Clause (2) above have been observed.

**44 The Council of Ministers after the formation of the Constituent Assembly:** The use of the Executive Power after the formation of the Constituent Assembly, the formation of the Council of Ministers and other necessary points shall be as provisioned in this part after necessary adjustments.

## Part 6

### **Legislature-Parliament**

**45. Constitution of Legislature-Parliament:** (1) There shall be one House of Legislative-Parliament in Nepal which shall consist of the following 330 members:

a) From the elected members of the seven political parties and other parties in the House of Representatives and National Assembly existing immediately before the commencement of this Constitution – 209 members

**Explanation:** The phrase seven political parties means Nepali Congress, NCP(UML), Janamorcha Nepal, Nepal Sadbhawana (Anadadevi), Nepal Majdur Kisan Party and Samyukta Bam Morcha, which maintained political understanding on 22<sup>nd</sup> Kartik, 2063 (8<sup>th</sup> November, 2006)

b) From NCP(Maoist) – 73 members

c) Samyukta Bam Morcha (Joint Left Front), people based professional organization, suppressed tribe, backward region, indigenous people, Janajati, women and various political personalities nominated on the basis of consensus – 48 members

2) Notwithstanding anything contained in Clause (1), those who were against the people's movement shall not be in the Legislative-Parliament.

3) Legislative-Parliament shall regulate on the basis of the political consensus.

4) The tenure of the Legislative-Parliament shall end after the first meeting of the Constituent Assembly.

5) If any member's position becomes vacant by whatever reasons, such vacant position for the remaining tenure shall be filled through appointment from the same political party or group which he had represented.

**46. Qualifications for Membership:** In order to become a member of the Legislative-Parliament, any person: -

a) Must be a citizen of Nepal ,

b) Must have attained at least twenty five years of age,

c) Should be committed towards the spirit of the peoples' movement,

d) Should not hold an office of profit.

**Explanation:** For the purpose of this Sub-Clause (d) of this Article, "office of profit" means any position, other than a political position, to be filled by election or nomination for which a remuneration or economic benefit is paid out of a Government Fund.

**47. Decision as to Disqualifications of Members:** If a question arises as to whether a Legislative-Parliament member is disqualified or has ceased to possess any of the qualifications set forth in Article 46 the final decision regarding it shall be made by the Legislative-Parliament.

**48. Vacation of seat:** The seat of a legislative member shall become vacant in the following circumstances:

- a) If he resigns in writing,
- b) If he does not possess the qualifications referred to in Article 46,
- c) If the party of which he was a member when elected provides notification that he has abandoned the party,
- d) If the tenure of the Legislative-Parliament completes, or
- e) If he dies.

**49. Oath:** The Legislative-Parliament members shall, before taking part for the first time in the Legislative-Parliament meeting, take an oath in the specified manner.

**50. Speaker and Deputy Speaker of the Legislature-Parliament:** 1) The Legislative-Parliament shall elect one Speaker and one Deputy Speaker from among its members on political consent. If an understanding cannot be reached, a majority of two-thirds of its total members shall elect them. If the office of the Speaker and Deputy Speaker become vacant, the Legislative-Parliament shall fill the vacancy through election from among its members.

2) The Speaker and Deputy Speaker of the Legislative-Parliament cannot be members of the same political party.

- 3) In the absence of the Speaker of the Legislative-Parliament, the Deputy Speaker shall chair the meeting of the Legislative-Parliament.
- 4) If the election of the Speaker and Deputy Speaker has not taken place, or if both the positions become vacant, the member who is by age the seniormost, in the Legislative-Parliament shall preside over the meeting of the Legislative-Parliament.
- 5) The Speaker and Deputy Speaker positions of the Legislative-Parliament shall become vacant in the following circumstances:
  - (a) if he ceases to be a member of the Legislative-Parliament,
  - (b) if he submits a written resignation,
  - (c) if a resolution is passed by a majority of two thirds of the total members in the Legislative-Parliament to the effect that his conduct is not compatible with his position,
- 4) The Deputy Speaker shall preside over the meeting at which deliberations are to be held on a resolution that the conduct of the Speaker is not compatible with his

position. The Speaker shall be entitled to take part and vote in the deliberations on such resolution.

**51. Summoning and Prorogation of Sessions:** 1) The Prime Minister shall summon the first session and after this, the Legislative-Parliament shall summon the session from time to time.

2) The Prime Minister shall end the session of the Parliament in consultation with the Speaker of the Legislative-Parliament.

**52. Address from the Prime Minister:** The Prime Minister shall address the Legislative-Parliament session by presenting the Annual Policy and Program.

**53. Quorum:** Except as otherwise stated in this Constitution, no question or proposal shall be tabled for decision in any Legislative-Parliament meeting unless one fourth of the total number of legislative members are present.

**54. Transaction of Business in the case of Vacancy of Members:** (1) The parliament can execute its work notwithstanding any vacancies in the seats of its members and no proceedings shall become invalid even if it is subsequently found out that a person, not entitled to take part in the proceedings of the House, had participated.

(2) Any Minister, Minister of State or Assistant Minister who is not the member of Legislative-Parliament can attend the meeting of the Legislative-Parliament or any of its Committee meetings.

Provided that –  
he shall not have the voting power.

**55. Voting:** Except as otherwise provided in this Constitution, all questions submitted for decision in the House shall be decided by a majority vote of the members present. Generally, the member presiding shall not have the right to vote.

Provided that –  
he may exercise his decisive vote in the case of tie.

**56. Privileges:** 1) There shall be full freedom of speech in the parliament and no member shall be arrested, detained or prosecuted in any court for anything said or for any vote cast in the House.

2) Every meeting of the Parliament shall have full power to regulate its internal work, and the concerned meeting shall have the exclusive right to decide whether or not any proceeding of the House is regular. No question shall be raised in any court in this regard.

3) No comment shall be made on good faith regarding any proceedings of the parliament and no publication of any kind shall be made about anything said by any member which intentionally distorts or misinterprets the meaning of the speech.

4) No proceedings shall be initiated in any court against any person for publication of any document, report, vote or proceeding which is made under authority given by the Parliament.

**Explanation:** For the purposes of Sub-clauses (1), (2), (3) and (4), the word “parliament meeting” shall mean any meeting of the parliament or any of its committee meetings.

5) No member of Parliament shall be arrested during the session of the parliament.

However, nothing in this clause shall be deemed to prevent the arrest under any law of any member on a criminal charge. If any member is so arrested, the official making such arrest shall have to immediately inform the person chairing the parliament.

6) Any breach of privilege stated in this Article shall contempt the privilege of the Parliament and the breach of privilege of parliament shall be considered as the contempt of parliament. The parliament shall have the exclusive right to decide whether or not any breach of privilege has taken place.

7) If a person is in contempt of the Parliament, the Chairperson of the concerned House may, after a decision by the House to that effect, admonish, warn or impose a sentence of imprisonment not exceeding three months or impose a fine of up to ten thousand rupees on such person. If he does not pay the fine, then it shall be recovered as government dues.

Provided that –

if the person so accused submits an apology to the satisfaction of the House, it may pardon him or reduce or not implement the already prescribed punishment.

8) Other matters relating to privileges not mentioned in this Constitution shall be as determined by law.

**57. Procedures Relating to the Conduct of Business :** The Legislative-Parliament remaining within the framework of this Constitution shall execute its work on political consent; formulate regulations to properly manage its meetings, formulate committees and regulate proceedings and other issues. Until the time such regulation is framed, the House shall itself regulate its operational procedure.

**58. Committees :** There shall be required numbers of committees and sub-committees in the Legislative-Parliament as provisioned by the law.

**59. Constituent Assembly to Exercise the Power of the Legislature-Parliament:** After the termination of tenure of the Legislative-Parliament pursuant to Article 44 Clause (4), the power of the Legislative-Parliament as per this Constitution shall be exercised by the Constituent Assembly.

**60. Restriction on discussion:** (1) No discussion shall be held in the House about anything done by a Judge in course of performance of his duties regarding a case which is under consideration in any court of Nepal.

Provided that –  
nothing in this Article shall be deemed to bar the expression of opinion about the conduct of a Judge during deliberations on an impeachment proposal.

(2) This provision made pursuant to Clause (1) shall be applicable even to Constituent Assembly.

**61. Secretariat of the House:** 1) There shall be one secretariat to manage the work of the Legislative-Parliament. The formation of such a secretariat or other related issues shall be as determined by the law.

The Nepal Government shall make available the necessary employees required to execute the work of the House.

**62. Remuneration:** The remuneration and privileges of the Speaker, Deputy Speaker, member and Committees' Chairperson of the Legislative-Parliament shall be as provisioned by the law and until the time it is not so determined, it shall be as determined by the Nepal Government.

## **Part 7**

### **Constituent Assembly**

**63. Formation of the Constituent Assembly:** 1) There shall be the formation of one Constituent Assembly to formulate a new Constitution by the Nepalese people themselves remaining within the framework of this Constitution.

2) The Election of the constitution shall be held on the date specified by the Government of Nepal after this constitution comes into effect.

3) As per the provision made by the law the Constituent Assembly shall be composed of a total of 425 members – 409 elected and 16 nominated on the basis of Mixed Electoral System.

- a) 205 elected members from among the candidates elected on the basis of First Past the Post from each of the Election Constituents determined by the existing law prior to the implementation of this constitution.
- b) 204 members elected on the basis of Proportional Electoral System for the political parties considering the whole country as one single constituent.
- c) 16 members nominated by the Interim Council of Ministers from among the prominent national figures on the basis of consensus.

4) The principle of inclusiveness shall have to be kept in mind while choosing the candidates by the political parties according to part (a) of Sub-clause (3) and while listing the candidates by the political parties pursuant to part (b), they should make sure that various people like women, Dalit( suppressed group), underprivileged tribes, aborigines, backward region, Madhesi including other class are proportionally represented according to the law.

Notwithstanding anything contained in this Sub-clause, in case of women there should be at least one third of total representation obtained by adding candidature pursuant to part (a) of Sub- clause (3) to the proportional representation pursuant to part (b) of Sub- clause (3).

5) The election of the members of the Constituent Assembly, as provisioned by the law, shall be conducted through secret ballot.

6) For the purpose of the election of the Constituent Assembly the Nepalese Citizens who have attained the age of 18 by the end of Mangsir 2063 (15<sup>th</sup> December 2006) shall be entitled to vote.

7) The election of the Constituent Assembly shall be carried out on the basis of the points outlined in this Article and other points related to it shall be according to the provisions made by the law.

**64. Tenure of the Constituent Assembly:** Except in the case of Constituent Assembly passing a resolution for its dissolution, the tenure of the Constituent Assembly shall be two years from the date of its first meeting.

Provided that –

if the task of Constitution formulation cannot be completed due to the declaration of an emergency situation in the country, the Constituent Assembly can extend the tenure by another six months by passing a proposal.

**65. Qualifications of the Members:** Any person should possess the following qualifications to qualify as a member of the Constituent Assembly:

- a) Nepalese Citizen,
- b) Having completed at least twenty five years of age,
- c) Not punished by the law on criminal charges,
- d) Should not hold an office of profit.

Explanation: For the purpose of part (f), "office of profit" means any position, other than a political position to be filled by election or nomination for which remuneration or any other economic benefit is paid out of a Government Fund.

#### **66. Decision as to the Disqualification of Members**

If a question arises as to whether any member of the Constituent Assembly is disqualified or has ceased to possess any of the qualifications set forth in Article 65, the final decision shall be made by the Constituent Assembly Court.

**67. Vacation of the Seat of Members:** The seat of a member of the Constituent Assembly shall be considered vacant in the following circumstances:

- a) If he resigns in writing,
- b) If he does not or has ceased to possess the qualifications referred to in Article 65
- c) If he remains absent for ten consecutive meetings without pre-notification to the Assembly,
- d) If the party of which he was a member when elected provides notification in the manner set forth by law that he has abandoned the party or notifies that he no longer holds the membership of the party,
- e) If he dies,

**Explanation:** The provision in part (d) shall not be applied in the case of Constituent Assembly Chairperson or Vice Chairperson.

**68. Oath of Members:** Every member of the Constituent Assembly shall, before taking part for the first time in a meeting of that Assembly or any of its committees, take an oath as provided by law.

**69. Sessions of the Constituent Assembly:** 1) The first meeting of the Constituent Assembly will sit on the twenty first day after the final results of the election of members of the Constituent Assembly is made public by the election commission and the meeting thereafter as summoned by the Prime Minister will sit on the prescribed date and place by the person chairing the Constituent Assembly.

2) Notwithstanding anything contained in Sub- clause (1), if one-fourth of the members appeal before the chairperson of the Constituent Assembly citing reasons that calling Constituent Assembly meeting is necessary, then the chairperson shall have to call such meeting within fifteen days of such application.

**70. Procedure for Passage of Constitution Bills:** 1) The Constituent Assembly, while passing the Bill of the Constitution, shall do so by carrying out voting in the Preamble and each Article of such a Bill tabled in the Constituent Assembly.

2) While carrying out voting as per Sub- clause (1) with at least two thirds of the Constituent Assembly members attending should pass the Bill unanimously.

3) If there can not be a unanimous decision in the Preamble or any Articles of the Constitution Bill as prescribed in Sub- clause (2), the political leaders representing the parliamentary (legislature) parties shall carry out mutual consultations to develop a consensus in the said subject matter.

4) The consultation work as prescribed in Sub- clause (3) should be completed within a maximum period of fifteen days from the date that such a unanimous decision could not be reached.

5) If consultations are carried as prescribed in Sub- clause (4), then there shall be re-voting for the Preamble or any Article of such a Bill within seven days from the date of such consultations end.

6) While carrying out voting as prescribed in Sub- clause (5) and also if an unanimous decision cannot be reached as prescribed in Sub- clause (2), then there shall be re-voting for such a Preamble or Article for which a unanimous decision could not be reached and in such voting, with at least two thirds of the Constituent Assembly members attending, it should be passed with at least a two thirds majority after which such a Preamble or Section shall be considered to have passed,

7) For the purpose of this Article, while carrying out voting for such a Preamble or Article of the Constitution Bill tabled in the Constituent Assembly, if any member does not vote against the Preamble or any Article then it is considered to have a unanimous decision,

**71) Chairperson and Vice Chairperson of the Constituent Assembly:** 1) The Constituent Assembly before initiating its work on the Constitution drafting shall carry out the election of one Chairperson and one Vice Chairperson from among its members.

2) While carrying out the election as prescribed in Sub- clause (1), the Chairperson and Vice Chairperson should be from the different political parties represented in the Constituent Assembly,

3) Until the time the election is not completed for Chairperson and Vice Chairperson as prescribed in Sub- clause (1), the Constituent Assembly member who is by age the senior-most person in the Constituent Assembly shall preside over the meeting of the Constituent Assembly.

4) The Chairperson and Vice Chairperson, while executing work as per this Constitution, should be for or against any political party and should act independently.

**72. Vacation of Seats of Chairperson and Vice Chairperson:** 1) The Chairperson and Vice Chairperson post shall be vacant in the following conditions:

- a) If he submits written resignation,
- b) If his membership in the Constituent Assembly no longer remains,
- c) If at least two thirds majority members of the Constituent Assembly pass a proposal against his conduct, or
- d) If he dies.

2) While carrying out discussions as regards to the conduct of the Chairperson of the Constituent Assembly not being compatible to his position, the Vice Chair person or any other member shall chair the meeting and the Chairperson can participate or vote in such discussion,

**73. Quorum:** Except in the case otherwise is written in this part, the quorum for the Constituent Assembly is not considered to be met if at least one fourth of the total members are not present in the Constituent Assembly meeting and no question or proposal shall be tabled for decision.

**74. Transaction of Business of the Constituent Assembly in case of vacancy of Members:**

The Constituent Assembly can execute its work even if there is any vacation of the Seat of a member and if later it is found that any unqualified person had taken part in any work of the Constituent Assembly then such completed task shall not be invalid.

**75. Voting:** Except as otherwise provided in this part, all questions submitted for decision in the Constituent Assembly shall be decided by a majority vote of the members present and voting. Normally the member presiding shall not have the right to vote.

Provided that -  
he shall exercise his right to cast a vote in the case of a tie.

**76. Penalty for Unauthorized Presence or Voting**

If a person sits or votes in a meeting of the Constituent Assembly or any of its committee meetings as a member without taking an oath pursuant to Article 67 or knowing that he is not qualified for membership in the Constituent Assembly, he shall, on the order of the person chairing the House, be liable to a fine of Rs. Five Thousand rupees for every such presence or voting. If he does not pay such fine, then it shall be recovered as government dues.

**77. Privileges:** 1) There shall be complete freedom of speech in the Constituent Assembly and no member shall be arrested, detained or prosecuted in any court for anything said or any vote cast in the Constituent Assembly.

2) Each meeting of the Constituent Assembly shall have full power to regulate its internal business and only the concerned meeting shall have the exclusive right to decide whether or not any proceeding is regular. No question shall be raised in any court in this regard.

3) No comment shall be made about the good faith concerning any proceeding of the Constituent Assembly and no publication and broadcasting of any kind shall be made about anything said by any member which intentionally misinterprets or distorts the meaning of the speech.

4) No proceedings shall be initiated in any court against any person for publication of any document, report, vote or proceeding which is made under the authority provided by this Constituent Assembly.

**Explanation:** For the purposes of sub-clauses (1), (2), (3) and (4), the word "Constituent Assembly Meeting" means the meeting of the Constituent Assembly or meeting of any of its committees.

5) No member of the Constituent Assembly shall be arrested during the period of Constitution drafting.

Provided that-

this sub-clause shall not prevent the arrest of any member on a criminal charge under the law. If any member is so arrested, the official making such arrest shall forthwith inform the person chairing the Constituent Assembly.

6) If any point prescribed in this Article is violated, it shall be a breach of privilege of the Constituent Assembly and this breach of privilege of the Constituent Assembly shall be considered as contempt of the Constituent Assembly. The Assembly shall have

the exclusive right to decide whether or not any breach of privilege has taken place.

7) If a person is in contempt of the Constituent Assembly, the Chairperson of the concerned meeting may, after a decision from the meeting to that effect warn, admonish, or impose a sentence of imprisonment not exceeding three months or penalize up to Rs ten thousand. If he does not pay the fine, then it shall be recovered as government dues.

Provided that –

if the person so accused submits an apology to the satisfaction of the Constituent Assembly, it may pardon him or decline, reduce or not implement the already prescribed punishment.

8) Other matters relating to privileges not mentioned in this Constitution shall be as determined by law.

**78. Procedures relating to the Conduct of Business:** The Constituent Assembly remaining, within the framework of this Constitution, will formulate Regulations to execute its work, to properly manage its meetings, to formulate the committees and to regulate the proceedings and other issues. Until the time such Regulations are framed, the Constituent Assembly shall itself regulate its operational procedure.

**79. Committee:** There shall be required numbers of Committees and Sub-Committees in the Constituent Assembly as provisioned by the law. Specialists may be consulted for help as needed.

**80. Secretariat of the Constituent Assembly:** 1) There shall be one Secretariat to manage the work of the Constituent Assembly. The formation of such a Secretariat or other related issues shall be as determined by the law.

2) The Nepal Government shall make available the necessary employees required to execute the work of the Constituent Assembly.

**81. Remuneration:** The remuneration and benefits of the Chairperson, Vice Chairperson, member and Committees' Chairperson of the Constituent Assembly shall be as provisioned by the law and until the time it is not so determined, it shall be as determined by the Nepal Government.

**82. Dissolution of the Constituent Assembly:** The Constituent Assembly shall be dissolved that very day the Constitution promulgation by the Constituent Assembly comes into effect.

Provided that –

Until the Legislative Parliament Election in line with the Constitution passed by the Constituent Assembly takes place, the functions and activities of the Legislative Parliament shall be in accordance with whatever has been mentioned in the Constitution passed by that Assembly.

**83. Performing as Legislature-Parliament:** 1) Notwithstanding anything contained elsewhere in this part, the Constituent Assembly shall also act as legislature parliament until the period the Constituent Assembly remains and for the regulation of its regular parliamentary activities the Constituent Assembly can formulate a separate committee.

2) The chairperson and vice chairperson of the Constituent Assembly shall respectively be the chairperson and vice chairperson of the legislative.

3) The Secretariat of the Constituent Assembly and its employees shall also be the Secretariat and employees of the legislatures.

4) The Constitution while executing work as legislative with necessary adjustments in provisions of part 9 shall implement the Constituent Assembly.

## PART 8

### LEGISLATIVE PROCEDURE

**84. Procedure to introduce a bill:** (1) A bill may be introduced in the House by any member of the Legislative-Parliament.

**Explanation:** For provision of this part "House" means Legislative-Parliament House and "member" means member of the Legislative-Parliament.

(2) A Finance Bill or a Bill concerning the Nepal Army, the Armed Police, Police or related to security shall be introduced only as a Government Bill.

(3) "Finance Bill" means a Bill concerning any or all of the following subjects:

- (a) Imposition, collection, abolition, alteration, remission or regulation of the taxation system;
- (b) Preservation of the Consolidated Fund or any other Government Fund, the deposit of amounts into and the appropriation or the withdrawal of amounts from such Funds, or the reduction, increment or cancellation of appropriations or of proposed expenditures from such Funds;
- (c) Regulation of matters relating to the raising of loans or the issuing of guarantees by the Nepal Government or any matter pertaining to the amendment of the laws concerning the financial liabilities undertaken or to be undertaken by the Nepal Government;
- (d) Custody and investment of all revenues received by any Government Fund, the amount acquired through the repayment of loans, and the grant amount; or audit of the accounts of the Nepal Government; or
- (e) Matters directly related to Sub-clause (a) to (d),

Provided that –  
fees such as any license fee, application fee, renewal fee or any penalty or provision of imprisonment or tax or fees imposed by a local authority only does not mean the finance bill.

(4) If any question arises whether a Bill is a Finance Bill or not, the decision of the Speaker of the Legislative-Parliament shall be final.

**85. Procedure for Passage of Bills:** (1) The member wishing to table a bill in the house should give information one week prior to the Secretary General or Secretary of the legislature.

Provided that –  
for the Government bill five day prior information is sufficient.

(2) The copies of the bill shall be given to the members of legislature two days prior to the tabling of the Bill,

(3) The member introducing the bill can table any proposal regarding the consideration of the bill in the House.

(4) If the proposal prescribed in Clause (3) is accepted, then the bill shall be discussed sectionwise in the House or concerned committee.

(5) If the detailed sectionwise discussion in the House is completed and after the sectionwise discussion in the committee and discussion on the report completes, then the member introducing the bill shall present a proposal to be passed by the legislature.

(6) If the proposal tabled according to Clause (5) is approved by the simple majority, then the Bill is considered to be passed.

**86. Withdrawal of Bills:** A Bill may be withdrawn by the member introducing it with the approval of the House.

**87. Assent on Bills:** A bill approved by the House shall be the Act after its approval by the Speaker of Legislative-Parliament.

**88. Ordinance:** (1) If at any time, except when the Legislative House is in session, the Nepal Government is satisfied that such circumstances exist which render it necessary to take immediate action, without prejudicing the provisions set forth in this Constitution, then it may promulgate any Ordinance as deemed necessary.

(2) An Ordinance promulgated under Clause (1) shall have the same force and effect as an Act.

Provided that –

every such Ordinance: -

- (a) shall be tabled at the next session of Legislative-Parliament, and if not passed by such session, it shall *ipso facto* cease to be effective;
- (b) may be repealed at any time by the Nepal Government; and
- (c) Shall, unless rendered ineffective or repealed under Sub-clause (a) or (b), *ipso facto* cease to have effect at the expiration of sixty days from the commencement of a session of Legislative-Parliament.

## Part 9

### **Financial Procedure**

**89. No Tax to be Levied or Loan to be Raised Except in Accordance with Law:** 1) No tax shall be levied and raised except in accordance with law.

2) No loan shall be raised or guarantee be given by the Government of Nepal except in accordance with law..

**90. Consolidated Fund:** Except the revenues of Guthi (religious endowments), all revenues received by The Nepal Government, all loans raised with revenues as collateral, all assets received while recovering a loan that was issued under the provisions of the Act and all other amounts receivable by the government shall be deposited in one government fund known as the Consolidated Fund.

Provided that –  
except in the case of private Guthi, the amount of other Guthis shall be regulated by formulating law.

**91. Expenditures From the Consolidated Fund or the Government Fund**

No expenditure shall be incurred from the Consolidated Fund or any other Government Fund except the following:

- (a) Amount charged on the Consolidated Fund,
- (b) Expenditure amount under Appropriation Act,
- (c) Expenditure amount under the Act in the form of Advance when an Appropriation Bill is under consideration, or
- (d) Expenditure amount incurred in extraordinary circumstances under a Vote of Credit Act.

Provided that –  
in the case of Contingency Fund, it shall be as provisioned in Article 97.

**92. Expenditure Chargeable on the Consolidated Fund**

Expenditures related to the following subjects shall be charged on the Consolidated Fund:

- a) the amount provided as remuneration, privileges and pension payable to the Chief Justice of Nepal and other Judges of the Supreme Court,
- b) the amount provided as remuneration and privileges payable to the following officials:

- 1) Speaker and Deputy Speaker of the Legislative-Parliament,
- 2) Speaker and Deputy Speaker of the Constituent Assembly,
- 3) Chief Commissioner and other Commissioners of the Commission for the Investigation of the Abuse of Authority,
- 4) Auditor General,
- 5) Chairperson and members of the Public Service Commission,
- 6) Chief Election Commissioner and other Election Commissioners, and

7) Chairperson and members of the National Human Rights Commission.

c) Administrative expenses of the Supreme Court, Commission for the Investigation of the Abuse of Authority, Office of the Auditor General, Election Commission and National Human Rights Commission,

d) All expenditures relating to debts for which The Nepal Government is liable,

e) Amount to be paid for any judgment or decree of a court against the Nepal Government, and

f) Any amount declared by the law to be chargeable on the Consolidated Fund.

**93. Estimates of Revenues and Expenditures:** 1) The Finance Minister with respect to every fiscal year shall present before the legislature the annual estimates outlining the following points:

a) Estimate of revenues,

b) Necessary amount to meet the charges on the Consolidated Fund, and

c) Necessary amount to meet the expenditure of an Appropriation Act.

2) While presenting annual estimates pursuant to Clause (1), the statement of expenses allocated to each Ministry in the previous financial year and particulars of whether the objectives of the expenses were achieved or not shall also be presented.

**94. Appropriation Act:** The expenditure amount as per the Appropriation Act shall be specified under appropriate heads and recorded in the Appropriation Bill.

**95. Supplementary Estimates:** 1) The Finance Minister shall present supplementary estimate if the following situation is found in any fiscal year:

a) If the amount authorized to be spent for a particular service by the Appropriation Act in the current fiscal year is insufficient, or if it becomes necessary to spend under a new service for which the fund has not been appropriated, or

b) If the expenditures in that fiscal year exceeds the amount authorized by the Appropriation Act,

2) The amount included in the supplementary estimates shall be categorized into specific heads and recorded in a Supplementary Appropriation Bill.

**96. Expenditure as Advance:** 1) Notwithstanding anything contained in this part, a portion of the expenditure estimated for the fiscal year may be incurred in advance by an Act when an Appropriation Bill is under consideration.

2) An Advance Expenditure Bill shall not be submitted until the estimates of revenues and expenditures have been presented in accordance with the provisions of Article 92 and the Advance Expenditure amount shall not exceed one third of the expenditure estimate of the fiscal year.

3) The expenditure incurred as per the Vote on Account Act shall be included in the Appropriation Bill.

**97. Credit Expenditure:** Notwithstanding anything contained elsewhere in this part, if a situation of local or national emergency arises due to natural cause, external aggression threat, internal disturbances or other reasons and the specified details as required under the Article 92 may be impractical or inexpedient in view of the security or interest of the State, then the Finance Minister can present a Credit Expenditure Bill that contains only expenditure details before the Legislative-Parliament.

**98. Contingency Fund:** An Act may create a Contingency Fund into which shall be paid from time to time such moneys as may be determined by law. Such Fund shall be under the control of the Government of Nepal and any unforeseen expenditures shall be met out of such Fund by the Government of Nepal. The amount of the expenditures so met shall be reimbursed as soon as possible through another Act.

**99. Act Relating to Financial Procedure:** Issues related to the transfer of an amount appropriated under one head to another and other points related to financial procedures shall be as provided by the Act.

## PART 10

### JUDICIARY

**100. Courts to Exercise Powers Related to Justice :** (1) Powers relating to justice in Nepal shall be exercised by courts and other judicial institutions in accordance with the provisions of this Constitution, with the laws and with the recognized principles of justice.

(2) The judiciary of Nepal by following the concept and values of the free judiciary and by keeping democracy and the spirit of people's movement in mind shall be committed to this constitution.

**101. Courts:** (1) There shall be the following courts in Nepal: -

- a) Supreme Court;
- b) Appellate Court; and
- c) District Court.

(2) In addition to the courts referred to in Clause (1) above, special types of courts, judicial institutions or tribunals may also be established and formed in accordance with law for the purpose of proceeding with and hearing of special types of cases:

Provided that –

no special court, judicial institutions or tribunal shall be constituted for the purpose of hearing a particular case.

**102. Supreme Court:** (1) The Supreme Court shall be the highest court in the judicial hierarchy.

(2) All other courts and judicial institutions of Nepal, other than the Constituent Assembly Court, shall be under the Supreme Court. The Supreme Court may inspect, supervise and give directives to its subordinate courts and other judicial institutions.

(3) The Supreme Court shall be a Court of Record. It may initiate proceedings and impose penalties in accordance with law for contempt of itself and of its subordinate courts or judicial institutions.

(4) Except on the matters which fall under the jurisdiction of the Constituent Assembly Court, the Supreme Court shall have the final power to interpret this Constitution and prevailing laws.

(5) The Supreme Court shall, in addition to the Chief Justice of Nepal, consist of up to a maximum of fourteen other Judges. If at any time, the number of existing Judges becomes insufficient due to an increase in the number of cases in the Supreme Court, ad hoc Judges may be appointed for a fixed term.

**103. Appointment and Qualifications of Judges of the Supreme Court :** (1) The Prime Minister shall appoint the Chief Justice of the Supreme Court on the recommendation of the Constitutional Council, and the Chief Justice shall appoint other Judges of the Supreme Court on the recommendation of the Judicial Council. The tenure of office of the Chief Justice shall be six years from the date of appointment, pursuant to Sub-clause (b) of Clause (1) of Article 105.

(2) Any person who is a sitting Judge of the Supreme Court for minimum 3 years shall be eligible for appointment as Chief Justice.

(3) Any person who has worked as a Judge of an Appellate Court or similar post of the judicial service for at least seven years; or an officer of the judicial service including for the post of special class or above for at least twelve years; or has practised law for at least fifteen years as a law graduate, Senior advocate or advocate; or who has worked for at least fifteen years in the judicial or legal field and is a distinguished jurist; shall be eligible for appointment as a Judge of the Supreme Court.

(4) If the office of the Chief Justice becomes vacant, or the Chief Justice is unable to carry out the duties of his office due to any reason, or he cannot be present in office due to a leave of absence or his being outside of Nepal, the senior-most Judge shall act as the Acting Chief Justice.

(5) The Chief Justice and other Judges of the Supreme Court shall remain in offices until they reach sixty five years of age.

**104. Terms of Service and facilities of the Chief Justice and Justices:** (1) The Chief Justice of the Supreme Court and permanent Judges of the Supreme Court who have worked minimum five years are entitled to pension after retirement from their service.

(2) Unless otherwise provided in this Constitution, the remuneration, leave, allowances, pension and other conditions of service of the Chief Justice and other Justices of the Supreme Court shall be regulated by law.

(3) Notwithstanding anything provided by Clause (1) and (2) the Chief justice or Justices of the Supreme Court who is removed from his office in an act of impeachment shall not be entitled gratuities and pensions.

(4) The remuneration, privileges and other conditions of service of the Chief Justice and other Justices of the Supreme Court shall not be altered to their disadvantage.

**105. Removal of the Chief Justice and Justices of the Supreme Court:** (1) The Chief Justice or other Justices of the Supreme Court shall be removed from their office in the following situations:

- a) If the Chief Justice submits his resignation before the Council of Minister and a Justice submits his resignation before the Chief Justice,
- b) If he completes sixty five years of age
- c) If the Legislative-Parliament passes a resolution of impeachment for removal.
- d) If he dies.

(2) A proposal of impeachment may be tabled before the Legislative-Parliament for removal of the Chief Justice or any other Justice and if by a two-thirds majority of the total number of its members pass a resolution of impeachment for removal he shall *ipso facto* be relieved from his office.

(3) The alleged Chief Justice or Justices of the Supreme Court shall not perform the duties of his office from the initiation of proceedings of impeachment pursuant to Clause (2) until finalization of the proceedings.

**106. No other Assignment of the Chief Justice or Justices:** (1) The Chief Justice or Justices of the Supreme Court shall not be engaged in or deputed to any assignment except of the Judge.

This notwithstanding, the Nepal Government, in consultation with the Judicial Council, may designate the Chief Justice or the Justice of the Supreme Court to an assignment concerning a judicial inquiry or study and research in the field of justice or law or to a matter of national concern.

(2) Any person who has once held the office of Chief Justice or Justices of the Supreme Court shall not be eligible for appointment in any Government Service except for the post as provided by Sub-clause (a) of Clause (1) of Article 131, nor shall he be entitled to practise law before any office or court.

**107. Jurisdiction of the Supreme Court :** (1) Any Nepali citizen may file a petition in the Supreme Court to have any law or any part thereof declared void on the ground of inconsistency with this Constitution because it imposes an unreasonable restriction on the enjoyment of the fundamental rights conferred by this Constitution or on any other ground, and extra-ordinary power shall rest with the Supreme Court to declare that law as void either *ab initio* or from the date of its decision if it appears that the law in question is inconsistent with the Constitution.

(2) The Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal right for which no other remedy has been provided or for which the remedy even though provided appears to be inadequate or ineffective, or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern, have the extraordinary power to issue necessary and appropriate orders to enforce such rights or settle the dispute. For these purposes, the Supreme Court may, with a view to imparting full justice and

providing the appropriate remedy, issue appropriate orders and writs including the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto.

Provided that –

except on the ground of absence of jurisdiction, the Supreme Court shall not interfere under this Clause with the proceedings initiated by the Legislative-Parliament regarding privileges of Legislature and penalties imposed thereto.

(3) The Supreme Court shall have original and appellate jurisdiction, examining verdicts (*sadhak*), rehearings, hearing petitions as defined by law.

(4) The Supreme Court shall have power to review its own judgments or final orders subject to the conditions and in the circumstances prescribed by law. In reviewing a decision, the Supreme Court shall arrange a hearing comprised of judges who were not engaged on issuing such order or making such decision.

(5) Other powers and procedures of the Supreme Court shall be as prescribed by law.

**108. Establishment, Arrangement and Jurisdiction of the Appellate Courts and District Courts:** The Appellate Courts, District Courts and other courts and judicial institutions subordinate to the Supreme Court shall be determined by law subject to this Constitution.

**109. Appointment, Qualifications and Terms of Services and facilities of Judges of Appellate Courts and Districts Courts:** (1) The Chief Judge and judges of Appellate Courts and the Judges of District Courts shall be appointed by the Chief Justice on the recommendation of the Judicial Council.

(2) Any person who is a Nepali citizen shall be eligible for appointment as Chief Judge or other Judge of an Appellate Court if he, having a Bachelor's Degree in law, has worked as a District Judge or worked in any post of special class for a period of at least seven years; or has practised law for at least ten years as a law graduate advocate or senior advocate; or has taught law or done research thereon or has worked in any other field of law or justice for at least ten years.

(3) A person who is a Nepali citizen, who has a Bachelor's Degree in law, and has worked for at least three years as a second class gazetted officer in the Judicial Service or has practised law for at least eight years as a law graduate advocate is eligible for appointment as a District Judge.

(4) In appointing a law graduate advocate for the post of Judge in accordance with Clause (3), only the person who has passed the written and oral exam taken by the Judicial Council, shall be appointed for the post. Such exam system and other procedures shall be as prescribed by law.

(5) The Judicial Council shall consider, *inter alia*, qualifications, capacity, experience, dedication and contribution to justice, reputation in public life, high moral standing, of a person and make recommendations accordingly for appointment to the post of judge of Appellate Court and District Court.

(6) Unless the subject or context otherwise requires, the term "Judge" as mentioned in this Article and ensuing Articles shall mean and include an additional Judge.

(7) The remuneration, allowances, pension, leave, gratuity, other facilities and other conditions of service of the Chief Judge and other Judges of Appellate Court and judges of District Court shall be as regulated by law.

(8) The remuneration, privileges and other conditions of service of the Chief Judge, Judges of Appellate Court and of the District Court shall not be altered to their disadvantage.

(9) Notwithstanding anything provided by Clause (7) a judge of the Appellate Court and the District Court who is removed from his office in accordance with Sub-clause (c) of Clause 10, shall not be entitled gratuities and pension.

(10) The Judges of Appellate Court and District Court shall be removed from their office in the following situations:

- a) If he submits his written resignation before the Chief Justice,
- b) If he completes sixty three years of age,
- c) If he is removed by the Chief Justice in accordance with decision of the Judicial Council for his removal, for reasons of incompetence, misbehavior or failure to discharge the duties of his office in good faith, failure to discharge the duties due to physical or mental problems, or deviation to justice.

The Judge of the Appellate Court and District Court charged pursuant to this Sub-clause shall be given a reasonable opportunity to defend himself, and for this purpose, the Judicial Council may constitute a Committee of Inquiry for the purposes of recording the statement of the Judge, collecting evidence and submitting its findings. The working procedure of the Committee shall be as regulated by law.

- d) If he dies.

(11) The alleged Judge of the Appellate Court and District Court shall not perform the duties of his office from the initiation of the proceedings pursuant to Sub-clause (c) of Clause (1) until the finalization of the proceedings.

**110. Judges of the Appellate Court and District Court not to be Transferred to, or Engaged in any other Assignment:** (1) No judges shall be transferred or engaged in or deputed in any other assignment except that of Judge.

This notwithstanding, the Nepal Government, in consultation with the Judicial Council, may designate the Judges of the Appellate Court or District Court to an assignment concerning judicial inquiry or study and research in the field of justice or law or to a matter of national concern. With regard to the other Judges of the Appellate Court or District Court, the Chief Justice, in consultation with the Judicial Council, may depute them to the above mentioned works, including election works.

(2) The Chief Justice, in consultation with the Judicial Council, may transfer the Judges of the Appellate Court or District Court from one court to another.

(3) The Chief Justice may send a judge of any Court on a deputation for a specified period to work as judge of another court of similar level taking into consideration the number of cases and subject matter of the cases to be resolved.

(4) The Supreme Court may, taking into consideration the geographical situation, delegate the power of issuing preliminary or interim orders through electronic media or other mediums in accordance with law, to the judge who is designated, in the course of dealing with cases, to another nearest court of similar level.

**111. Transfer of Cases:** If the Supreme Court is satisfied with the reasons which state that the delivery of justice of a case registered in a court may be affected if heard by the same court, the Supreme Court may order another court of similar level to hear such case.

**112. Responsibility of the Chief Justice:** The Chief Justice shall have the final responsibility to make the judicial administration effective, and for this purpose he may, subject to this Constitution and other laws, give necessary instructions to the Supreme Court and subordinate courts.

**113. Judicial Council** : (1) There shall be a Judicial Council which shall make recommendations and give advice in accordance with this Constitution concerning the appointment of, transfer of, disciplinary action against, and dismissal of Judges, and dealing with other matters relating to judicial administration, which shall consist of the following as its Chairman and members:-

- a) the Chief Justice, Chairperson;
- b) the Minister of Justice, member;
- c) a senior advocate or an advocate who has gained experience of at least twenty years appointed by the Chief Justice on recommendation of the Nepal Bar Association, member.
- d) A person nominated by the Prime Minister from among the legal experts, member
- e) One seniormost Judge from the Supreme Court, member

**Explanation:** For the purpose of this part, the term 'Minister' shall mean and include a Minister of State with free responsibility.

(2) The term of office of the member referred to in Sub-clause (c) and (d) of Clause (1) shall be for four years and his remuneration and privileges shall be equal to that of the Justice of the Supreme Court.

(3) The member prescribed under Sub-clause (c) and (d) of Clause (1) may be removed from his post on the same grounds and under the same procedures applicable to Justices of the Supreme Court.

(4) The Chairperson and members of the Judicial Council may obtain and study the documents and files of the case relevant to the complaint lodged against a judge and may give information thereof to the Judicial Council.

(5) If the preliminary investigation carried out with specialists finds that it is necessary to conduct detailed investigation on a complaint lodged against a judge, the Judicial Council may form a Committee of Inquiry.

(6) The other functions, duties and powers of the Judicial Council shall be as regulated by law.

**114. Judicial Service Commission:** (1) In appointing, transferring or promoting gazetted officers of the judicial service or taking departmental action concerning such officers in accordance with law, the Nepal Government shall act on the recommendation of the Judicial Service Commission:

Provided that –

the Nepal Government shall consult the Public Service Commission for the purpose of permanent recruitment to gazetted posts of the Judicial Service from persons who are not already in the Government Service or from persons being promoted from non-gazetted to gazetted posts within the Judicial Service.

(2) The Judicial Service Commission shall consist of the following as its Chairperson and members:-

- |   |              |
|---|--------------|
| a) the Chief Justice,                             | Chairperson; |
| b) the Minister of Justice,                       | member;      |
| c) the Senior-most Judge of the Supreme Court,    | member;      |
| d) the Chairman of the Public Service Commission, | member;      |
| e) the Attorney-General,                          | member.      |

(3) Other functions, duties, powers and procedures of the Judicial Service Commission shall be as regulated by law.

**115. Duty to Extend Cooperation** : It shall be the duty of the Nepal Government and the offices and officials subordinate to the Nepal Government to co-operate with the Supreme Court and other courts in carrying out the functions of dispensing justice.

**116. Orders and Decisions of Courts to be Binding:** (1) All shall abide by the orders and decisions made in the course of the hearing of a suit by courts.

(2) Any interpretation given to a law or any legal principle laid down by the Supreme Court in the course of the hearing of a suit shall be binding on the Nepal Government and all offices and courts.

**117. Annual Report:** (1) The Supreme Court shall submit its annual report before the Prime Minister every year and the Prime Minister shall cause such annual reports to be laid before the Legislative-Parliament.

(2) The annual report to be submitted in accordance with Clause (1) shall contain *inter alia* the following descriptions:

- a) The quantitative descriptions of the cases registered by the Supreme Court and subordinate courts,
- b) Number of cases in accordance with Sub-clause (a) which are finalized and not finalized, and the cause of failure to finalize,
- c) Details of new precedents formulated by the Supreme Court,
- d) Number of cases reviewed by the Supreme Court,
- e) Details of judicial comment, if made, on the matters of capacity in regards to judicial performance of a judge of a court subordinate to the Supreme Court,
- f) Details of fines and penalties which are reimbursed,
- g) Details of the implementation of a decision,
- h) Details of the budget appropriated to the Supreme Court and subordinate courts, and details of expenditures.

(3) While submitting the annual report in accordance with Clause (1), the Supreme Court shall include the details of actions and proceedings being taken by the Judicial Council and the Judicial Service Commission.

**118. Constituent Assembly Court:** (1) A Constituent Assembly Court shall be constituted to look into the complaints regarding election.

(2) The establishment, jurisdiction and other matters pursuant to Clause (1) shall be as determined by law.

(3) Notwithstanding anything contained elsewhere in this constitution, without filing a petition as prescribed by law pursuant to Clause (1) no question shall be raised in any court regarding any election for the member of Constituent Assembly.

(5) Notwithstanding anything contained elsewhere in this constitution, once the process of election for the Constituent Assembly has commenced no question shall be raised in any court that should disrupt the election.

## Part 11

### COMMISSION FOR THE INVESTIGATION OF ABUSE OF AUTHORITY

**119. Commission for the Investigation of Abuse of Authority:** 1) There shall be a commission to be called the Commission for the Investigation of Abuse of Authority of Nepal consisting of a Chief Commissioner and a necessary number of Commissioners. If apart from the Chief Commissioner, other Commissioners are appointed, the Chief Commissioner shall act as Chairman of the Commission for the Investigation of Abuse of Authority.

(2) The Prime Minister shall, on the recommendation of the Constitutional Council, appoint the Chief Commissioner and other Commissioners.

(3) The term of office of the Chief Commissioner and other Commissioners, remaining under the prohibitory sentence of Sub-clause (a) of Clause (7), shall be six years from the date of appointment.

Provided that -

a) if before the expiry of his term, the Chief Commissioner or a Commissioner attains the age of sixty five, he shall retire.

(b) the Chief Commissioner or a Commissioner may be removed from his office on the same grounds and in the same manner as has been set forth for the removal of a Judge of the Supreme Court.

4) The office of the Chief Commissioner or a Commissioner shall be deemed vacant under the following circumstances: -

a) if he submits a written resignation to the Prime Minister,

b) if pursuant to Clause (3) his term expires or he is removed from his office,

c) if he dies.

5) No person shall be eligible to be appointed as the Chief Commissioner or a Commissioner unless he possesses the following qualifications: -

a) holds a Bachelor's Degree from a university recognized by the Nepal Government,

b) is not a member of any political party immediately before appointment,

c) has at least twenty years experience and goodwill in the field such as Accounts, Revenue, Engineering, Law, Development or Research

d) has attained the age of forty five, and

e) possesses high moral character.

- 2) The remuneration and other conditions of service of the Chief Commissioner and the Commissioners shall be as determined by law. The remuneration and other conditions of service of the Chief Commissioner and the Commissioners shall not, so long as they hold office, be altered to their disadvantage.
- 3) A person once appointed as the Chief Commissioner or Commissioner shall not be eligible for appointment in other Government Service.

Provided that -

- a) Nothing in this Clause shall be deemed to bar the appointment of a Commissioner of the Commission for the Investigation of Abuse of Authority as its Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his term of office shall be computed by including his tenure as Commissioner as well.
- b) Nothing in this Clause shall be a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

**120. Functions, Duties and Powers of the Commission for the Investigation of Abuse of Authority:** 1) The Commission for the Investigation of Abuse of Authority may, in accordance with law, conduct or cause to be conducted inquiries into, and investigations of, improper conduct or corruption by a person holding any public office.

Provided that –

this Clause shall not be applicable to any official in relation to whom this constitution itself provides separate provisions and to any official who is provided special provisions by other laws.

2) In the case of constitutional authorities who are impeached and removed from office upon passing a resolution on the ground of improper conduct, Judges removed by the Judicial Council on similar charges and people removed from office according to Army Act, after they are removed from offices an inquiry and investigation may be conducted or cause to be conducted against them as per the law.

3) If any inquiry or investigation carried-out pursuant to Clause (1) finds that any person holding any public office has misused his authority by improper conduct, then the Commission for the Investigation of Abuse of Authority can warn, take departmental action or recommend the concerned authority in writing for any other necessary action.

4) If the Commission for the Investigation of Abuse of Authority finds upon inquiry or investigation carried out pursuant to Clause (1) that a person holding any public office has committed an act which is defined by law as corrupt, then it can lodge a case against such person or any other person involved in the court of law.

5) If upon inquiry or investigation carried out pursuant to Clause (1) it is found that the work of a person holding any public office falls under the jurisdiction of another officer or agency, then the Commission for the Investigation of Abuse of Authority can write to the concerned officer or agency for necessary action.

6) Subject to this Constitution, other functions, duties, powers and procedures of the Commission for the Investigation of Abuse of Authority shall be as determined by law.

7) The Commission for the Investigation of Abuse of Authority may delegate any of its powers, functions and duties relating to the inquiry, investigation or the lodging of a complaint to the Chief Commissioner, Commissioner or any employee of the Nepal Government to be exercised and complied with subject to specified conditions.

**126. Annual report:** 1) The Commission for the Investigation of Abuse of Authority in accordance with this Constitution shall submit an annual report to the Prime Minister regarding its work and the Prime Minister shall present such report to the parliament.

2) In addition to the other points, the report pursuant to Clause (1) should also contain details such as the total number of complaints lodged throughout the year at Commission for the Investigation of Abuse of Authority, investigations carried out and cases filed at the court of law, the number of ongoing cases, the number of cases warned, departmental action taken or recommendations for other action, achievements regarding corruption control and reforms required in this context in the future.

## Part 12

### Auditor -General

**122. Auditor- General:** 1) There shall be an Auditor General of Nepal.

2) The Auditor General shall be appointed by the Prime Minister on the recommendation of the Constitutional Council

3) The term of office of the Auditor General shall, remaining within the framework of the law under prohibitory sentence Sub-clause (3) of Clause (7), be six years from the date of appointment.

Provided that-

- a) if before the expiry of his term, the Auditor General attains the age of sixty five, he shall not remain in his post,
- b) he may be removed from his office on the same grounds and in the same manner as has been set forth for the removal of a Judge of the Supreme Court.

4) The office of the Auditor General shall be deemed vacant in the following circumstances: -

- a) if he tenders written resignation to the Prime Minister,
- b) if his term completes pursuant to Clause (2) or if he does not remain in his position,
- c) if he dies.

5) No person shall be eligible as the Auditor General unless he: -

- a) holds at least a Bachelor's Degree in Management, Commerce or Accounts from a university recognized by the Nepal Government or has passed the Chartered Accountants' exam and has worked as a special class officer of the Nepal Government or has gained at least twenty years of experience in audit related work,
- b) is not a member of any political party immediately before the appointment;
- c) has attained forty five years of age, and
- d) possesses high moral character

6) The remuneration and other conditions of service of the Auditor General shall be as determined by law. The remuneration and other conditions of service of the Auditor General shall not be revised to his disadvantage as long as he holds office.

5) A person once appointed as the Auditor General shall not be eligible for appointment in other government services.

Provided that -

- a) Nothing in this Clause shall bar the appointment to any position of a political nature, or carrying out research, inquiries or investigations on any subject matter, or appointment to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject matter.

**123. Functions, Duties and Powers of the Auditor General:** 1) The accounts of the Supreme Court, Parliament, Constituent Assembly, Commission for the Investigation of Abuse of Authority, Auditor General, Public Service Commission, Election Commission, National Human Rights Commission, office of Attorney General and other offices of Constitutional Bodies and the Nepal Army and Armed Police or the Nepal Police and all other government offices and courts shall be audited by the Auditor General in the manner determined by law with due considerations regarding regularity, economy, efficiency, effectiveness and the propriety thereof.

2) The Auditor General shall be consulted in the matter of the appointment of auditors for carrying out the audit of any corporate body in which the Nepal Government owns more than fifty percent of the shares or the assets. The Auditor General may issue necessary directives regarding the principles to be considered for carrying out the audit of such corporate bodies.

3) The Auditor General and his assistants shall at any time have access to documents concerning accounts for the purpose of executing work as prescribed in Clause (1). It shall be the duty of the concerned office chief to provide all such documents or information sought by the Auditor General or his assistants.

4) The accounts to be audited pursuant to Clause (1) subject to the relevant law shall be carried out in the format prescribed by the Auditor General.

5) In addition to the accounts of the offices referred to in Clause (1) above, it can be provisioned through law that the accounts of any other office or institution be audited by the Auditor General.

**124. Annual Report:** 1) The Auditor General shall submit an annual report regarding the work carried out to the Prime Minister, and the Prime Minister shall present such report to the parliament.

2) In addition to the other points, the report pursuant to Clause (1) should also contain details such as the audits carried out by the Auditor General throughout the year, the situation of unsettled accounts, the efforts made to settle such accounts and the achievements made so far in this regard, details about corrupt nature cases referred to Commission for Investigation of Abuse of Authority for investigation and the reforms to be made in the future regarding the Audit.

## Part 13

### **Public Service Commission**

**125. Public Service Commission:** 1) There shall be one Public Service Commission in Nepal consisting of a Chairperson and a required number of other members.

2) The Prime Minister on the recommendation of the Constitutional Council shall appoint the Chairman and the other members of the Public Service Commission.

3) At least fifty percent of the total number of members of the Public Service Commission shall be appointed from persons who have worked for twenty or more years in any government service and the remaining members shall be appointed from persons who have done research, investigation, teaching or any other significant work and earned recognition in areas such as science, technology, art, literature, law, public administration, social science or any other sphere of national life.

4) Remaining within the control of the prohibitory sentence of Sub-clause (a) of Clause (8), the term of office of the Chairperson and the members of the Public Service Commission shall be six years from the date of appointment.

Provided that -

- a) if before the expiry of his term, the Chairperson or the member of the Public Service Commission attains the age of sixty five, he shall not remain in the post.
- b) the Chairperson and the members of the Public Service Commission may be removed from their offices on the same grounds and in the same manner as has been set forth for removal of a Judge of the Supreme Court.

5) The office of the Chairperson or a member of the Public Service Commission shall be deemed vacant in the following circumstances:

- a) if he tenders written resignation to the Prime Minister,
- b) if his term completes pursuant to Clause (4) or if he does not remain in his position,
- c) if he dies.

6) No person shall be eligible as the Public Service Commission Chairperson or member unless he:

- a) holds a Master's degree from a university recognized by the Nepal Government,
- b) is not a member of any political party immediately before such appointment;
- c) has attained forty five years of age, and
- d) possesses high moral character.

7) The remuneration and other conditions of service of the Public Service Commission Chairperson or member shall be as determined by law. The remuneration and other conditions of service of the Chairperson and members shall not be revised to their disadvantage as long as they hold office.

8) A person once appointed as the Public Service Commission Chairperson or member shall not be eligible for appointment in other government services.

Provided that -

- (a) Nothing in this Clause shall bar the appointment of a member of the Public Service Commission to be the Chairperson of the Commission, and when a member is so appointed as the Chairperson, his term of office shall be computed by including his tenure as member as well.
- (b) Nothing in this Clause shall bar the appointment to any position of a political nature, or carrying out research, inquiries or investigations on any subject matter, or appointment to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject matter.

**126. Functions, Duties and Powers of the Public Service Commission:** 1) It shall be the duty of the Public Service Commission to conduct examinations for the selection of suitable candidates to be appointed to Civil Service posts.

**Explanation:** For the purposes of this Article, all services and positions in the Nepal Government except Army Officers or Soldiers and armed police or the police service and such other services and positions excluded by the Act from the Civil Service are included within the Civil Service.

(2) There shall be no permanent appointment to any pension reaping position of the Civil Service without consultation with the Public Service Commission.

(3) Consultation of the Public Service Commission should be taken on the following subjects: -

- a) Matters concerning the law related to the Civil Service terms and conditions,
- b) Principles to be followed regarding the appointment, promotion and departmental action in Civil Service or positions,
- c) Appropriateness of any candidate for appointment to a Civil Service position for a period of more than six months,
- d) Appropriateness of any candidate for transfer from one civil service to another or from any other government service to the civil service,
- e) While carrying out permanent transfer or promotion of any employee working in any position which does not require consultation of the Public Service

Commission to any position that requires consultation of the Public Service Commission, and

f) Matters regarding departmental actions against any civil service employees.

(4) Notwithstanding anything contained in Clause (3), subject matters falling within the purview of the Judicial Service Commission pursuant to Article 144 shall be governed by that Article.

(5) Consultation of the Public Service Commission should be taken for the application of general principles with regards to appointments and promotions in the army service, the armed police service or the police service or any other government service position.

(6) The Public Service Commission may provide advice in response to a request from any Public Enterprise with regard to the application of general principles in relation to terms and conditions of service according to existing laws, and to appropriate action to be taken in regard to appointments and promotion.

**Explanation:** For the purpose of this Article, “Public Enterprise” refers to organized institutions in which the Nepal Government has fifty percent or more shares or assets in its control.

(7) The Public Service Commission may delegate any of its functions, duties and powers to any of its members, a committee of such members or any employee of the Nepal Government, to be exercised and complied with subject to specified conditions.

(8) Subject to this Constitution, other functions, duties and operational procedures of the Public Service Commission shall be as determined by law.

**127. Annual Report:** 1) Each year, the Public Service Commission shall submit an annual report of its work to the Prime Minister and the Prime Minister shall present the report before the Parliament.

2) In addition to other points, the report pursuant to Clause (1) should also contain information such as details of exams conducted by the Public Service Commission throughout the year for recruiting applicants, details about the successful applicants, details about advice provided to various agencies, consultation provided as regards to departmental action and punishment of civil service employees, details regarding whether work was executed as advised, details as regards to any consultancy provided for the application of the general principle on matters such as appointment, promotion and departmental action for any government service post and the details of the reform of the civil service in the future.

## PART 14

### ELECTION COMMISSION

**128. Election Commission:** (1) There shall be one Election Commission in Nepal that shall consist of a Chief Election Commissioner and up to four other Commissioners. If, apart from the Chief Election Commissioner, other Election Commissioners are appointed, the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(2) The Prime Minister, on the recommendation of the Constitutional Council, appoints the Chief Election Commissioner and other Election Commissioners.

(3) As per the restrictive provisions of part (a) of Sub-clause (7) the term of office of the Chief Election Commissioner and other Election commissioners shall be six years from the date of appointment.

Provided that -

- (a) If before the expiry of his term, the Chief Election Commissioner or an Election Commissioner attains the age of sixty five, he shall retire.
- (b) The Chief Election Commissioner and other Election Commissioners may be removed from their offices on the same grounds and in the same manner as has been set forth for removal of a Judge of the Supreme Court.

(4) The office of the Chief Election Commissioner or an Election Commissioner shall be deemed vacant in the following circumstances: -

- (a) if he submitted his resignation to the Prime Minister in writing,
- (b) if pursuant to Sub-clause (3) his term expires or he is removed from his office.
- (c) if he dies.

(5) No person shall be eligible to be appointed as the Chief Election Commissioner or an Election Commissioner unless s/he:

- (a) holds a Bachelor's Degree from a university recognized by the Nepal Government,
- (b) is not a member of any political party immediately before appointment,
- (c) has attained the age of forty five, and
- (d) possesses high moral character.

(6) The remuneration and other conditions of service of the Chief Election Commissioner and the Election Commissioners shall be as determined by law. The remuneration and other conditions of service of the Chief Election Commissioner and the Election Commissioners shall not, so long as they hold office, be altered to their disadvantage.

(7) A person once appointed to the office of the Chief Election Commissioner or an Election Commissioner shall not be eligible for appointment in other Government Services.

Provided that-

- (a) Nothing in this Sub-clause shall bar the appointment of an Election Commissioner as Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his term of office shall be computed including his tenure as Commissioner.
- (b) Nothing in this Sub-clause shall be a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

**129. Functions, Duties and Powers of the Election Commission:** (1) The Election Commission shall, subject to the provisions of this Constitution and other laws, conduct, supervise, direct and control the elections to Constituent Assembly and Local Authorities and the referendum to be held pursuant to Article 157 of this constitution. For these purposes, the Election Commission shall prepare the electoral rolls of voters.

(2) If, after nominations for election of the members of Constituent Assembly have been filed but before the election is completed, a question arises as to whether a candidate is disqualified or has ceased to possess the qualifications set forth in Article 65, a final decision thereon shall be made by the Election Commission.

(3) The Election Commission may delegate any of its functions, duties and powers to the Chief Election Commissioner, a Commissioner or any employee of the Nepal Government to be exercised and complied with subject to specified conditions.

(4) Subject to this Constitution, other functions, duties and working procedures of the Election Commission shall be as regulated by law.

**130. The Nepal Government to Provide Necessary Employees to the Election Commission:** The Nepal Government shall provide such necessary employees and other

things as may be required to carry out the functions of the Election Commission in accordance with this Constitution.

## **Part 15**

### **National Human Rights Commission**

#### **117 National Human Rights Commission**

1. There shall be a National Human Rights Commission in Nepal, and there shall be the Chairperson and the Members as follows:
  - a. One person from amongst the retired Chief Justices or Justices of the Supreme Court or the reputed persons who have provided outstanding contribution in the field of protection and promotion of human rights or social work  
**– Chairperson**
  - b. Four persons from amongst the reputed persons who have provided outstanding contribution in the field of protection and promotion of human rights or social work  
**- Members**
2. The appointment of Chairperson and Members in the National Human Rights Commission shall ensure representation from all fields including the woman.
3. The Prime Minister shall, on the recommendation of the Constitutional Council appoint the Chairperson and the Members of the National Human Rights Commission.
4. The term of the office of the Chairperson and the Members of the Commission shall be six years from the date of appointment.

However, the Chairperson and the Members of the Commission shall be removed from his/her office on similar basis and way as provided to the Justice of the Supreme Court.

5. The position of the Chairperson and the Members shall be considered vacant under the following circumstances:
  - a. in case of acceptance of written resignation by the Prime Minister,
  - b. in case of completion of the term or not in the office under clause 4,
  - c. in case of death
6. No person shall be appointed for term of the Chairperson or the Members without having the following qualifications:

- a. received the Master's Degree from the university recognized by the Government of Nepal,
  - b. maintained high moral character
7. The remuneration, facilities and other conditions of service of the Chairperson and Members of the National Human Rights Commission shall be as prescribed by the law. Such conditions of the remuneration and services shall not be changed inappropriately during their term.
  8. The person once appointed as the Chairperson or the Members of National Human Rights Commission shall not be eligible for appointment in any other government service.

However, this clause shall not be considered as an obstacle to perform any work for any political position or in any position in order to carry out investigation, inquires and examination on any matter or for appointment in any position to provide recommendation, suggestion and idea following study and research of such matter.

#### **118. Functions, Duties and Jurisdiction of the National Human Rights Commission**

1. The primary duty of the National Human Rights Commission shall be to guarantee the respect, protection and promotion of the human rights and their effective implementation.
2. In order to perform the responsibility mentioned in clause 1, the Commission may carry out the following functions:
  - a. Conduct inquiries and investigations, and recommend for action against the perpetrator on the matters of violations of human rights of a person or a group of persons, upon a petition or complaint presented to the Commission by the victim himself /herself or any person on his /her behalf or upon information received from any source, or on its own initiative;
  - b. Recommend to the concerned authority for the departmental action against the authority who does not perform his/her duty or responsibility to prevent the violations of the human rights or show carelessness or negligence in performing such responsibility;
  - c. Recommend to file the petition in the court in accordance with the law against the person violated the human rights, in case of necessity;
  - d. Communicate and coordinate with the civil society to raise human rights awareness;

- e. Recommend to the concerned authority giving clear reason and basis for the departmental action punishment against the violator/s of human rights;
  - f. Review the provisions of the human rights provided at the prevailing law and submit necessary recommendations to the Government of Nepal for revision and modification on such provisions;
  - g. Recommend with reasons to the Government of Nepal to sign the international treaties and instruments on human rights and in case of the provided treaties and instrument, monitor their implementation and if found not being implemented, submit the necessary and appropriate recommendations to the Government of Nepal for effective implementation of such provisions,
  - h. Publicize the names of official, person or agency not following or implementing the recommendations and directions of the National Human Rights Commission regarding the violations of human rights and recorded them as the human rights violators in accordance with law.
3. The National Human Rights Commission in performing its functions and duties shall use the following powers:
- a. Shall use the powers as a court may have, in respect to requiring any person to appear before the Commission for recording his/her statement and information within his knowledge, receiving and examining evidence, ordering for the production of any document;
  - b. Enter without prior notice, to any person or his/her residence or office, search and seize any evidence related to human rights violations, upon receiving the information of incidents or anticipated incidents of human rights violations at the Commission by any source;
  - c. Enter any government premises or other places without prior notice and rescue, requiring for the immediate action upon receiving the information on violation of human rights of a person;
  - d. Order for the compensation as accordance to the law, to the victims of human rights violations;
  - e. Shall use or order to use of other powers and perform the duties as provided in the law.
4. Provided that nothing in this article, any matter within the jurisdiction of the Military Act, the National Human Rights Commission shall not have jurisdiction.

However, provided that nothing will bar the Commission from carrying out the functions with respect to violations of human rights and humanitarian laws.

## **119. Yearly Report**

- 1.** Under this Constitution, National Human Rights Commission shall submit the yearly report of its activities to the Prime Minister and the Prime Minister shall arrange such report to be laid before the Parliament.
- 2.** The report submitted as under clause 1 shall constitute besides other details, the description of complaints registered at the Commission throughout the year, description of examinations and investigations of such complaints, recommendations made to the Government of Nepal for various matters, numbers of the cases if filed in the court against the person violated human rights, description of areas to improve in future regarding the protection and promotion of human rights

**Part 16**  
**Attorney -General**

134. **Appointment of the Attorney- General:** (1) There shall be one Attorney General in Nepal who shall be appointed by the Prime Minister. The tenure of the Attorney General shall be at the discretion of the Prime Minister.
- (2) No person without the qualifications of a Supreme Court Judge shall be eligible to be appointed the Attorney General.
- (3) The post will be considered vacant under the following circumstances:
- a. If the incumbent Attorney General submits a letter of resignation to the Prime Minister.
  - b. If the Prime Minister releases Attorney General from the office.
  - c. In case of death of the Attorney General.
- (4) The remuneration and other facilities and perks of the Attorney General will be at par with that of a judge of the Supreme Court. The other terms and conditions of the post shall be determined by the law.
135. **Functions, Duties and Rights of the Attorney -General:**
- (1) The Attorney General shall be the Chief Legal Advisor for the Government of Nepal. To provide legal advice to the Government of Nepal and or the person designated by the Government shall be the duty of the Attorney General.
- (2) In litigations pertaining to matters of rights, welfare and other matters that concern the government, the Attorney General or the officers under his purview shall represent the Nepal Government.  
Unless this constitution otherwise requires the final decision, to initiate legal action in the court of law or before a notary on behalf of the Nepal Government shall rest with the Attorney General.
- (3) While discharging duties in accordance to Clause (2) the Attorney General shall enjoy the following rights:
- (a) To defend on behalf of Nepal Government either as plaintiff or defendant in litigation.
  - (b) To monitor/review the interpretation of law or implementation the legal principles propounded by the Supreme Court in the light of the litigations.
  - (c) The Attorney General shall investigate and give necessary directions to the concerned authorities to prevent cases of inhuman treatment in custody, and or when the person in custody is not allowed to meet relatives or meet through legal professional.
  - (d) In addition to the function, duties and rights as expressed in this article the Attorney General's functions, duties and rights shall be determined by this constitution and other laws.

- (e) In the discharge of his duties the Attorney General enjoys the right to have access to all the Courts of law, Offices and officers of Nepal.
- (f) Acting in accordance to and within the purview of the functions, duties and rights prescribed in this article the Attorney General can delegate his authority to an officer under his jurisdiction.

136. **Annual Report:** (1) The Attorney General shall prepare a report of the execution of his duty in accordance to this constitution and other laws and submit the report to the Prime Minister, who in turn will make arrangements to present the same to the Management Council.

- (2) In the report as per clause (1) in addition to other things the report shall enumerate the number of constitutional and legal advises given in the year by the Attorney General, a summary of the litigations with the government as plaintiff, summary of the cases both with government as the plaintiff and the defendant, a summary of crime and improvements to be made in the future in cases where the government is the defendant.

137. **Right to access to the Legislature-Parliament:** The Attorney -General enjoys the right to be present in the Legislature-Parliament and attend any of its committees' meetings and express opinions on legal issues. But the Attorney General does not enjoy the right to vote.

**Part 17**  
**State Structure & Local Autonomous Bodies**

138. **Progressive Restructuring of the State:** (1) To bring about an end to the discrimination based on class, caste, language, culture, religion and region by discarding the centralized and unitary form of government and to make the state more inclusive, democratic and progressive restructuring will be done.
- (2) To restructure the state in accordance to clause (1) a High Level Committee will be instituted. The composition, function, duty, rights and conditions of service will be determined by the Government of Nepal.
- (3) The Constitution Assembly will have the final say in the restructuring of the State.
139. **Provision for Regional Autonomy:** (1) Arrangements will be made to set up offices for Regional Autonomous Governments to ensure the people's exercise of their sovereignty by creating congenial atmosphere and thereby ensuring maximum peoples' participation in the country's governance, and also by providing services to the people at the local level and for the institutional development of democracy, based on the principle of decentralization and by guaranteeing the rights.
- (2) All the consenting parties to the agreement reached on the 22nd day of Kartik 2063 BS; Nepali Congress, Nepal Communist Party (UML), Nepali Congress (Democratic), Jana Morcha, Nepal Sadhbhavana party (Anandidevi), Nepal Majdur Kishan party and United Left Front and Nepal Communist Party (Maoist) have all agreed to the forming of interim local self governments at the District, City and Village level.
- (3) The organizational structure and regional area and the formation process of the local self governments will be in accordance to the law.
140. **Mobilization and Management of Revenue:** (1) For local development the strengthening of agencies for autonomous governance through mobilization of resources, identification formulation and execution of local programmes, by maintaining a balanced and judicious distribution of the fruits of exploitation of resources and development making the local governance bodies answerable as prescribed by law there shall be distribution of responsibilities and resources between the Nepal government and the Local Autonomous governance agency.
- (2) Distribution and mobilization of the revenue should be aimed at a balanced and equitable development of the nation and overall development of the socially and economically backward classes and communities should be kept in mind in accordance to Clause 1.

## Part 18

### Political Parties

**141. Prohibition on the Imposition of Restrictions on Political Parties:** (1) Persons who are committed to common political ideology, philosophy and programme shall, remaining within the framework of the law under prohibitory sentence (3) of sub-clause (3) of Article 12 of this Constitution, be entitled to form and operate political parties of their choice. To garner public support and assistance for their ideology, philosophy and programme, they can carry out or cause to carry out publicity and any other activities for that purpose. Any law, arrangement or decision which restricts any such activities shall be considered inconsistent with this Constitution and shall *ipso facto* be void.

(2) Any law, arrangement or decision which allows for participation or involvement of only a single political party or persons having a single political ideology, philosophy or program in the elections, political system of the country or conduct of State Affairs shall be considered inconsistent with this Constitution and shall *ipso facto* be void.

(3) Political Parties with the objectives contrary to the spirit and main sentiment of the preamble of this constitution shall not be considered fit for the party registration.

**142. Registration required for securing recognition for the purpose of contesting elections as a political party:** (1) Any political party wishing to secure recognition from the Election Commission for the purposes of elections shall be required to register its name with the Election Commission as per the procedure determined by the Commission. Political parties failing to do so, their names shall be removed from the list of the Election Commission.

(2) While applying for the registration pursuant to Sub-clause (1), a political party shall, along with its constitution, manifesto and the rules, have to clarify the following details: -

- (a) The name of the political party and its central office address,
- (b) The names and addresses of the members of its Executive Committee or any such other committee,
- (c) The income source of the proposed political party and the details of such sources.

(3) Political parties shall have to fulfill the following conditions while filing an application pursuant to Sub-clause (1): -

- a) The constitution and the rules of the political party must be democratic,
- b) The constitution or the rules of the political party must have provision for election of office bearers in all levels at least once every five years,
- c) In the executive committee of all levels, an inclusive system should be followed with the provision for the inclusion of women, Dalit including the members from neglected and suppressed regions,

d) In the constitution of the party there should be an effective system of making the members of the party disciplined.

(4) The Election Commission shall not register any political party if any Nepali citizen is discriminated against becoming a member of the political party on the basis of religion, caste, tribe, language or sex or if the name, objectives, insignia or flag of such political parties is of a nature that would disturb the religious or communal harmony or of the nature to divide the country or such party constitution or rules are for purposes of protecting and promoting a party-less or single party system of governance.

(5) For the purpose of the registration of a party for election, an application with a signature of at least 10,000 voting supporters shall be necessary.

Provided that –  
in the case of the parties representing in the Interim Legislature-Parliament, this provision shall not be applicable.

(6) The establishment, registration, recognition and other points except those stated in this part shall be as provisioned in the law.

## Part 19

### Emergency Power

143 **Emergency Power:** (1) If a grave crisis arises in regard to the sovereignty, integrity, or the security of Nepal or any part thereof, whether by war, external invasion, armed rebellion or extreme economic disarray, the Council of Minister of the Government of Nepal may, by Proclamation, declare or Order a state of emergency to be enforced in any specified part or the whole of Nepal.

(2) The Proclamation or the Order pursuant to clause (1) shall be presented to the meeting of the Legislature for approval within a month of the issuance of the order.

(3) If the two-thirds members present in the meeting of the Legislature-Parliament Proclamation or Order pursuant to clause (2), the proclamation or the decree will come into force for three months from the date of its issuance.

(4) If the Proclamation or the Order presented before the meeting of the Legislature-Parliament is not approved pursuant to clause (3), the Proclamation or the Order shall be immediately deemed null and void.

(5) The two-thirds majority of the members of the Legislature-Parliament present in the meeting may extend the Proclamation or Order for the state of emergency through a resolution for one other period not exceeding three months as stated in the proposal presented to the Parliament prior to the expiry of the period pursuant to clause (3), stating that the circumstances pursuant to clause (1) continue to exist.

(6) The Council of Minister of the Government of Nepal may issue an Order to revoke the state of emergency pursuant to clause (1) after the Proclamation or the issuance of the Order. The Orders issued in this manner shall be operative with the same force and effect as law so long as the state of emergency lasts.

(7) During the time of the Proclamation or issuance of Order of the state of emergency pursuant to clause (1) or so long as the Proclamation or Order is in operation, the provision of fundamental rights in Part 3 may be suspended.

However, Articles 13, 14, 16, 17, 18, 20, 21, 22, 23, 26, 29, 30 and 31, and the rights to constitutional remedy and habeas corpus relating to such Articles shall not be suspended.

(8) If, any Article of this constitution is suspended pursuant to clause (7), no questions shall be raised or an appeal be made in any law court regarding the use of the fundamental rights provided by this Article.

(9) If, during the continuance of a Proclamation or Order pursuant to clause (1), any damage is inflicted upon any person by an act of any official done in contravention of

law or in bad faith, the affected person may, within three months from the date of termination of the Proclamation or Order, file a petition for compensation for the said damage and if the court finds the claim valid, it shall cause the compensation to be delivered.

(11)The Council of Minister of the Government of Nepal may, at any time, revoke the Proclamation or Order relating to the state of emergency pursuant to clause (1), while it is still operative.

**Part 20**

**Provisions Regarding Army**

144. **Formation of Nepali Army:** (1) The Nepal shall have an organized Army.
- (2) The Council of Ministers shall appoint the commander-in-chief of the Nepali Army.
- (3) The Council of Ministers shall control, mobilize and manage the Nepali Army in accordance with the law. The Council of Ministers, with the consensus of the political parties and by seeking the advice of the concerned committee of the Legislature-Parliament, shall formulate an extensive work plan for the democratization of the Nepali Army and implement it.
- (4) While formulating and implementing the action plan pursuant to Article (3) the appropriate number, democratic mechanism and inclusive character for the army shall be developed, and training imparted in accordance with the norms and values of human rights and democracy.
- (5) The other matters pertaining to the Nepali Army shall be in accordance with the provision of the law.
145. **National Security Council:** (1) In order to recommend the Council of Ministers for mobilization, activation and the use of the Nepali Army, a National Security Council shall be formed with the following chairman and members:
- |   |          |
|---|----------|
| (a) Prime Minister                                  | Chairman |
| (b) Defense Minister                                | Member   |
| (c) Home Minister                                   | Member   |
| (d) Three ministers nominated by the Prime Minister | Members  |
- (2) In case the same person happens to be the Prime Minister and the Defense Minister, the senior most member of the Council of Ministers shall be the member of the National Security Council.
- (3) If, the National Security Council deems it necessary, it may invite other persons to the Council's meeting.
- (4) The secretary of the Ministry of Defense shall work as the secretary of the National Security Council, and, in his absence, the officer designated by the Prime Minister shall perform the work of the secretary.
- (5) Except for the events of natural calamities, the decision made by the Council of Ministers of the Government of Nepal for the mobilization of the Nepali Army will have to be presented to the special committee prescribed by the Legislature-Parliament and approved within a month of the decision.

(6) The National Security Council shall systematize its own working procedures.

146. **Interim management of combatants:** The Council of Minister shall form a special committee for the monitoring, adaptation and rehabilitation of the combatants of the Maoist Army, and the functions, duties and powers of the committee shall be as determined by the Council of Ministers.
147. **Arms management and monitoring:** The other arrangements pertaining to the management and monitoring of the army and its arsenal shall be done in accordance with the 'Broad Peace Deal' reached between the Government of Nepal and Nepal Communist Party (Maoist) on 5 Mangsir 2063 (21 November 2006) and the agreement regarding the 'Management and Monitoring of the Army and its Arsenal' reached on 22 Mangsir 2006 (8 December 2006).

## Part 21

### Amendment of the Constitution

148. **Amendment of the Constitution:** (1) The ordinance regarding the amendment or abolition of any Article of the Constitution may be presented at the Legislature-Parliament

(2) The ordinance shall be deemed approved if the ordinance so presented at the Legislature-Parliament is ratified by at least two-thirds majority of the total number of members immediately present there.

## Part 22

### Miscellaneous

149. **Constitutional Council:** (1) There shall be a Constitutional Council to recommend the appointment of officials to the Constitutional Bodies formed under this Constitution. The Council shall consist of the following chairman and members:

|  |          |
|--|----------|
| (a) Prime Minister                                   | Chairman |
| (b) Chief Justice                                    | Member   |
| (c) Speaker of the legislature-Parliament            | Member   |
| (d) Three ministers designated by the Prime Minister | Members  |

(2) When the position of the Chief Justice falls vacant and a recommendation has to be made for the same, the Minister for Justice shall be in the Constitutional Council as a member.

(3) The procedures regarding the appointment of the officials of the Constitutional Bodies, and the functions, duties and powers, and working procedures of the Council shall be as determined by the law.

(4) The chief secretary of the Government of Nepal shall work as the secretary of the Constitutional Council.

150. **Nepalese Ambassador and special emissary:** The Council of Minister may appoint the Nepalese Ambassador and other special emissaries for specified purposes.

151. **Provision regarding Pardon:** The Council of Ministers may grant pardon, suspend, commute or remit any sentence passed by any law court, special court, military court or any other judicial or quasi-judicial, or administrative authority or institution.

152. **Titles, Honors, and Decorations:** (1) The titles, honours or decorations to be conferred on behalf of the State shall be conferred by the Prime Minister.

(2) No citizen of Nepal shall, without the approval of the Government of Nepal, accept titles, honours and decorations from any foreign country.

153. **Constitution of Civil Service:** The Government of Nepal may, in order to run the administration of the country, constitute civil services and other necessary government services. The constitution, operation, and terms and conditions for such services shall be as determined by an Act.

154. **Formation of Commissions:** The Government of Nepal may form necessary commissions to safeguard and promote the rights and interests of women, Dalits, indigenous communities, ethnic groups, Madhesi, physically impaired, labourers and

farmers including various regions of the country. The provisions for the formation, functions, duties and powers of such commissions shall be as determined by the law.

155. **Parliamentary Hearing of Public Authorities of Constitutional Bodies and Provisions regarding Citizenship:** (1) There shall be a parliamentary hearing pursuant to provisions of law prior to the appointment of authorities to the Constitutional Bodies under this Constitution.

(2) In order to be eligible for appointment to constitutional positions under this Constitution, a person must either be a citizen of Nepal by descent or birth or be a naturalized citizen who has lived in Nepal for ten years.

156. **Ratification of, accession to, acceptance of or approval of treaty or agreements :** (1) The ratification, accession to, acceptance of or approval of treaties or agreements to which the State of Nepal or the Government of Nepal is a party, shall be as determined by the law.

(2) The laws to be made pursuant to clause (1) shall, inter alia, require that the ratification of , accession to, acceptance of or approval of treaty or agreements on the following subject be done only after securing two-thirds majority of the total number of members of the Legislature-Parliament present in the House.

- (a) Peace and friendship,
- (b) Security and strategic alliance
- (c) The boundary of Nepal, and
- (d) Natural resources and the distribution of their uses

Provided that out of the treaties and agreements referred in the sub-clauses (a) and (d), if any treaty or agreement is of ordinary nature and, which does not affect the nation extensively, seriously, or in the long-term, the ratification of, accession to, acceptance of or approval of such treaty or agreement may be done at a meeting by the simple majority of the members of the Legislature-Parliament present in the House.

(3) After the commencement of the Constitution, unless a treaty or agreement is ratified, acceded to, accepted or approved in accordance with this Article, it shall not be binding to the Government of Nepal or the State of Nepal.

(4) Notwithstanding anything written in clauses (1) and (2), no treaty or agreement shall be concluded that may have detrimental effect on the territorial integrity of Nepal.

157. **Decision to be made through referendum:** (1) If, the Constituent Assembly maintains that it is necessary to make a decision on a matter of national importance other than the provisions made elsewhere in the constitution, and is decided by a majority of a two-thirds of the total number of the members present, decision may be reached on such matter through a referendum.

(2) The procedures pertaining to making decision pursuant to clause (1) shall be as determined by the law.

158. **Power to remove difficulties:**

If any difficulty arises in connection with the implementation of this Constitution, the Council of Ministers may issue necessary Orders to remove such difficulties, and such Orders shall have to be endorsed by the Legislature-Parliament or the constituent assembly within a month.

## Part 23

### Transitional Provisions

159. **Provisions regarding the king:** (1) No power regarding the governance of the country shall be vested in the king.

(2) The Prime Minister shall perform all works pertaining to the governance and operation of the country.

(3) Notwithstanding whatever is written elsewhere in this Constitution about whether or not to give continuance to monarchy, the simple majority in the first meeting of the constitutional assembly shall decide on it.

(4) The property of late King Birendra, Queen Aisharwa and other members of the family shall be brought under the control of the Government of Nepal, and a Trust shall be established to use the property for the benefit of the nation.

(5) All the property acquired by King Gyanendra in the capacity of a king (for instance: the palaces in different parts of the country, forests and national parks, heritage sites of historical and anthropological importance etc) shall be nationalized.

160. **Provisions regarding Council of Ministers** (1) The Council of Minister subsisting at the time of the commencement of this Constitution shall be deemed as constituted under this Constitution.

(2) The Council of Ministers constituted pursuant to clause (1) shall continue to work until the Council of Minister is constituted pursuant to Article 38.

161. **Provisions regarding Legislature-Parliament:** Immediately after the commencement of this Constitution, the Legislature-Parliament shall be constituted under this Constitution.

(2) After the commencement of this Constitution, the subsisting House of Representatives and the National Assembly shall automatically cease to subsist, and the first meeting of the Legislature-Parliament under this Constitution shall convene.

(3) The ordinances that were under consideration in the House of Representatives at the time of the commencement of this Constitution shall be transferred to the Legislature-Parliament under this Constitution.

(4) The Parliamentary Secretariat and officials and the staff working in the Secretariat at the time of the commencement of this Constitution shall be deemed as the

Secretariat of the Legislature-Parliament and appointed officials and staff of the Secretariat to be maintained under this Constitution.

162. **Provisions regarding Judiciary:** (1) The Supreme Court, Appellate Court and District Courts subsisting at the time of the commencement of this Constitution shall be deemed as constituted under this Constitution, and the Constitution shall not be deemed as hindering the decisions of concerned courts on the cases filed prior to the commencement of this Constitution.

(2) The judges working in the Supreme Court, Appellate Court and District Courts after the commencement of this constitution shall take the oath of commitment to this Constitution as determined by the Government of Nepal. The judges who decline to take oath shall automatically be considered exempt from the position.

(3) Necessary legal arrangements shall be made on the basis of democratic norms and values to bring about gradual reform in the judicial sector to make it independent, clean, impartial and strong.

163. **Provisions regarding Constitutional Bodies and Authorities:** (1) The Constitutional Bodies and officials thereof subsisting at the time of the commencement of this Constitution, but which are not reestablished under this Constitution, shall cease to subsist after the commencement of this Constitution.

(2) The Constitutional Bodies subsisting at the time of the commencement of this Constitution shall be deemed as constituted under this Constitution, and this Constitution shall not be deemed a hindrance in the continuance of pending cases in the Bodies according to the existing laws. Necessary legal arrangements shall be made to bring about gradual reform in the Constitutional Bodies and the officials thereof according to democratic norms and values.

(3) The subsisting National Human Rights Commission constituted according to existing laws shall continue to subsist until the constitution of a National Human Rights Commission as provisioned in this Constitution, and the pending petitions and complaints shall be transferred to the National Human Rights Commission constituted under this Constitution. The Commission shall take up the procedures of such petitions and complaints in accordance with the Constitution and the laws made under this Constitution.

164. **Existing laws to Remain in Operation:** (1) The decisions made and works performed by the reinstated House of Representatives that are not inconsistent with this Constitution shall be deemed as made and performed in accordance with this Constitution.

(2) All the laws in force at the time of the commencement of this Constitution shall remain in operation until repealed or amended.

Provided that laws inconsistent with this Constitution shall, to the extent of inconsistency, *ipso-facto* cease to operate three months after the commencement of this Constitution.

## Part 24

### Definition

- 165 **Definition:** (1) unless the context otherwise requires, in this constitution
- a. "article" means to article of this constitution.
  - b. "Nepal" means the state.
  - c. "citizen" means the citizen of Nepal.
  - d. "bill" means a proposed law presented in the Constituent Assembly or the Management Council.
  - e. "remuneration" means salary, fiscal allowance, fiscal compensation and any other kind of remuneration or facilities.
- (2) Unless the subject and context otherwise require things expressed in this constitution

**Part 25**  
**Short Title,, Commencement and Abrogation**

166. **Short title and commencement:** (1) this Constitution shall be called "Interim Constitution of Nepal, 2063.
- (2) This constitution shall be promulgated by the House of Representatives and approved by interim Legislature-Parliament. The detailed procedures regarding the implementation of this Constitution shall as described in Schedule II.
- (3) The 'Comprehensive Peace Accord" between the Government of Nepal and the Communist Party of Nepal (Maoist) on Mangsir 5, 2063, and an agreement relating to "Monitoring of arms and army management" reached on Mangsir 22, 2063 shall be in Schedule III
- (4) This Constitution shall come into force from.....
167. **Repeal:** The Constitution of the Kingdom of Nepal 2047 has now been repealed.

(Relating to Article 5)  
**NATIONAL FLAG**

(A) Method of Making the Shape inside the Border

- 1) On the lower portion of a crimson cloth draw a line AB of the required length from left to right.
- 2) From A draw a line AC perpendicular to AB making AC equal to AB plus one third AB. From AC mark off D making line AD equal to line AB. Join BD.
- 3) From BD mark off E making BE equal to AB.
- 4) Touching E draw a line FG, starting from the point F on line AC, parallel to AB to the right hand-side. Mark off FG equal to AB.
- 5) Join CG.

(B) Method of Making the Moon

- 6) From AB mark off AH making AH equal to one-fourth of line AB and starting from H draw a line HI parallel to line AC touching line CG at point I.
- 7) Bisect CF at J and draw a line JK parallel to AB touching CG at point K.
- 8) Let L be the point where lines JK and HI cut one another.
- 9) Join JG.
- 10) Let M be the point where line JG and HI cut one another.
- 11) With centre M and with a distance shortest from M to BD mark off N on the lower portion of line HI.
- 12) Touching M and starting from O, a point on AC, draw a line from left to right parallel to AB.
- 13) With centre L and radius LN draw a semi-circle on the lower portion and let P and Q be the points where it touches the line OM respectively.
- 14) With centre M and radius MQ draw a semi-circle on the lower portion touching P and Q.
- 15) With centre N and radius NM draw an arc touching PNQ at R and S. Join RS. Let T be the point where RS and HI cut one another.

- 16) With centre T and radius TS draw a semi-circle on the upper portion of PNQ touching it at two points.
- 17) With centre T and radius TM draw an arc on the upper portion of PNQ touching at two points.
- 18) Eight equal and similar triangles of the moon are to be made in the space lying inside the semi-circle of No. (16) and outside the arc of No. (17) of this Schedule.

(C) Method of Making the Sun

- 19) Bisect line AF at U, and draw a line UV parallel to AB line touching line BE at V.
- 20) With centre W, the point where HI and UV cut one another and radius MN draw a circle.
- 21) With centre W and radius LN draw a circle.
- 22) Twelve equal and similar triangles of the sun are to be made in the space enclosed by the circles of No. (20) and No. (21) with the two apexes of two triangles touching line HI.

(D) Method of Making the Border

- 23) The width of the border will be equal to the width TN. This will be of deep blue colour and will be provided on all the sides of the flag. However, on the five angles of the flag the external angles will be equal to the internal angles.
- 24) The above mentioned border will be provided if the flag is to be used with a rope. On the other hand, if it is to be hoisted on a pole, the hole on the border on the side AC can be extended according to requirements.

**Explanation:** - The lines HI, RS, FE, ED, JG, OQ, JK and UV are imaginary. Similarly, the external and internal circles of the sun and the other arcs except the crescent moon are also imaginary. These are not shown on the flag.

Relating to Clause (2) of Article 167

After the commencement of the management of Arms and monitoring as per the 'Comprehensive Peace Agreement' reached between the Nepal Government and NCP(Maoist) on Mangsir 5,2063 (21<sup>st</sup> November, 2006) and the 'Agreement on Monitoring of the Management of Arms and Armies' on Mangsir 22( 8<sup>th</sup> December, 2006) the House of Representatives shall promulgate this constitution and the Interim Legislative-Parliament shall ratify it.

