

CONSTITUTION BILL OF NEPAL

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PREAMBLE

We, the people of Nepal, in exercise of the sovereign powers inherent in us,

Embracing the sovereign right of the people and the right to autonomy and self-rule, by maintaining Nepal's independence, sovereignty, geographical integrity, national unity, freedom and dignity,

Remembering the glorious history of historical peoples' movements and armed struggles time and again and the sacrifice made by people for national interest, democracy, progressive change, and recognizing the martyrs, the disappeared citizens and the victims,

Ending all forms of discriminations and oppression created by the feudal, autocratic, centralized and unitary system,

Embracing multi-caste, multi-lingual, multi-cultural and diverse geographical specificities, by ending discriminations relating to class, caste, region, language, religion and gender **discrimination** including all forms of racial untouchability, in order to protect and promote unity in diversity, social and cultural solidarity, tolerance and harmonious attitudes, we also express our determination to create an egalitarian society on the basis of the principles of proportional inclusion and participation, to ensure equitable economy, prosperity and social justice,

Expressing commitment to create the bases of socialism by adopting democratic norms and values, including peoples' competitive multi-party democratic governance system, civil liberty, fundamental rights, human rights, adult franchise, periodic elections, **complete** press freedom **and** an independent, impartial and competent judiciary, and the concept of rule of law,

NOW THEREFORE, in order to fulfill the aspirations for perpetual peace, good governance, development and prosperity through the medium of federal democratic republican **system of governance**, hereby promulgate this Constitution through 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 this constitution shall, to the extent of such inconsistency, be void.

(2) It shall be the duty of every person to uphold this constitution.
2. **Sovereignty and state authority:** The sovereignty and state authority of Nepal are vested in Nepali people. The use of which shall be as provided for in this constitution.
3. **Nation:** Having multi-ethnic, multi-lingual, multi-religious, multi-cultural characteristics with common aspirations of people living in diverse geographical regions, and being committed to and united by a bond of allegiance to national independence, integrity, national interest and prosperity of Nepal, all the Nepali people collectively constitute the nation.
4. **State of Nepal:** (1) Nepal is an independent, indivisible, sovereign, secular, inclusive **democratic, socialism-oriented federal democratic** republican 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 interest:** **Independence, sovereignty, territorial integrity, nationality, autonomy, protection of self-respect,** rights of Nepali people, protection of boundaries, and economic progress and prosperity, shall be the **fundamental subjects** of Nepal's national interest.

(2) **Act and character against national interest shall be punishable by law.**
6. **Language of the nation:** All the mother tongues spoken in Nepal shall be the national language.
7. **Language of official transaction:** (1) The Nepali language written in *Devnagiri* script shall be the language of official business in Nepal.

(2) In addition to Nepali language, a province shall select one or more national language that is spoken by majority of people in that province as the language of official business, as provided for by the **provincial law.**

(3) **Other matters concerning language shall be as decided by the Government of Nepal on the recommendation of the Language Commission.**

8. **National flag:** (1) The national flag of Nepal, consists of two juxtaposed triangular figures with a crimson colored 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.
- (2) The method of drawing the flag and other particulars relating thereto shall be as set out in Schedule 1.
9. **National anthem, etc.:** (1) the national anthem of Nepal shall be as set out in Schedule 2.
- (2) The coat-of-arms of Nepal shall be as set out in Schedule 3.
- (3) The rhododendron *Arboreum* is the national flower, Crimson is the national color, the cow is the national animal and the *Lophophorus* is the national bird of Nepal.

PART 2 Citizenship

10. Citizenship not to be denied: (1) No Nepali citizen shall be denied the right to acquire citizenship.

(2) There shall be a provision of single federal citizenship with provincial identity in Nepal.

11. Nepali citizen to be deemed: (1) The persons who have acquired citizenship of Nepal at the commencement of this Constitution and the persons who are eligible to acquire citizenship of Nepal under this Part shall be deemed to be the citizens of Nepal.

(2) The following persons who have their permanent domicile in Nepal shall be deemed to be citizens of Nepal by descent: -

(a) A person who has acquired the citizenship of Nepal by descent before the commencement of this constitution.

(b) Any person whose father or mother was a citizen of Nepal at the birth of such a person.

(3) A child of a citizen who has acquired citizenship of Nepal by birth before the commencement of this Constitution shall, if his/her father and mother both are the citizens of Nepal, shall be entitled to Nepali citizenship by descent upon his/her attaining the age of majority.

(4) Every child found in Nepal whereabouts of whose paternity and maternity is not known shall, until the mother or father is traced, be deemed a citizen of Nepal by descent.

(5) A person born to a Nepali citizen mother and having his/her domicile in Nepal but whose father is not traced, shall be conferred the Nepali citizenship by descent.

Provided that in case his/her father is found to be a foreigner, the citizenship of such a person shall be converted to naturalized citizenship according to the federal law.

(6) If a foreign woman married to a Nepali citizen so wishes, she may acquire naturalized citizenship of Nepal as provided for in a federal law.

(7) Notwithstanding anything contained elsewhere in this Article, in case of a person born to Nepali woman citizen married to a foreign citizen, he/she may acquire naturalized citizenship of Nepal as provided for by a federal law if he/she is having the permanent domicile in Nepal and he/she has not acquired citizenship of the foreign country.

Provided that if his/her father and mother both are the citizen of Nepal at the time of acquisition of the citizenship, he/she, if born in Nepal, may acquire citizenship by descent.

(8) Except provided for in this Article, Government of Nepal may confer naturalized citizenship of Nepal according to federal law.

(9) Government of Nepal may confer honorary citizenship according to federal law.

(10) In case any area is annexed into Nepal by merger, the persons having domicile in such area shall be citizens of Nepal subject to a federal law.

12. **Citizenship based on Descent and with Gender Identity:** The person who is entitled to the citizenship of Nepal by descent may obtain the citizenship certificate of Nepal from name of his/her mother or father along with gender identity.

13. **Acquisition, Requisition and Termination of Citizenship:** Other provisions as to acquisition, requisition and termination of citizenship shall be as provided for in a federal law.

14. **Non-residential citizenship may be conferred:** The person who has acquired citizenship of a foreign country and residing in a country other than the country which is a member of the South Asian Association of Regional Cooperation (SAARC) and who or whose father or mother, grandfather or grandmother was a citizen of Nepal by descent or birth and later on has acquired citizenship of the foreign country, may be conferred with the non-residential citizenship of Nepal entitling him/her to the economic, social and cultural rights as provided for in a federal law.

15. **Other Provisions as to Citizenship of Nepal** Record shall be maintained of each of the citizens of Nepal along with his/her identity and other provisions as to citizenship shall be as provided for in a federal law.

PART 3

Fundamental Rights and Duties

16. **Right to live with dignity:** (1) Each person shall have the right to live with dignity.
- (2) No law shall be made for capital punishment.
17. **Right to Freedom:** (1) Except as provided for by law no person shall be deprived of her/his personal liberty.
- (2) 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,
 - (d) freedom to form unions and associations,
 - (e) freedom to move and reside in any part of Nepal; and
 - (f) freedom to engage in any occupation or be engaged in employment, establish and operate industry, trade and business in any part of Nepal.

Provided that,

- (1) Nothing in sub-clause (a) shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the **nationality**, sovereignty, independence and indivisibility of Nepal, or federal units, or jeopardizes the harmonious relations subsisting among the people of various caste, ethnicity, religion, or communities, or incites racial discrimination, or untouchability, or disrespects labour, or any act of defamation, or contempt of court, or an incitement of offence, or is contrary to decent public behavior or morality.
- (2) Nothing in sub-clause (b) shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the **nationality**, sovereignty, independence and indivisibility of Nepal, or jeopardize the harmonious relations between federal units, or public law and order situation.
- (3) Nothing in sub-clause (c) shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the nationality, sovereignty, indivisibility or Nepal, or an act of espionage against the nation, or disclosing national secrets, or helping foreign state or organization that may jeopardize Nepal' security, or an act of treason, or an act that undermines the harmonious relations subsisting between federal units, or instigates communal animosity, or jeopardizes the harmonious relations subsisting among different caste, ethnicity, religious groups and

communities, or an act of acquiring or depriving the membership of a political party only on the grounds of caste, language, religion, community or gender, or the formation of a political party that creates discrimination against citizens, or an act that incites violence, or is contrary to decent public behavior .

- (4) Nothing in sub-clause (d) shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the **nationality**, sovereignty, indivisibility or Nepal, or an act of espionage against the nation, or disclosing national secrets, or helping foreign state or organization that may jeopardize Nepal' security, or an act of treason, or an act that undermines the harmonious relations subsisting between federal units, or instigates communal animosity, or jeopardizes the harmonious relations subsisting among different caste groups, ethnicity, religious groups and communities, or an incitement of violence, or an act which is contrary to public morality.
- (5) Nothing in sub-clause (e) shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the interest of the general public, or the good relations between federal units, or the harmonious relations subsisting among various caste groups, ethnicity, religious groups or communities, or an act of committing crime or violence, or inciting such acts.
- (6) Nothing in sub-clause (f) shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the good relations between federal units, or restricting an act which may have negative impact on public health, decent behavior and morality, or the particular industries, trade, business or services which only the state may engage in, or setting conditions or eligibility to engage in industries, trade, business, livelihoods or occupation.

18. Right to equality: (1) All citizens shall be equal before law. No person shall be denied the equal protection of law.

(2) There shall be no discrimination in the application of general laws on the grounds of origin, religion, race, caste, tribe, sex, physical conditions, disability, health condition, matrimonial status, pregnancy, economic condition, language or geographical region, or ideology or any other such grounds.

(3) The state shall not discriminate among citizens on grounds of origin, religion, race, caste, tribe, sex, physical condition, disability, health conditions, matrimonial status, pregnancy, economic condition, language or geographical region, ideology and such other matters.

Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of the women lagging behind socially and culturally, Dalits, *Adibasi* (indigenous groups), Madhesi, Tharus, Muslims, oppressed class, backward communities, minorities, marginalized groups, peasants, labourers, youths, children, senior citizens, sexual minorities, persons with disability, incapacitated and the helpless persons, and of the citizens who

belong to backward regions and financially deprived citizens including the *khas* *arya*.

Explanation: With reference to this Part and Part 4, “financially deprived” means the person having the income less than prescribed in a federal law.

- (4) There shall not be any gender discriminations regarding remuneration for the same work and social security.
- (5) There shall be no gender discrimination regarding the right to parental property with regard to all family members.

19. **Rights to communication:** (1) There shall be no prior censorship of publications and broadcasting, or information dissemination, or printing of any news item, editorial, article, feature, or other reading material, or the use of audio-visual material by any medium, including electronic publication, broadcasting and printing.

Provided that nothing shall be deemed to prevent the making of laws to impose reasonable restriction on any act which may undermine the nationality, sovereignty, and indivisibility of Nepal, or the good relations between federal units, or jeopardizes the harmonious relations subsisting among different caste groups and tribes, or communities, or an act of treason, or defamation of social dignity of individuals through the publication and dissemination of false material, or contempt of court, or material that incites criminal offence, or an act that is contrary to decent public behavior and morality, or disrespects labour, or incites untouchability or gender discriminations.

- (2) If there is any broadcasting, publishing or printing, or dissemination of news, article, editorial, feature, or other material through the medium of electronic equipment or the use of visuals or audio-visuals, no radio, television, online publication or any kind of digital or electronic equipment, or press, or other kind of media outlet, shall be closed, seized, or their registration cancelled for publishing, or transmitting, or broadcasting such material.

Provided that nothing in this sub-clause shall be deemed to prevent the making of **Acts** to regulate radio, television, online or the use of any other kind of digital or electronic equipment, printing press or other medium of communication.

- (3) No means of communication including the press, electronic broadcasting and telephone shall be obstructed except in accordance with law.

20. **Rights to Justice:** (1) No person shall be detained without being informed of the ground for such an arrest.

- (2) The person who is arrested shall have the right to consult a legal practitioner of her/his choice and be defended from the time of arrest. The consultations held with the legal practitioner and the advice given thereon shall remain confidential.

Provided that this clause shall not apply to a citizen of an enemy state.

Explanation: For the use of this clause “legal practitioner” shall mean a person who has the legal right to represent any person in any court or office.

- (3) Every person who is arrested shall be produced before a judicial authority within a period of twenty-four hours after such arrest, excluding the time necessary for the journey from the time and place of arrest to such authority, and the arrested person shall not be detained in custody beyond the said period except on the order of such authority.

Provided that, this sub-clause shall not apply to a person in preventive detention or to a citizen of an enemy state.

- (4) No person shall be punished for an act which was not punishable by law when the act was committed, and no person shall be subjected to a punishment greater than that prescribed by law at the time of the offence.
 - (5) No person accused of any offence shall be assumed to be an offender until proven guilty.
 - (6) No person shall be prosecuted or punished for the same offence in a court of law more than once.
 - (7) No person accused of any offence shall be compelled to be a witness against herself/himself.
 - (8) Every person undergoing trial shall have the right to be informed about the proceedings of the trial.
 - (9) Every person shall be entitled to a fair hearing from an impartial, independent and competent court or judicial authority.
 - (10) An indigent person shall have the right to free legal aid as provided for by law.
21. **Right of victim of crime:** (1) The victim of crime shall have the right to be informed about the investigation and proceedings of the case regarding his/her victimization.
- (2) The victim of crime shall have the right to social rehabilitation and justice with compensation as provided for by law.
22. **Right against torture:** (1) No person in detention shall be subjected to physical or mental torture, or be treated in a cruel, inhuman or degrading manner.
- (2) Any such act pursuant to clause (1) shall be punishable by law and a victim of such an act shall have the right to compensation as provided for by law.

23. **Right against preventive detention:** (1) No person shall be held under preventive detention unless there is sufficient ground to believe that there exists an immediate threat to the sovereignty and territorial integrity of Nepal or public peace and order.
- (2) Family member or close relative of the person in preventive detention pursuant to clause (1) shall have to be immediately informed about his/her condition as provided for by law.

Provided that this clause shall not be applicable to a citizen of an enemy state.

(3) If an official is found to have held any person under preventive detention against the law and with malicious intention, such person shall be entitled for compensation as per the law.

24. **Rights against untouchability and discrimination:** (1) No person shall be treated with any kind of untouchability or discrimination in any private or public place on grounds of caste, ethnicity, origin, community, occupation, or physical condition.
- (2) No person belonging to a particular caste or ethnicity shall be prevented from buying an object or getting services or facilities in the process of production of such objects or in the distribution or delivery of services, or no such objects shall be sold to, or facilities or services distributed or delivered to persons belonging to a particular caste or ethnicity only.
- (3) Racial discriminations shall not be encouraged in any way, or there shall not be any behavioral attitude to exhibit high or low status on grounds of a particular caste, ethnicity or community, or physical condition of a person, or there shall not be any behavioral attitude that justifies social discrimination based on caste, ethnicity, or untouchability, or encouragement for the propagation of attitudes based on caste superiority and untouchability, or hatred.
- (4) There shall not be any racial discrimination in the workplace by indulging or not indulging in untouchability.
- (5) All forms of untouchability or discrimination contrary to this provision shall be punishable by law as a serious social crime, and the victim of such an act shall have the right to compensation as provided for by law.
25. **Right to property:** (1) Every citizen shall, subject to laws, have the right to acquire, enjoy own, sell, have professional gains, and otherwise utilize, or dispose of property.

Explanation: For the purpose of this Article, “property” means all type of movable and immovable property and the word also includes intellectual property.

Provided that the state may impose tax on property and income of a person according to the norms of progressive tax.

- (2) The State shall not, except in the public interest, acquire, requisition, or create any encumbrance on the property of any person.

Provided that this sub-clause shall not be applicable to property acquired through illegal means.

(3) In the case when the land of a person is acquisitioned by the State according to sub-clause (2), the basis of compensation and the relevant procedure shall be as prescribed by **Act**.

(4) The provisions of clauses (2) and (3) shall not obstruct the state in carrying out land reforms, management and regulation by law in order to increase the production and productivity of land, modernize the agriculture and make it professional, environment protection and managed housing and urban development.

(5) In case the state has acquired property of any person for public interest pursuant to clause (3), there shall be no hindrance to use such property for any other public interest, other than the public interest for which it has been acquired.

26. **Right to religious freedom**: (1) Each person shall be free to profess, practice, and preserve his/her religion according to his/her faith.

(2) Every religious denomination shall, maintaining its independent existence, have the right to manage and protect its religious places and religious trusts in accordance with law.

Provided that it shall not be deemed to have hindered to make law to operate and protect a religious place or religious trust and to manage the trust property and land.

(3) While exercising the right as provided for by this Article, no person shall act or make others act in a manner which is contrary to public health, decency and morality, or behave or act or make others act to disturb public law and order situation, or convert a person of one religion to another religion, or disturb the religion of other people. Such an act shall be punishable by law.

27. **Right to information**: Every citizen shall have the right to **seek** information on any matters of concern to her/him or the public.

Provided that nothing shall be deemed to compel any person to provide information about which confidentiality is to be maintained according to law.

28. **Right to privacy**: Except in circumstances provided by law, privacy in relation to the person, and their residence, property, documents, records, statistics and correspondence, and their reputation are inviolable.

29. **Rights against exploitation**: (1) Every person shall have the right against exploitation.

(2) No person shall be subjected to any kind of exploitation on the basis of religion, custom, tradition, culture, practices or any other bases.

- (3) No person shall be subjected to human trafficking or bonded labour, and such an act shall be punishable by law.
- (4) No person shall be subjected to forced labour.

Provided that nothing in this sub-clause shall prevent the enactment of a law requiring citizens to be engaged in compulsory service for public purposes.

- (5) Any act contrary to clause (3) and (4) shall be punishable by law and the victim of such an act shall have the right to compensation from the perpetrator.

30. Rights regarding clean environment: (1) Each person shall have the right to live in a healthy and clean environment.

- (2) The victim of environmental pollution and degradation shall have the right to be compensated by the pollutant as provided for by law.
- (3) Provided that this Article shall not be deemed to obstruct the making of required legal provisions to strike a balance between environment and development for the use of national development works.

31. Rights to education: (1) Every citizen shall have the right to access to basic education.

- (2) Every citizen shall have the right to compulsory and free basic education, and free education up to the secondary level.
- (3) The physically impaired and citizens who are financially poor shall have the right to free higher education as provided for in law.
- (4) The visually impaired **person** shall have the right to free education with the medium of brail script.
- (5) Every Nepali community living in Nepal shall have the right to acquire education in its mother tongue up to the secondary level, and the right to open and run schools and educational institutions as provided for by law.

32. Rights to language and culture: (1) Each person and community shall have the right to use their language.

- (2) Every person and community shall have the right to participate in the cultural life of its community.
- (3) Each community living in Nepal shall have the right to preserve and promote its language, script, culture, cultural civilization and heritage.

33. Rights to employment: (1) Every citizen shall have the right to employment. Terms and conditions of employment and unemployment benefits shall be as determined by federal law.

- (2) Every citizen shall have the right to select employment.

34. Right regarding labour: (1) Every labourer shall have the right to proper work practices.

Explanation: For the purpose of this Article, "labourer" means a worker or labourer who offers physical or mental work for an employer for remuneration.

(2) Every labourer shall have the right to appropriate remuneration, facilities and **contribution-based** social security.

(3) Every labourer shall have the right to form trade union, participate in it, and organize collective bargaining.

35. Right to healthcare: (1) Every citizen shall have the right to seek basic health care services from the **state** and no citizen shall be deprived of emergency health care.

(2) Each person shall have the right to be informed about his/her health condition with regard to health care services.

(3) Each person shall have equal access to health care.

(4) Each citizen shall have the right to access to clean water and hygiene.

36. Right to food: (1) Each citizen shall have the right to food.

(2) Every citizen shall have the right to be protected from a state of starvation, resulting from lack of food stuffs.

(3) Every citizen shall have the right to food sovereignty as provided for in law.

37. Right to housing: (1) Each citizen shall have the right to appropriate housing.

(2) No citizen shall be evicted from the housing owned by him/her, or encroached on the housing, except in accordance with law.

38. Right of women: (1) Every woman shall have equal right to lineage without any gender discriminations.

(2) **Every woman shall have the right relating to safe motherhood and reproductive health.**

(3) There shall not be any physical, mental, sexual or psychological or any other kind of violence against women, or any kind of oppression based on religious, social and cultural tradition, and other practices. Such an act shall be punishable by law and the victim shall have the right to be compensation as provided for in law.

(4) Women shall have the right to access participate in all state structures and bodies on the basis of the principle of proportional inclusion.

(5) Women shall have the right to special opportunity in the spheres of education, health, employment and social security on the basis of positive discrimination.

(6) Both the spouses shall have equal rights in property and family affairs

- 39. Rights of children:** (1) Each child shall have the right to his/her identity with the family name, and birth registration.
- (2) Every child shall have the right to education, health care nurturing, appropriate upbringing, sports, recreation and overall personality development from family and the State.
 - (3) Every child shall have the right to formative child development, and child participation.
 - (4) No child shall be employed in factories, mines, or in any other hazardous works.
 - (5) No child shall be subjected to child marriage, illegal trafficking, kidnapping, or being held hostage.
 - (6) No child shall be subjected to recruitment or any kind of use in the army, police or armed groups, neglected, or used immorally, or abused physically, mentally, or sexually, or exploited through any other means, in the name of religious or cultural practices.
 - (7) No child shall be subjected to physical, mental, or any other forms of torture at home, in school, or in any other places or situations.
 - (8) Every child shall have the right to child friendly justice.
 - (9) Children who are helpless, orphaned, physically impaired, victims of conflict and vulnerable, shall have the right to special protection and facilities from the State.
 - (10) Any act contrary to Clause (4), (5), (6) and (7) shall be punishable by law, and children who have suffered from such an act shall have the right to be compensated by the perpetrator as provided for in law.
- 40. Rights of Dalits:** (1) Dalit shall have the right to participate in all agencies of the state based on the principle of proportional inclusion. There shall be special legal provision of empowerment, representation, and participation of Dalit community for employment in other area also including the public service.
- (2) Provisions of free education with scholarships shall be made for Dalit students from the primary to higher level of education as provided for in law. Special provision shall be made in law for Dalits to pursue higher education in technical and professional subjects.
 - (3) In order to provide health care and social security to Dalit community, special arrangements shall be made in accordance with law.
 - (4) Dalit community shall have the right to use, preserve and develop their traditional occupation, knowledge, skill and technology. The State shall give priority to modern profession of Dalits in relation to their traditional occupation, by providing them with necessary skill and resources.

- (5) The State shall have to make legal provision to provide land to landless Dalits for one time.
 - (6) The State shall enact law to make housing arrangements for Dalits who do not have housing of their own.
 - (7) The facilities provided to the Dalit community according to this Article, shall have to be justly distributed to Dalit women and men and all the Dalit communities living in different parts of the country, ensuring that all Dalits receive the facilities proportionally.
41. **Rights of senior citizens:** Senior citizens shall have the right to special protection and social security from the State.
42. **Right to social justice:** (1) Socially backward women, Dalits, Adibasi, Janjati, Khas Arya, Madhesi, Tharu, minority groups, **persons with disability**, marginalized groups, Muslim, backward classes, gender and sexually minority groups, youths, peasants, labourers, the oppressed and the citizens of backward regions, shall have the right to employment in state structures and public service on the basis of the principle of inclusion.
- (2) Citizens who are economically very poor and communities on the verge of extinction, shall have the right to special opportunity and facilities in the areas of education, health, housing, employment, food and social security, for their protection, progress, empowerment and development.
 - (3) People with physical impairment shall have the right to a dignified way of life and equal access to social services and facilities, along with their diversity identity.
 - (4) Each peasant shall have the right to access to land as provided for in law for agricultural purposes, along with the right to choose and preserve traditionally adopted and used endemic seeds and agricultural species.
 - (5) The families of martyrs who sacrificed their lives in the people's movements, armed conflicts and revolutions for a democratic progressive change in Nepal, the families of those who were disappeared, persons who fought for democracy, victims of conflict and the displaced, persons who were physically maimed, the wounded and the victims, shall have the right with priority, as provided for by law, to education, health, employment, housing and social security, with justice and appropriate respect.
43. **Right to social security:** Economically poor, physically incapacitated and **helpless person, helpless** single women, persons with physical impairment, children, persons who cannot look after themselves and the citizens who belong to communities that are on the verge of extinction, shall have the right to social security as provided for by law.
44. **Rights of consumers:** (1) Each consumer shall have the right to quality foodstuffs and services.

- (2) A person who has suffered from sub-standard object or service shall have the right to be compensated as provided for by law.

45. **Right against exile:** No citizen shall be exiled

46. **Rights to constitutional remedy:** There shall be right to constitutional remedy as per the Articles 133 or 144 in course of implementation of rights granted in this part.

47. **Implementation of fundamental rights:** For the enforcement of the rights conferred in this Part, the State shall make legal provisions, as required, within three years of the commencement of this constitution.

48. **Duties of citizens:** Each person shall the following duties:

- (a) Protect nationality, sovereignty and integrity of Nepal by pledging allegiance to the nation,
- (b) Abide by the constitution and law,
- (c) Compulsorily enlist when the nation needs the service.
- (d) To **protect and conserve public property.**

PART 4

Directive Principles, Policies and Responsibilities of the State

49. **To be the Guiding Principles:** (1) The Directive Principles, Policies and Responsibilities of the State mentioned in this Part shall remain as guidelines for the governance of the State.
- (2) The State shall mobilize or have it mobilized, the required resources and means for the implementation of the principles, policies and responsibilities mentioned in this Part.
50. **Directive Principles:** (1) It shall be the political objective of the State to strengthen a federal democratic republican system to ensure an atmosphere where democratic rights are exercised by acknowledging sovereignty, independence and integrity of the country to be of utmost importance; by protecting freedom, equality, property and all citizens through rule of law; by embracing the norms and values of fundamental rights and human rights, gender equality, proportional inclusion, participation and social justice; and by maintaining a just system in all spheres of national life in order to establish a government system aimed at public welfare, while maintaining relations between federal units on the basis of cooperation between them, and internalizing the principle of inclusion in the governance system on the basis of local autonomy and decentralization,
- (2) It shall be the socio-cultural objective of the State to build a civilized and egalitarian society by ending all forms of discrimination, oppression and injustice based on religion, culture, cultural practices, customs, traditional practices, or on any other grounds; develop socio-cultural values based on national pride, democracy, people orientation, dignity of labour, entrepreneurship, discipline, dignity and tolerance, by respecting cultural diversity and maintaining communal harmony, solidarity and amity.
- (3) It shall be the economic objective of the State to make the national economy self-reliant, independent, and developing it towards socialism oriented economy with equitable distribution of resources and means, by ending all forms of economic exploitation and inequality, with maximum utilization of available resources and means through the participation of cooperatives, and public and private sector for sustainable development, and to build an exploitation-free society by fair distribution of the achievements made so far.
- (4) The international relations of the State shall be directed towards maintaining international relations based on sovereign equality, protecting sovereignty, independence, territorial integrity and national interest of the country, and promoting national prestige in the international community.

51. **State policies:** The State shall pursue the following policies:

(a) **Policies regarding national unity and national security:**

- (1) Maintaining national unity intact by protecting independence, sovereignty, territorial integrity autonomy of the country;
- (2) Promoting national unity by developing relations of mutual cooperation between federal units by maintaining mutual understanding, tolerance, and solidarity among various caste, ethnic, religious, linguistic and cultural groups and communities.
- (3) Management of law and order situation by developing a national security system.
- (4) Guaranteeing an all-round human security system.
- (5) Making the army, police, armed police and other security organs strong, capable, professional, inclusive and accountable to people on the basis of national security system.
- (6) Making citizens capable and ready for national service according to the need of the nation.
- (7) To appropriately utilize the knowledge, skills and experience of the ex-bureaucrats, army men and policemen.

(b) **Policies regarding political and governance system:**

- (1) Guaranteeing people's welfare and all-round-progress through economic, social and cultural transformation, while defending and strengthening political achievements and their development.
- (2) Maintaining rule of law by protecting and practicing human rights.
- (3) Implementing international treaties and agreements to which Nepal is a State party.
- (4) Guaranteeing good governance by ensuring equal and easy access of people to services provided by the State and making public administration clean, competent, impartial, transparent, accountable and participatory.
- (5) Making necessary provisions to make the mass media clean, healthy, safe, dignified, responsible and professional.
- (6) Expanding and developing a harmonious and cooperative relations between federal units through partnerships in the management of resources and means, administration and responsibilities.

(c) Policies regarding social and cultural transformation:

- (1) Building a society based on harmonious social relations by developing a healthy and civilized culture.
- (2) Conducting studies, research and archaeological excavations and dissemination of Information about them for the protection, maintenance and development of historical, archaeological and cultural heritage.
- (3) Community development by promoting local participation through the promotion and mobilization of creativity of local communities in social, cultural and charitable works.
- (4) Stressing on the development of art, literature and music that are in the form of national heritage
- (5) Put an end to all forms of discrimination, and injustice in the name of religion, culture, tradition, practices and rites.
- (6) To preserve and develop the language, texts, culture, literature, arts **motion pictures** and property of different castes and communities, on the basis of equity, while also maintaining the country's cultural diversity.
- (7) To pursue the multi-language policy.**

(d) Policies regarding finance, industry and commerce:

- (1) Strengthening national economy through the participation and free development of public **sector, cooperative sector and** private sector.
- (2) Achieving economic prosperity with the maximum utilization of available resources and means by stressing on the roles of private sector in the economy;**
- (3) Promoting cooperatives with its maximum utilization for national development.**
- (4) Providing for regulation to maintain fairness, accountability and competitive atmosphere in all activities of economic sector to promote and mobilize them for the overall national development;**
- (5) Fair distribution of the **fruits of development** and available means and resources.
- (6) Diversifying and expanding markets for productions and services through the development and expansion of industries and promotion of exports by identifying the areas of comparative advantages.**
- (7) Protecting consumer rights by maintaining discipline and business fairness by controlling anomalies and malpractices such as black-

marketing, monopoly, artificial scarcity and unhealthy competition and **making national economy competitive.**

(8) Prioritizing **domestic investment** based on Nepali labor, skill and raw material for the development of the economy of the country through the protection and promotion of national industries and resources and means.

(9) According priority to domestic investment for development of national economy;

(10) Encouraging and mobilizing foreign capital and technology investment for infrastructure development in the areas of export promotion, and import to suit national interest.

(11) Foreign aid shall be based on national needs and priority, and it shall be made transparent. The amount received as foreign aid shall be included in the national budget.

(12) Utilizing the knowledge, skill, technology and capital of the non-resident Nepalis for national development.

(e) Policies regarding agriculture and land reform:

(1) Introducing scientific land reform by ending dual ownership of land for the benefit of farmers.

(2) Increasing produce and productivity through land plotting and by discouraging absentee land ownership.

(3) Protecting and promoting rights and interests of peasants and utilizing the land use policy for increasing production and productivity of agriculture and for commercialization, industrialization, diversification and modernization of agriculture;

(4) Making proper utilization of land through proper regulation and management on the basis of productivity of land, its nature, and also by maintaining environmental balance.

(5) Making arrangements for agricultural tools and an access to market with appropriate price for the produce.

(f) Development policy:

(1) Formulating strategies and programs for sustainable socio-economic development under regional development plans for balanced and inclusive regional development and to implement them in a coordinated manner.

(2) Prioritizing under-developed regions while going for balanced, environment-friendly, qualitative and sustainable physical infrastructure development.

(3) Increasing the participation of local people in development process.

- (4) Promoting investment in scientific studies and research, and inventions in science and technology, and for their progress and development, while protecting scientific, technological and intellectual minds and special talents.
 - (5) Developing and expanding information technology as required by the nation, and making its access easy and simple for the general public, while also making its maximum use for national development.
 - (6) Prioritizing poor citizens in the distribution of the fruits of development, and making necessary arrangements for the general public to have a fair share of it.
 - (7) Developing an integrated national identity management information system, and manage it in an integrated way for all kinds of information and statistics relating to citizens, and integrate it to the services and facilities provided by the State and the national development planning.
 - (8) Updating of population statistics and affiliating it with the national development planning.
- (g) **Policy regarding the conservation, management and use of natural resources:**
- (1) The State shall pursue a policy of conserving the natural resources available in the country by imbibing the norms of inter-generation judicious use of it and for the national interest. It shall also be about its sustainable use in an environmental friendly way. The policy shall ensure the fair distribution of the benefits generated by it by giving local people the priority and preferential rights.
 - (2) The State shall pursue a policy of prioritizing national investment in water resources based on people's participation and making a multi-utility development of water resources.
 - (3) The State shall pursue a policy of developing and producing renewable energy, ensuring cheap, easily available and dependable supply of energy, and making an appropriate use of it to meet the basic needs of the citizens.
 - (4) Developing a sustainable and dependable irrigation system by controlling water-related natural disasters with the management of the river systems.
 - (5) The State shall pursue a policy of making a sustainable use of biodiversity through the conservation and management o forests, fauna and flora, and by minimizing the negative impacts of industrialization and physical development by promoting public awareness on environmental cleanliness and protection.

- (6) The State shall pursue a policy of keeping **necessary landmass** as forest area in order to strike an environmental balance.
 - (7) The State shall pursue a policy of adopting appropriate ways of minimizing or stopping negative impacts on environment if it is there, or if there is a possibility of such an impact on nature, environment, or biodiversity.
 - (8) The State shall formulate policies and enact laws on the basis of the principle of sustainable environment development based on pre-warning and pre-informed agreements regarding environmental protection.
 - (9) The State shall formulate and pursue a policy of designing a pre-warning system, disaster preparedness, rescue, relief works and rehabilitation in order to minimize the risks of natural disasters.
- (h) **Policies regarding the basic needs of citizens:**
- (1) Making education scientific, technical, professional, **skill-oriented**, and employment and people oriented in order to prepare the human resources to be competent, competitive, moral, and committed to national interest.
 - (2) Increasing the investment of the State in the educational sector, and regulating and managing the investment of the private sector in it to make education service oriented.
 - (3) Making higher education easily available, of high quality and accessible, and gradually making it free.
 - (4) Establishing and promoting information centers and libraries for the personality development of citizens.
 - (5) The State shall gradually increase necessary investment in the public health sector in order to make citizens healthy.
 - (6) Ensuring an easy, simple and equal access of all to high quality health care.
 - (7) **Protecting and promoting Nepal's traditional medicinal system such as the Ayurved, natural medicines and Homeopathy;**
 - (8) The State shall gradually increase investment in the health sector and make it service oriented by regulating and managing the investment of the private sector in it.
 - (9) Gradually increase the number of health institutions and health workers, while emphasizing research on health in order to make qualitative health service available to all.
 - (10) It shall be the policy of the State to increase general life expectancy by decreasing maternity-infant mortality rate by encouraging family

planning population management based on the need and capacity of the country.

- (11) Developing well-planned and organized settlement areas by managing the unplanned settlements.
 - (12) Increasing investment in the agricultural sector by making necessary provisions for sustainable productivity, supply, storage and security, while making it easily available with effective distribution of food grains by encouraging food productivity that suits the soil and climate conditions of the country in accordance with the norms of food sovereignty.
 - (13) Making a well-planned supply system by ensuring equal access of citizens to the basic needs and services, and prioritizing the remote areas and regions that were made to lag behind.
 - (14) Increasing investment in the transportation sector by ensuring simple, easy and equal access of all citizens to transportation facilities, and prioritizing environment friendly technology, encouraging public transportation and quality private transportation, while also making the transportation sector safe, well managed and disabled friendly.
 - (15) Ensuring insurance policy for citizens and making arrangements for their access to health care.
- (i) **Policies regarding labor and employment:**
- (1) Creating a condition to ensure employment for all and employment opportunities in the country itself by making the labor power, which is the main social and economic force, competent and professional.
 - (2) Guaranteeing social security by ensuring the basic rights of all laborers in accordance with the concept of dignity of labor.
 - (3) Ending child labor and all forms of labor exploitation.
 - (4) Ensuring the participation of laborers in the management by creating good industrial relationship between employers and employees.
 - (5) Regulating and managing foreign employment in order to make this sector exploitation free, safe and well-managed to guarantee laborers' right and employment.
 - (6) Encouraging the use of the capital, skill, technology and the experience gained in foreign employment in the productivity sector of the country.
- (j) **Policies regarding social justice and inclusion:**
- (1) Making appropriate arrangements of livelihoods by prioritizing employment for single women who are in helpless conditions.

- (2) Making women self reliant who are vulnerable, victims of conflict, excluded by family and the society, by making necessary arrangements of rehabilitation, protection and empowerment for them.
- (3) Ensuring the use of necessary services and facilities during the reproductive stage
- (4) Economically evaluating the works and contribution in regard to child care and care for the family.
- (5) Paying primary attention to the utmost interest of children.
- (6) Rehabilitation of kamaiya (bonded laborers}, kamlari, haruwa, charuwa, haliya, the landless and the squatters by identifying them, and making arrangements of housing, or providing small plot of land or house, employment, or arable land for their livelihoods.
- (7) Providing appropriate opportunities to youths for their contribution to the all-round-development of the State by increasing their participation in it, through the creation of an atmosphere for them to use their political, economic, social and cultural rights, and also by providing special opportunities in educational, health and employment sector through their personality development for their empowerment and all-round-development.
- (8) Making special arrangements to ensure the rights of Adivasi Janjatis (indigenous ethnic groups) to lead a dignified life with their respective identities, and making them participate in decision making processes that concern them, and preserving and maintaining the traditional knowledge, skill, experience, culture and social practices of Adivasi Janjatis and local communities.
- (9) Making special arrangements for minority communities to exercise their social and cultural rights by maintaining their identity.
- (10) Making special arrangements for the Madhesi community to have equal distribution of benefits of economic, social and cultural opportunities, and also for the protection, progress, empowerment and development of the very poor and backward classes within the Madhesi community.
- (11) Making special provisions of protection, progress, empowerment and development, and the fulfillment of basic needs of the citizens of oppressed and backward regions.
- (12) Giving priority to the very poor within all communities, regions, and gender, while providing social security and social justice.
- (13) Making a well planned investment in sports and sports men and women in order to produce healthy, able and disciplined citizens and developing sports as a medium of consolidating national unity and promoting national prestige in the international arena.

(14) Involving NGOs and INGOs only in the areas of national needs and priority, by adopting a one-door policy for the establishment, endorsement, engagement, regulation and management of such organizations, and by making the investment and role of such organizations accountable and transparent.

(k) **Policies regarding justice and punishment:**

- (1) Making judicial administration swift, competent, easily available, economical, impartial, effective and accountable to people.
- (2) Adopting alternative methods such as reconciliation and mediation for the settlement of disputes of ordinary nature.
- (3) Adopting effective methods in controlling corruption and irregularities in all sectors, including politics, judicial sector, administration and the social sector.

(l) **Policies regarding tourism:** Developing environment friendly tourism industry as an important basis of national economy by identifying, protecting, promoting and publicizing the historical, cultural, religious, archaeological and natural heritage sites of the country, and prioritizing local people in the distribution of benefits of the tourism industry.

(m) **Policy regarding international relations:**

- (1) Pursuing an independent foreign policy considering national interest to be of utmost importance, on the basis of the UN Charter, non-alignment, principle of *panchasheel*, international law and universal norms, and by remaining active to defend the sovereignty, indivisibility, national independence and national interest.
- (2) Entering into treaties and agreements on the basis of equality and mutual interest, by reviewing past treaties.

52. **Obligation of the State:** It shall be the obligation of the State to maintain **Nepal's independence**, sovereignty, **territorial integrity, autonomy** of Nepal, protecting and promoting fundamental rights and human rights, and to observe the directive principles of the State and gradually implementing the policies.

53. **Submitting report:** An annual report regarding the works of the government including the achievements made in the implementation of the directive principles, policies and responsibilities mentioned in this Part, shall be presented to the President. The President shall make arrangements to send such reports to the Federal Legislature through the Prime Minister.

54. **Provision regarding monitoring:** (1) There shall be a committee in the Parliament as provided for in law to monitor the progressive implementation of the directive principles, policies and responsibilities of the state as mentioned in this Part.

55. **Questions not to be raised in court:** No question shall be raised in any court as to whether any of the provisions contained in this Part is implemented or not.

PART 5

Restructuring of the State and the distribution of State power

56. **Structure of the State:** (1) The Federal Democratic Republic of Nepal shall have three main levels of structure: federal, provincial and local.
- (2) The State powers of Nepal shall be used by the federal, provincial and the local level in accordance with this constitution.
- (3) There shall be the provinces with the districts listed in Schedule-4 that prevail at the commencement of this Constitution in Nepal.
- (4) Under the local level, there shall be Village council, Municipal and District Assembly. The number of wards in a Village council and Municipal Council shall be as provided for in a federal law.
- (5) Special, protected and autonomous regions may be created for socio-cultural protection and development according to federal law.
- (6) The Federation, provinces and local levels shall protect Nepal's independence, sovereignty, territorial integrity, autonomy, national interests, overall development, multi-party competitive democratic republic and federal system of governance, human rights and fundamental rights, rule of law, separation of powers and check and balance, equitable society based on plurality and equality, and inclusive representation and identity.
57. **Distribution of State power:** (1) The power of the federation shall be relating to the subjects mentioned in Schedule (5), and such authority shall be exercised in accordance with this Constitution and the federal law.
- (2) The power of the province shall be relating to the subjects mentioned in Schedule (6), and the exercise of such authority shall be done in accordance with this Constitution and the federal law.
- (3) The concurrent/shared power of the federation and the province shall be relating to the subjects mentioned in Schedule (7), and the exercise of such authority shall be done in accordance with this constitution and the laws made by the federal parliament and provincial assembly.
- (4) Powers shall be vested in the local level on the matters referred to in Schedule (8) and such powers shall be exercised according to this Constitution and federal law, provincial law and laws formulated by the local level.
- (5) Concurrent list of powers of the Federation, province and local level shall be as referred to in Schedule (9) and exercise of such powers shall be according to this constitution, and federal law, provincial law and laws formulated by the local level.
- (6) While making law by provincial assembly, village council and municipal council pursuant to clause (5), they shall have to make laws without

being inconsistent to federal law and if such laws formulated by Provincial legislature, village council and municipal council is inconsistent with the federal law, such law shall, to the extent of its being inconsistent, be void.

(7) While making law by village council and municipal council pursuant to clause (5), they shall have to make laws without being inconsistent to provincial law and if such laws formulated by the village council and municipal council is inconsistent with the provincial law, such law shall, to the extent of its being inconsistent, be void.

58. **Residual powers:** Powers relating any subject that are not mentioned in the list of powers of the federation, province or the local level entity, or in the concurrent/shared powers of federation and the province, or not stated in this Constitution, shall rest with the federation as residual powers.
59. **Use of fiscal power:** (1) The federal, provincial and the local entities shall enact law, make annual budget, make necessary decisions, formulate policies and planning, and implement them in regard to the subjects related to the fiscal power mentioned in their respective lost of powers.
- (2) The federation may make basic laws regarding necessary policies and criteria related to the subjects included in the list of concurrent/shared power and in other areas of fiscal authority, which may also be implemented in provinces.
- (3) The federation, province and the local level entity shall make budgets of their respective levels, and the budget shall be presented in accordance with the federal law.
- (4) The federation, province and the local level entity shall have to make arrangements for equitable distribution of the benefits from the development of natural resources. A certain portion of such benefit, royalty, services or objects, shall have to be distributed in areas affected by projects and to the local communities as provided for by law.
- (5) When the federal, provincial and local level entity utilize natural resources, they shall have to give priority to local communities to make certain percentage of investment if they wish to do that in view of the nature and percentage in the investment.
- (6) The government of Nepal shall have the right to seek foreign aid and loan. The economic stability of the country as a whole shall have to be maintained in doing so.
- (7) The management of budget deficit of the federation, province and the local level entity and the arrangements regarding fiscal discipline shall be in accordance with federal law.
60. **Distribution of sources of revenue:** (1) The federation, province and the local level entity shall impose tax on subjects within their fiscal jurisdiction and collect revenue from such sources.

Provided that with regard to the source that are not included in the concurrent/shared list or in any list at any level, it shall be as determined by the Government of Nepal.

- (2) The Government of Nepal shall make necessary arrangements to equitably distribute the revenue generated by it from its sources, between the federation, province and the local level entities.
- (3) The amount of the fiscal transfer the province and the local level entities are to receive shall be as recommended by the National Natural Resources and Fiscal Commission, as provided for in Part 25.
- (4) The Government of Nepal shall distribute fiscal equalization grants to province and local level entity on the basis of their need for expenditure, their capacity in generating revenue and the efforts made by them.
- (5) The province shall distribute fiscal equalization grants received from the Government of Nepal and the revenue generated from its sources, to the local level entities under it on the basis of need for their expenditures and their capacity to generate revenue, in accordance with provincial law.
- (6) The Government of Nepal shall make arrangements regarding conditional grants to be provided through the Federal Consolidated Fund, complementary grants, or the special grants for other purposes.
- (7) The distribution of revenue between the federal, provincial and the local level entity shall be transparent.
- (8) While enacting the federal Act regarding revenue distribution, the matters that need to be included are: national policy, national needs, the autonomy of provinces and local level entities, the service delivery of the provinces and local level entities and the fiscal rights given to them; their capacity to generate revenue; their contribution to development works; regional imbalance; poverty and inequality; exclusion, emergency works and the support of meet temporary needs.

PART 6

President and vice-President

61. **President:** (1) There shall be a President in Nepal.
- (2) The President shall be the head of the State. He/she shall perform his/her duties according to this Constitution and federal laws.
- (3) The President shall promote national unity of Nepal.
- (4) Compliance and protection of the constitution shall be the main duties of the President.
62. **Election of the President:** (1) An electoral college, consisting of voting members of the federal parliament and the members of provincial assembly, shall elect the President. It shall be done as provided for in law with the difference of weightage in voting of the members of the federal parliament and the members of provincial assembly.
- (2) Notwithstanding anything contained in clause (1), it shall not be deemed to prevent the formation of an electoral college for the use of the election of the President simply because of the reason that an election of provincial assembly has not been held in any province.
- (3) The person who receives majority votes of the total number of existing members of the Electoral College as provided for in clause (1), shall be elected as President.
- (4) If any candidate fails to receive majority votes according to clause (3), there shall be a second round of voting between the two candidates who receive the highest votes, and a person getting more than fifty percent of vote in this voting shall be elected as president.
- (5) If none of the two candidates obtain more than fifty percent of the votes in the voting held under clause (4), then a re-voting will be conducted. Any person getting the majority of votes cast in this re-voting shall be elected as president.
- (6) If a person who is elected to the position of the President already holds a political position through election, nomination, or appointment, the position held by such a person shall automatically become vacant.
- (7) The election of the President and other related arrangements shall be as provided for by law
63. **Term of Office of President:** (1) The term of the President shall be for five years.
- (2) The President whose term has expired pursuant to clause (1), shall continue to work according to this Constitution until the newly elected President joins the office.

- 64. Qualifications of the President:** (1) A person shall be eligible to be President if he/she fulfils the following qualifications:
- (a) He/she is eligible to be a member of the federal parliament.
 - (b) He/she has attained at least 45 years of age, and
 - (c) Is not ineligible by any law.
- (2) Notwithstanding anything contained in clause (1), a person who has already been elected President for two terms, shall not be eligible to be a presidential candidate for the presidential election thereafter.
- 65. The circumstances in which the President ceases to hold office:** The President shall cease to hold office under the following circumstances:
- (a) If a written resignation is tendered to the Vice-President.
 - (b) If an impeachment motion against the president is passed pursuant to Article 101.
 - (c) If the term of office expires.
 - (d) If he/she dies
- 66. Functions, duties and powers of the President:** (1) President shall exercise his/her rights and duties as provided for by this constitution and federal laws
- (2) While exercising rights under clause (1), the President shall perform all the works with the consent and recommendation of the Council of Ministers, except in case where the works have to be performed expressly under the recommendation of some agency or official. Such consent and recommendation shall be made to the President through the Prime Minister.
- (3) The decision or order made in the name of the President as provided for by clause (2) and the certification of credentials in that regard, shall be done as specified by federal law.
- 67. Vice-President:** (1) There shall be a Vice-President in Nepal.
- (2) The vice-President shall perform the duties of the President until a new President is elected in the case when the President ceases to hold Office due to reasons other than when the President is absent or the term of office has expired.
- (3) If a person is elected to the position of Vice-President already holds a political position through election, nomination or appointment, the position held by such a person shall automatically become vacant.
- 68. The circumstances in which the Vice-President ceases to hold office:** The Vice-President shall cease to hold office under the following circumstances:
- (a) If he/she tenders a written resignation to the President,

- (b) If an impeachment motion against the vice-president is passed pursuant to Article 101,
 - (c) If the term of office expires,
 - (d) If he/she dies.
69. **Other provisions regarding the Vice-President:** The qualification of the Vice-President, election process, and other provisions regarding the term of office, shall be similar to that of the President.
70. **President and Vice-President to belong to different gender or community:** While conducting election of the President and vice-president under this constitution, the election shall be held so as to represent different gender or communities.
71. **Oath of office of the President and Vice-President:** The President shall take the oath of office and secrecy before the Chief Justice, and, the Vice-President before the President, as provided for by law, before assuming the responsibilities of the office.
72. **Remuneration and other benefits to the President and Vice-President:** The remuneration and other benefits to the President and Vice-President shall be as determined by an Act, and until such Act is made, it shall be as specified by the Government of Nepal.
73. **Office of the President and the Vice-President:** (1) Separate offices shall be set up to assist the works of the President and the Vice-President.
- (2) The Government of Nepal shall provide necessary personnel and make other arrangements for the management of the works of the offices pursuant to clause (1).

PART 7

Federal Executive

74. **Form of governance:** The form of governance of Nepal shall be a multi-party, competitive, federal democratic republican parliamentary system based on plurality.
75. **Executive Power:** (1) The executive power of Nepal shall rest with the Council of Ministers in accordance with this Constitution and law.
- (2) The responsibility of providing general directives, control and enforcement regarding the governance system of Nepal, by adhering to this constitution and law, shall rest with the Council of Ministers.
- (3) The entire works relating to the federal executive of Nepal shall be done in the name of the Government of Nepal.
- (4) The decision or Order and related certification of credentials as provided for by clause (3) shall be done according to law.
76. **Formation of the Council of Ministers:** (1) The President shall appoint the parliamentary party leader of the political party with the majority in the House of Representatives as a Prime Minister, and a Council of Ministers shall be formed in his/her chairmanship.
- (2) If there is not a clear majority of any party according to clause (1), the President shall appoint as Prime Minister the member of the House of Representatives who can have the majority with the support of two or more political parties represented in the House of Representatives.
- (3) If there is a situation wherein it is not possible to make the appointment of the prime minister as provided for in clause (2) within 30 days of the final result of the election of the House of Representatives, or if the appointed prime minister, as provided for in clause (4), fails to receive a vote of confidence, the President shall appoint the leader of the party with the highest number of members in the House of Representatives as the prime minister.
- (4) The prime minister appointed according to clause (2) or (4) shall have to receive the vote of confidence of the House of Representatives within 30 days of his/her appointment.
- (5) If a prime minister appointed according to clause (3) fails to receive a vote of confidence, the President shall appoint a member as prime minister, who produces bases that he/she may win the vote of confidence of the House of Representatives as provided for in clause (2).
- (6) The prime minister appointed according to clause (5) shall have to get the vote of confidence according to clause (4).
- (7) If the prime minister appointed according to clause (5) fails to get the vote of confidence or if any member fails to be appointed as prime

minister, the President shall, at the recommendation of prime minister, dissolve the House of Representatives and fix a date to conduct another election within six months.

- (8) The procedure regarding the appointment of the prime minister shall have to be completed within 55 days after the post of the prime minister falls vacant, or the announcement of the final results of the election of the House of Representatives according to this Constitution.
- (9) The President shall, on the recommendation of the prime minister, form a council of ministers consisting of members not exceeding 25 in number from among the members of the federal parliament on the basis of the principle of inclusion.

Explanation: For the purpose of this Article 'minister' stands for deputy prime minister, minister, minister of state and assistant minister.

- (10) The prime minister and the ministers shall be collectively accountable to the federal parliament, and, a minister shall be personally accountable to the prime minister for the works of his/her ministry, and also to the federal parliament.

77. Circumstances under which the prime minister and minister ceases to hold office: (1) The prime minister shall cease to hold office in the following circumstances|

- (a) If he/she tenders written resignation to the President,
- (b) If a motion of no confidence according to Article (104) is passed, or if a vote of confidence fails to be approved,
- (c) If he/she ceases to be a member of the House of Representatives,
- (d) If he/she dies.

(2) The minister shall cease to hold office in the following circumstances:

- (a) If he/she tenders a written resignation to the prime minister,
 - (b) If the prime minister removes him/her from the post,
 - (c) If the prime minister ceases to hold office according to clause (1) (a), (b) or (c)
 - (d) If he/she dies
- (3) If the prime minister ceases to hold the office according to clause (1), the same council of ministers shall continue to work until another council of ministers is constituted.

Provided that, in the case of the death of the prime minister, the senior most minister shall continue to act as prime minister until a new prime minister is appointed.

- 78. A person to be a minister who is not a member of the federal parliament:**
- (1) Whatsoever is contained in Article (79), the president may, on the recommendation of the prime minister, appoint deputy prime minister, minister, minister of state, assistant minister, who is not a member of the federal parliament.
 - (2) The minister appointed according to clause (1) shall have to receive membership of the federal parliament within six months of taking oath of office.
 - (3) If the minister fails to get the membership of the federal parliament according to clause (2), the minister shall not be eligible for reappointment as minister during the tenure of the existing House of Representatives.
 - (4) Whatever may be contained in clause (1), a person who has lost election in the election of the existing House of Representatives, shall not be eligible to be a minister according to clause (1), during the tenure of the existing House of Representatives.
- 79. The remuneration and other benefits to the prime minister, deputy prime minister, minister, state minister and assistant minister:** The remuneration and benefits to the prime minister, deputy prime minister, minister, state minister, and assistant minister shall be as provided for by Act. Until such an Act is formulated, it shall be as determined by the Government of Nepal.
- 80. Oath of office:** The Prime Minister, the deputy prime minister and minister shall take the oath of office and secrecy before the President, and, the state minister and assistant minister before the prime minister **according to federal law.**
- 81. The President to be informed:** The prime minister shall inform the president about the following:
- (a) The decision of the Council of Ministers,
 - (b) The Bill to be presented before the federal parliament,
 - (c) If the President asks for other information relating to Part (a) and (b), the other information shall be provided.
 - (d) Contemporary situations of the country and subjects relating to foreign affairs.
- 82. The working procedure of the government of Nepal:** (1) The division of works and work performance of the government of Nepal shall be in accordance with the regulations passed by the government of Nepal.
- (2) No question shall be raised in any court as to whether or not the regulations under clause (1) were abided by.

PART 8

Federal PARLIAMENT

83. **Federal Parliament:** There shall be a Legislature, called Federal Parliament, consisting of two Houses, namely the House of Representatives and the National Assembly.
84. **Constitution of House of Representatives:** (1) The House of Representatives shall consist of two hundred and seventy five members as follows:-
- (a) One hundred and sixty five members elected through the first-past-the-post electoral system consisting of one member from each of the one hundred and sixty five electoral constituencies, formed by dividing Nepal into 165 constituencies based on geography, and population.
 - (b) One hundred and ten members elected from proportional representation electoral system where voters vote for parties, while treating the whole country as a single electoral constituency.
- (2) Provision shall be made according to federal law for the representation of political parties to file candidacy for the election of the House of Representatives for proportional representation system through closed list, of women, *Dalit, Adibasi, Janajati, Khas Arya, Madhesi, Tharu, Muslim, and* backward regions. Such candidacy shall also consider balance in geography and province.

Explanation: For the purpose of this provision, *Khas Arya* means *Chhetri, Brahmin, Thakuri and Sannyasi (Dasnami)* community.

- (3) While filing candidacy by political parties pursuant to clause (2), provision of representation of persons with disability shall also be made.
- (4) Every Nepali citizen who has attained the age of eighteen years, as provided in law, shall be entitled to vote in any constituency.
- (5) Subject to law, any Nepali citizen, who is entitled to vote in election for House of Representatives, and who meets the requirements under Article 91, shall be allowed to file candidacy from any constituency.
- (6) In case of vacancy of a seat of a member in House of Representatives, while still ahead of six months its terms, such vacancy shall be filled through process by which said member had been elected.

Provided that the same person shall not be a candidate in more than one election constituency at the same time.

- (7) Subject to the provisions in this Article, the election of House of Representatives and other matters thereto shall be as provided in law.
- (8) Notwithstanding anything contained elsewhere in this Article, women should account for at least one third of total members elected from each

party in Federal Parliament. In case, one-third percentage of women are not elected while being elected under section (a) of clause (1), and section (a), clause (2) of Article 90, the party that fails to ensure one-third representation shall have to elect at least one-third of total numbers as woman in the Federal parliament while electing members under section (b) of clause (1).

(9) Election of House of Representatives and other subjects related to it shall be as per federal laws.

85. **Term of House of Representatives:** (1) Except when dissolved earlier, the term of House of Representatives shall be five years.

(2) Provided that, in situation when the order for the state of emergency is made and when such state of emergency exists, term of House of Representatives may be extended, not exceeding one year, in accordance with federal law.

(3) The term extended under clause (1) shall, *ipso facto*, end within six months of the end of state of emergency.

86. **Constitution of National Assembly and terms of members:** (1) National Assembly shall be a permanent house.

(2) There shall be fifty-nine members in the National Assembly as follows:-

(a) Fifty six members elected from an Electoral College comprising members of Provincial Assembly and chairpersons and vice-chairpersons of Village councils and Mayors and Deputy Mayors of Municipal councils, with different weights of votes for each, with eight members from each province, including at least three women, one dalit, one person with disability or minority;

(b) Three members, including at least one woman, to be nominated by the President on the recommendation of Government of Nepal.

(3) The tenure of members of National Assembly shall be six years.

Provided that after the commencement of this Constitution, arrangements shall be made by drawing lottery to retire one-third of the members on the expiry of two years, another one-third on the expiry of four years, and the final one-third on the expiry of six years.

(4) The tenure shall be considered to have commenced from the day of first meeting of the National Assembly.

(5) In case of vacancy of a seat in National Assembly, it shall be filled in the manner through which the said member had been elected or nominated.

(6) Other provisions relating to election of National Assembly members shall be as provided by law.

87. **Qualifications for Members:** (1) Persons who meet the following requirement shall be considered eligible to be the member of Federal Parliament:-

- (a) citizen of Nepal,
- (b) who has attained twenty five years of age for the House of Representatives and thirty five years of age for the National Assembly;
- (c) who has not been punished for any criminal offence involving moral turpitude
- (d) not ineligible under any law,
- (e) not holding an office of profit.

Explanation: “Office of profit” in this section means any position, other than a political position which is to be filled by election or nomination, for which a remuneration or economic benefit is paid out of a government fund. (2) No person shall be a member of both Houses at the same time.

(2) No one person can be a member of both the houses at the same time

(3) If a person who is elected or nominated to the position of the member of federal parliament already holds a political position through election, nomination, or appointment, the position held by such a person shall automatically become vacant from the day of his/her taking oath of office.

88. **Oath:** Every member of the Federal Parliament shall, before taking part for the first time in the meeting of the parliament at its committees, have to take an oath as provided in law.

89. **Vacation of seat:** The seat of a Member of Parliament shall be vacant in the following circumstances:-

- (a) if he or she resigns in writing to the Speaker or Chairperson,
- (b) if he or she does not meet the requirements under Article 91,
- (c) if his or her term of office expires or if the term of the House of Representatives and National Assembly expires,
- (d) if he or she remains absent from ten consecutive meetings without notification to the House,
- (e) if the party of which he or she was a member when elected provides notification in the manner set forth by law that he or she has abandoned the party.
- (f) if he or she dies.

90. **Decision as to Disqualification of Members:** If a question arises as to whether a Member of Parliament is disqualified or has ceased to possess any of the qualifications set forth in Article 91 the final decision shall be made by the Constitutional Court.

91. Speaker and Deputy-Speaker of the House of Representatives: (1) The House of Representatives shall, within fifteen days of commencement of first meeting, elect a Speaker and a Deputy Speaker from among its members.

(2) While electing speaker and deputy speaker as per clause (1), either Speaker or Deputy Speaker shall be a woman and belong to different parties.

Provided that, no more than one party is elected to the House of Representatives or does not seek to file its candidacy even when elected, nothing in this article shall bar from having Speaker and Deputy Speaker of the same party.

(3) If the office of the Speaker or the Deputy Speaker falls vacant, the House of Representatives shall fill the vacancy through election from among its members.

(4) The Deputy Speaker shall, in the absence of the Speaker of the House of Representatives, chair the meeting of House of Representatives.

(5) In case the election of the Speaker and Deputy Speaker has not taken place, or both positions remain vacant, the senior-most member of the House of Representatives shall preside the meeting of the House of Representatives.

(6) The office of the Speaker or the Deputy Speaker shall be vacant in the following circumstances:

(a) if s/he ceases to be a member of the House of Representatives: Provided that, after the dissolution of the House of Representatives, the Speaker and Deputy Speaker shall continue in office until the date of the filing of nominations for election to the House of Representatives

(b) if s/he submits a written resignation;

(c) if a resolution is passed by a majority of two-thirds of the total number of members in the House of Representatives to the effect that his/ her conduct is not compatible with his/her position.

(7) The Deputy Speaker shall preside over a meeting at which deliberations are to be held on a resolution that the conduct of the Speaker of the House of Representatives is not compatible with his/her position. The Speaker shall be entitled to take part and vote in the deliberations on such resolution.

92. Chairperson and Vice-Chairperson of National Assembly:

(1) After the commencement of its first session, the National Assembly shall, within fifteen days of commencement of first meeting, elect a Chairperson and Vice chairperson from among its members.

(2) While electing chairperson or vice chairperson as per clause (1), either Chairperson or Vice chairperson Chairman shall be a woman and belong to different parties.

Provided that no more than one party is elected to the National Assembly or does not seek to file its candidacy even when elected, nothing in this article shall bar from having Chairperson and Vice chairperson from the same party.

(3) If the office of the Chairperson or Vice chairperson falls vacant, the National Assembly shall fill the vacancy through election from among its members.

- (4) The Vice-Chairperson shall, in the absence of the Chairperson of the National Assembly, chair the National Assembly.
- (5) If the election of the Chairperson and Vice chairperson has not taken place, or if both the positions have become vacant, the senior-most member of the National Assembly shall preside over the meeting of the National Assembly.
- (6) The office of the Chairperson and Vice chairperson shall be vacant in the following circumstances:
 - (a) if s/he ceases to be a member of the National Assembly,
 - (b) if s/he submits a written resignation,
 - (c) if a resolution is passed by a majority of two-thirds of the total members of the National Assembly to the effect that his or her conduct is not compatible with his/her position.
- (7) The Vice-Chairperson shall preside over a meeting at which deliberations are to be held on a resolution that the conduct of the Chairperson of the National Assembly is not compatible with his/her position. The Chairperson shall be entitled to take part and vote in the deliberations on such resolution.

93. Summoning and Prorogation of Sessions:

- (1) President shall summon a session of parliament within one month after the elections to the House of Representatives are held. Thereafter, President shall summon other sessions from time to time in accordance with this Constitution:

Provided that the interval between two consecutive sessions shall not be more than six months.

- (2) President may prorogue the session of both or either of the Houses of Parliament.
- (3) If, during the prorogation or recess of the House of Representatives, one-fourth of its members submit a request stating that it is desirable that a session or meeting of House of Representatives be called, the President shall call the session or meeting of the Parliament by setting date and time for this within a fortnight, and House of Representatives shall convene or commence its session on the specified date and the time thus fixed.

94. **Quorum:** Except as otherwise provided in this Constitution, no resolution shall be presented for decision in either House of Parliament unless one-fourth of the total number of members of the concerned House are present.

95. **Address by President:** (1) President may address either House or a joint sitting of both the Houses of Parliament, and s/he may summon the members for that purpose.

- (2) President shall address the first session after an election to the House of Representatives and a joint sitting of both the Houses of Parliament after the commencement of the first session of each year.

96. **Deputy Prime-minister, State Minister and Assistant Minister Entitled to Take Part in Both Houses:** A Minister shall be entitled to attend and take part in the proceedings and deliberations of any of the House of Parliament or its committees.

Provided that s/he shall not be entitled to vote in a House or committee of which s/he is not a member.

97. **Formation of Committees:** (1) House of Representatives and National Assembly shall have the right to form committees according to the law.
- (2) If a resolution is passed by either House demanding that a Joint Committee of both the Houses be constituted for the purpose of managing the working procedure between the two Houses, resolving disagreements on any Bill, or for any other specified function, a Joint Committee thereon shall be constituted. The Joint Committee shall consist of up to a maximum of twenty-five members in the ratio of five members from the House of Representatives to one member from the National Assembly.
98. **Transaction of Business in case of vacancy of Members:** Both House of Federal Parliament shall have the power to transact its business notwithstanding any vacancies in the seats of its members, and no proceedings shall become invalid even if it is subsequently discovered that a person not entitled to take part in the proceedings of either House had participated therein.
99. **Voting:** Except as otherwise provided in this Constitution, all questions submitted for decision in either House of Parliament shall be decided by a majority vote of the members present and voting. Normally, the member presiding shall not have the right to vote.

But he may exercise the right to cast decisive vote in case of a tie.

100. **Provision related to Vote of Confidence and Motion of no-confidence:** (1) The Prime Minister, while he holds office, may, whenever he is of the opinion that it is necessary or appropriate to obtain a vote of confidence from the members of the House of Representatives, shall table a resolution to that effect in the House of Representatives.
- (2) The Prime Minister may, if his or her party is fragmented or the coalition partner withdraws its support, to obtain a vote of confidence from the members of the House of Representatives, table a resolution to that effect in the House of Representatives within thirty days.
- (3) A decision on a resolution tabled pursuant to clauses (1) and (2) shall be made by a majority of the total number of members of the House of Representatives.
- (4) One-fourth of the total number of members of the House of Representatives may table in writing a no-confidence motion against the Prime Minister:

Provided that a no-confidence motion shall not be presented up to first two years of appointment of the Prime Minister and if a no-confidence motion fails, another motion cannot be tabled within a year of its failure.

- (5) The name of the member proposed for Prime Minister should be mentioned when tabling the no-confidence motion under clause (4).
- (6) The Prime Minister shall be deemed to be relieved of his/her office if the no-confidence motion tabled under clause (4) is passed by a majority of the total number of members of the House of Representatives.
- (7) If the office of Prime Minister falls vacant under clause (6), the President shall appoint the member proposed in motion of no-confidence under Article 79, the Prime Minister.

101. Impeachment: (1) At least one-fourth majority of the total number of the then members of House of Representatives may table a motion of impeachment against the President or Vice-President on the charge of serious violation of the Constitution by him/her. If at least two-thirds majority of the total number of the then members of joint session of both Houses of Federal Parliament passes the motion, the President or Vice President shall ipso facto be relieved of his or her office.

- (2) A motion of impeachment against the Chief Justice or any other Judge of Supreme Court, Judge of Constitutional Court, member of Judicial Council and Head or official of Constitutional Bodies may be moved by at least one-fourth majority of the total number of the then members of House of Representatives on the grounds of his or her incompetence, misbehavior or failure to discharge the duties of his or her office in good faith or his or her inability to discharge his or her duties because of physical or mental reason; and if the motion is passed by a two-thirds majority of the total number of the then members of joint session of both Houses of Federal Parliament, he or she shall ipso facto be relieved of his or her office.
- (3) A motion of impeachment recommendation committee shall be formed in House of Representatives to recommend charges of impeachment under clause (1) and (2).
- (4) The committee formed under clause (3) shall comprise of eleven members.
- (5) The committee under clause (3) shall recommend the motion of impeachment to the House of Representatives when the charges of serious violation of constitution, other grounds of his or her incompetence, misbehavior or failure to discharge the duties of his or her office in good faith or his or her inability to discharge his or her duties because of physical or mental reason, are proven with evidence by at least three members.
- (6) Once the process of impeachment is set in motion as per this article, then the person against whom the impeachment motion is moved, whether chief justice or supreme court judges, members of constitutional court, members of judicial council or chiefs or members of constitutional bodies, shall not perform his/her duty till the process over the motion is complete.

(7) Person against whom impeachment motion is moved as per clause (1) or (2) shall be given adequate opportunity to defend.

(8) There shall be no obstruction in taking action as per the law against a person who is discharged of duty after the approval of impeachment motion as per this article if such a person is found to have committed crime whether such person was president or vice president, chief justice or supreme court judges, members of constitutional court, members of judicial council or chiefs or members of constitutional bodies.

(9) Any official who has been removed from office by way of impeachment pursuant to clause (1) and (2) shall not be entitled to gratuity or pension, and shall be ineligible to be appointed or nominated to any other public position.

(10) Other provisions related to impeachment motion shall be as provided by law.

102. **Penalty for Unauthorized Presence or Voting:** If a person sits or votes in a meeting of either House of Parliament as a member without taking an oath pursuant to Article 88, or knowing that s/he is not qualified for membership in the House, s/he shall, on order of the person chairing the House, be liable to a fine of five thousand rupees for each day of such presence or voting. The fine shall be recovered as government dues.

103. **Privileges:** (1) Subject to the provisions of this Constitution there shall be full freedom of speech in both Houses of Parliament and no member shall be arrested, detained or prosecuted in any court for anything said or any vote cast in the House.

(2) Subject to the provisions of this Constitution, each- House of Parliament shall have full power to regulate its internal business, and it shall be, the exclusive right of the House concerned to decide whether or not any proceeding of the House is regular. No question shall be raised in any court in this behalf.

(3) No comment shall be made about the good faith concerning any proceeding of either House of 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) The provisions laid in clause (1) and (3) shall also apply to any person, other than a member, who is entitled to take part in a meeting of the House.

(5) 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 a House of Parliament.

Explanation: For the purpose of this clause and clauses (1), (2), (3) and (4), the word "House" shall mean and include the House of Representatives and National Assembly and shall also mean a joint sitting of Parliament or a meeting of the Joint Committee.

- (6) No member of Parliament shall be arrested between the date of issuance of the summons for a session and the date on which that session closes:

Provided that, 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 forthwith inform the person chairing the concerned House.

- (7) Any breach of privilege of either House of Parliament shall be deemed to constitute contempt of Parliament and the concerned House shall have the exclusive right to decide whether or not any breach of privilege has taken place.
- (8) If a person is in contempt of either House of 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, to remain effective only during the current session of the House, or impose a fine up to five thousand rupees on such person. The fine shall be recovered as government dues.

Provided that if the person so accused submits an apology to the satisfaction of the House, it may either pardon him or remit or commute the sentence imposed on him.

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

104. Procedures relating to the Conduct of Business: (1) Each House of Federal Parliament shall, subject to the provisions of this Constitution, frame rules for conducting its business, maintaining order during its meetings and regulating the constitution, functions and procedures of the committees or any other matter of the Federal Parliament or committees. The Federal Parliament shall determine its own conduct of business until such rules are framed.

- (2) Matters relating to the conduct of business of a joint sitting of Federal Parliament and the constitution of its Joint Committee and the functions and procedures thereof shall be in accordance with rules approved by the joint session of the both Houses.

105. Restriction on discussion: No discussion shall be held in either House of Federal Parliament on a matter which is under consideration in any court of Nepal, and about anything done by a Judge in course of performance of his duties.

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

106. Secretary General and Secretary of Federal Parliament: (1) Secretary of the House of Representatives shall be appointed on the recommendation of its Speaker, the Secretary of the National Assembly shall be appointed on the

recommendation of its Chairperson, the secretary-general appointed in consultation with both the Speaker and the Chairperson.

(2) The qualifications, duties, functions, rights and other services of Secretary General the Secretary of the National Assembly, and the Secretary of Federal House of Representatives shall be as determined by law.

107. Secretariat of Federal Parliament: A Secretariat shall be established for the purpose of conducting the business of Parliament. Other matters related thereto shall be as determined by law.

108. Remuneration: The remuneration and benefits of the Speaker and Deputy Speaker of the House of Representatives, the Chairperson and Vice-Chairperson of the National Assembly and Chairperson of committees and members of Federal Parliament shall be as determined by the law. Until so determined it shall be as specified by the Federal Government.

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PART 9

Federal Legislative Procedure

109. Legislative power of Federal Parliament: The legislative powers of the Federal Parliament shall be as enumerated in Schedules -5, -7 and -9.

110. The procedure of introducing a Bill: (1) A Bill may be introduced at either House of the Federal Parliament subject to this Constitution.

Provided that finance bill may be introduced in the House of Representatives only.

- (2) The finance Bill and Bills concerning the security agencies, including the Nepal Army, Nepal Police, Armed Police, shall be introduced only as a government Bill.
- (3) “Finance Bill” means a Bill concerning all or any of the following subjects:
 - (a) The imposition, collection, abolition, remission, alteration of taxes or regulation of tax system.
 - (b) the preservation of the Federal Consolidated Fund or any other Federal Government fund, the deposit of money into and the appropriation or the withdrawal of money from such funds, or the reduction, increment or cancellation of appropriations or of proposed expenditures from such funds.
 - (c) the regulation of matters relating to the raising of loans or the giving of guarantee by the Government of Nepal or any matter pertaining to the amendment of the laws concerning financial liabilities undertaken or to be undertaken by the Government of Nepal.
 - (d) the custody and investment of all revenues received by any Government fund, money acquired through the repayment of loans and the grant of money, or audit of the accounts of the Government.
 - (e) Matters directly related to sub-clause (a), (b), (c) and (d).

Provided that a bill shall not be deemed to be a Finance bill by reason only that it provides for the payment of any fees such as license fee, application fee, renewal fee, or it provides for imposition of any penalty or imprisonment.

- (4) If any question is raised as to whether a bill is a finance Bill or not, the decision of the Speaker thereon shall be final.

111. Procedure for passing Bills:

- (1) A Bill passed by one House of the federal Parliament shall be immediately sent to the other House, and after the bill is passed by that House, it shall be sent to the President for certification.

- (2) The Finance Bill passed by the House of Representatives, shall be sent to the National Assembly (Rastriya sabha). The National Assembly shall have to discuss on the Bill send it back to the House of Representatives with suggestions, if any, within fifteen days of receiving it.
- (3) The House of Representatives shall discuss over the Bill returned with suggestions according to clause (2), incorporate the appropriate suggestions, if any, and present it to the President for certification.
- (4) If the National Assembly does not return the Bill even after 15 days of receiving it according to clause (2), the House of Representatives shall send the Bill to the President for certification.
- (5) Except In the case of a Finance Bill, the Bill sent to the National Assembly by the House of Representatives after passing it, the National Assembly shall have to send them back with suggestions after passing them within two months of receiving them. In the event when such bills are not returned by the National Assembly within the timeframe, the House of Representatives shall send such Bills to the President for certification, after making a decision on them with a majority voting of total existing number of members.
- (6) If one House rejects the Bill passed by another House, or if it is passed with amendments, the Bill shall have to be sent back to the House where it had been originated.
- (7) If a Bill is rejected by National Assembly, or sends it back with amendments to the House of Representatives, and if a majority of the existing number of members of the House of Representatives discuss over it and pass it as it is , or pass it with amendments, the Bill shall be presented to the President for certification.
- (8) If a Bill is sent back to the National Assembly by the House of Representatives with amendments as provided for by clause (6), and if National Assembly also passes the Bill along with the amendments made, it shall be presented to the President for certification.
- (9) The following Bills shall be presented in the joint meeting of both the Houses and if the Bill is passed as it is or with amendments by the joint meeting, the House where the Bill had originated shall present it before the President for certification.
 - (a) Bills Passed by the National Assembly but rejected by the House of Representatives, or
 - (b) Bills sent back by the House of Representatives to the National Assembly with amendments but National Assembly failing to agree on the amendment.
- (10) If the session ends when a Bill is still under consideration, the next session may take over the procedure.

Provided that, if a Bill is presented to the House of Representatives and is under consideration, or it is sent to National Assembly after passing it, but if the House of Representatives is dissolved while the Bill is still under consideration in the National Assembly, or if its tenure comes to an end, such Bill shall be considered not effective.

112. Withdrawal of Bill: The member who introduces a Bill may withdraw the Bill with the approval of the House.

113. Certification of the Bills:

- (1) The Bill which is presented to the President according to Article (114) for certification shall have to be authenticated by the Speaker or Chairperson of the House where it originated.

Provided that, in the case of a Finance Bill, the Speaker shall have to authenticate it as Finance Bill.

- (2) The Bill presented to the President for certification according to this Article, shall be certified within 15 days, and both the Houses shall be informed about that as early as possible.
- (3) Except in the case of a Finance Bill, if the President is satisfied that reconsideration is necessary on a bill, the Bill may be sent back to the House where it originated with necessary information within 15 days of receiving the Bill.
- (4) If the President sends back a Bill with the information and if both the Houses reconsiders the bill as it was presented or with amendments, and pass it and present it again to the President, the Bill shall be certified by the President within 15 days of its submission.
- (5) The Bill becomes an Act after it is certified by the President.

114. Ordinance:

- (1) If at any time, except when both the Houses of the federal Parliament is in session, the President is satisfied that circumstances exist which render it necessary to take action, the president may issue an Ordinance on the recommendation of the Council of Ministers.
- (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 and if not passed by both the Houses, it shall cease to be effective,
- (b) May be repealed at any time by the President,
- (c) Shall unless rendered ineffective or repealed under sub-clause (a) or (b), cease to have effect after six months of its issuance, or after six months of the meeting of both the Houses,

Explanation: For the use of this sub-clause, if the meetings of the federal Parliament are held at different dates, the time shall be count from the later date of the meeting.

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PART-10

Federal Financial Procedures

115. Not tax to be levied or loan to be raised:

- (1) No tax will be levied and collected 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.

116. Federal Consolidated Fund: Except for the revenues of religious endowments, all revenues received by the Government of Nepal, all loans raised on the security of revenues, and all money received in payment of any loan made under the authority of any Act and any amount received by the Government of Nepal, unless any other arrangement is made by the Act, shall be credited to a Government Fund to be known as Federal Consolidated Fund.

117. Expenditure from Federal Consolidated Fund or Federal Government Fund:

No expenditure shall be incurred out of the Federal Consolidated Fund or any other federal government fund, other than the following:

- (a) Money charged to the Federal Consolidated Fund,
- (b) Money required to meet expenditure under an Appropriation Act,
- (c) Advance money authorized by an Act required to meet expenditures, when an Appropriation Bill is under consideration, or
- (d) Expenditures to be incurred in extraordinary circumstances under a Vote of Credit Act which contains only a description of expenditure.

Provided that matters relating to the Contingency Fund shall be governed in accordance with Article 124.

118. Expenditure chargeable on the Federal Consolidated Fund:

The expenditures related to the following matters shall be charged on the consolidated fund and the approval of the federal parliament shall not be necessary for such expenses:

- (a) amount required as remuneration and benefits payable to the President and vice president,
- (b) amount required as remuneration and benefits payable to the Chief Justice, Supreme Court Justice, Constitutional Court Justice and the Judicial Council members,
- (c) amount required as remuneration and benefits payable to the Speaker and deputy Speaker of the House of Representatives, Chair and Vice-chair of National Assembly,
- (d) amount required as remuneration and benefits payable to the Heads and office-bearers of constitutional bodies,

- (e) the administrative expenses of the office of the president and the vice president, Supreme Court, Constitutional Court, Judicial Council and constitutional bodies,
- (f) all charges relating to debts for which the Government of Nepal is liable,
- (g) any sum required to be paid under any judgment or decree of a court against the Government of Nepal, and
- (h) Any other sum declared by federal law to be chargeable on the Federal Consolidated Fund.

119. Estimates of Revenues and Expenditure: (1) The Finance Minister of the Government of Nepal shall, with respect to every fiscal year, present before the joint meeting of both the houses of the Federal Parliament the annual estimates including the following matters:

- (a) an estimate of revenues,
 - (b) the money required to meet the charges on the Federal Consolidated Fund, and
 - (c) the money required to meet the expenditure to be provided for by an Appropriation Act.
- (2) The annual estimates to be presented pursuant to Clause (1) shall be accompanied by a statement of the expenses allocated to each Ministry in the previous financial year and particulars of whether the objectives of the expenses have been achieved.
- (3) The Finance Minister of the Government of Nepal shall table the revenue and expenditure estimates according to Clause (1) on the 15th of the month of Jestha (beginning of June) in the Lunar Calendar every year.

120. Appropriation Act: The money required to meet the expenditure to be provided by an Appropriation Act shall be specified under appropriate heads in an Appropriation Bill.

121. Supplementary estimates: (1) The Finance Minister of the Government of Nepal shall, in respective of any financial year, present supplementary estimates before the House of Representatives, if it is found:

- (a) that the sum authorized to be spent for a particular service by the Appropriation Act for the current fiscal year is insufficient, or that a need has arisen for expenditure upon new services not provided for by the Appropriation Act for that year, or
 - (b) that the expenditures made during that fiscal year are in excess of the amount authorized by the Appropriation Act.
- (2) The sums included in the supplementary estimates shall be specified under separate heads in a Supplementary Appropriation Bill.

- 122. Votes on Account:** (1) Notwithstanding anything contained in this part, a portion of the expenditure estimated for the financial year may, when an Appropriation Bill is under consideration, be incurred in advance by an Act.
- (2) A Vote on Account Bill shall not be submitted until the estimates of revenue and expenditures have been presented in accordance with the provisions of **Article 119**, and the sums involved in the Vote on Account shall not exceed one-third of the estimate of expenditure for the financial year.
- (3) The expenditure incurred in accordance with the Vote on Account Act shall be included in the Appropriation Bill.
- 123. Votes of credit:** Notwithstanding anything contained elsewhere in this Part, if owing to a local or national emergency due to either natural causes, a threat of external aggression or internal disturbances or other reasons, and it is impractical or inexpedient in view of the security or interest of the State to specify the details required under Clause (1) of **Article 119**, the Finance Minister may present a Vote of Credit Bill before the House of Representatives giving only a description of the proposed expenditure.
- 124. Federal Contingency Fund:** (1) A Federal Act may create a Contingency Fund into which shall be paid from time to time such money as may be determined by law.
- (2) Such Fund created under clause (1) shall be under the control of the Government of Nepal. Any unforeseen expenditures shall be met out of such fund by the Government of Nepal.
- (3) The amount of expenditures so met under clause (2) shall be reimbursed as soon as possible as per the Federal Act.
- 125. Act relating to financial Procedures:** Matters relating to the transfer of money appropriated from one head to another and other financial procedures shall be regulated by a Federal Act.

PART-11
Judiciary

- 126. 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, other laws and recognized principles of justice.
- (2) All must adhere to the order or verdict given by the court in relation to the court cases.
- 127. Courts:** (1) There shall be the following courts in Nepal:
- (a) Supreme Court,
 - (b) High Court, and
 - (c) District Court
- (2) In addition to the courts referred to in Clause (1), other institutions may be established according to the need to adopt other **means of alternatives of dispute resolution** or judicial bodies to adjudicate cases at the local level according to the law.
- 128. Supreme Court** (1) There shall be a Supreme Court in Nepal.
- (2) The Supreme Court shall be the Court of Record. Unless otherwise provided in this Constitution, all other courts and judicial institutions shall be under the Supreme Court. The Supreme Court shall have the final power to interpret the Constitution and law.
- (3) The Supreme Court may inspect, supervise and give necessary directives to courts and other judicial institutions falling under its jurisdiction on matters relating to judicial administration or management.
- (4) The interpretation of constitution and law or the legal principles propounded by the Supreme Court in relation to court cases must be followed by all. The Supreme Court can initiate a contempt of court case and punish according to the law against anyone obstructing its or its subordinate court's act of judicial execution or not abiding by its order or verdict.
- 129. Appointment and qualifications of Chief Justice and Justices of the Supreme Court:** (1) In addition to the Chief Justice of Nepal, there shall be 14 justices in the maximum in the Supreme Court. In case the number of the justices is inadequate because of the increase of number of cases at the Supreme Court, a maximum of ten temporary justices may be appointed for a certain period.
- (2) President shall appoint Chief Just at the recommendation of Constitutional Council and justices of the supreme court at the recommendation of Judicial Council.

(3) Any person who has worked as a Judge of the Supreme Court for at least three years is eligible for appointment as Chief Justice of the Supreme Court.

(4) The tenure of office of the Chief Justice shall be six years.

(5) Any Nepali citizen who holds a bachelor degree of law and has worked as Chief Judge or Judge of the High Court for seven years or has practiced law for at least fifteen years as a law graduate senior advocate or advocate or has worked for at least fifteen years in the judicial or legal field or has worked as a gazetted officer first class or above of the judicial service for at least twelve years is eligible for appointment as a Judge of the Supreme Court.

Explanation: The period worked as a judge of the appellate court before the commencement of this Constitution shall be regarded as the period to have worked in capacity of the High Court Judge for the purpose of this Clause.

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

130. Conditions of service and benefits of the Chief Justice and Justices: (1) The Chief Justice, and judges of the Supreme Court are entitled to receive a pension as provided for in the law if they resign, or get compulsory retirement or die after having served for at least five years.

(2) Except as otherwise provided in this Constitution, the remuneration and other conditions of service of the Chief Justice and Judge of the Supreme Court shall be according to the law.

(3) Notwithstanding anything contained in Clauses (1) and (2), any Chief Justice or Judge of the Supreme Court who has been removed from office through impeachment or has been punished by the court on criminal charges of moral degradation shall not be entitled to any gratuities and pensions.

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

However, this provision shall not apply in case of a declaration of a state of emergency due to severe economic breakdown.

131. Vacation of Office of Chief Justice or Justices of the Supreme Court: The Chief Justice or Judge of the Supreme Court will cease to hold office in the following situations:

(a) If the Chief Justice submits her/his written resignation to the President and a Judge submits her/his resignation to the Chief Justice,

- (b) If she/he attains the age of six-five years,
- (c) If an impeachment resolution is passed according to **Article 101**,
- (d) If the President relieves her/him of the post on the recommendation of the Constitutional Council in case of the Chief Justice and on the recommendation of the Judicial Council in case of the Judge for not being able to perform duties in service due to physical or mental illness,
- (e) If convicted by the court on criminal charges of moral degradation, or
- (f) If she/he dies.

132. Chief Justice and Justices not to be engaged in any other assignment: (1) The Chief Justice or Judge of the Supreme Court shall not be engaged in or deputed to any other assignment except that of a Judge.

Provided that the Government of Nepal may, in consultation with the Judicial Council, depute a Supreme Court Judge to work concerning judicial inquiry or to legal or judicial investigation or research for a specified period.

- (2) Any person who has once held the office of Chief Justice or Judge of the Supreme Court shall not be eligible for appointment in any government post, except otherwise mentioned in this Constitution.

133. 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 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.
- (3) For this purpose, 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, under this Clause, interfere with the internal affairs of the Federal Parliament and, the proceedings and decisions of the Federal Parliament concerning violation of its privileges and any penalties imposed thereof.

- (4) The Supreme Court shall have jurisdiction to hear original and appellate cases, to review its own judgments or interim order, to examine decision referred for confirmation, review cases or hear petitions. Such review shall be done by judge other than the one involved in original verdict.
- (5) Notwithstanding the clause (4), after the completion of 10 years of the commencement of this constitution, Supreme Court shall have the right to initial hearing and passing judgment on issues under Article 137 (3).
- (6) The Supreme Court shall hear appeal of cases that have been initiated and executed by the High Court, a subject of public interest litigation including a question related to the interpretation of the constitution and law or a case referred by the High Court along with its opinion that it would be appropriate for the Supreme Court to decide on it.
- (7) Other rights and procedural of the Supreme Court shall be as per the Federal Law

134. Transfer of cases: (1) If a case including the same question in substantial terms are under consideration of the Supreme Court and High Courts and if the Supreme Court considers that the question is of public importance or if it is seen so in the petition of the Attorney General or the petitioner of the case, the Supreme Court shall have the right to invite the case and decide it together.

- (2) If special circumstances arise whereby question could be raised on the judicial impartiality over the hearing of a case in any High Court, the Supreme Court may order according to the law by clarifying the reason and basis to transfer the hearing of the case from one High Court to another High Court.

135. Not to be part of pleading of court cases: The Chief Justice or Judge of the Supreme Court, Judge of the Constitutional Court following their retirement shall not be allowed to plead any cases in any court, or involve in reconciliation or mediation business.

136. Responsibility of the Chief Justice: The Chief Justice shall have the ultimate responsibility to make the administration of justice effective of the Supreme Court and other courts under its jurisdiction or other judicial institutions.

137. Constitutional Court (1) There shall be a Constitutional Court in Nepal.

- (2) The formation of the Constitutional Court shall be as follows:

- (a) Chief Justice
- (b) Two senior most Justice of the Supreme Court -Member
- (c) Two persons to be appointed by the President on the recommendation of the Judicial Council from among those who meet the qualifications of a Supreme Court Justice -Member

- (3) The jurisdiction of the Constitutional Court shall be as follows:
 - (a) To resolve the dispute over the jurisdiction between the Federation and Province, among Provinces, between a Province and local level and among the local levels (of government),
 - (b) To resolve the dispute concerning the election of the Federal Parliament or Provincial Assembly, and the question of ineligibility of the member of the Federal Parliament or the member of the Provincial Assembly.
- (3) The decision of the Constitutional Court shall be final decision.
- (4) The Constitutional Court shall continue to exist for ten years from the commencement of this Constitution. Following the period, the cases and records under consideration at the Constitutional Court shall be transferred to the Supreme Court.
- (5) The terms of service and benefits of the members to be appointed according to sub-Clause (c) of Clause (2) shall be similar to a Supreme Court Justice.
- (6) Other arrangements of the Constitutional Court shall be as prescribed by the law

138. Annual report: (1) Each year, the Supreme Court, the Constitutional Court, Judicial Council and Federal Judicial Service Council shall present its annual report to the President, and the President through the Prime Minister shall submit such reports before the Federal Parliament.

- (2) If recommendations from the Federal Parliament are deemed necessary upon discussion on the annual report submitted according to Clause (1), then such recommendations may be given to the concerned institution through the Government of Nepal, Ministry of Law and Justice.
- (3) Other provisions relating to the annual report according to Clause (1) will be according to the law.

139. High Court: (1) There shall be a High Court in every province.

- (2) The High Court can initiate a contempt of court case and punish according to the law against anyone obstructing its or its subordinate court's act of judicial execution or not abiding by its order or verdict.
- (3) In addition to the Chief Judge, every High Court shall have judges in the number as provided in the Federal Law.

140. The appointment and qualifications of the Chief Judge and Judges of the High Court: (1) The Chief Justice shall, on the recommendation of the Judicial Council, appoint the Chief Judge and Judges of the High Court.

- (2) Any Nepali citizen who has a Bachelor's Degree in law and has worked as a District Judge for at least five years or has practiced as a law graduate senior advocate or advocate for at least ten years ; or for at least 10

years, has either taught law or conducted research thereon or worked in any other field of law or justice or worked in any post of gazetted first class officer of the Judicial Service for a period of at least five years shall be considered eligible for appointment as Chief Judge or other Judge of the High Court.

- (3) During appointments of Chief Judge and other Judges of the High Court from among the persons meeting qualifications according to Clause (2), in case of a district judge, the appointment shall be made also on the ground of the proportion of cases decided annually by her/him and the situation of cases endorsed or overturned during final decision in the higher court, and in case of others, on the ground of examination and evaluation according to the law.
- (4) If the office of the Chief Judge becomes vacant, or the Chief Judge is unable to carry out the duties of her/his office due to any other reason, or she/he cannot be present in office due to a leave of absence or her/his being outside of the province, the senior-most Judge of the High Court shall act as the Acting Chief Judge.

141. Conditions of service and benefits of Chief Judge and Judges:

- (1) Unless otherwise mentioned in this Constitution, the remuneration and other conditions of service of the Chief Judge and other Judges of the High Court shall be according to the law.
- (2) Notwithstanding anything contained in Clause (1), the Chief Judge and Judge of the High Court, who has been removed from office following action by the Judicial Council or following punishment by the court on criminal charges constituting moral degradation, shall not be entitled to gratuity or pension.

Provided that this provision shall not apply in a condition of the Judicial Council removing her/him from office for being unable to perform duties of office due to reasons of physical or mental illness.

- (3) The remuneration and other terms of service of the Chief Judge or Judge of the High Court shall not be altered to their disadvantage.

Provided that this provision shall not apply in situation of a declaration of state of emergency due to severe economic breakdown.

142. Vacancy of office of the Chief Judge or Judge : (1) The Chief Judge or Judge of the High Court shall cease to hold office in the following circumstances:

- (a) If she/he submits written resignation to the Chief Justice,
- (b) If she/he attains the age of sixty three years,
- (c) If she/he is removed by the Judicial Council for reasons of incompetence, misbehavior, ill-intended activities and serious violation of the code of conduct,

- (d) If she/he is removed by the Judicial Council for being unable to discharge the duties of her/his office due to physical or mental illness.
 - (e) If punished by the court on criminal charges constituting moral degradation, or
 - (f) If she/he dies.
- (2) A Judge who is facing a charge before being removed from office according to Sub-clause (c) of Clause (1) must be given a reasonable opportunity to defend herself/himself. The Judge against whom proceedings have been initiated accordingly shall not perform duties of her/his office until the proceedings have been completed.
- (3) The Chief Judge or Judge removed from office may face investigation and prosecution according to the law for offense committed while holding office.

143. Chief Judge and Judge not be engaged in any other assignment and transfer related provision: (1) The Chief Judge and Judge shall not be transferred to or deputed to any assignment except that of a Judge.

Provided that the Government of Nepal may, in consultation with the Judicial Council, depute a High Court Judge to work concerning judicial inquiry or for a specified period to any legal or judicial investigation or research or to any other work of national concern.

- (2) The Chief Justice may transfer a High Court Judge from one High Court to another on the recommendation of the Judicial Council.

144. Jurisdiction of the High Court: (1) Any Nepalese citizen can petition in the High Court to annul any local law or part thereof formulated by Village Assembly or Municipal Assembly as per this constitution, if such law is inconsistent with provincial law formulated by provincial assembly. The High Court shall have the extraordinary right to annul such law from its commencement or from the date of the court order.

- (2) The High 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 legal question involved in any dispute of public interest or concern, have the right to issue necessary and appropriate orders in the name of governments, office-bearers, institutions or individuals within its provincial jurisdiction.
- (3) For the purpose of Clause (1), the High Court may 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 High Court shall not, under this Clause, interfere with the internal task and the proceedings and

decision of the Provincial Assembly concerning violation of its privileges and any penalties imposed thereof.

- (4) The High Court shall have jurisdiction to hear original and appellate cases and to examine decisions referred for confirmation, as provided for in law.
- (5) Other powers and working procedures of the High Court shall be according to the federal law.

145. Transfer of cases: (1) If the High Court feels that any case under consideration at courts under its jurisdiction involved a question of provincial law and that the question needs to be resolved in order to decide the case, then the Court may invite such cases from the subordinate courts and give full decision on the case or decide on such questions and send it back to the original court.

- (2) If a special circumstance of questions likely to be raised on the judicial impartiality appears, then the High Court may, by clearing the reasons and ground according to the law, order such cases to be transferred and heard from one district court to another district under its jurisdiction.

146. Allowed to plead: A person who has retired as a High Court Judge can plead in in the Supreme Court and High Courts other than in the high courts and subordinate courts that she/he has served as the Judge.

147. Responsibility of the Chief Judge : The Chief Judge shall have the ultimate responsibility to make the administration of justice within the jurisdiction of the High Court effective, and for this purpose she/her may, subject to this Constitution and other laws, give necessary instructions to the High Court, other subordinate courts and judicial institutions.

148. District Court: (1) There shall be a district court in every district.

- (2) The local level judicial institutions established according to the provincial law shall remain under the District Court. The District Court may inspect, supervise and issue necessary instructions to its subordinate judicial institutions.

149. Appointment, qualifications and remuneration and other terms of service of the Judges of District Courts: (1) The Chief Justice shall, on the recommendation of the Judicial Council appoint the Judges of the District Courts.

- (2) The position of vacant district court judge shall be fulfilled as follows:-

- (a) Out of the total vacant positions, twenty percent positions to be fulfilled through appointment of the second class officers of the judicial service who have completed Bachelor's level in law and having completed at least three years of service, based on seniority, qualifications and evaluation of performance;

- (b) Out of the total vacant positions, forty percent positions to be fulfilled through appointment of the second class officers of the judicial service who have completed Bachelor's level in law and having completed at least three years of service, based on an open competitive examination;
 - (c) Out of the remaining positions, forty percent of positions to be fulfilled through an open competitive examination amongst Nepali nationals who have the Bachelor's Degree in law and worked as an advocate for eight years or at least eight years in any post of gazetted second class officer having completed Bachelor's Degree in law or persons who have practiced law or has either taught law or conducted research thereon or worked in any other field of law and justice for at least eight years;
- (3) The Judicial Service Commission shall, after taking written and verbatim practical examinations according to the law from among the persons with qualifications according to Clause (2), recommend to the Judicial Council according to the merit list for appointment as district judge.
 - (4) The remuneration and other conditions of service of the Judges of District Court shall be according to the law.
 - (5) The remuneration and other conditions of service of the Judges of the District Court shall not be altered to their disadvantage.

Provided that this provision shall not apply in a situation of declaration of a state of emergency due to severe economic breakdown.

- (6) A Judge of the District Court shall cease to hold office in the following circumstances:
 - (a) If she/he submits written resignation to the Chief Justice of Supreme Court,
 - (b) If she/he attains the age of sixty three years,
 - (c) If she/he is removed by the Judicial Council for reasons of incompetence, misbehavior, ill-intended work or serious violation of the code of conduct,
 - (d) If removed by the Judicial Council for being unable to discharge the duties of her/his office due to physical or mental illness,
 - (e) If punished by the court on criminal charges constituting moral degradation, or
 - (f) If she/he dies.
- (7) A Judge of the District Court who is facing a charge before being removed according to Sub-clause (c) of Clause (6) shall be given a reasonable opportunity to defend herself/himself. The Judge against whom proceedings have been initiated accordingly shall not perform the duties of her/his office until the proceedings have been completed.

- (8) The Judge thus removed may face investigation and prosecution according to the law on offenses committed while holding office.

150. Judges of the District Court not to be engaged in any other assignment and provisions related to transfer: (1) A District Court Judge shall not be engaged in or deputed to any assignment except that of a Judge.

Provided that the Government of Nepal may, in consultation with the Judicial Council, assign a District Court Judge to work concerning judicial inquiry or for a specified period to any legal or judicial investigation or research, or to works related to elections.

- (2) The Chief Justice may transfer the Judges of the District Court from one court to another on the recommendation of the Judicial Council.

151. Jurisdiction of the District Court: (1) The District Court shall, unless provided otherwise in the law, have jurisdiction to hear original cases and execute all cases within its jurisdiction, hear petitions of habeas corpus, prohibitory order and other petitions according to the law, hear appeal over the decisions taken by the quasi-judicial bodies, hear appeal over the decision of the local level judicial institutions established according to the law of the province and initiate action and punish in contempt of court against those obstructing its or its subordinate courts acts of judicial execution or not abiding by the order or verdict.

- (2) The jurisdiction of the district court and other provisions relating to its working procedure shall be as provided for in the law.

152. Specialized court: (1) In addition to the courts referred to in Article 130, the law may establish and constitute other specialized courts, judicial institutions or tribunal, for the purpose of hearing cases of special types and nature.

Provided that no specialized court, judicial institution or tribunal shall be constituted for the purpose of hearing a particular case.

- (2) Cases related to criminal offense leading to prison sentence of more than 6 months shall not fall under the jurisdiction of any other institution other than a court or specialized court or military court or judicial body.

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

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|---|--------------|
| (a) The Chief Justice | -Chairperson |
| (b) The Federal Minister for Law and Justice | -Member |
| (c) Senior-most Judge of the Supreme Court | -Member |
| (d) A legal expert nominated by the President on the recommendation of the Prime Minister | -Member |

- (e) A senior advocate, or an advocate who has at least twenty years' experience to be appointed by the President on the recommendation of the Nepal Bar Association -Member
- (2) The term of office of the members referred to in Sub-clauses (d) and (e) of Clause (1) shall be four years and their remuneration and privileges shall be the same as those of a Judge of the Supreme Court.
- (3) The members referred to in Sub-clauses (d) and (e) of Clause (1) above, may be removed from office on the same grounds and in the same manner as provided for the removal of a Judge of the Supreme Court.
- (4) The Chairperson, inter alia, and members of the Judicial Council may obtain and study the documents and files of a case related to any complaint lodged against a judge, and may furnish information thereon to the Judicial Council.
- (5) The Judicial Council may, while carrying out preliminary investigation of a complaint received against a judge, constitute a Committee of Inquiry, if it has determined that a detailed investigation by an expert is required.
- (6) Except in case of justices who can be removed from office through the impeachment motion under this constitution, the Judicial Council can investigate and move court cases against other judges accused of corruption or abuse of authority.
- (7) The Judicial Council shall, pursuant to this Constitution, maintain an updated record of the persons who meet the qualifications to be appointed to the post of Chief Justice and Judge of the Supreme Court, Judge of the Constitutional Court, Chief Judge and Judge of the High Court.
- (8) The other functions, duties and powers of the Judicial Council shall be according to the law.

154. The Federal Judicial Service Commission: (1) The Government of Nepal shall carry out appointments, transfers and promotions to gazetted posts of federal judicial service or take departmental action against any staff holding such post according to the law on the recommendation of the Federal Judicial Service Commission.

Provided that the Government of Nepal shall make permanent appointments through new recruitments in gazetted post of Federal Judicial Service of a person who is not in Federal Government Service or while making promotions from non-gazetted post of Federal Judicial Service to gazetted post of the same service, on the recommendation of the Public Service Commission.

Explanation: For the purpose of this Article, the Public Service Commission shall conduct the open and internal practical examinations taken during appointments to gazetted post of judicial service.

(2) The Federal Judicial Service Commission shall consist of the following chairperson and members:

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|--|--------------|
| (a) Chief Justice of the Supreme Court | -Chairperson |
| (b) Federal Law and Justice Minister | - Member |
| (c) Senior-most Judge of the Supreme Court | -Member |
| (d) Chairperson of the Public Service Commission | -Member |
| (e) The Attorney General | -Member |

(2) The other functions, duties, and powers, and working procedures of the Federal Judicial Service Commission shall be according to the law.

155. Provisions related to conditions of service and benefits: The remuneration, benefits and conditions of service of the staffers of the Federal Judicial Services shall be as provided in the Act.

156. Provisions related to provincial level judicial service commission: The formation of judicial service in the province and the remuneration, benefits and conditions of service of its staffers shall be as provided in the law.

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PART 12

Attorney General

- 157. Attorney General:** (1) There shall be an Attorney General in Nepal.
- (2) The President, on the recommendation of the Prime Minister, shall appoint Attorney General. The Attorney General shall hold office during the pleasure of the Prime Minister.
 - (3) The person qualified to be the judge of the Supreme Court shall be eligible to be appointed as Attorney General.
 - (4) The office of Attorney General shall be deemed vacant under the following circumstances:-
 - (a) if she/he submits resignation in writing through the Prime Minister to the President,
 - (b) if the President, on the recommendation of the Prime Minister, removes him/her from the office,
 - (c) if she/he dies.
 - (5) The remuneration and other facilities of the Attorney General shall be at par with that of a judge of the Supreme Court. The other conditions of the service of the Attorney General shall be as prescribed by law.
- 158. Functions, Duties and Powers of Attorney General:** (1) The Attorney General shall be the Chief Legal Advisor to the Government of Nepal. It shall be the duty of the Attorney General to give opinions and advice on constitutional and legal matters to the Government of Nepal and to such other authorities as the Government of Nepal may specify.
- (2) The Attorney General or officers subordinate to him/her shall represent the Government of Nepal in suits in which the rights, interests or concerns of the Government of Nepal are involved. Unless this constitution otherwise requires, the Attorney General shall have the right to make the final decision to initiate proceedings in any case on behalf of the Government of Nepal in any court or judicial authority. The Attorney General shall appoint other attorneys as needed to deal with legal proceedings.
 - (3) The advice from the Attorney General shall be required to withdraw any lawsuits filed on behalf of the Government of Nepal.
 - (4) In case of being called to do so, the Attorney General may appear in the meeting of the Federal Legislature or any committee to express his/her opinion on any legal question.
 - (5) In the course of discharging his/her official duties, the Attorney General shall have the right to appear before any court, office or authority of Nepal.

- (6) While discharging duties as under clause (2), the Attorney General shall have authority as follows:-
 - (a) To appear on behalf of the Government of Nepal in litigations submitted by or against the Government of Nepal.
 - (b) To monitor or cause to be monitored the implementation of interpretation of law and the legal principles propounded by the Supreme Court in the course of proceeding.
 - (c) On the basis of To investigate allegations of inhuman treatment to any person in custody, or any denial of consultation with his/her relatives or through legal practitioners in case of complaints or information received to him through any means and give necessary instruction, under this constitution, to the relevant authorities, to prevent the recurrence of such a situation.
- (7) The Attorney General may delegate his/her functions, duties and power to his subordinates or prosecutors, to be exercised in compliance with the conditions specified.
- (8) In addition to the functions, duties and rights as set out in this Article, the other functions, duties and rights of the Attorney General shall be as determined by this Constitution and other laws.

159. Annual Report: (1) The Attorney General shall, every year, prepare an annual report on the works she /he according this constitution and other laws, and submit it to the President, and the President, through the Prime Minister, shall make the report to be presented in the Federal Legislature.

- (2) The report under clause (1) shall, in addition to other matters, cover the number of instances of constitutional and legal advice given in the year by the Attorney General, a description of cases prosecuted by the government, a summary of cases involving the government as either plaintiff or defendant, and recommendations for future improvements in cases brought by the government.

160. Chief Attorney: (1) There shall be a Chief Attorney under Attorney General in each province.

- (2) The Head of Province shall, in recommendation of the Chief Minister, appoint Chief Attorney in the province. The Chief Attorney shall hold office during the pleasure of the Chief Minister.
- (3) The person qualified to be the judge of the High Court shall be eligible to be appointed as Chief Attorney.
- (4) The office of Chief Attorney shall be deemed vacant under the following circumstances:-
 - (a) if she /he submits resignation in writing through Chief Minister to the Head of Province ,

- (b) if the Head of Province, on the recommendation of the Chief Minister, removes him/her from the office,
 - (c) if she /he dies.
- (5) The Chief Attorney shall be the Chief Legal Advisor to the provincial government. It shall be the duty of the Chief Attorney to give opinions and advice on constitutional and legal matters to the provincial government and to such other authorities as the provincial government may specify.
- (6) The office of the Attorney General shall manage the staffs under office of Chief Attorney.
- (7) The remuneration and other benefits of the Chief Attorney shall be at par with that of a judge of the High Court. The other conditions of the service of Chief Attorney and his/her functions, duties and powers shall be as prescribed by law of the province.

161. Provisions Concerning Terms and Conditions of Service and Benefits : The remuneration, other benefits and conditions for service for government attorneys and other employees working under the Attorney General shall be as prescribed in federal law.

PART-13

Provincial Executive

162. Provincial executive power: (1) The executive power of the Province shall, pursuant to this Constitution and laws, be vested in the Council of Ministers of the Province.

Provided that the executive power of the Province shall be exercised by the Provincial Head in case of absence of the Provincial Executive in a State of Emergency or enforcement of Federal rule.

- (2) The responsibility for issuing general directives, controlling and regulating the administration of the Province shall, subject to this Constitution and other laws, lie in the Provincial Council of Ministers.
- (3) The executive functions of the Province shall be exercised in the name of the Provincial government.
- (4) The provincial executive power, pursuant to this Constitution, shall be as provided in the list of competencies of the Province in Schedule-5 and the list of Concurrent competencies/powers of Federation and Province in Schedule-6.

Provided that the Provincial Council of Ministers must coordinate with the Government of Nepal while exercising executive powers in areas mentioned in the concurrent list.

- (5) Any decision or order or implementation warrant to be issued in the name of Government of Nepal, pursuant to Clause (3) above, shall be authenticated as prescribed by the provincial law.

163. Provisions related to the Provincial Head: (1) Every province shall have a Provincial Head as the representative of the Federal government.

- (2) The President shall appoint a Provincial Head for every province.
- (3) The term of office of the Provincial Head shall be of five years, except when she/he is removed by the President before the expiry of her/his term of office.
- (4) The same person shall not be the Provincial Head for more than one time in the same Province.

164. Qualifications of Provincial Head: Any person with the following qualifications shall be eligible for the post of the Provincial Head:

- (a) has attained 35 years of age,
- (b) is eligible to be a member of the Federal Parliament, and
- (c) is not ineligible by any law.

165. Vacation of the post of Provincial Head: (1) The post of the Provincial Head shall fall vacant under following conditions:

- (a) if she/he tenders her/his resignation before the President,
- (b) if her/his term comes to an end or is removed by the President before the end of the term, or
- (c) if she/he dies.

(2) In case of the post of the *Provincial Head* of any Province falls vacant, the President may designate *Provincial Head* of any other Province to officiate until a new Provincial Head is appointed.

166. Functions, duties and powers of Provincial Head: (1) The Provincial Head shall exercise the rights and duties as specified in this constitution or laws

(2) All tasks executed by the Provincial Head as per clause (1) shall be carried out on the recommendation and consent of the Provincial Council of Ministers except where it has been specified to be done on the recommendation of any institution or office-bearers pursuant to this Constitution and law. Such recommendation and consent shall be submit through the Chief Minister.

(3) The decision or order made in the name of the Provincial Head as provided for by clause (2) and the certification of credentials in that regard, shall be done as specified by provincial law

167. Oath of Provincial Head: The Provincial Head shall take her/his oath of office and secrecy before the President, pursuant to the law.

168. Constitution of the Provincial Council of Ministers: (1) The Provincial Head shall appoint the leader of the parliamentary party with majority in the Provincial Assembly as the Chief Minister and the Provincial Council of Ministers shall be formed under the chairpersonship of the Chief Minister.

(2) If no party carries a clear majority in the Provincial Assembly for purpose of Clause (1), the Provincial Head shall appoint as Chief Minister the member of the Provincial Assembly who can attain majority of two or more than two parties represented in the Provincial Assembly.

(3) If a situation arises whereby the appointment of the Chief Minister according to Clause (2) is not possible within thirty days from the date of announcement of the final result of the election to the Provincial Assembly or if the Chief Minister so appointed is unable to win a vote of confidence according to Clause (4), the Provincial Head shall appoint as Chief Minister the leader of the parliamentary party with the highest number of members in the Provincial Assembly.

(4) The Chief Minister appointed pursuant to Clause (2) or Clause (3) above must obtain a vote of confidence from the Provincial Assembly within thirty days of being appointed the Chief Minister.

- (5) If the Chief Minister appointed pursuant to Clause (3) cannot obtain a vote of confidence pursuant to Clause (4), the Provincial Head shall appoint as Chief Minister any other member pursuant to Clause (2) who can win a vote of confidence in the Provincial Assembly.
- (6) The Chief Minister appointed pursuant to Clause (5) must obtain a vote of confidence pursuant to Clause (4).
- (7) If the Chief Minister appointed pursuant to Clause (3) or (5) fails to obtain a vote of confidence pursuant to Clause (4) and (6) or if appointment of Chief Minister pursuant to Clause (5) is not possible, the Provincial Head shall dissolve the Provincial Assembly and announce the date for another elections to be held within six months.
- (8) The appointment process of the Chief Minister in pursuant to this Article shall be completed within thirty-five days of the announcement of the final result of the election held for the Provincial Assembly pursuant to this Constitution or from which the post of the Chief Minister falls vacant.
- (9) The Provincial Head shall, on the recommendation of the Chief Minister, constitute from among the members of the Provincial Assembly the Provincial Council of Ministers on the basis of the principles of Inclusion and not exceeding more than twenty per cent of the total number of members of the Provincial Assembly, including the Chief Minister.

Explanation: For the purpose of this Article the word ‘Minister’ shall mean Minister, State Minister and Assistant Minister.

- (10) The Chief Minister and Minister shall be collectively accountable towards the Provincial Assembly, and the Ministers shall be individually responsible to the Chief Minister and the Provincial Assembly for the work of their respective Ministries.

169. Vacancy of office of Chief Minister and Ministers: (1) The Chief Minister shall be deemed to have ceased to hold office in the following situations:

- (a) If the Chief Minister submits her/his resignation to the Provincial Head.
 - (b) If the no-confidence motion against her/him pursuant to Article 187 is passed or vote of confidence fails,
 - (c) If she/he ceases to be the member of the Provincial Assembly, or
 - (d) If she/he dies.
- (2) The Minister, State Minister or Assistant Minister shall be deemed to have ceased to hold office in the following situations:
- (a) If they submit their resignation to the Chief Minister,
 - (b) If the Chief Minister removes them,

- (c) If the Chief Minister ceases to hold office pursuant to Clause (1), or
 - (d) If she/he dies.
- (3) If the Chief Minister ceases to hold office pursuant to Clause (1), the existing Council of Ministers shall continue to function until a new Provincial Council of Ministers is constituted.

Provided that in the case of the death of the Chief Minister, the senior most Minister shall act as Chief Minister until a new Chief Minister is appointed.

170. Appointment of non-member of Provincial Assembly as Minister, State Minister or Assistant Minister: (1) Notwithstanding anything contained in Article 166, the Provincial Head, on the recommendation of the Chief Minister, may appoint any person who is not a member of Provincial Assembly as Minister, State Minister or Assistant Minister.

- (2) The Minister, State Minister or Assistant Minister appointed pursuant to Clause (1) shall gain membership of the Provincial Assembly within six months of taking oath.
- (3) Failure to attain membership of the Provincial Assembly within the period pursuant to Clause (2) shall make them ineligible to be re-appointed as Minister, State Minister or Assistant Minister during the term of the existing Provincial Assembly.
- (4) Notwithstanding anything contained in Clause (1) a person who lost in the elections of the existing Provincial Assembly shall not be eligible for appointment to the post of Minister, State Minister or Assistant Minister pursuant to Clause (1) during the term of the same Provincial Assembly.

171. Remuneration and other benefits of Chief Minister, Minister, State Minister and Assistant Minister: The remuneration and other benefits of the Chief Minister, Minister, State Minister and Assistant Minister shall be as determined by an Act. Until so determined, they shall be as specified by the Government of Nepal.

172. Oath: The Chief Minister and Ministers shall take their oath of office and secrecy according to the law before the Provincial Head, and the State Ministers and Assistant Ministers shall take their oath of office and secrecy before the Chief Minister.

173. Provincial Head to be informed: The Chief Minister shall inform the *Provincial Head* about the following subjects:

- (a) The decision of the Provincial Council of Ministers,
- (b) Bills to be presented before the Provincial Assembly,
- (c) Other necessary information sought by the Provincial Head in relation to subjects mentions in Section (a) and (b), and
- (d) The contemporary situation of the Province.

174. Conduct of business of the Provincial government: (1) The allocation and transaction of business of the provincial government shall be carried out as set forth in rules approved by the provincial government.

(2) No question shall be raised in any court as to whether or not rules made pursuant to Clause (1) above have been observed.

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PART-14

Provincial Legislature

175. Provincial Legislature: There shall be a unicameral legislature in a province which shall be called the Provincial Assembly.

176. Formation of the Provincial Assembly: (1) Every provincial assembly shall consist of the following number of members: -

(a) Members equal to double the number of members to be elected through the first-past-the-post (FPTP) election system to the House of Representatives from the concerned province,

(b) The number of members to be elected through the Proportional Representation (PR) election system equal to the number equivalent to the remaining forty per cent when the number of members maintained pursuant to sub-clause (a) is regarded as sixty per cent.

(2) Electoral constituencies shall be maintained pursuant to federal law on the basis of geography and population for the election of the members pursuant to sub-clause (a) of Clause (1)

(3) Sixty per cent of the members of the Provincial Assembly shall be elected through first-past-the-post election system and forty per cent shall be elected through proportional representation election system;

(4) Election of members of the provincial assembly to be conducted pursuant to clause (3) shall be held on the basis of adult franchise through secret ballot as provided in the law.

(5) Every Nepali citizen having domicile in a province and having attained the age of 18 years shall have the right to vote in any election constituency as provided for by law.

(6) The representation of women, Dalit, indigenous, indigenous nationalities, Khas Arya, Madhesi, Muslim, backward region and minorities community on the basis of geography and population in the nominations filed by the political parties for the election to be held for the Provincial Assembly through the proportional representation (PR) election system shall be provided on the basis of closed list in accordance with provincial law.

Explanation: 'Khas Arya' shall mean Chettri, Brahman, Thakuri, Sanyasi (Dashanami) community.

(7) While filing of candidacy by political party pursuant to clause (6), representation of the persons with disability shall also be made.

(8) In case the seat of any member falls vacant with more than six months of the term of the Provincial Assembly remaining, the seat shall be filled through by-election and by pursuing the same election system by which earlier member had been elected.

(9) Notwithstanding anything contained elsewhere in this Article, at least one third of the total number of members to be elected from each political party to the Provincial Assembly shall have to be women. In case at least one third of the candidates elected from a political party pursuant to sub-clause (a) of clause (1) are not women, the political party shall have to make provision of electing at least one third women while electing members pursuant to sub-clause (b) of the same clause.

(10) Any person eligible to vote for the member of provincial assembly and qualified as per Article 178 can stand as candidate from any election constituency of the province.

Provided no one candidate shall stand in election from more than one constituency at a time.

(11) Other provisions related to provincial assembly election shall be as prescribed in federal law.

177. Term of Provincial Assembly: (1) Unless dissolved earlier pursuant to this Constitution, the term of the Provincial Assembly shall be five years.

(2) Provided that the term of the Provincial Assembly may be extended by a maximum of one year as per the Provincial Act, in the event of the declaration of a State of Emergency.

(3) The term of Provincial Assembly extended according to clause (2) shall, ipso facto, come to an end after six months of the date of annulment of the declaration of the State of Emergency.

178. Qualification of members of Provincial Assembly: (1) Any person who possess the following qualifications is eligible to become a member of the Provincial Assembly:

- (a) be a Nepali citizen,
- (b) be a voter of the concerned Province,
- (c) have attained twenty-five years,
- (d) not have been punished for any criminal offence involving moral turpitude,
- (e) not deemed ineligible by any law, and
- (f) Not be holding an office of profit.

Explanation: For the purpose of this sub-clause, 'office of profit' means any position, other than a political position, filled by election or nomination for which remuneration or economic benefit is paid out of a Government Fund.

(2) If a person who is elected or nominated to the position of the member of provincial assembly already holds a political position through election, nomination, or appointment, the position held by such a person shall

automatically become vacant from the day of his/her taking oath of office.

- 179. Oath of member of Provincial Assembly:** The members of the Provincial Assembly shall take the oath, as provided for in the law, before taking part for the first time in a meeting of the Assembly or a meeting of any of its Committee.
- 180. Vacation of seat of Provincial Assembly member:** The seat of a member of the Provincial Assembly shall be deemed to be vacant in the following circumstances:
- (a) if she/he submits resignation to the Speaker of the Provincial Assembly,
 - (b) if she/he does not, or has ceased to, possess the qualifications pursuant to Article 177,
 - (c) if the term of the Provincial Assembly expires or is dissolved,
 - (d) if she/he remains absent from ten consecutive meetings without notification to the Provincial Assembly,
 - (e) if the party of which she/he was a member when elected provides notification in the manner set out by provincial law that she/he has left the party, or
 - (f) if she/he dies.
- 181. Decision about disqualification of members of Provincial Assembly:** If a question arises as to whether any member of the Provincial Assembly is disqualified or has ceased to possess any of the qualifications required by Article 177, the final decision shall be made by the Constitutional Court.
- 182. Speaker and Deputy Speaker of the Provincial Assembly:** (1) The Provincial Assembly shall elect a Speaker and a Deputy Speaker from among its members within fifteen days of the first meeting of the Assembly.
- (2) While electing speaker and deputy speaker as per clause (1), either of Speaker or Deputy Speaker shall be woman and they shall belong to different parties.

Provided that if not more than one party is represented in the Provincial Assembly or candidacy has not been registered even with the presence of more than one party, it shall not obstruct the Speaker and Deputy Speaker being from the same party.

- (3) If the office of the Speaker or Deputy Speaker falls vacant, the Provincial Assembly shall fill the vacancy through election from among its members.
- (4) In the absence of the Speaker of the Provincial Assembly, the Deputy Speaker shall chair the meeting of the Provincial Assembly.
- (5) If the election of the Speaker and Deputy Speaker has not taken place, or if both the positions become vacant, the member who is the senior most

by age among the members present, shall preside over the meeting of the Provincial Assembly.

- (6) The office of the Speaker or Deputy Speaker of Provincial Assembly shall become vacant in the following circumstances:
 - (a) if she/he ceases to be a member of the Provincial Assembly,
 - (b) if she/he submits written resignation, or
 - (c) if a resolution is adopted by a majority of two-thirds of the total number of members existing for the time being in the Provincial Assembly, to the effect that her/his conduct is not compatible with her/his position.
- (7) 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 her/his position. The Speaker shall be entitled to take part and vote in the deliberations on such a resolution.

183. Summoning and prorogation of sessions of Provincial Assembly: (1) The Provincial Head shall summon the session of the Provincial Assembly within twenty days after the final result of the election to the Provincial Assembly has been announced. And the subsequent sessions shall be called from time to time pursuant to the Constitution by the *Provincial Head*.

Provided that the period between the prorogue of a session and the commencement of new session shall not be more than six months.

- (2) The Provincial Head may prorogue the session of the Provincial Assembly.
- (3) If, when the Provincial Assembly is not in session or has been adjourned, at least one-fourth of all members of the Provincial Assembly submit a request stating that it is desirable that a session or meeting of the Provincial Assembly be called, the Provincial Head shall call such a session or meeting by setting the date and time for this. The session of the Provincial Assembly shall commence or the meeting will be held in the date and time designated accordingly.

184. Address by the Provincial Head : (1) The Provincial Head shall make a call to address the session of the Provincial Assembly and appeal to members for their presence in it.

- (2) The Provincial Head shall address the first session held following the elections to the Provincial Assembly and the meeting of the Provincial Assembly after commencement of the first session every year.

185. Quorum of Provincial Assembly: Except as otherwise provided for in this Constitution, no resolution shall be presented for decision in any meeting of the Provincial Assembly unless one-fourth of the total number of members are present.

186. Voting in Provincial Assembly : Any resolution submitted for decision in the Provincial Assembly shall be decided by a majority vote of members present and voting. The presiding member shall not have the right to vote.

Provided that in case of a tie the presiding member may exercise a casting vote.

187. Privileges of Provincial Assembly: (1) There shall be full freedom of speech, pursuant to this Constitution, in the Provincial Assembly and no member shall be arrested or detained or prosecuted in any court for anything expressed or for any vote cast in that meeting.

- (2) The Provincial Assembly shall, pursuant to this Constitution, have full power to regulate its business, and it shall have the exclusive right to decide whether or not any proceeding of the Provincial Assembly is regular. No question shall be raised in any court in this regard.
- (3) No comment shall be made about the good faith of any proceedings of the Provincial Assembly, and no person shall make or disseminate anything about the comments or suggestion made by any member, deliberately misinterpreting or distorting their meaning.
- (4) The provision of Clause (1) and (3) shall also be applicable to any other person who is allowed to take part in the Provincial Assembly, other than the member of the Provincial Assembly.
- (5) No proceedings shall be initiated in any court against any person for publication made under authority given by the Provincial Assembly of any document, report, vote or proceeding.

Explanation: For this Clause and for Clauses (1), (2), (3) and (4), the word 'Provincial Assembly' shall also mean the meeting of the Committee of the Provincial Assembly.

- (6) No member of the Provincial Assembly shall be arrested after a notice of the summoning of the session has been issued and until the session ends.

Provided that nothing in this Clause shall be deemed to prevent the arrest of any member on a criminal charge under any law. If any member is so arrested, the authority making such arrest shall immediately inform the person chairing the Provincial Assembly.

- (7) Any breach of privilege shall be deemed to constitute contempt of the Provincial Assembly and the Provincial Assembly shall have the exclusive right to decide whether or not any breach of privilege of the Assembly has taken place.
- (8) If a person is in contempt of the Provincial Assembly, the person chairing the meeting may, in accordance with a decision by the meeting to that effect, reprimand or warn or impose a sentence of imprisonment not exceeding three months or impose a fine of up to ten thousand rupees on such a person, and such fine shall be recovered as government dues.

Provided that if such a person submits an apology to the satisfaction of the Provincial Assembly, it may either pardon her/him or alter the sentence imposed on her/him.

- (9) Other matters relating to privileges of the Provincial Assembly shall be as determined by the Provincial law.

188. Provisions related to Vote of Confidence and no-confidence motion: (1) If the Chief Minister considers it necessary or appropriate to make it clear that the Provincial Assembly has confidence in her/him, she/he may propose a vote of confidence to the Provincial Assembly any time.

- (2) If the party represented by the Chief Minister is divided or if a party joining the provincial government withdraws its support, the Chief Minister shall propose a vote of confidence to the Provincial Assembly within thirty days.
- (3) If the vote proposed in pursuant to Clause (1) and (2) is not passed by a majority of the total number of members existing in the time being, the Chief Minister shall cease to hold office.
- (4) At least one-fourth of the total number of members of the Provincial Assembly may propose a no-confidence motion, stating that the Provincial Assembly has no confidence in the Chief Minister.

Provided that a no-confidence motion shall not be moved until the first two years of her/his appointment as the Chief Minister and not before another year once a no-confidence motion fails.

- (5) A no-confidence motion pursuant to Clause (4) shall also include the name of the proposed member for the post of Chief Minister.
- (6) If the no-confidence motion registered pursuant to Clause (4) is passed by a majority of the total number of members existing in the time being in the Provincial Assembly, the Chief Minister shall cease to hold office.
- (7) If the no-confidence motion pursuant to Clause (6) is passed and the post of Chief Minister falls vacant, the Provincial Head shall appoint as Chief Minister, pursuant to Article 166, the member of the Provincial Assembly proposed pursuant to Clause (5).

189. Minister, State Minister and Assistant Minister to attend the meeting of Provincial Assembly: The Minister, State Minister and Assistant shall be allowed to attend and take part in the business and deliberations of the Provincial Assembly and its Committee meetings.

Provided that the Minister, State Minister or Assistant Minister, who is not a member of the Provincial Assembly, shall not be allowed to vote in the Provincial Assembly meeting or its Committees and the Minister, State Minister or Assistant Minister, who is a member of the Provincial Assembly shall not be allowed to vote in the meeting of the Committee other than she/he is a member.

- 190. Unauthorized presence or voting in Provincial Assembly to be penalized :** If any person who has not taken oath pursuant to Article 178 or does not hold necessary qualifications for membership of the Provincial Assembly attends the Provincial Assembly or its Committee meetings or votes in capacity of a member then the person presiding over the meeting shall order a fine of five thousand rupees against the person for every instance of such attendance or voting, and the penalty shall be recovered as government dues.
- 191. Restriction on discussion:** No discussion shall be held in the Provincial Assembly which could have an adverse impact in the judicial execution of a matter under consideration in any court of Nepal, and about anything done by a Judge in the course of performance of his or her judicial duties.
- 192. Transaction of business in case of vacancy in membership:** The proceedings of the Provincial Assembly shall be conducted notwithstanding any vacancies in its membership, and no proceedings shall become invalid even if it subsequently found that a person not entitled to take part in the proceedings participated.
- 193. Provincial Assembly to form committees:** The Provincial Assembly shall constitute committees or special committees according to the need and as provided for in its rules to manage the transaction of business of the Provincial Assembly.
- 194. Procedure relating to the conduct of business of the Provincial Assembly:** The Provincial Assembly shall frame rules to conduct its business, maintain order during its meetings and to regulate the constitution, functions and procedures of, and for any other matters pertaining to, committees of the Provincial Assembly.
- 195. Secretary and Secretariat of the Provincial Assembly:** (1) The Provincial Head shall, on the recommendation of the Speaker of the Province, appoint Secretary of the Provincial Assembly.
- (2) There shall be a Secretariat to carry out and manage the business of the Provincial Assembly. The establishment of such a Secretariat and other matters related thereto shall be as determined by Provincial law.
- (3) The qualification, functions, duties, powers and other terms and conditions of service of the Secretary of the Provincial Assembly shall be as provided for in the law.
- 196. Remuneration:** The remunerations and benefits of the Speaker, Deputy Speaker and members of the Provincial Assembly shall be as provided for in the Provincial law. Until such a law is formulated, it shall be as determined by the provincial government.

PART 15

Provincial Legislative Procedure

197. Legislative power of Provincial Legislature: The legislative powers of the Provincial Legislature shall be as enumerated in Schedules -6, -7 and -9.

198. Procedure to introduce bills in the Provincial Assembly: (1) A bill may be introduced, pursuant to this constitution, in the Provincial Assembly.

(2) The Finance Bills and Bills concerning law and order shall be introduced only as a Government Bill.

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

(a) the imposition, collection, abolition, remission, alteration or regulation of taxes or regulation of tax system in the Province,

(b) the preservation of the Provincial Consolidated Fund or any Government fund of another Province, the deposit of money into and the appropriation or the withdrawal of money from such funds, or the reduction, increment or cancellation of appropriations or of proposed expenditures from such funds,

(c) the regulation of matters relating to the raising of loans or the giving of guarantees by the Provincial Government, or any matter pertaining to amendment of the laws concerning the financial liabilities undertaken or to be undertaken by the Provincial Government,

(d) the custody and investment of all revenues received by any Provincial Government Fund, money acquired through the repayment of loans, and the grant of money; or audits of the accounts of the Provincial Government; or

(e) matters directly related to Sub-clauses (a), (b), (c), (d) and (e).

Provided that a Bill shall not be deemed to be a Finance Bill by reason only that it provides for the levying of any charges and fees such as license fee, application fee, renewal fee or it provides for imposition of any penalty or imprisonment.

(4) If any question arises whether a Bill is a Finance Bill or not, the decision of the Speaker of the Provincial Assembly thereon shall be final.

199. Procedure for Passing Bills: (1) A Bill passed by the Provincial Assembly shall be presented to the Head of Province for certification.

(2) If a session of the Provincial Assembly terminates while a Bill is under consideration, deliberations on the Bill may continue at the succeeding session:

Provided that if the Provincial Assembly is dissolved or its term expires when any Bill is under consideration at the Provincial Assembly, such Bill shall be deemed to have lapsed.

200. Withdrawal of the Bill: A Bill may be withdrawn by the member introducing it with the approval of the Provincial Assembly.

201. Certification of the Bill: (1) A Bill which to be presented to the Head of Province for certification pursuant to Article 197 shall be so presented by the Speaker of the Provincial Assembly after certifying it.

Provided that in the case of a Finance Bill, the Speaker shall so certify stating that it is a Finance Bill.

(2) The Head of Province shall certify the Bill presented to her/him for certification within fifteen days, and inform the Provincial Assembly about the same as soon as possible.

(3) Except for a Finance Bill, if the Head of Province is of the opinion that any Bill presented to her/him for certification needs further deliberations, she/he may send back the Bill with her/his message to the Provincial Assembly within fifteen days from the date of presentation of the Bill to her/him.

(4) If any Bill is sent back with a message from the Head of Province, it shall be reconsidered by the Provincial Assembly and if the Bill so reconsidered is again passed as it was or with amendments, and is again presented to him/her, the Head of Province shall certify the Bill within fifteen days of such presentation.

(5) A Bill shall become an Act after it is certified by the Head of Province.

202. Ordinance: (1) If at any time, except when the Provincial Assembly is in session, if circumstances exist which render it necessary to take immediate action, the Head of Province may, on the recommendation of the Provincial Council of Ministers, promulgate an Ordinance.

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

Provided that every such Ordinance:

(a) shall be tabled at the next session of Provincial Assembly, and if not passed it shall ipso facto cease to be effective;

(b) may be repealed at any time by the Head of Province ; 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 the session of the Provincial Assembly.

PART 16

Financial Procedures of Province

203. No tax to be levied or loan to be raised (1) No tax shall be levied and collected except in accordance with law.

(2) No loan shall be raised and guarantee be given by the Provincial Government except in accordance with law.

204. Consolidated Fund of the Province: Except for the revenues of religious endowments, all revenues received by the Provincial Government, all loans raised on the security of revenues, and all the money received in repayment of any loan made under the authority of any Act and any amount received by the Provincial Government shall be credited to a Provincial Government Fund to be known as the Provincial Consolidated Fund.

205. Expenditures from the Provincial Consolidated Fund or a Provincial Government Fund: No expenditure shall be incurred out of the Provincial Consolidated Fund or any other Provincial Government fund other than the following:

- (a) money charged on the Consolidated Fund,
- (b) money required to meet expenditure under an Appropriation Act,
- (c) advance money authorized by an Act required to meet expenditures, when an Appropriation Bill, is under consideration, or
- (d) expenditures to be incurred in extraordinary circumstances under a Vote of Credit Act which contains only a description of expenditure.

Provided that matters relating to the Provincial Contingency Fund shall be in accordance with **Article 212**.

206. Expenditure chargeable on the Provincial Consolidated Fund: The expenditures relating to the following matters shall be charged on the Provincial Consolidated Fund and permission of the Provincial Assembly shall not be necessary for such expenses :

- (a) the amount to be provided for the salary and benefits of the Speaker and Deputy Speaker of the Province,
- (b) the amount required as remuneration and benefits payable to the Chairperson and members of the Provincial Public Service Commission,
- (c) all charges relating to debts for which the Provincial Government is liable,
- (d) any sum required to be paid under any judgment or decree of a court against the Provincial Government,

- (e) any other sum declared by law to be chargeable on the Provincial Consolidated Fund.

207. Estimates of revenues and expenditure: (1) The Finance Minister of the Province shall, with respect to every fiscal year, present before the Provincial Assembly annual estimates including the following matters:

- (a) an estimate of revenues,
 - (b) the money required to meet the charges on the Provincial Consolidated Fund, and
 - (c) the money required to meet the expenditure to be provided for by an Appropriation Act.
- (2) the annual estimate to be presented pursuant to Clause (1) shall be accompanied by a statement of the expenses allocated to each Ministry in the previous financial year and particulars of whether the objectives of the expenses have been achieved.

208. Province Appropriation Act: The money required to meet the expenditure to be provided by any Province Appropriation Act shall be specified under appropriate heads in an Appropriation Bill.

209. Supplementary estimates: (1) The Finance Minister of the Province shall, in respect of any financial year, present supplementary estimates before the Provincial Assembly, if it is found-

- (a) that the sum authorized to be spent for a particular service by the Appropriation Act for the current fiscal year is insufficient, or that a need has arisen for expenditure upon new services not provided for by the Appropriation Act for that year, or
 - (b) that the expenditures made during that fiscal year are in excess of the amount authorized by the Appropriation Act.
- (2) The sums included in the supplementary estimates shall be specified under separate heads in a Supplementary Appropriation Bill.

210. Votes on account: (1) Notwithstanding anything contained in this Part, a portion of the expenditure estimated for the financial year may, when an Appropriation Bill is under consideration, be incurred in advance by an Act.

- (2) A Vote on Account Bill shall not be submitted until the estimates of revenues and expenditures have been presented in accordance with the provisions of Article 205, and the sums involved in the Vote on Account shall not exceed one-third of the estimate of expenditure for the financial year.
- (3) The expenditure incurred in accordance with the Vote on Account Act shall be included in the Appropriation Bill.

211. **Votes of credit:** Notwithstanding anything contained elsewhere in this Part, if owing to a provincial emergency due to either natural causes or a threat of external aggression or internal disturbances or other reasons, it is impractical or inexpedient in view of the security or interest of the Province to specify the details required under Clause (1) of Article 205, the Finance Minister of the Province may present a Vote of Credit Bill before the Provincial Assembly giving only a description of the expenditure.
212. **Provincial Contingency Fund:** (1) A Provincial Act may create a Fund by the name of Provincial Contingency Fund into which shall be paid from time to time such money as may be determined by the Act.
- (2) Such Fund created under clause (1) shall be under the control of the Provincial Government. Any unforeseen expenditures shall be met out of such Fund by the Provincial Government.
- (3) The amount of the expenditures so met shall be reimbursed as soon as possible as per the Provincial Act.
213. **Act relating to financial procedures:** Matters relating to the transfer of money appropriated by Provincial Act from one head to another and other financial procedures shall be regulated by Provincial Act.

PART- 17

Local Executive

- 214. Executive power of local:** (1) The local executive power shall, subject to this Constitution and other laws, be vested in the Village executive or Town executive.
- (2) The local executive power shall, subject to this Constitution, remain limited to the subjects mentioned in the local level/level competencies in Schedule-7.
- (3) The responsibility for issuing general directives, controlling and regulating the administration of Village Council and Municipality shall, subject to this Constitution and other laws, lie in the Village executive and Town executive.
- (4) The executive functions of the Village Council and Municipality shall be exercised in the name of Village executive and Town executive.
- (5) Any decision or order or implementation warrant to be issued in the name of the Village executive and Town executive, pursuant to Clause (4) above, shall be authenticated as prescribed by law.

215. Provisions related to Head and Deputy Head of Village Executive: (1) There shall be a Head of Village executive in every Village Council. The Village executive shall be formed under her/his chairpersonship.

(2) The Village executive, pursuant to Clause (1), shall have a Deputy Head and ward chairpersons elected from each ward and members elected as per clause (4) below.

(3) The election of the Head and Deputy Head shall be held through secret ballot based on one person one vote according to the the first-past-the-post electoral system by the voters of the concerned village council area.

Explanation: For the purpose of this Article, 'Head and Deputy Head' shall mean the Head and Deputy Head of the Village executive.

(4) Four women members that are elected by the Village Assembly members from among themselves and two persons elected from the Dalit or minority community with qualifications pursuant to Clause (5) below shall also be members of the Village executive and this election shall be held within 15 days following the final result of the election of Village Assembly as per Article 222.

(5) Any person with the following qualifications shall be eligible for election to the post of Head, Deputy Head, ward chairperson and member:

(a) be a Nepali citizen,

(b) have attained twenty-one years of age,

- (c) is included in the voters list of the Village council,
 - (d) is not ineligible by any law.
- (6) The term of office of the Head, Deputy Head, ward chairperson and Village executive members shall be of five years
- (7) Any person who has been elected to the post of the Head for two terms shall not be eligible to become a candidate in the subsequent Village municipality elections
- (8) The post of the Head, Deputy Head, ward chairperson or member shall fall vacant under following conditions:-
- (a) if the Head tenders her/his resignation before the Deputy Head and the Deputy Head before the Head,
 - (b) if her/his term comes to an end, or
 - (c) if she/he dies
- (9) In case the post of Head or Deputy Head falls vacant as per Clause (8) with more than one year of the term left, the vacant post for the remaining term shall be filled through by-elections.

216. Provisions related to Mayor and Deputy Mayor of Municipality: (1) There shall be a Mayor of the Municipal Executive in every municipality. The municipal executive shall be formed under her/his chair.

- (2) The Municipal Executive, pursuant to Clause (1), shall have a Deputy Mayor, ward chairperson elected from each ward and members elected as per clause (4) below.
- (3) The election of the Mayor and Deputy Mayor shall be held through secret ballot based on one person one vote according to the first-past-the-post electoral system by the voters of the concerned municipal council area.

Explanation: For the purpose of this Article, 'Mayor and Deputy Mayor' shall mean the Head and Deputy Head of the Municipal executive.

- (4) Five women members that are elected by the Municipal Assembly members from among themselves and three persons elected from the Dalit or minority community with qualifications pursuant to Clause (5) below shall also be members of the Municipal executive and this election shall be held within 15 days following the final result of the election of Municipal Assembly as per Article 223
- (5) Any person with the following qualifications shall be eligible for election to the post of Head, Deputy Head, ward chairperson and members:
- (a) be a Nepali citizen,
 - (b) have attained twenty-one years of age,
 - (c) is included in the voters list of the Municipality,

- (d) is not ineligible by any law
 - (6) The term of office of the Head, Deputy Head, ward chairperson and Municipal executive members shall be of five years.
 - (7) Any person who has been elected to the post of the Mayor for two terms shall not be eligible to become a candidate in the subsequent municipality elections.
 - (8) The post of the Head, Deputy Head, ward chairperson or members shall fall vacant under following conditions:-
 - (a) if the Head tenders her/his resignation before the Deputy Head and the Deputy Head before the Head,
 - (b) if her/his term comes to an end, or
 - (c) if she/he dies.
 - (9) In case the post of Head and Deputy Head falls vacant as per Clause (8) with more than one year of the term left, the vacant post for the remaining period shall be filled through by-elections.
- 217. Judicial Committee:** (1) There shall be a Judicial Committee under the Convenorship of the Deputy Head of the Village Executive in every Village Council and under the Convenorship of the Deputy Mayor of the Municipality in every Municipality to exercise power to hear cases, as entrusted to the Village Council or Municipality pursuant to Federal and Provincial laws.
- (2) The Judicial Committee, pursuant to Clause (1), shall have two members designated by the Head of Village Executive in case of Village Council and two members designated by the Mayor of the Municipal executive in case of a Municipality.
- 218. Conduct of business of Village Executive and Municipal Executive:** The allocation and transaction of business of the Village Executive and Municipal Executive shall be carried out as set forth in rules approved by the Village Executive and Municipal Executive.
- 219. Other provisions related to local level executive:** Other provisions relating to the local level executive other than those written in this part shall be as provided for in the laws drafted, in pursuant to this Constitution, by the Federal Parliament.
- 220. District Assembly and District Co-ordination Committee:** (1) There shall be a District Assembly, as provided in the law, for coordination and essential management among the Village Municipalities and Municipalities within the District.
- (2) Head of every Village executive and Mayor of every Municipal executive within the district shall be members in the District Assembly. The first meeting of the District Assembly shall be held within thirty days of the

announcement of the final results of the Village Assembly and Municipal Assembly elections.

- (3) The District Assembly shall, pursuant to Provincial laws, elect a District Coordination Committee with a maximum of nine members including a Head, a Deputy Head, at least three women and at least one person from the Dalit or minority community. The District Coordination Committee shall execute all tasks to be carried out on behalf of the District Assembly.
- (4) The members of the Village Assembly or Municipal Assembly within the district concerned shall be eligible to be a candidate for the post of Head, Deputy Head or member of the District Coordination Committee.
- (5) The term of office of the Head, the Deputy Head and member of the District Coordination Committee shall be of five years.
- (6) The post of the Head or Deputy Head or member of the District Coordination Committee shall fall vacant under following conditions:-
 - (a) if the Head tenders her/his resignation before the Deputy Head and the Deputy Head or member tenders her/his resignation before the Head,
 - (b) if her/his term comes to an end, or
 - (c) if she/he dies.
- (7) The function, duties and powers of the District Assembly shall be as follows:
 - (a) to coordinate among the Village Municipalities and Municipalities and Province within the District,
 - (b) to carry out monitoring so as maintain balance in development and construction works,
 - (c) to maintain coordination among the Federal and Provincial government offices and Village Council and Municipality within the district,
 - (d) to perform other tasks as provided for in the Provincial law.
- (8) The fiscal responsibility related to the operation of District Assembly and benefits received by members of District Coordination Committee shall be upon the Provincial Government.

PART 18
Local Legislature

221. Legislative Power of Local Level: (1) The legislative power of the local level shall, subject to this Constitution, be vested in the Village Assembly and Municipal Assembly.

(2) The legislative power of the Village Assembly and Municipal Assembly shall be as enumerated in Schedules-8 and -9.

222. Formation of Village Assembly (1) There shall be a Village Assembly in each Village Council.

(2) The Village Assembly referred to in clause (1) shall comprise a village executive Head, a Deputy Head and four members elected from every Ward of the Village council and member of the village executive elected from the dalit or minority community pursuant to clause (4) of Article 215.

(3) The Village Assembly to be constituted pursuant to Clause (1) shall have the representation of at least two women from every Ward of the Village Council.

(4) One ward committee comprising of one ward Chairperson and four members shall be formed in each ward of the Village council as provided for in federal law. The election of the ward chairperson and members shall be held on the basis of the first past the post system.

(5) Every person who has attained the age of eighteen years and included in the voters list of the Village Council shall be entitled to vote as provided for in a federal law.

(6) Any person who possess the following qualifications is eligible to become a candidate for the post of member of the Village Assembly:

- (a) be a Nepali citizen,
- (b) have attained twenty-one years of age,
- (c) be included in the voter's list of the Village Council, and
- (d) not deemed ineligible by any law

(7) Elections to the Village Assembly and other matters pertaining thereto shall as provided for in the law.

223. Constitution of Municipal Assembly: (1) There shall be one Municipal Assembly in each Municipality.

(2) The Municipal Assembly referred to in clause (1) shall comprise the Mayor and Deputy Mayor, ward Chairperson and four members elected from every Ward of the Municipal council and member of the Municipal

executive elected from the dalit or minority community pursuant to clause (4) of Article 216.

- (3) The Municipal Assembly to be constituted pursuant to Clause (1) shall have the representation of at least two women from every Ward of the Municipality.
- (4) One ward committee comprising of one ward Chairperson and four members shall be formed in each ward of the Municipality as provided for in federal law. The election of the ward chairperson and members shall be held on the basis of the first past the post system.
- (5) Every person who has attained the age of eighteen years and is included in the voters list of the Municipality shall be entitled to vote, as provided for in a federal law.
- (6) Any person who possesses the following qualifications is eligible to become a candidate for the post of member of the Municipal Assembly:
 - (a) be a Nepali citizen,
 - (b) have attained twenty-one years of age,
 - (c) be included in the voter's list of the Municipality, and
 - (d) not deemed ineligible by any law.
- (7) Elections to the Municipal Assembly and other matters pertaining thereto shall as provided for in the federal law.

224. Chairperson and Vice-Chairperson of Village Assembly and Municipal Assembly: The Head and Deputy Head of the Village Executive and the Mayor and Deputy Mayor of the Municipal Executive shall carry out the transaction of business as Chairperson and Vice-Chairperson of the Village Assembly and Municipal Assembly respectively.

225. Term of office of Village Assembly and Municipal Assembly: The term of Village Assembly and Municipal Assembly shall be five years.

226. To form laws: (1) The Village Assembly and Municipal Assembly shall make necessary laws on the subjects mentioned in the list of competencies of the local level pursuant to Schedule-8 and 9.

- (2) The procedure of drafting of laws pursuant to Clause (1) shall be as provided for in the Provincial law.

227. Other provisions related to Village Assembly and Municipal Assembly: The operation of the Village Assembly and Municipal Assembly, meeting procedures, formation of Committees, condition of vacation of the post of members, the benefits entitled to members of the Village Assembly and Municipal Assembly and other arrangements of the Village Council and Municipality personnel and office shall be as provided for in the Provincial law.

PART-19

Local Financial Procedure

- 228. No tax to be levied or loan to be raised:** (1) No tax shall be levied and collected except in accordance with law.
- (2) The local level shall impose tax in areas within its jurisdiction, without causing any adverse impact on the national economic policy, transportation of goods, services, capital and labour, and on neighboring Province or local levels.
- 229. Local Consolidated Fund:** (1) There shall be a Local Consolidated Fund in every Village Council and Municipality under the local level. All revenues received by the local Village Council or Municipality, grants and loans received from the Government of Nepal and the Provincial Government and any amount received from other sources shall be deposited in such Fund.
- (2) Provision relating to expenditures from the Local Consolidated Fund, pursuant to Clause (1), shall be as provided for in the local law.
- 230. Estimate of Revenue and Expenditure of Village Council and Municipality:**
- (1) The Village Executive and Municipal Executive shall, with respect to every fiscal year, present before the Village Assembly or Municipal Assembly annual estimates of revenues and expenditure, and have it passed.
- (2) If the Village Executive and Municipal Executive have to develop a deficit budget while presenting a budget under clause (1), they shall, pursuant to Federal law and Provincial law, also propose sources to fulfill the deficit.

PART-20

**Interrelationship between the FEDERATIONS,
Provinces and local levels**

231. Legislative interrelationship between Federation and Province: (1) Federal law shall be formulated to be enforced across Nepal or to any region of Nepal according to the need.

(2) Provincial law shall be formulated to be effective within whole of the province or any part thereof.

(3) If two or more Provinces make a petition before the Federal Parliament to make laws on any subject in the Schedule -6, the Federal Parliament may formulate necessary laws. Such laws shall be enforced in the respective Provinces only.

232. Relations between the Federation, Provinces and local level: (1) The Federation, Provinces and the local level shall enjoy relations based on the principles of cooperative, coexistence and coordination.

(2) The Government of Nepal may issue necessary directives, pursuant to the constitution and prevalent laws, to all the Provinces on matters of national importance and on matters to be coordinated among the Provinces and it shall be the duty of the respective Province to abide by such directives.

(3) If any Province indulges in an act that would have a serious effect on Nepal's sovereignty, territorial integrity or independence, autonomy, the President shall, according to the need, reprimand such a Province, suspend or dissolve the Council of Ministers of the Province and the Provincial Assembly.

(4) The act of such suspension or dissolution of the Council of Ministers of the Province and the Provincial Assembly, pursuant to Clause (3), must be approved by a majority of total members of the Federal Parliament existing in the time being within thirty-five days.

(5) If the suspension or dissolution, pursuant to Clause (3), is endorsed by the Federal Parliament, fresh elections of the Provincial Assembly of such Province shall be held within six months.

Provided that if not endorsed by the Federal Parliament, such suspension or dissolution shall ipso facto cease to be effective.

(6) Until elections are held pursuant to Clause (5), Federal rule shall come into force in such Province. During the period of such federal rule, the Federal parliament shall draft laws on subjects provided in the list of competencies of the Province.

(7) During a period when federal rule is imposed, the federal parliament may make laws on the matters enumerated in schedule-6. Such law shall

prevail until its repeal by subsequent law enacted by the provincial assembly.

- (8) The Government of Nepal may, in pursuant to the Constitution and Federal law, provide necessary support and directives to the Village Executive and Municipal Executive on its own or through the Provincial Government. It shall be the duty of the Village executive or Municipal executive to abide by such directive.

233. Relations among the Provinces: (1) A Province shall cooperate in implementing the legal provisions or judicial and administrative decisions or orders of another Province.

- (2) A Province shall exchange information and consult on subjects of mutual concern and interest, coordinate mutually about its tasks and legislation and expand mutual support with another Province.

- (3) A Province shall provide equal protection and benefits to residents of another Province in according with its own laws.

234. Inter-Provincial Council: (1) There shall be an Inter-Provincial Council to settle disputes of political nature between the Federation and Province and among the Provinces, consisting of a Chairperson and members as follows:

- | | |
|---|--------------|
| (a) Prime Minister | -Chairperson |
| (b) Home Minister of Government of Nepal | -Member |
| (c) Finance Minister of Government of Nepal | -Member |
| (d) Chief Ministers of respective Provinces | -Member |

- (2) Meeting of the inter-provincial council shall be held as may be necessary.

- (3) The Inter-Provincial Council shall, according to need, invite to the meeting of the Council the Minister of the Government of Nepal and the Minister of the Province and experts related to the subject of dispute.

- (4) Procedures concerning meeting of inter-provincial council shall be as determined by the said council.

235. Coordination among the Federation, Provinces and local Levels: (1) The Federal Parliament shall formulate necessary laws to maintain coordination between the Federation, Provinces and local levels.

- (2) The Provincial Assembly shall coordinate with District Coordination Committee to establish coordination between the Province and Village Council or Municipality and to settle disputes, if any, of political nature.

- (3) The method and procedure of settling disputes pursuant to Clause (2) shall be as provided for in the Provincial law.

236. Interprovincial Trade: No obstruction of any kind or levying of taxes or discrimination shall be made in the export and import of goods or services

from one Province or local level to another Province or local level and in the transportation of any goods or services through the territory of any province or local level to another province or local level of Nepal.

- 237. Jurisdiction of the Constitutional Court not to be affected:** Nothing contained in this Part shall have any effect on the jurisdiction of the Constitutional Court as provided for in Article 141.

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PART 21

Commission for the Investigation of Abuse of Authority

- 238. Commission for the Investigation of Abuse of Authority:** (1) There shall be a Commission for the Investigation of Abuse of Authority in Nepal, consisting of a Chief Commissioner and four other Commissioners. The Chief Commissioner shall act as the Chairperson of the Commission for the Investigation of Abuse of Authority.
- (2) The President 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 shall be six years from the date of appointment.
- (4) Notwithstanding anything contained in Clause (3), the office of the Chief Commissioner or a Commissioner shall be deemed vacant under the following circumstances:
- (a) if she/he submits a written resignation to the President,
 - (b) if she/he attains the age of sixty-five,
 - (c) if a resolution of impeachment is passed against her/him as per Article 101, or
 - (d) if she/he dies.
- (5) Chief Commissioner or Commissioners appointed as per Clause (2) shall not be re-appointed

Provided that, nothing in this Clause shall be deemed to be a bar to 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, her/his term of office shall be computed as to include her/his tenure as Commissioner as well.

- (6) Any person who possesses the following qualifications is eligible to be appointed as the Chief Commissioner or a Commissioner of the Commission for the Investigation of Abuse of Authority:
- (a) holds a bachelor's degree from a recognized university,
 - (b) is not a member of any political party immediately before the appointment,
 - (c) has at least twenty years of experience in the field of accounting, revenue, engineering, law, development or research and is a distinguished person,
 - (d) has attained forty-five years of age, and
 - (e) possesses a high moral character.

- (7) 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.

Provided that this provision shall not apply in the event of a declaration of a State of Emergency due to extreme financial disarray.

- (8) A person who has been the Chief Commissioner or Commissioner shall not be eligible for appointment in any other government service.

Provided that nothing in this Clause shall be deemed to be a bar to the 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 a study or research on any subject.

239. Functions, duties and powers of the Commission for the Investigation of Abuse of Authority: (1) The Commission for Investigation of Abuse of Authority may, in accordance with the law, conduct or cause to be conducted investigations of 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 separately provides for such action, and to any officials with regard to whom other law has separately made special provision.

- (2) Any investigation may be conducted or caused to be conducted, against any official of a Constitutional Body removed from their office following an impeachment resolution on the ground of misbehavior as per Article 101, any Judge removed by the Judicial Council, or any person proceeded against under the Army Act after they are removed from office, in accordance with law.
- (3) If the Commission for the Investigation of Abuse of Authority finds, upon investigation carried out pursuant to Clause (1) and (2), that a person holding any public office has committed an act which is defined by law as corrupt, it may lodge or caused to be lodged a case against such person or any other person involved therein in a court with jurisdiction, in accordance with the law.
- (4) If the Commission for the Investigation of Abuse of Authority finds, upon investigation carried out pursuant to Clause (1) and (2), that the nature of the work to be carried out by the person holding any public office falls under the jurisdiction of another authority or body, it may forward a recommendation to authority or body concerned in writing for necessary action.
- (5) The Commission for the Investigation of Abuse of Authority may delegate any of its functions, duties and powers relating to the investigation or lodging of cases, to the Chief Commissioner, Commissioner or any

officer-level employee of the Government of Nepal to be exercised and followed in compliance with the conditions specified.

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

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PART - 22

Auditor General

- 240. Auditor General:** (1) There shall be an Auditor General of Nepal.
- (2) The Auditor General shall be appointed by the President on the recommendation of the Constitutional Council.
- (3) The term of office of the Auditor General shall be six years from the date of appointment.
- (4) Notwithstanding anything contained in Clause (3), the office of the Auditor General shall be deemed vacant in the following circumstances:-
- (a) if she/he submits a written resignation to the President,
 - (b) if she/he attains the age of sixty-five,
 - (c) if a resolution of impeachment is passed against her/him as per Article 101, or
 - d) if she/he dies.
- (5) Auditor General appointed as per Clause (2) shall not be re-appointed
- (6) Any person who possesses the following qualifications is eligible to be appointed as the Auditor General:-
- (a) holds a Bachelor's Degree in Management, Commerce or Accounts from a recognized university, or has worked as a Special Class Officer of the Government of Nepal after successfully completing the Chartered Accountants examination, or has at least twenty years experience in the field of auditing,
 - (b) is not a member of any political party immediately before appointment,
 - (c) has attained forty-five years of age, and
 - (d) possesses high moral character.
- (7) The remuneration and 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, so long as she/he holds office, be altered to her/his disadvantage.

Provided that this provision shall not apply in the case of declaration of a State of Emergency due to extreme economic disarray.

- (8) A person who has been the Auditor General shall not be eligible for appointment in other Government service.

Provided that, 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.

241. Functions, duties and powers of the Auditor General: (1) The accounts of the Supreme Court, the Constitutional Court, the Federal Parliament, Provincial Assemblies, Provincial Governments, Constitutional bodies or their offices, the Office of the Attorney General and the Nepal Army and Nepal Police and Armed Police as well as of all other government offices and courts shall be audited by the Auditor General in the manner determined by law, with due consideration given to the 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 of which the Government of Nepal or Provincial Government owns more than fifty percent of the shares or assets. The Auditor General may also issue necessary directives setting forth the principles for carrying out the audit of such corporate bodies.
- (3) The Auditor General shall, at all times, have access to documents concerning the accounts for the purpose of carrying out the functions specified in Clause (1). It shall be the duty of the Head of the office in question to provide all documents or information which may be demanded by the Auditor General or her/his employees.
- (4) The accounts to be audited pursuant to Clause (1) shall, subject to the relevant law, be maintained in such form as is prescribed by the Auditor General.
- (5) In addition to the accounts of the offices referred to in Clause (1), the law may also require that the accounts of any other office or institution be audited by the Auditor General.

PART - 23

Public Service Commission

- 242. Public Service Commission:** (1) There shall be a Public Service Commission of Nepal consisting of a Chairperson and four other members.
- (2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and 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 among persons who have worked for twenty years or more in any government service, and the rest of the members shall be appointed from among persons who have done research, investigation, teaching or any other significant work in fields such as science, technology, art, literature, law, public administration, sociology or any other sphere of national life and who hold a high reputation.
- (4) The term of office of the Chairperson and other members of the Public Service Commission shall be six years from the date of appointment.
- (5) The Chairperson and members appointed pursuant to clause (2) shall not be eligible for reappointment.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment of a member of the Public Service Commission as Chairperson thereof, and when a member is so appointed as the Chairperson, her/his term of office shall be computed so as to include her/his tenure as member as well.

- (6) Notwithstanding anything contained in Clause (4), the office of Chairperson or other members shall be deemed vacant in the following circumstances:-
- (a) if she/he submits a written resignation to the President,
- b) if she/he attains the age of sixty-five,
- c) if a resolution of impeachment is passed against her/him as per Article 101, or
- d) if she/he dies.
- (7) A person who possesses the following qualifications is eligible to be appointed as the Chairperson and member of the Public Service Commission:
- (a) holds a post-graduate degree from a recognized university,
- (b) is not a member of any political party immediately before appointment,
- (c) has attained the age of forty five years, and

(d) possesses high moral character.

- (8) The remuneration and other conditions of service of the Chairperson and members of the Public Service Commission shall be as determined by law. The remuneration and other conditions of service of the Chairperson and members of the Public Service Commission shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in the case of declaration of a State of Emergency due to extreme economic disarray.

- (9) A person who has been the Chairperson and the member of the Public Service Commission shall not be eligible for appointment in other Government service.

Provided that, nothing in this Clause shall be deemed to 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.

243. 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 positions.

Explanation: For the purposes of this Article, "Civil Service posts" shall mean positions of all services of the Government of Nepal, except Army and Federal Police or Armed Police, and such other services and positions as are excluded from the Civil Service or positions by Act.

- (2) In addition to the Civil Service, provisions shall be made in the law for the Public Service Commission to conduct the written examinations for the recruitment in the Nepalese Army, Nepal Police or Armed Police Force, or federal government services or corporate bodies.

Explanation: For the purpose of this Article, the words "corporate bodies" shall mean any corporate body including corporation, company, bank, committee, commissions to be formed under a federal law, authority, academy, board, center, council and similar institution in which the Government of Nepal owns and controls more than fifty percent of the shares or assets, other than a University and Teachers Service Commission.

- (3) Consultation with the Public Service Commission Permanent shall be made on matters concerning general principles to be followed while promoting or taking departmental actions against, a person holding a position of Nepal Army, Nepal police, armed police and of other federal government services.

- (4) Consultation with the Public Service Commission Permanent shall be made on matters concerning general principles to be followed while formulating laws concerning terms and conditions of services of any corporate body including promotion and departmental actions.

- (5) No permanent appointment shall be made in a position which entitles to pension from Nepal government except on the recommendation of the Public Service Commission.
- (6) The Public Service Commission shall be consulted on the following subjects:
- (a) matters concerning the law relating to the conditions of service of the Federal Civil Service,
 - (b) the general principles to be followed in the course of appointment to, promotion to, and departmental action concerning therein, the Federal Civil Service or positions therein,
 - (c) matters concerning the suitability of any candidate for appointment to a Federal Civil Service position for a period of more than six months,
 - (d) matters concerning the suitability of any candidate for transfer or promotion from one kind of Federal Civil Service to another kind of Federal Civil Service or from any other Government Service to the Federal Civil Service or for changing the service or translocation from the Civil Service Position of any Province to Federal Civil Service position or from Federal Civil Service position to the Provincial Civil Service.
 - (e) matters concerning the permanent transfer or promotion of any employee working in any position of an organization which is not required to consult with the Public Service Commission on matters of appointment, to any position for which consultation with the Public Service Commission is required, and
 - (f) matters relating to departmental actions proposed against any Federal Civil Servant.
- (7) Notwithstanding anything contained in Clause (6), matters falling within the purview of the Federal Judicial Service Commission pursuant to Article 154 shall be governed by that Article.
- (8) The Public Service Commission may delegate any of its functions, duties and powers to any members of the commission, a committee of such members or any employee of the Government of Nepal, to be exercised and followed in compliance with specified conditions.
- (9) Subject to this Constitution, other functions, duties and working procedures of the Public Service Commission shall be as determined by federal law.

244. Provision related to Provincial Public Service Commission: (1) There shall be a Provincial Public Service Commission in every Province.

(2) The formation, functions, duties and powers of the Provincial Public Service Commission shall be determined as provided for in the Provincial law.

(3) For the purpose of clause (2), the federal parliament by making a law shall determine the bases and criteria.

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PART-24

Election Commission

- 245. Election Commission:** (1) There shall be an Election Commission in Nepal consisting of a Chief Election Commissioner and four other Election Commissioners. The Chief Election Commissioner shall act as the Chairperson of the Election Commission.
- (2) The President shall, on the recommendation of the Constitutional Council, appoint the Chief Election Commissioner and the Election Commissioners.
- (3) The term of office of the Chief Election Commissioner and the Election Commissioners shall be six years from the date of appointment.
- (4) Notwithstanding anything mentioned in Clause (3), the office of the Chief Election Commissioner and Election Commissioner shall be deemed vacant in the following circumstances:
- (a) if she/he submits a written resignation to the President,
 - (b) if she/he attains the age of sixty-five,
 - (c) if a resolution of impeachment is passed against her/him as per Article 101, or
 - (d) if she/he dies.
- (5) The Chief Commissioner and commissioners appointed pursuant to clause (2) shall not be eligible for reappointment.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment of a commissioner of the Election Commission as chief commissioner thereof, and when a member is so appointed as the Chief Commissioner, her/his term of office shall be computed so as to include her/his tenure as commissioner as well.

- (6) Any person who possesses the following qualifications is eligible to be appointed as the Chief Election Commissioner or an Election Commissioner:-
- (a) holds a Bachelor's Degree from a recognized university,
 - (b) is not a member of any political party immediately before the appointment;
 - (c) has attained the age of forty five, and
 - (d) possesses high moral character.
- (7) 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.

Provided that this provision shall not apply in the case of declaration of a State of Emergency due to extreme economic disarray.

- (8) A person who has been the Chief Election Commissioner or the Election Commissioner shall not be eligible for appointment in other Government Services.

Provided that, nothing in this Clause shall be deemed to be a bar to the appointment to any political position 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, opinion or recommendation after carrying out a study or research on any subject.

246. Functions duties and, powers of Election Commission: (1) The Election Commission shall, subject to this Constitution and other laws, conduct, supervise, direct and control the election of the President, the Vice-President, Federal Parliament, Provincial assemblies, local bodies. The Election Commission shall be responsible for preparing the voters' list for the purpose of election.

- (2) The Election Commission shall hold referendum on subject of national importance as per this Constitution and federal laws

- (3) If candidacy nominations have been registered for the election of the President, the Vice-President, the member of Federal Parliament and Provincial Assembly but a question arises before the completion of the election about the illegitimacy of a candidate, a final decision thereon shall be made by the Election Commission.

- (4) The Election Commission may delegate any of its functions, duties and powers to the Chief Election Commissioner, Election Commissioner or any employee of the Government of Nepal to be exercised and followed in compliance with the conditions specified.

- (5) Other functions, duties and powers and working procedures of the Election Commission shall be as regulated by law.

247. Necessary Cooperation to be Extended: The Government of Nepal, provincial government and local government shall provide necessary employees and extend other cooperation as may be required to perform the functions of the Election Commission in accordance with this Constitution.

PART- 25

National Human Rights Commission

248. National Human Rights Commission: (1) There shall be a National Human Rights Commission in Nepal consisting of the following Chairperson and four other members:

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and the Members of the National Human Rights Commission.

(3) The term of office of the Chairperson and Members of the National Human Rights Commission shall be six years from the date of appointment.

(4) The Chairperson and members appointed pursuant to clause (2) shall not be eligible for reappointment.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment of a member of the Commission as chairperson thereof, and when a member is so appointed as the Chairperson, her/his term of office shall be computed so as to include her/his tenure as member as well.

(5) Notwithstanding anything contained in Clause (3), the office of the Chairperson or the Members of the National Human Rights Commission shall be deemed vacant in the following circumstances:

(a) if she/he submits a written resignation to the President,

(b) if a resolution of impeachment is passed against her/him as per Article 101, or

(c) if he or she dies.

(6) Any person who possesses the following qualifications is eligible to be appointed as the Chairperson or a member of the National Human Rights Commission :-

(a) for the position of Chairperson, a person from among the retired Chief Justices or Judges of the Supreme Court who has made an outstanding contribution to the protection and promotion of human rights, or a person who holds a high reputation and has rendered an outstanding contribution in the field of protection and promotion of human rights or various sections of national life for at least twenty years,

(b) for the position of members, persons from among the persons who hold high reputation and have been actively involved in the field of, and rendered an outstanding contribution to, the protection and promotion of human rights or children rights, or various sections of national life for at least twenty years,

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

(7) The remuneration and other conditions of service of the Chairperson and the Members of the National Human Rights Commission shall be as determined by law. The remuneration and other conditions of service of the Chairperson and the Members of the National Human Rights Commission shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in the case of declaration of a State of Emergency due to extreme economic disarray.

(8) A person who has been the Chairperson or a Member of the National Human Rights Commission shall not be eligible for appointment in any other government service.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment to any political position 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, opinion or recommendation after carrying out a study or research on any subject.

249. Functions, duties and powers of National Human Rights Commission: (1) It shall be the duty of the National Human Rights Commission to ensure the respect, protection and promotion of human rights and their effective implementation.

(2) In order to perform the duty pursuant to Clause (1), the National Human Rights Commission may carry out the following functions:-

- (a) conduct inquiries into, and investigations of, and recommendation for action against the perpetrator of, instances of violation or abetment of violation the human rights of any person or a group of persons, upon a petition or complaint presented to the Commission by the victim herself/himself or any person on her/his behalf or upon information received from any sources, or on its own initiative,
- (b) forward a recommendation to the authority concerned to take departmental action against any authority that has the duty of responsibility to prevent violations of human rights, if it failed to perform such duty or responsibility or showed recklessness or lack of interest in performing that duty,

- (c) make recommendations if necessary, to lodge a petition in the court, in accordance with the law, against a person or institution that has violated human rights,
 - (d) work jointly and in a coordinated manner with civil society to enhance awareness of human rights,
 - (e) forward a recommendation to the relevant authority for taking departmental action against or imposing punishment on the violators of human rights, giving clear reasons and basis therefor,
 - (f) review existing laws relating to human rights on a periodic basis and to recommend to the Government of Nepal necessary reforms and amendment thereto,
 - (g) recommend with reasons to the Government of Nepal that it become a party to any international treaties and agreements on human rights, if it is desirable to do so, and to monitor the implementation of the international treaties and agreements on human rights to which Nepal is a party and if found not to be implemented, forward recommendations to the Government of Nepal for effective implementation of such agreements,
 - (h) Publicize the names of any official, person or bodies not following or implementing the recommendations and directions of the National Human Rights Commission regarding the violations of human rights in accordance with law, and to record them as human rights violators.
- (3) The National Human Rights Commission in performing its functions and duties, may exercise the following powers:-
- (a) exercise same powers as the court in requiring any person to appear before the Commission for recording their statement and information or examining them, receiving and examining evidence, and ordering the production of any physical proof,
 - (b) in case the Commission has received the information from any source that a serious incident of violation of human rights has occurred or is likely to occur, it may enter a person's residence or office, conduct a search and seize any documents and evidence relating to human rights violations therein,
 - (c) enter any government premises or other places, without prior notice, in case the Commission has received information that violation of human rights of a person is occurring thereon and immediate action is required, to provide rescue,
 - (d) order compensation for the victims of human rights violations in accordance with law,
- (4) The National Human Rights Commission may delegate any of its functions, duties and powers to the Chairperson, any member or any

employee of the Government of Nepal to be exercised and followed in compliance with the conditions specified

- (5) Other functions, duties and powers and procedural of the National Human Rights Commission shall be as specified by federal law.

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PART 26

National Natural Resources and Fiscal Commission

- 250. National Natural Resources and Fiscal Commission:** (1) There shall be a National Natural Resources and Fiscal Commission in Nepal consisting of a chairperson and members not exceeding five in number.
- (2) The President shall, on the recommendation of the Constitutional Council, appoint Chairperson and members of the National Natural Resources and Fiscal Commission.
- (3) The tenure of office of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be for six years from the date of appointment.
- (4) Notwithstanding anything contained in Clause (3), the office of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be deemed vacant in the following circumstances:
- (a) If a written resignation is tendered to the President,
 - (b) If he/she attains the age of 65 years;
 - (c) If an impeachment motion against him/her is passed as per Article 101, or
 - (d) If he/she dies.
- (5) The Chairperson and members appointed pursuant to clause (2) shall not be eligible for reappointment.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment of a member of the Commission as chairperson thereof, and when a member is so appointed as the Chairperson, her/his term of office shall be computed so as to include her/his tenure as member as well.

- (6) Any person with the following qualifications is eligible to be appointed as the Chairperson or member of the National Natural Resources and Fiscal Commission:
- (a) who holds at least a Bachelor's Degree in the concerned subject from a university recognized with expertise in natural resources or fiscal management, economics, law or management, having at least twenty years of experience in the sector
 - (b) who is not a member of a political party at the time of the appointment,
 - (c) who is at least forty five years of age, and
 - (d) who has a high moral character.

- (7) The remuneration and the conditions of service of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be as provided for by law, and the remuneration and conditions of service shall not be alterable to their disadvantage.

Provided that, this provision shall not be applicable in the event of the declaration of a State of Emergency due to extreme economic disarray.

- (8) A person who has already served as the Chairperson or a member of the National Natural Resources and Fiscal Commission shall not be eligible to be appointed in other government position/service.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment to any political position 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, opinion or recommendation after carrying out a study or research on any subject.

251. The functions, duties and powers of National Natural Resources and Fiscal Commission: (1) The functions, duties and powers of the National Natural Resources and Fiscal Commission shall be as follows:

- (a) Determine extensive grounds and measures, regarding the distribution of revenue from the federal consolidated fund to the federal, provincial and local level governments according to the constitution and law,
- (b) Making recommendations, according to law, on distribution of the equalization grants to provincial and local governments from the federal consolidated fund,
- (c) Conducting research and studies with regard to making a basis for distribution of conditional grants to provincial and local governments in compliance with national policy and program and standards, and the state of infrastructure there.
- (d) Determine extensive grounds and measures regarding the distribution of revenue between provincial and local governments from the provincial consolidated fund.
- (e) Making recommendations regarding the measures of reforms on responsibilities of expenditures and revenue generation for the federal, provincial and local governments.
- (f) Making recommendations about the internal loans the federal, provincial and local governments may take, by analyzing the macroeconomic indices.
- (g) Reviewing the bases of revenue distribution between the federal and provincial governments, and making recommendations for reform.

- (h) Determine base for computing the share of investment and return for federal, provincial and local government while exploiting natural resources, and make necessary recommendations.
 - (i) Making recommendations about coordination and mitigation of disputes likely to arise regarding distribution of natural resources between the federation and province, between the provinces, between a province and local level entity, or between local level entities.
- (2) The National Natural Resources and Fiscal Commission shall make recommendations to the Nepal Government, by conducting necessary research into, with regards to environmental impact assessment linked to distribution of natural resources.
- (3) Other matters including the functions, duties and powers of the National Natural Resources and Fiscal Commission, extensive basis for revenue distribution and natural resources exploitation, shall be as provided for by federal law.

PART 27

National Women Commission

- 252. National Women Commission:** (1) There shall be a National Women Commission in Nepal consisting of a Chairperson and four other members.
- (2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the National Women Commission.
- (3) The term of office of the Chairperson and other members shall be six years from the date of appointment.
- (4) Notwithstanding anything contained in Clause (3), the office of the Chairperson and members of National Women Commission shall be deemed vacant in the following circumstances:
- (a) if she submits written resignation to the President,
 - (b) if she attains the age of sixty five,
 - (c) if a motion of impeachment is passed against her as per Article 101, or
 - (d) if she dies.
- (5) The Chairperson and members appointed pursuant to clause (2) shall not be eligible for reappointment.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment of a member of the Commission as chairperson thereof, and when a member is so appointed as the Chairperson, her/his term of office shall be computed so as to include her/his tenure as member as well.

- (6) Any person who possesses the following qualifications is eligible to be appointed as the Chairperson or member of National Women Commission:-
- (a) a woman who has made a significant contribution for the rights, interest of women or gender justice or women development or in the field of human rights and law for at least ten years,
 - (b) holds a Bachelor's Degree from a recognized university in case of the Chairperson,
 - (c) has attained the age of forty-five,
 - (d) is not a member of any political party immediately before the appointment, and
 - (e) possesses high moral character,

- (7) The remuneration and other conditions of service of the Chairperson and other members of the National Women Commission shall be as determined by law. The remuneration and other conditions of service of the Chairperson and the member of the National Women Commission shall not, so long as they hold office, be altered to their disadvantage.

Provided that, this provision shall not apply in the case of declaration of a State of Emergency due to extreme economic disarray.

- (8) A person who has been the Chairperson or member of National Women Commission shall not be eligible for appointment in other Government Services.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment to any political position 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, opinion or recommendation after carrying out a study or research on any subject.

253. Functions, duties and powers of the National Women Commission: (1) Functions, duties and powers of the Federal Women Commission shall be as follows:-

- (a) To formulate policies and programs regarding women welfare for the Government of Nepal and forward them to the Government for implementation,
- (b) To review whether or not statutes related to women's welfare are executed, and whether the international covenant signed by Nepal, as a signatory, has been executed, and to forward a recommendation to the Government of Nepal in case they are found not to have been executed,
- (c) To monitor, review and evaluate policies and programs implemented by the State to bring women into the mainstream of national development such as proportionate representation in all of the state agencies, and to forward a recommendation to the Government of Nepal for an effective implementation of those provisions,
- (d) To carry out research and studies regarding gender equality, women empowerment, other legal provisions concerning women, and to forward a recommendation to the concerned bodies regarding the areas to be amended in those laws, and to monitor the same,
- (e) To monitor the government regarding report to be submitted by the Government of Nepal in matters related to international covenant and treaties to which Nepal is a party,
- (f) To forward a recommendation to concerned authority to lodge a petition in the court, in accordance with the law, in matters related with gender violence, and women deprived of women rights due to social malpractices,

(2) The National Women Commission may delegate, some of its rights to the Chairperson of the Commission, member, or an officer of the Government of Nepal, to be exercised in compliance with the conditions specified.

(3) Other functions, duties and powers of the National Women Commission shall be as specified in federal law.

254. Offices may be established in province: The National Women's Commission may establish its offices in provinces as may be necessary.

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PART 28

National Dalit Commission

- 255. National Dalit Commission:** (1) There shall be a National Dalit Commission in Nepal consisting of Chairperson and four other Members.
- (2) The President shall, on the recommendation of Constitutional Council, appoint the Chairperson and members of National Dalit Commission.
 - (3) The term of office for the Chairperson and Members of National Dalit Commission shall be for six year from the date of appointment.
 - (4) Notwithstanding anything contained in the clause (3), the office of the Chairperson and the members of National Dalit Commission shall be vacant in the following circumstances:-
 - (a) if he/she submits written resignation to the President,
 - (b) If he/she is passed 65 years of age,
 - (c) in case impeachment proposal filed against him/her is passed as per Article 101, or
 - (d) if he/she dies.
 - (5) The Chairperson and members appointed pursuant to clause (2) shall not be eligible for reappointment.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment of a member of the Commission as chairperson thereof, and when a member is so appointed as the Chairperson, her/his term of office shall be computed so as to include her/his tenure as member as well.

- (6) Persons who meet following qualification shall be eligible for appointment in the posts of Chairperson and members of the National Dalit Commission:-
 - (a) a person from Dalit community who has significantly contributed to Dalit welfare, human rights and in the legal field for at least ten years,
 - (b) in case of the Chairperson, a person who has held at least Bachelor's Degree in human rights, social justice, sociology, or law from the recognized university
 - (c) who has attained the age of forty-five years,
 - (d) who has not been a member of any political party immediately before the appointment,
 - (e) who possesses high moral character.

- (7) The remuneration and other benefits of the Chairperson and members of the National Dalit Commission shall be as prescribed by law, and conditions and terms of remuneration and other benefits shall not be altered, so long as they hold office, to their disadvantage.

Provided that extreme economic disarray has led to the state of emergency, this provision shall not be applicable.

- (8) The person, who has served in the capacity of Chairperson or members of the National Dalit Commission, shall not be eligible for appointment in other government services.

Provided that, nothing in this clause shall be deemed to be a bar to the 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 the position which has the responsibility of submitting advice, opinions or recommendations.

256. Functions, duties and powers of National Dalit Commission: (1) Functions, duties and powers of National Dalit Commission shall be as follows:-

- (a) To carry out research and studies regarding Dalit community of Nepal so as to identify legal and institutional reforms to be made and make a recommendation to the Government of Nepal,
- (b) To formulate national policies and programs in matters related with ending caste discrimination, untouchability, suppression and to enhance Dalit's status and development, and to forward a recommendation to the Government of Nepal for implementation,
- (c) To monitor, so as to ensure whether the special provisions and laws related with Dalit welfare have been implemented or not, and to forward a recommendation to the government of Nepal, in case these provisions are found not to have been implemented,
- (d) To review or monitor the Government of Nepal, so as to ensure that the Government of Nepal submits the report as a signatory to the international treaties and agreement, as provisioned by those treaties,
- (e) To monitor, review and evaluate the policies and programs implemented by the State to bring Dalit community into the mainstream of national development such as proportionate representation in all of the state agencies, and to forward a recommendation to the Government of Nepal for an effective implementation of those provisions,

(2) The National Dalit Commission may delegate, as required, some of its powers to the Chairperson of the Commission, member, or an officer of the Government of Nepal, to be exercised in compliance with the conditions specified.

(3) Other functions, duties and powers of the National Dalit Commission, shall be as specified by federal law.

257. Offices may be established in province: The National Dalit Commission may establish its offices in provinces as may be necessary.

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PART 29

National Inclusion Commission

- 258. National Inclusion Commission:** (1) There shall be a National Inclusion Commission in Nepal consisting of Chairperson and as many as eight other members.
- (2) The President shall, on the recommendation of Constitutional Council, appoint the Chairperson and members of National Inclusion Commission.
- (3) The term of office of Chairperson and members of National Inclusion Commission shall be six years from the date of appointment.
- (4) Notwithstanding anything contained in the clause (3), the posts of the Chairperson or member of National Inclusion Commission shall be deemed vacant in the following circumstances:-
- (a) if he/she submits written resignation to the President,
 - (b) If he/she is past 65 years of age,
 - (c) in the case impeachment proposal filed against him/her is passed as per Article 101, or
 - (d) if he/she dies.
- (5) The Chairperson and members appointed pursuant to clause (2) shall not be eligible for reappointment.

Provided that nothing in this Clause shall be deemed to be a bar to the appointment of a member of the Commission as chairperson thereof, and when a member is so appointed as the Chairperson, her/his term of office shall be computed so as to include her/his tenure as member as well.

- (6) Persons who meet following qualification requirement shall be eligible for appointment in the post of Chairperson and member of National Inclusion Commission:-
- (a) who has significantly contributed, for at least ten years, in the field of social inclusion, and in promoting the rights and interests and development of persons disability, marginalized, minority and backward communities, human rights
 - (b) in case of Chairperson, a person who has attained at least Bachelor's Degree from recognized university,
 - (c) who has attained the age of forty five years,
 - (d) who has not been a member of any political party immediately before the appointment,
 - (e) who possesses high moral character

- (7) The remuneration and other conditions of service of the Chairperson and members of the National Inclusion Commission shall be as prescribed by law. Conditions and terms of remuneration and other benefits shall not be altered, so long as they hold office, to their disadvantage.

Provided that extreme economic disarray has led to state of emergency, this provision shall not be applicable.

- (8) The person, who has served in the capacity of Chairperson or members of the National Inclusion Commission, shall not be eligible for appointment in other government services.

Provided that, nothing in this clause shall be deemed to be a bar to the 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 the position which has the responsibility of submitting advice, opinions or recommendations.

259. Functions, duties and powers of National Inclusion Commission: (1) Functions, duties and powers of National Inclusion Commission shall be as follows:-

- (a) To carry out research and studies for protecting rights and welfare of indigenous communities, Khash Arya, Madhesi, Tharu, Muslim, backward class, persons with disability, senior citizens, laborers, peasants, marginalized and minority communities, people of Karnali region and economically disadvantaged people,
- (b) To review the policies of the Government of Nepal for inclusion of the persons as mentioned in sub-clause (a) above and their implementation, and to forward necessary recommendation to the government for reform,
- (c) To conduct study about the rightful representation of the persons as mentioned in section (a) above in the state mechanisms, and to forward a recommendation to the Government of Nepal to review the provision to ensure their representation therein,
- (d) To study whether protection, empowerment and development of the persons as mentioned in section (a) is satisfactory and to forward a recommendation to the Government of Nepal regarding the policies to be adopted for the future,
- (e) To recommend the Government of Nepal regarding policies and programs to be implemented for development and prosperity of Karnali and other backward regions,
- (f) To recommend for timely revision in the laws related to minorities and marginalized communities,
- (g) To monitor the situation of implementation of rights and interests of minorities and marginalized communities, and to make

recommendations for revision based on reports of periodic census and human development indices

(2) The National Inclusion Commission may delegate, as required, some of its powers to the Chairperson of the Commission, member, or an officer of the Government of Nepal, to be exercised in compliance with the conditions specified.

(3) Other functions, duties and powers of the National Inclusion Commission shall be as specified by federal law

260. Offices may be established in province: The National Inclusion Commission may establish its offices in provinces as may be necessary.

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PART 30

Provision regarding National Security

261. National Defense Council: (1) There shall be a National Defense Council to formulate policies for Nepal's overall national interests, security and defense, and in order to make recommendations to the Council of Ministers, Government of Nepal on mobilization, operation and management of Nepal Army comprising following Chairperson and members:-

- | | |
|---|--------------|
| (a) Prime Minister | -Chairperson |
| (b) Defense Minister, Government of Nepal | -Member |
| (c) Home Minister, Government of Nepal | -Member |
| (d) Minister for Foreign Affairs, GoN | -Member |
| (e) Finance Minister, Government of Nepal | -Member |
| (f) Chef Secretary of Government of Nepal | -Member |
| (g) Chief of the Army Staff | -Member |

- (2) The Secretary of Ministry of Defense shall work as the Secretary of National Defense Council.
- (3) The National Defense Council shall submit its annual report to the President; the President shall make it present to the federal legislature through the Council of Ministers, Government of Nepal.
- (4) Other provisions of National Defense Council shall be in accordance with federal law.

262. Provision relating to Nepal Army: (1) There shall be an organization of Nepal Army, committed to democratic principles, inclusive in character and national in form, for the protection of **Nepal's independence, sovereignty, territorial integrity, autonomy** and national unity.

- (2) The president shall be the supreme commander-in-chief of the Nepal Army.
- (3) The entry of women, Dalit, indigenous community, Khash Arya, Madhesi, Tharu, Muslim, people of backward class and backward region shall be ensured in Nepal Army, based on the principle of equality and proportionate representation as provided for in the law.
- (4) The Government of Nepal may, in accordance with law, mobilize Nepal Army for works relating to development, disaster management and others.

(5) **The President shall appoint or remove the Commander-in-Chief of Nepal Army on the recommendation of the Council of Ministers.**

- (6) Except for mobilization of Nepal Army for disaster management, the decision by Council of Ministers, Government of Nepal on recommendation of National Defense Council, shall have to be presented to the federal legislature within a month, such decision shall have to be approved by the Federal Legislature.
- (7) Other provisions relating to Nepal Army shall be as provided by law.

263. Provision relating to Nepal Police, Armed Police Force, Nepal and National Investigation Organization: (1) There shall be Nepal Police, Armed Police Force, Nepal and National Investigation Department at the federal level.

- (2) There shall be a provincial police organization in each province.
- (3) Operation, supervision and coordination of Nepal Police and provincial police shall be as provided for by federal law
- (4) Other provisions relating to Nepal Police, Armed Police Force and National Investigation Department shall be as provided by federal law.

PART 31

Provision relating to Political Parties

264. Constitution, registration and operation of Political Parties: (1) Persons who are committed to a common political ideology, philosophy and program shall, subject to the laws under section (b), clause (2) of the Article (22), be entitled to form and operate the political parties and to generate or cause to be generated publicity in order to secure public support and cooperation from the general public for their ideology, philosophy and program, and to carry out any other activities for that purpose.

(2) The political parties formed under clause (1) shall be required to register their names under the Election Commission in accordance with the procedure determined by law.

(3) While submitting application for registration pursuant to clause (2) above, the political parties shall be required to submit the documents relating to constitution of the party, annual auditing report and other documents as required by law.

(4) While applying for the registration of the parties pursuant to clause (2) above, the political parties shall have to meet the following conditions:-

(a) The constitution and rules of the political party should be democratic,

(b) There should be the provision, in the constitution of the political party, of the election of the office bearers in the federal and provincial levels, at least once in five years.

Provided that in case election of the office bearers could not be held within five years due to situation arising out of special circumstance, there shall be no hindrance to make provision in the statute of a political party to hold such election within a period of six months.

(c) There should be the provision of proportional participation so as to reflect the diversity of Nepal, in the executive committees at various levels of the party.

(5) No political party shall be registered if its name, objective, symbol and flag is of a character that may disturb the country's religious or communal unity or is divisive in character.

265. Prohibition on the imposition of restrictions on political parties: (1) Any provision, law or the decision that prohibits formation, registration and operation of political parties under Article 264, and generate or cause to be generated publicity in order to secure public support and cooperation from the general public for ideology, philosophy and program of the parties, shall be deemed against 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 programs in the election, political system of the country or conduct of sates affairs shall be considered against this constitution and shall *ipso facto* be void.

266. Registration required for securing recognition for the purpose of contesting elections as a Political Party: (1) Any political party, formed under Article 264, wishing to secure recognition from the Election Commission for the purpose of elections, shall be required to register its name with the Election Commission in accordance with the procedures determined by the law.

(2) While applying for registration pursuant to clause (1), a political party shall have to clarify the details under clause (3) of Article 264, submit annual audit report, and also meet the conditions set in clause (4) of the same article.

267. Other provisions relating to Political Party: Other provisions relating to formation, registration, operation and facilities of the political parties shall be as provided in law.

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PART 32
Emergency Powers

- 268. Emergency Powers:** (1) In case a grave emergency arises in relation to the sovereignty or integrity of Nepal or the security of any part thereof, whether by war, external attack, armed revolt, extreme economic disarray, natural calamity or epidemic outbreak, the President may, by Proclamation or Order, declare a state of emergency to be enforced in Nepal or any specified part thereof.
- (2) Notwithstanding anything contained in clause (1), in case a grave situation arises, whether by natural calamity or epidemic outbreak, in any province, the concerned province may request the Government of Nepal to declare, by Proclamation or Order, a state of emergency to be enforced in the province or any specified area of the province.
- (3) The Proclamation or the Order issued pursuant to clause (1) shall be presented before the meetings of both houses of federal legislature for approval within a month from the date of its issuance.
- (4) If the Proclamation or the Order presented for the approval pursuant to clause (3) is approved by a two-third majorities of the total members present at the meetings of both the houses of federal legislature, such Proclamation or Order shall continue in force for a period of three months from the date of Order or Proclamation.
- (5) If the Proclamation or Order presented before both houses of federal legislature pursuant to clause (4) is not approved, such Proclamation or Order shall, *ipso facto*, be invalid.
- (6) Notwithstanding other provisions in this article, the proposal to extend the period of the Proclamation or Order of state of emergency for another period, not exceeding for three months, may be forwarded in the federal legislature, stating that the circumstances under clause (4) still exist.
- (7) Pursuant to Clause (6), if the resolution for Proclamation or Order of state of emergency for another period is passed by a majority of the two third members present of both the houses of the federal legislature, the state of emergency for the said period shall continue to exist.
- (8) In case of dissolution of House of Representatives, the power of federal parliament as per clause (3), (4), (6) and (7) shall be exercised by National Assembly.
- (9) After the state of emergency has been declared pursuant to clause (1), the President may issue necessary orders to meet the exigencies. Orders so issued shall be operative with the same force and effect as law so long as the state of emergency is in operation.

(10) While issuing the Proclamation or Order of state of emergency pursuant to clause (1), the President may suspend the fundamental rights provided in Part 3 so long as the Proclamation or Order is in operation.

Provided that, Article 16, 17(2) section (c) and (d), Article 18, 19 (2), 20, 21, 22, 24, 26 (1), 29, 30, 31, 32, 35, 36 (1) and (2), 38, 39, 40 (2) and (3), 41, 42, 43, 45 and the right to constitutional remedy and right to *habeas corpus* related to article 46 shall not be suspended.

(11) In circumstances where any Article of this constitution is suspended pursuant to clause (10), no petition may be made in any court of law, nor any question be raised for the enforcement of the fundamental rights conferred by such Article.

(12) If, during the continuation of a Proclamation or Order pursuant to this article, 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 said damage. In case the petition is filed, the court may arrange for the appropriate compensation according to the law, or punish the guilty.

(13) The President may, at any time during its continuance, revoke the proclamation or order relating to state of emergency

PART 33

Amendment of the Constitution

269. Amendment of the Constitution: (1) This Constitution shall not be amended in way that contravenes with self-rule of Nepal, sovereignty, territorial integrity and sovereignty vested in people.

(2) Except for matters under clause (1), in case an amendment is sought in matters that fall under the fundamentals of this constitution, such a proposal shall be presented to either house of the federal legislature.

Provided that, Clause (1) shall not be amended.

(3) Subject to the conditions under clause (2), the bill so presented shall be published for the perusal of the general public within 30 days of presentation of the bill in either house of the federal legislature.

(4) In case the bill proposed under clause (2) is related with altering the boundaries of a province and falls under the right of provinces as mentioned in Schedule (5), such a bill shall have to be forwarded to the respective provincial assembly to garner consensus, within thirty days of the time the bill is presented in the federal legislature.

(5) Pursuant to forwarding the bill to the Provincial Assembly as provided in Clause (4), the provincial assembly shall have to get the consensus bill endorsed or rejected through majority of the provincial assembly and forward the information regarding the same to the federal legislature, within three months.

Provided that, In case the provincial assembly is not in place, the bill shall have to be endorsed or rejected within three months from the time the assembly comes into force and forward the information to the federal legislature.

(6) If the Provincial Assembly, within the time frame pursuant to Clause (5) informs the federal legislature that the bill has been rejected by the majority, the bill shall considered to be rejected.

(7) If, within the time stipulated in clause (5), majority of provincial assemblies inform the federal parliament of the rejection of the bill, such bill shall be void,

(8) In case the bills that do not require **consent** from provincial assembly or the one that has garnered consensus from provincial assembly as mentioned under clause (5), shall require endorsement by the two thirds majorities of the existing members in the both houses of federal legislature

(9) The bill so approved pursuant to Clause (5) shall be forwarded to the President for approval.

- (10) The President shall have to endorse the bills under clause (9) within 15 days from the day of reception of the bill, the from the date of endorsement, the constitution will be amended.

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PART 34

Miscellaneous

- 270. Provision relating to Referendum:** (1) If the two third majority of the total members in the federal legislature take a decision that it is necessary to make a decision on any matters of national importance through referendum, a decision may be reached on such matters through referendum.
- (2) The procedures pertaining to referendum shall be as determined by the law.
- 271. Pardon:** The President may grant pardons to persons convicted, and suspend, commute, or reduce any sentence imposed by any court, judicial or quasi-judicial bodies or administrative officer or authority.
- 272. Titles, honors, and decorations:** (1) The President shall confer the titles, honors, or decorations to be conferred on behalf of the State.
- (2) Any citizen of Nepal shall have to take approval from the Government of Nepal before accepting any title, honor, or decoration from the government of any foreign country.
- 273. Right to enter into treaty :** (1) The right to enter into treaty or agreement shall rest in federation.
- (2) The Government of Nepal shall have to consult respective province while making the treaties or agreement on matters under provincial list.
- (3) The Council of Ministers of a province may enter into a contractual agreement on industrial and economic issues after taking approval from the Government of Nepal.
- 274. Ratification of, accession to, acceptance of or approval of treaties or agreement:** (1) The ratification of, accession to, acceptance of or approval of treaties or agreement to which the State of Nepal or the Government of Nepal is to become 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 or approval of treaty or agreement on the following subjects be done by two thirds majority of the total members in both houses of federal legislature:-
- (a) peace and friendship,
 - (b) security and strategic alliance,
 - (c) the boundaries of Nepal, and
 - (d) natural resources and the distribution of their uses.

Provided that simple majority of the present members of House of Representatives can ratify, accede to, accept or approve ordinary type of treaty or agreement

under section (a) and (d) that do not have wide, grave or long term impact on the nation

- (3) No agreement or treaty to be done after the commencement of this constitution shall be implemented by the Government of Nepal or State of Nepal so long as it is not ratified, acceded, accepted or approved according to this Article.
- (4) Notwithstanding anything contained in clause (1) and (2), there shall be no agreement and treaty that may adversely affect regional integrity of Nepal.

275. Special Provision Rating to Exercise of president Function In case the position of the President and Vice-President of Nepal falls vacant at once under this constitution, the Prime Minister shall perform the responsibilities mandated to the President under this constitution.

276. Review and revision of Special Powers : The Government of Nepal shall review and revise, along with census of every ten years, the provisions regarding special rights of the women and Dalit community and its implementation and effectiveness based on human development index.

277. Nepali Ambassadors and Emissaries: (1) The President shall appoint ambassadors of Nepal and other emissaries for specified purposes based on the principle of inclusion.

(2) The president shall accept the credentials from foreign ambassadors and diplomatic envoys.

278. Appointment to be made on Inclusive Principle: Appointment to the constitutional positions shall be made based on the principle of inclusion.

279. Provision relating to Constitutional Council: (1) There shall be a Constitutional Council for making recommendation in accordance with this constitution for appointment of Chief Justice, the chief and officials of constitutional bodies, consisting of Chairperson and members as follows:-

- | | |
|--|--------------|
| (a) Prime Minister | -Chairperson |
| (b) Chief Justice | -Member |
| (c) Speaker of the House of Representatives | -Member |
| (d) Chairperson of National Assembly | - Member |
| (e) Leader from the Opposition Party in House of Representatives | -Member |
| (f) Deputy Speaker of House of Representatives | -Member |

- (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 present in the Constitutional Council as a member.

- (3) The recommendation shall, in accordance with this constitution, have to be made by the Constitutional Council a month before the posts of Chief Justice, Chief and officials of Constitutional bodies fall vacant.

Provided that, In case the posts have fallen vacant due to death or resignation, the recommendation for appointment has to be made so as to fulfill the vacant posts within a month from the day of position lying vacant.

- (4) Other functions, rights and powers of the Constitutional Council and proceedings related to appointment of Chief Justice, chief and officials of Constitutional Council shall be as determined by the federal law.
- (5) The Chief Secretary of the Government of Nepal shall function as the secretary of the Constitutional Council.

280. Formation of the Government Service: (1) The Government of Nepal may, in order to run the administration of the country, constitute civil service, judicial service and other services as required. The constitution, operation, and terms and conditions of such services shall be determined by federal Act.

(2) Positions of all federal governmental services shall be fulfilled on the basis of the principle of proportional inclusion according to federal law.

(3) Provincial council of ministers, village council and municipal council may form and operate various government services according to law as may be required for running the administration.

281. Constituency Delimitation Commission: (1) For the purpose of electing members, in accordance with this constitution, to federal legislature, provincial assembly, village assembly and municipal council, the government of Nepal may form a Constituency Delimitation Commission, with the following Chairperson and members in it:-

- | | |
|---|------------------|
| (a) A retired judge of the Supreme Court | -Chairperson |
| (b) A geographer/geologist | -Member |
| (c) A sociologist or demographer | -Member |
| (d) An administrator or a legal expert | -Member |
| (e) A special class gazetted officer from the Government of Nepal | Member Secretary |

(2) The procedural of Constituency Delimitation Commission shall be as determined at the time of constituting the Commission.

(3) Following persons shall be deemed eligible to be appointed as Chairperson and members of the Constituency Delimitation Commission:-

- (a) who has held at least a Bachelor's Degree in a relevant subject from a recognized university

- (b) who has attained the age of forty five years,
 - (c) who has high moral character.
- (4) The position of the Chairperson or members of the Constituency Delimitation Commission shall be deemed vacant in the following circumstances:-
- (a) if she /he submits written resignation,
 - (b) if Council of Ministers of Government of Nepal relieves him/her from duty, or
 - (c) if she /he dies.
- (5) The Constituency Delimitation Commission, while delimiting the constituencies in accordance with this Article, shall, based on geography and population representation, maintain as far as practicable the equal ratio or proportionality between geography, population and the number of members.
- (6) While delimiting the constituencies pursuant to clause (5), attention shall be paid to population density of the constituency, geographical conditions, administrative and transportation proximity, and the communal and cultural characteristics of the people living in such districts.
- (7) No question shall be raised in any court of law regarding the constituencies determined by Constituency Delimitation Commission.
- (8) The Constituency Delimitation Commission shall submit its report to the Government of Nepal about the work it has performed.
- (9) The Government of Nepal shall submit the report received pursuant to clause (8) to the federal legislature and also forward it to the Election Commission for implementation.
- (10) Constituency Delimitation Commission shall determine its own working procedures.
- (11) The remuneration and other benefits of the Chairperson and members of the Constituency Delimitation Commission shall be similar to those of Chief Election Commissioner and Election Commissioners, respectively.
- (12) The constituencies determined in pursuant to clause (5) shall be put to a review in every 20 years.
- (13) The Government of Nepal shall provide staff to the Constituency Delimitation Commission in the number as required.

282. Language Commission: (1) The Government of Nepal shall establish a Language Commission ensuring representation of the provinces within a year from the commencement of this Constitution.

- (2) There shall be a Chairperson and members as may be required in Language Commission.
- (3) The term of office of the Chairperson and members of the Language Commission shall be of six years from the date of appointment. None of them shall be eligible for reappointment.
- (4) The persons having possessed the following qualifications may be appointed to the position of chairperson or member of the Language Commission:-
 - (a) Having attained Master's degree on the concerned subject from a recognized University;
 - (b) Having the experience of at least 20 years in studies, teaching, researches on various languages of Nepal;
 - (c) Having attained the age of 45 years;
 - (d) Having high moral character.
- (5) The office of the Chairperson or member of the Language Commission shall be vacant on any of the following circumstances:-
 - (a) If he/she tenders resignation in writing;
 - (b) If the Council of Minister of Government of Nepal removes him/her;
 - (c) If he/she attains the age of 65 years;
 - (d) If he/she dies.
- (6) Powers, duties and powers of the Language Commission shall be as follows:-
 - (a) To determine the basis for a language to acquire status of official language and forward a recommendation to the Government of Nepal,
 - (b) To forward a recommendation to the government of Nepal regarding the measures to be adopted for the protection, promotion and development of languages,
 - (c) To measure the standards for development of mother language, and to forward a recommendation to the Government of Nepal regarding its potentials for use in education,
 - (d) To carry out research, monitoring and studies of languages.
- (7) The Language Commission shall accomplish the tasks outlined in section (a) of clause (3) within five years of formation.
- (8) The Government of Nepal may, in coordination with the provincial government, establish the branch offices of Language Commission in the provinces.

- (9) Other rights, duties and powers and proceedings of the Language Commission shall be as determined by federal law.

283. Special provisions relating to Citizenship of the office-bearers: (1) A person shall have acquired a citizenship by descent to be elected, nominated and appointed as the President, Vice-President, Prime Minister, Chief Justice, Speaker of the parliament, Chairperson of National Assembly, Head of the province, chief minister, speaker of provincial assembly and chief of security bodies.

- (2) For appointment to the constitutional positions, other than those referred to in clause (1), the persons having obtained citizenship by descent, by naturalization or by birth may be eligible.

Provided that in case of the person having obtained citizenship by naturalization, he/she shall have to have permanent domicile for at least ten years in Nepal and in case of the person having obtained citizenship by birth or person having obtained citizenship by naturalization under Article 11 (6), he/she shall have to have permanent domicile for at least five years in Nepal.

284. Provision relating to Trust: (1) Without prejudice to the fundamental norms of trusts, the federal parliament shall make laws concerning the rights of peasants having possession on trusts land and the rights of the trusts.

- (2) Other provisions as to trusts shall be according to the federal law.

285. Not Eligible for Appointment: (1) Notwithstanding anything contained elsewhere in this constitution, a Nepali citizen having obtained permanent residence permission of a foreign country shall not be eligible for election, nomination or appointment to the position to be elected, nominated or appointed according to this constitution.

Provided that there shall be no hindrance to elect, nominate or appoint such a person to such position after lapse of a period of three months after he/she waives such permanent residential permission.

- (2) Other provisions as to the Nepalese citizens having obtained permanent residence permission of a foreign country as per clause (1) shall be as provided by federal law.

286. Provision relating to Parliamentary Hearing: (1) Prior to the appointment, on the recommendation of the Constitutional Council, of the officials, Justice of the Supreme Court, Justice of Constitutional Court, members of judicial council and ambassadors, there shall be a parliamentary hearing, in accordance with this constitution.

- (2) A joint committee shall be formed, in accordance with law, comprising the members of both the houses of Federal Legislature for the purpose mentioned under clause (1).
- (3) The members represented in the joint committee under clause (2) shall not be entitled to advocate in the Supreme Court until the term of the Federal Legislature.

- 287. Monitoring and evaluation of works of Constitutional Bodies:** The chief and officials of the constitutional bodies shall be accountable and answerable to federal legislature. The respective committee of the House of Representatives may evaluate and monitor the functioning of the constitutional bodies, other than that of the National Human Rights Commission, and issue necessary directives and suggestions.
- 288. Annual report of Constitutional Body:** (1) The constitutional bodies, formed in accordance with this Constitution, shall submit the annual report about its works to the President, who in turn shall have it presented at the federal legislature, through the Prime Minister.
- (2) The details to be included in the report under clause (1) shall be as determined by law.
- (3) Notwithstanding anything contained in clause (1), the constitutional bodies may prepare separate reports with regard to its functions in each province and submit the report to the Head of the Province.

PART 35

Transitional Provisions

289. Formation of Federal Commission: (1) In order to furnish suggestions with regard to the borders of the provinces, Government of Nepal may form a Federal Commission.

(2) Naming of province shall be made by a decision of two third majority of the provincial legislature pursuant to clause (3) of Article 56.

(3) Government of Nepal shall form a commission for determination of number and borders of the Village Council, Municipal Council and Special, protected, or autonomous regions to be formed pursuant to clauses (4) and (5) of Article 56. The number and borders of the Village Council, Municipal Council and Special, protected, or autonomous region shall be determined according to the norms determined by Government of Nepal.

(4) The commission to be formed pursuant to clause (3) shall be formed within six months from the date of commencement of this constitution and the term of office of such commission shall be of one year.

290. Constituent Assembly to be transformed into Legislature-parliament: (1) After the commencement of this constitution, the Constituent Assembly shall be transformed into a Legislature-parliament, and the term of such Legislature-Parliament shall be up to the term of the Constituent Assembly as prescribed in Interim Constitution (2007).

Provided that, if the elections for the House of Representatives are to happen pursuant to this Constitution, the term of the transformed Legislature-parliament shall be until one day before the nominations are filed for the elections of House of Representatives.

(2) The Bills 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 clause (1).

(3) Pursuant to this Constitution, the Legislature Parliament as per clause (1) shall conduct all the activities under the prerogative of the Federal Legislature until the elections for House of Representatives are conducted.

(4) Until the time the elections for Provincial Assembly are not conducted after this constitution comes into effect, the responsibility to formulate laws according to Schedule 5 shall fall under the prerogative of the Legislature-Parliament pursuant to Clause (1). The laws thus formulated shall be, *ipso facto*, void in the province a year after provincial assembly is constituted according to this constitution.

(5) The Legislature Parliament Secretariat, its General Secretary, Secretary, and its employees from the inception of this constitution, shall be under

the Federal Legislature Secretariat according to this constitution, and their conditions of services will be the same as those during their time of appointment.

- (6) If a session of the Legislature-Parliament is not active when this constitution comes into effect, then the President shall summon a session of the Legislature Parliament within seven days of this constitution coming into effect. Thereafter, the president shall summon the session of the Legislature Parliament from time to time.

291. Provisions relating to the President and Vice-president: (1) The President and Vice President in office during the time of this constitution coming into effect shall continue to hold office till the time new elections for their posts are conducted pursuant to this Article.

- (2) If the session of the Legislature Parliament is ongoing at the time of commencement of this constitution, then from the date of the commencement of the constitution; and if the parliament is not in session, then from the date of the summoning of the session under Article 290 (6); within one month, the President and Vice President shall be elected as per the political understanding.

- (3) If political understanding cannot be reached as per clause (2), the president and vice president shall be elected by simple majority of the Legislature Parliament.

- (4) If the post of either President or Vice President falls vacant after being elected pursuant to Clause (2) and (3), re-elections shall be conducted by the Legislature Parliament pursuant to this Article, until the formation of the Federal Legislature.

- (5) The term of office of the President and Vice-president elected under this Article, shall be until new President and Vice-president are elected from the Electoral College as mentioned in Article 62, and assume office.

- (6) The position of President or Vice President elected under this Article may fall vacant in following situations:

- (a) If President tenders his/her resignation to Vice President; or if Vice President tenders his/her resignation to President,

- (b) If impeachment motion against him/her is passed as per Clause (7) below

- (c) If new President or Vice-president is elected from the Electoral College as mentioned in Article 62 and assume office,

- (d) if he/she dies

- (7) If at least one fourth of the current members of the Legislature Parliament agree, a motion of impeachment for grave violation of this constitution or law shall be moved against President or Vice President in the Legislature Parliament under the Article 290 (1). If the motion is

passed by at least two-third majority of the present number of the Legislature Parliament, then he/she shall be relieved off the office

292. Provision relating to Constitution of Council of Ministers: (1) The Council of Ministers existing at the time of commencement of this Constitution shall remain until the transformed Legislature-parliament, in accordance with Clause (2), constitutes a new Council of Ministers.

(2) If the session of the Legislature Parliament is ongoing at the time of commencement of this constitution, then from the date of the commencement of the constitution; and if the parliament is not in session, then from the date of the summoning of the session under Article 290 (6); within seven days the Prime Minister shall be elected as per the political understanding.

(3) If political understanding cannot be reached as per clause (2), the Prime Minister shall be elected by simple majority of the Legislature Parliament.

(4) Structure and division of portfolio in the Council of Ministers to be formed as per this Article shall be conducted as per mutual understanding

(5) There shall be deputy prime minister and other ministers, as required, in the Council of Ministers to be formed as per this Article.

(6) When appointing Minister as per clause 5, the Prime Minister, at the recommendation of related political party, shall choose from among the members of the Legislature Parliament

(7) The Prime Minister and Ministers appointed as per this Article, shall be collectively accountable to the Legislature Parliament and Ministers shall be individually accountable to the Prime Minister and the Legislature Parliament regarding their work performance in respective Ministries

(8) The Prime Minister elected under this Article shall be relieved off his/her office in following situation:

(a) If he/she tenders written resignation to the president

(b) If vote of no confidence as per Clause 14 is passed or if he/she is unable to pass vote of confidence

(c) If he/she is no longer a member of Legislature Parliament

(d) If he/she dies

(9) The Deputy Prime Minister, Minister, State Minister, Assistant Minister appointed under this Article shall be relieved off his/her office in following situation:

(a) If he/she tenders written resignation to the Prime Minister

(b) If the Prime Minister loses his/her office as per Clause 8

(c) If the Prime Minister relieves him/her off the office at the recommendation or consent of the respective political party

(d) If he/she dies

(10) If the Prime Minister is relieved off his/her office as per clause 8, the same Council Ministers shall continue to discharge its duty till a new Council of Ministers is formed

(11) If the Prime Minister appointed under this article dies, the deputy prime minister or senior most minister shall take charge of prime minister until a new prime minister is elected

(12) The Prime Minister appointed under this Article can, at any time of his/her term, move a motion of vote of confidence at the Legislature Parliament, in order to clarify that he/she enjoys majority

(13) At least one fourth member of Legislature Parliament can move a motion of vote of no confidence against the Prime Minister at the Legislature Parliament

Provided that no more than one such motion of vote of no confidence shall be moved to the Legislature Parliament against the same prime minister within six months

(14) The motions moved as per Clause 12 or 13 shall be decided upon by the simple majority of the current members of the Legislature Parliament.

(15) After the commencement of this Constitution and until the provincial council of ministers is constituted, in accordance with this constitution, the executive power of the provincial government shall be exercised by the Government of Nepal.

293. Interim provision regarding Speaker and Deputy-speaker: (1) The Speaker and Deputy of the Legislature-Parliament during the time of commencement of this constitution shall continue to hold office till the time new elections for their posts are conducted pursuant to this Article.

(2) If the session of the Legislature Parliament is ongoing at the time of commencement of this constitution, then from the date of the commencement of the constitution; and if the parliament is not in session, then from the date of the summoning of the session under Article 290 (6); within twenty days the Speaker and Deputy Speaker shall be elected as per the political understanding by the members of the Legislature Parliament from amongst themselves.

(3) If political understanding cannot be reached as per clause (2), the Speaker and the Deputy Speaker shall be elected by simple majority of the current members of the Legislature Parliament.

(4) While electing Speaker and Deputy Speaker as per clause (2) and (3), the Speaker and Deputy Speaker shall belong to different political parties representing at the Legislature Parliament.

- (5) Speaker or Deputy Speaker shall discharge his/her duty in a neutral manner and without taking sides to any political party
- (6) The Speaker or Deputy Speaker shall be relieved off his/her office in following situation:
 - (a) If he/she tenders written resignation
 - (b) If he/she loses membership of Legislature Parliament
 - (c) If a motion against his/her conduct is passed by at least two third majority of the Legislature Parliament
 - (d) If he/she dies
- (7) Meeting of the Legislature Parliament where a motion against Speaker's conduct is discussed shall be presided by Deputy Speaker or another member. But the Speaker can take part in the discussion and vote
- (8) Other processes related to election of Speaker and Deputy Speaker and other processes related to the passage of motion against his/her conduct, shall be as specified by the existing Legislature Parliament.

294. Provision relating to the Judiciary: (1) The Supreme Court, Constituent Assembly Court, Appellate Court, and District Courts subsisting at the time of the commencement of this constitution shall continue until the structure of the judiciary is constituted under this constitution. And this constitution shall not be meant to hinder the making of the decision by the concerned courts on cases filed prior to and after the commencement of this Constitution.

- (2) The Chief justice and justices of the Supreme Court, judges of the Appellate courts and District courts shall be deemed to have been appointed under this Constitution.
- (3) Within six months of the commencement of this constitution, High Courts as per Article 139 shall be established as per federal law. After their establishment, the Appellate Courts subsisting at the time of the commencement of this constitution shall be dissolved.
- (4) After the High Courts are formed as per clause (3), the cases under consideration in the Appellate Courts shall be transferred to the High Courts by the government of Nepal with the consent of Judicial Council and by publishing notice to that effect in the Nepal Gazette.
- (5) After the High Courts are formed as per clause (3), the Chief Justice shall, with the recommendation of the Judicial Council, transfer the chief judge and judges of the Appellate Courts as the chief judge and judges of the High Courts
- (6) The additional judges engaged at Appellate Courts during the commencement of this constitution, shall continue to remain in their offices till the term specified during their appointment.

(7) The cases under consideration at the Constituent Assembly Court shall be transferred to Constitutional Court after the latter is constituted according to this Constitution.

(8) The criminal cases, that demand more than six months of imprisonment, lying sub-judice at other bodies except the courts, shall be transferred to the District Courts of the respective districts after the commencement of this Constitution.

295. Provisions regarding Constitutional Bodies and Officials thereof: (1) The constitutional bodies subsisting at the time of the commencement of this Constitution shall be deemed to have been constituted under this Constitution, and this Constitution shall not hinder such bodies in dealing with matters under consideration according to the existing laws.

(2) The Chief or officials of the constitutional bodies engaged at the time of commencement of this constitution shall be deemed to have been appointed under this Constitution and he/she shall remain in his/her office subject to the terms and conditions stated at the time of appointment.

(3) If during the commencement of this constitution, there are additional number of office-bearers in the Commission for Investigation of Abuse of Authority and Public Service Commission than what is specified in this constitution, then they shall continue to remain in their office subject to the terms and conditions stated at the time of their appointment.

296. Formation of Operation of Government Services in Provincial and Local Level: Until the formation and operation of government services in the provincial and local level, the Government of Nepal shall make necessary provisions for making available services to the citizens at provincial and local levels.

297. Provision regarding the Local Bodies: (1) The local bodies existing at the time of the commencement of this Constitution shall exist until the number and constituency is determined, in accordance with this constitution.

(2) The election of the local bodies existing pursuant to clause (1) shall be as determined by law.

(3) The officials of the local bodies elected pursuant to clause (2) shall remain in their office until the election of local level is held according to this constitution.

298. Existing laws to remain in operation: (1) All the laws in the force at the time of 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, one year after first session of federal legislature, in accordance with this constitution.

- (2) The activities under peace process conducted according to the Interim Constitution 2007 shall be considered to be conducted according to this constitution.

299. Power to remove difficulties: If any difficulty arises in connection with the implementation of this Constitution, until election of the federal parliament has been held (in accordance with this constitution) its session started and the session of the transformed legislature parliament is not underway, the President, on the recommendation of the Council of Ministers, Government of Nepal, may issue necessary orders to remove such difficulties. Such orders shall be required to be presented immediately to the meeting of the Legislature parliament or Federal legislature for endorsement.

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PART 36

Definitions and Interpretations

300. Definitions and Interpretations: (1) Unless the subject or context otherwise requires, in this Constitution:-

- (a) “Minority” means those caste, language, and religious communities, whose population is less than that determined by the law, and who has their own specialties, and who aim to protect them; it also signifies those groups who have faced discrimination and harassed.
- (b) “Law” means a federal law, provincial law, and local law.
- (c) “Article: means an Article of this Constitution.
- (d) “Municipality” means metropolitan and sub metropolitan city as well.
- (e) ‘Citizen” means citizen of Nepal.
- (f) “Province” means the area and structure of the federal unit carved in accordance with this Constitution.
- (g) ‘Remuneration” means and includes salary, allowances, pension and any other forms of emoluments.
- (h) “State power” means powers of the Executive, the Legislative and the Judiciary.
- (i) “Bill” means a draft of a Constitution or an Act which has been introduced in the federal legislature or a provincial assembly.
- (j) “Federation” means the federal structure that is the apex body of the federal system.
- (k) “Federal Unit” means federation, provincial or local level
- (l) “Constitutional body” means Commission for Investigation of Abuse of Authority, Auditor General, Public Service Commission, Election Commission, National Human Rights Commission, National Natural Recourses and Finance Commission, National Women Commission, National Dalit Commission and National Inclusion Commission, established in accordance with this Constitution.
- (m) “Marginalized” means those who have been forced to fall backward politically, economically and socially, those who have been unable to avail services because of discrimination and harassment, and because of geographical disconnection, and those communities whose standard of living has been below the legal standard as specified in the Human Development indicators. It also signifies the ultra-marginalized and communities on verge of extinction.

- (n) “Local level” means village council, municipal council and district assembly to be formed in accordance with this Constitution.
- (2) Unless the subject or context otherwise requires, the prevailing law of Nepal relating to interpretations shall, subject to the provisions of this Constitution, apply to the interpretation of this Constitution in the same manner that law applies to the interpretation of the laws of Nepal.

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PART 37

Short title, Commencement and repeal

301. Short title, Commencement and Repeal: (1) This Constitution shall be called (Constitution of Nepal, 2015(2072)).

(2) This Constitution shall come into force from

302. Repeal: The Interim Constitution of Nepal 2007 is hereby repealed.

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SCHEDULE- 1

(Related with clause (2) of Article 8)

Method of Making the National Flag of Nepal

(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 AM making AC equal to AB plus one third AB. From AC mark off D making the 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 center 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 center 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 the center M and radius MQ draw a semi-circle on the lower portion touching P and Q.
- (15) With center 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 center T and radius TS draw a semi-circle on the upper portion of PNQ touching at two points.

- (17) With center 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 his 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 center W, the point where HI and UN cut one another and radius MN draw a circle.
- (21) With center 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 circle 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 of TN. This will be of deep blue color and will be provided on all the sides of the flag. However, on the given 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 imaginary. These are not shown on the flag.

SCHEDULE - 2
(RELATED TO CLAUSE (1), ARTICLE 9)

National Anthem of Nepal

Woven from hundreds of flowers, we are one garland that's Nepali
Spread sovereign from Mechi to Mahakali.

A playground for nature's wealth unending Out of the sacrifice of our braves, a
nation free and unyielding.

A land of knowledge, of peace, the plains, hills and mountains tall
Indivisible, this beloved land of ours, our motherland Nepal.

Of many races, languages, religions, and cultures of incredible sprawl
This progressive nation of ours, all hail Nepal.

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SCHEDULE - 3
(RELATED TO CLAUSE (2), ARTICLE 9)
Coat of Arms of Nepal



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SCHEDULE - 4
(RELATING TO CLAUSE (3) OF ARTICLE 56)
PROVINCES AND DISTRICTS WITHIN PROVINCES

Province No. 1	Province No. 2
1. Taplejung	1. Sapatari
2. Panchthar	2. Siraha
3. Ilam	3. Dhanusha
4. Sankhuwasabha	4. Mahotari
5. Terhathum	5. Sarlahi
6. Dhankuta	6. Rautahat
7. Bhojpur	7. Bara
8. Khotang	8. Parsha
9. Sulukhumbu	
10. Okhaldhunga	
11. Udayapur	
12. Jhapa	
13. Morang	
14. Sunsari	
Province No. 3	Province No. 4
1. Dolakha	1. Gorakha
2. Ramechhap	2. Lamjung
3. Sindhuli	3. Tanahu
4. Kavrepalanchok	4. Kaski
5. Sindhupalchok	5. Manang
6. Rasuwa	6. Mustang
7. Nuwakot	7. Parbat
8. Dhading	8. Syanja
9. Chitwan	9. Myagdi
10. Makwanpur	10. Baglung (<i>East part</i>)
11. Bhaktpur	11. Nawalparasi (<i>east of Bardaghat Susta</i>)
12. Lalitpur	
13. Kathmandu	
Province No. 5	Province No. 6
1. Nawlparasi (<i>west of Bardaghat Susta</i>)	1. Rukum (<i>Western part</i>)
2. Rupandehi	2. Salyan
3. Kapilbastu	3. Dolpa
4. Palpa	4. Jumla
5. Arghakhachi	5. Mugu
6. Gulmi	6. Humla
7. Baglung (<i>West part</i>)	7. Kalikot
8. Rukum (<i>East part</i>)	8. Jajarkot
9. Rolpa	9. Dailekh
10. Pyuthan	10. Surkhet
11. Dang	
12. Banke	
13. Bardiya	

Province No. 7	
1. Bajura	
2. Bajhang	
3. Doti	
4. Achham	
5. Darchula	
6. Baitadi	
7. Dadeldhura	
8. Kanchanpur	
9. Kailali	

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SCHEDULE 5**(RELATED TO ARTICLE 57(1) AND 109)****List of Federal Powers/Jurisdiction**

Serial Number	Subjects
1.	Related to defense and army
	a) Protection of national unity and territorial integrity
	b) Related to national security
2.	Central police, armed police force, national intelligence and investigation, peace and security
3.	Central planning, central bank, financial policy, currency and banking, monetary policy, foreign grants, aids and loan.
4.	Monitoring and regulation of telecommunication, central telecom, radio frequency distribution, television and postal service
5.	Customs, excise-duty, value added tax (VAT), corporate income tax, individual income tax, passport fee, visa fee, tourism fee, service charge, penalties and fines
6.	Federal civil service, judicial service and other government services
7.	Central statistics (national and international standards and qualities)
8.	Central level mega projects for electricity, irrigation and other projects
9.	Central university, university standard and regulation, central library
10.	Central health policy (setting standard, quality and monitoring of the health services, national/special service provider hospitals, traditional treatment services, control of communicable diseases)
11.	Federal legislature, federal executive, local level affairs, special structures
12.	International trades, exchange, ports and quarantines
13.	Civil aviation, international airports
14.	Foreign and diplomatic affairs, international relations and related to United Nations
15.	International treaties and agreements, extradition, mutual legal assistance and international border, international border river
16.	National transport policy, train and national highways management
17.	Laws related to Supreme Court, Constitutional Court, High Courts, District Courts and Judicial Administration
18.	Citizenship, passport, visa, and immigration
19.	Nuclear energy, atmosphere and space related
20.	Intellectual property (including patent, design, copy right)
21.	War and defense
22.	Factory and production of arms and ammunitions
23.	Standards and metrology
24.	Mining, exploration
25.	National and international ecology management, national parks, wildlife reserves and wetlands, national forest policy, carbon services
26.	Insurance policy, securities, cooperative regulations

Serial Number	Subjects
27.	Land use policy, housing development policy, tourism policy, environment adaptation
28.	Formulating criminal and civil laws
29.	Security press
30.	Social security and poverty alleviation
31.	Constitutional bodies and commissions of national importance
32	Ancient monuments and places of archaeological importance
33	Issues not listed in the federation, province and local level power or concurrent level power lists, along with other issues not mentioned in this constitution and law

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SCHEDULE 6**(RELATED WITH ARTICLE 57 (2), 162 (4), 197, 231 (3), 232 (7), 269 (4) AND 289 (4))****List of Provincial Powers/Jurisdiction**

Serial Number	Subjects
1.	Provincial police administration as well as law and order
2.	Banks and financial institution, cooperatives, and foreign grants and aids with consent from the center
3.	Radio, FM, television operation
4.	Tax on remuneration, land and house registration fee, vehicle tax, excise duty, entertainment tax, advertisement tax, tax on tourism and agricultural income, service charge and penalties and fines
5.	Provincial civil service, and other government services
6.	Provincial statistics
7.	Provincial level electricity, irrigation projects, drinking water, transport
8.	Provincial level university, higher education, libraries and museums
9.	Health service
10.	Related to provincial assembly, provincial cabinet
11.	Trade/Business within the province
12.	Provincial highways
13.	Provincial investigation bureau
14.	Infrastructure management and other necessary matters of province government offices
15.	Provincial public service commission
16.	Land management, record-keeping of the land
17.	Exploration and management of mines
18.	Protection and use of language, culture, script, fine arts and religion
19.	Management of national forest, water resources and ecology within the province
20.	Agriculture and livestock development, factories, industrialization, business, transportation
21.	Guthi (community trust/endowment) management

SCHEDULE 7**(RELATED TO ARTICLE 57(3), 109, 162 (4), AND 197)****List of Concurrent (federal and provincial) Powers/Jurisdiction**

Serial Number	Subjects
1.	Criminal and civil work procedures and evidences and oath of office (legal recognition, public act and records and judicial process)
2.	Supply, distribution, price control, standard and monitoring of essential goods and services
3.	Preventive detention, jail and custody management on the matters of national security and management of law and orders
4.	Transfer of accused as well according those in custody and jail from one province to other.
5.	Laws related to family affairs (marriage, property transfer, divorce, endangered, orphan, adopted child, successors and joint family).
6.	Receiving property, acquisition and creation of rights
7.	Matters related to contracts, cooperatives, collaborations and agencies
8.	Matters related to bankruptcy and insolvency
9.	Medicine and pesticides
10.	Planning, family planning and population control
11.	Matters related to social security and employment, trade union, industrial dispute, labor rights and disputes
12.	Medical, legal, audit, engineering, ayurved, veterinary services, Amchi and other professions
13.	Province border rivers, waterways, environment protection, biodiversity
14.	Related to mass communication
15.	Industries and minerals and infrastructures
16.	Casino, lottery
17.	Natural and man-made disaster preparedness, rescue, relief and rehabilitation
18.	Tourism, drinking water and sanitation
19.	Movies, cinema halls and sports
20.	Insurance operation and management
21.	Poverty alleviation and industrialization
22.	Scientific research, science and technology and human resource development
23.	Inter-provincial forest, wildlife, birds, mountains, national parks and water uses
24.	Land policy and related legal provisions
25.	Employment and aid to unemployed

SCHEDULE 8**(RELATED TO 57 (4), 214 (2), 221 (2) AND 226 (1))****List of Powers/Jurisdiction for Local Level**

Serial number	Subjects
1.	Municipal police
2.	Cooperatives
3.	FM operation
4.	Local tax (property tax, house rent tax, fee on registration of houses and land, vehicle tax), service fee, tourism fee, advertisement tax, business tax, land tax (land revenue), fines, entertainment tax
5.	Management of local services
6.	Local statistics and record keeping
7.	Local development projects and programs
8.	Basic and secondary education
9.	Basic health and sanitation
10.	Management of local markets, environment conservation and biological diversity
11.	Local roads, rural roads, agriculture roads, irrigation
12.	Village assembly, Municipal assembly, district assembly, local courts, dispute settlement and mediation
13.	Management of local records
14.	Distribution of land, building ownership certificates
15.	Farming and livestock, agriculture production management, livestock health, cooperative
16.	Management of senior citizens, people with physical disability and disabled
17.	Collection of statistics of unemployed people
18.	Management, operation and control of agriculture extension
19.	Drinking water, small electricity projects, alternative energy
20.	Disaster management
21.	Conservation of Watershed, wetland, wildlife, mines and minerals
22.	Preservation and development of language, culture and fine arts

SCHEDULE 9

(RELATED TO 57 (5), 109, 197, 214 (2), 221 (1) AND 226 (1))

List of concurrent Powers/Jurisdiction for federations, provincial and Local Level

Serial number	Subjects
1.	Cooperatives
2.	Education, Health and Newspapers/Magazines
3.	Health
4.	Agriculture
5.	Services like electricity, drinking water, irrigation
6.	Service fee, registration fee, fine, tourism fee and royalty received from natural resources
7.	Forest, wildlife, birds, water use, environment, ecology and biodiversity
8.	Mines and minerals
9.	Disaster management
10.	Social security and poverty alleviation
11.	Registration of personal incidents, birth, death, marriage and statistics
12.	Archaeology, ancient monuments and museums
13.	Management of landless
14.	Royalty received from natural resources
15.	Permission for vehicles

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Ravi Sharma Aryal
Secretary

Krishna Prasad Sitaula
Chairperson

Date: 2072 Bhadra 4

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