

The Constitution of Nepal

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Amendments:

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| 1. The Constitution of Nepal (First Amendment), 2016 | February 28, 2016 |
| 2. The Constitution of Nepal (Second Amendment), 2020 | June 18, 2020 |

Preamble:

WE, THE SOVEREIGN PEOPLE OF NEPAL;

INTERNALIZING the people's sovereign right and right to autonomy and self-rule, while maintaining freedom, sovereignty, territorial integrity, national unity, independence and dignity of Nepal;

RECALLING the glorious history of historic people's movements, armed struggle, dedication and sacrifice of Nepali people carried out, from time to time, for the sake of interests of the nation, democracy and progressive changes, and respecting for the martyrs, disappeared persons and victimized citizens;

ELIMINATING all forms of discrimination and oppression resulted from the feudalistic, autocratic, centralized, unitary system of governance of the State;

PROTECTING and promoting unity in diversity, social and cultural solidarity, tolerance and harmony, by recognizing the multi-ethnic, multi-lingual, multi-religious, multi-cultural and geographically diverse characteristics; and resolving to build an egalitarian society based on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice by eliminating discrimination based on class, caste, region, language, religion and gender and all forms of caste-based untouchability;

BEING COMMITTED to socialism based on democratic norms and values including the people's competitive multiparty democratic system of governance, civil liberties, fundamental rights, human rights, adult franchise, periodic elections, full freedom of the press, and independent, impartial and competent judiciary and concept of the rule of law in order to build a prosperous nation;

DESIRING to fulfil aspirations for sustainable peace, good governance, development and prosperity through the federal democratic republican system of governance;

DO HEREBY ADOPT AND PROMULGATE THIS CONSTITUTION THROUGH THE CONSTITUENT ASSEMBLY.

Nepal Law Commission

Part-1

Preliminary

1. Constitution as Fundamental Law: (1) This Constitution is the fundamental law of Nepal. Any law 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 Power: The sovereignty and State power of Nepal shall be vested in the Nepali people. It shall be exercised in accordance with the provisions set forth in this Constitution.

3. Nation: All the Nepali people, with multi-ethnic, multi-lingual, multi-religious, multi-cultural characteristics and in geographical diversities, and having common aspirations and being united by a bond of allegiance to national independence, territorial integrity, national interest and prosperity of Nepal, collectively constitute the nation.

4. State of Nepal: (1) Nepal is an independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented, federal democratic republican State.

Explanation: For the purposes of this Article, "secular" means religious, cultural freedoms, including protection of religion and culture handed down from time immemorial.

(2) The territory of Nepal shall comprise the following:-

(a) The territory existing at the time of commencement of this Constitution, and

(b) Such other territory as may be acquired after the commencement of this Constitution.

5. National Interest: (1) Safeguarding of the freedom, sovereignty, territorial integrity, nationality, independence and dignity of Nepal, the rights of the Nepali people, border security, economic wellbeing and prosperity shall be the basic elements of the national interest of Nepal.

(2) Any conduct and act contrary to the national interest shall be punishable in accordance with the federal law.

6. Languages of Nation: All languages spoken as the mother tongues in Nepal are the languages of the nation.

7. Official Language: (1) The Nepali language in the *Devnagari* script shall be the official language of Nepal.

(2) A Province may, by a provincial law, determine one or more than one languages of the nation spoken by a majority of people within the Province as its official language or languages, in addition to the Nepali language.

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

8. National Flag: (1) The national flag of Nepal consists of two juxtaposed triangular figures with a crimson-coloured base and deep blue borders, there being a white emblem of the crescent moon with eight rays visible out of sixteen in the upper part and a white emblem of a twelve rayed sun in the lower part.

(2) The method of drawing out the flag and other particulars relating thereto shall be as provided for in Schedule-1.

9. National Anthem and so on: (1) The national anthem of Nepal shall be as set forth in Schedule-2.

(2) The coat-of-arms of Nepal shall be as set forth in Schedule-3.

(3) The Rhododendron Arboreum shall be the national flower, Crimson Colour shall be the national colour, Cow shall be the national animal and Lophophorus shall be the national bird of Nepal.

Part-2

Citizenship

10. Not to Deprive of Citizenship: (1) No citizen of Nepal shall be deprived of the right to obtain citizenship.

(2) Provision of single federal citizenship with provincial identity has been made in Nepal.

11. To be Citizens of Nepal: (1) The persons who have obtained the citizenship of Nepal at the time of commencement of this Constitution and who are qualified to obtain citizenship in accordance with this Part shall be the citizens of Nepal.

(2) The following person who has his or her permanent domicile in Nepal at the time of commencement of this Constitution shall be the citizen of Nepal by descent:-

(a) A person who has obtained the citizenship of Nepal by descent prior to the commencement of this Constitution;

(b) A person whose father or mother was a citizen of Nepal at the time of his or her birth.

(3) A child of a citizen having obtained the citizenship of Nepal by virtue of birth prior to the commencement of this Constitution shall, upon attaining the age of majority, acquire the citizenship of Nepal by descent in case the child's father and mother both are citizens of Nepal.

(4) Every minor who is found within Nepal and the whereabouts of whose father and mother are not known shall, until the father or the mother of the child is traced, be a citizen of Nepal by descent.

(5) A person who is born in Nepal to a woman who is a citizen of Nepal and has resided in Nepal and whose father is not traced shall be provided with the citizenship of Nepal by descent.

Provided that in case his or her father is held to be a foreign citizen, the citizenship of such person shall be converted into naturalized citizenship as provided for in the federal law.

(6) A foreign woman who has a matrimonial relationship with a citizen of Nepal may, in case she so desires, acquire the naturalized citizenship of Nepal as provided for in the federal law.

(7) Notwithstanding anything contained elsewhere in this Article, in the case of a person born to a woman who is a citizen of Nepal and married to a foreign citizen, the person may acquire the naturalized citizenship of Nepal in accordance with the federal law in case he or she has permanently resided in Nepal and has not acquired the citizenship of a foreign country.

Provided that in case such person's mother and father both are citizens of Nepal at the time of acquisition of citizenship, such person born in Nepal may acquire the citizenship of Nepal by descent.

(8) In the cases other than those referred to in this Article, the Government of Nepal may, in accordance with the federal law, grant the naturalized citizenship of Nepal.

(9) The Government of Nepal may, in accordance with the federal law, grant the honorary citizenship of Nepal.

(10) Whenever any territory is acquired by way of incorporation into Nepal, a person having his or her domicile within such territory shall, subject to the federal law, become a citizen of Nepal.

12. Citizenship based on Descent along with Gender Identity: A person who is entitled to obtain the citizenship of Nepal by descent in accordance with this Constitution may obtain a certificate of citizenship of Nepal with gender identity by the name of his or her mother or father.
13. Acquisition, Reacquisition and Termination of Citizenship: Other matters relating to the acquisition, reacquisition and termination of citizenship shall be as provided for in the federal law.
14. Power to Grant non-resident Nepali Citizenship: The non-residential citizenship of Nepal may be so granted to a person who has acquired the citizenship of a foreign country, has resided in a country other than a Member State of the South Asian Association for Regional Cooperation, and who or whose father or mother, grandfather or grandmother was previously a citizen of Nepal by decent or birth but

subsequently acquired the citizenship of the foreign country that such person may enjoy economic, social and cultural rights in accordance with the federal law.

15. Other Provisions relating to Citizenship of Nepal: Other matters relating to the maintenance of records setting out the identity of every citizen of Nepal and the citizenship of Nepal shall be as provided for in the federal law.

Nepal Law Commission

Part-3

Fundamental Rights and Duties

16. **Right to Live with Dignity:** (1) Every person shall have the right to live with dignity.
(2) No law shall be made providing for the death penalty to anyone.
17. **Right to Freedom:** (1) No person shall be deprived of his or her personal liberty except in accordance with law.
(2) Every citizen shall have the following freedoms: -
- (a) Freedom of opinion and expression;
 - (b) Freedom to assemble peaceably and without arms;
 - (c) Freedom to form political parties;
 - (d) Freedom to form unions and associations;
 - (e) Freedom to move and reside in any part of Nepal;
 - (f) Freedom to practise any profession, carry on any occupation and establish and operate any 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 sovereignty, territorial integrity, nationality and independence of Nepal or the harmonious relations between the Federal Units or the people of various castes, tribes, religions or communities or incite caste-based discrimination or untouchability or on any act of disrespect of labour, defamation, contempt of court, incitement to an offence or on any act which may be contrary to public decency 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 sovereignty, territorial integrity, nationality and independence of Nepal or the harmonious relations between the Federal Units or public law and order.

- (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 sovereignty, territorial integrity, nationality and independence of Nepal, constitute an espionage against the nation or divulge national secrecy or on any act of rendering assistance to any foreign State, organization or representative in a manner to undermine the security of Nepal or on an act of sedition or on any act which may undermine the harmonious relations between the Federal Units or on any act of incitement to caste-based or communal hatred or on any act which may undermine the harmonious relations between various castes, tribes, religions and communities, or on any act of acquisition of, or restriction on, membership of any political party on the basis solely of tribe, language, religion, community or sex or on any act of formation of a political party with discrimination between citizens or on incitement to violent acts or on any act which may be contrary to public morality.
- (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 sovereignty, territorial integrity, nationality and independence of Nepal, or on any act which may constitute espionage against the nation or on any act of divulgence of national secrecy or on any act assisting any foreign State, organization or representative in a manner to undermine the security of Nepal or on an act of sedition or on any act which may undermine the harmonious relations between the Federal Units or on any act of incitement to caste-based or communal hatred or on any act which may undermine the harmonious relations between various castes, tribes, religions and communities or on incitement to violent acts or on any act which may be 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 public-in-general or which may undermine the harmonious relations between the Federal Units or the harmonious relations between the peoples of various castes, tribes, religions or communities or which may constitute or incite violent acts.

- (6) Nothing in sub-clause (f) shall be deemed to prevent the making of an Act to prevent any act which may undermine the harmonious relations between the Federal Units or any act which may be contrary to public health, decency or morality of public-in-general or to confer on the State the exclusive right to undertake any specific industry, trade or service, or to prescribe any condition or qualification for carrying on any industry, trade, occupation, employment or business.

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

(2) No discrimination shall be made in the application of general laws on grounds of origin, religion, race, caste, tribe, sex, physical condition, disability, condition of health, marital status, pregnancy, economic condition, language or region, ideological conviction or on similar other grounds.

(3) The State shall not discriminate among citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideological conviction or on similar other grounds.

Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or development of the citizens including the socially or culturally backward women, *Dalit*, indigenous people, indigenous nationalities (*Aadibasi Janajati*), *Madhesi*, *Tharu*, Muslim, oppressed class, *Pichhada* class, minorities, the marginalized, farmers, labours, youths, children, senior citizens, gender and sexual minorities, persons with disabilities, pregnant persons, incapacitated or helpless, backward region and indigent *Khas Arya*.

Explanation: For the purposes of this Part and Part 4, "indigent" means a person who earns income less than that specified by the federal law.

(4) No discrimination shall be made on the ground of gender with regard to remuneration and social security for the same work.

(5) All offspring shall have the equal right to the ancestral property without discrimination on the ground of gender.

19. Right to Communication: (1) No publication and broadcasting or dissemination or printing of any news item, editorial, feature article or other reading, audio and audio-

visual material through any means whatsoever including electronic publication, broadcasting and printing shall be censored.

Provided that nothing shall be deemed to prevent the making of Acts to impose reasonable restrictions on any act which may undermine the sovereignty, territorial integrity, nationality of Nepal or the harmonious relations between the Federal Units or the harmonious relations between various castes, tribes, religions or communities, or on any act of sedition, defamation or contempt of court or incitement to an offence, or on any act which may be contrary to public decency or morality, on any act of hatred to labour and on any act of incitement to caste-based untouchability as well as gender discrimination.

(2) No radio, television, online or other form of digital or electronic equipment, press or other means of communication publishing, broadcasting or printing any news item, feature, editorial, article, information or other material shall be closed or seized nor shall registration thereof be cancelled nor shall such material be seized by the reason of publication, broadcasting or printing of such material through any audio, audio-visual or electronic equipment or press.

Provided that nothing contained in this clause shall be deemed to prevent the making of an Act to regulate radio, television, online or any other form of digital or electronic equipment, press or other means of communication.

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

20. Rights relating to Justice: (1) No person shall be detained in custody without informing him or her of the ground for his or her arrest.

(2) Any person who is arrested shall have the right to consult a legal practitioner of his or her choice from the time of such arrest and to be defended by such legal practitioner. Any consultation made by such person with, and advice given by, his or her legal practitioner shall be confidential.

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

Explanation: For the purpose of this clause, "legal practitioner" means any person who is authorized by law to represent any person in any court.

(3) Any person who is arrested shall be produced before the adjudicating authority within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to such authority; and no such person shall be detained in custody except on the order of such authority.

Provided that this clause shall not apply to a person held in preventive detention and to a citizen of an enemy State.

(4) No person shall be liable for punishment for an act which was not punishable by the law in force when the act was committed nor shall any person be subjected to a punishment greater than that prescribed by the law in force at the time of the commission of the offence.

(5) Every person accused of an offence shall be presumed innocent until proved guilty of the offence.

(6) No person shall be tried and punished for the same offence in a court of law more than once.

(7) No person accused of an offence shall be compelled to testify against himself or herself.

(8) Every person shall have the right to be informed of any proceedings taken against him or her.

(9) Every person shall have the right to a fair trial by an independent, impartial and competent court or judicial body.

(10) Any indigent party shall have the right to free legal aid in accordance with law.

21. Right of Victim of Crime: (1) A victim of crime shall have the right to get information about the investigation and proceedings of a case in which he or she is the victim.

(2) A victim of crime shall have the right to justice along with social rehabilitation and compensation in accordance with law.

22. Right against Torture: (1) No person who is arrested or detained shall be subjected to physical or mental torture or to cruel, inhuman or degrading treatment.

(2) Any act referred to in clause (1) shall be punishable by law, and any person who is a victim of such treatment shall have the right to obtain compensation in accordance with law.

23. Right against Preventive Detention: (1) No person shall be held under preventive detention unless there is a sufficient ground of the existence of an immediate threat to the sovereignty, territorial integrity or public law and order of Nepal.

(2) Information about the situation of a person who is held under preventive detention pursuant to clause (1) shall be given immediately to his or her family members or relatives.

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

(3) In case the authority having power to hold a person under preventive detention holds any person under preventive detention contrary to law or in bad faith, such person shall have the right to obtain compensation in accordance with law.

24. Right against Untouchability and Discrimination: (1) No person shall be subjected to any form of untouchability or discrimination in any private and public places on grounds of his or her origin, caste, tribe, community, profession, occupation or physical condition.

(2) In producing or distributing any goods, services or facilities, no person belonging to any particular caste or tribe shall be prevented from purchasing or acquiring such goods, services or facilities nor shall such goods, services or facilities be sold, distributed or provided only to the persons belonging to any particular caste or tribe.

(3) No act purporting to demonstrate any person or community as superior or inferior on grounds of origin, caste, tribe or physical condition or justifying social discrimination on grounds of caste, tribe or untouchability or propagating ideology based on untouchability and caste based superiority or hatred or encouraging caste-based discrimination in any manner whatsoever shall be allowed.

(4) No discrimination in any form shall be allowed at a workplace with or without making untouchability on the ground of caste.

(5) All types of acts of untouchability and discrimination committed in contravention of this Article shall be punishable by law as a severe social offence, and

the victim of such act shall have the right to obtain compensation in accordance with law.

25. Right relating to Property: (1) Every citizen shall, subject to law, have the right to acquire, own, sell, dispose of, acquire business profits from, and otherwise deal with, property.

Provided that the State may levy tax on property of a person, and tax on income of a person in accordance with the concept of progressive taxation.

Explanation: For the purposes of this Article, "property" means any form of property including movable and immovable property and the word includes intellectual property right as well.

(2) The State shall not, except for public interest, requisition, acquire, or otherwise create any encumbrance on, property of a person.

Provided that this clause shall not apply to any property acquired by any person illicitly.

(3) The basis of compensation to be provided and procedures to be followed in the requisition by the State of property of any person for public interest pursuant to clause (2) shall be as provided for in the Act.

(4) The provisions of clauses (2) and (3) shall not prevent the State from making land reforms, management and regulation in accordance with law for the purposes of enhancement of product and productivity of land, modernization and commercialization of agriculture, environment protection and planned housing and urban development.

(5) In case the State has requisitioned property of any person for public interest pursuant to clause (3), nothing shall prevent the State from using such property for any other public interest instead of such public interest.

26. Right to Freedom of Religion: (1) Every person who has faith in religion shall have the freedom to profess, practice and protect his or her religion in accordance with his or her conviction.

(2) Every religious denomination shall have the right to operate and protect its religious sites and religious *Guthi* (trusts).

Provided that nothing shall be deemed to prevent the regulation, by making law, of the operation and protection of religious sites and religious trusts and management of trust properties and land.

(3) No person shall, in the exercise of the right conferred by this Article, do, or cause to be done, any act which may be contrary to public health, decency and morality or breach of public peace, or convert another person from one religion to another or any act or conduct that may jeopardize other's religion and such act shall be punishable by law.

27. Right to Information: Every citizen shall have the right to demand and receive information on any matter of his or her interest or of public interest.

Provided that no one shall be compelled to provide information on any matter which must be maintained confidential in accordance with law.

28. Right to Privacy: The privacy of any person, his or her residence, property, document, data, correspondence and matters relating to his or her character shall, except in accordance with law, be inviolable.

29. Right against Exploitation: (1) Every person shall have the right against exploitation.

(2) No person shall be exploited in any manner on the grounds of religion, custom, tradition, usage, practice or on any other grounds.

(3) No one shall be subjected to trafficking nor shall one be held in slavery or servitude.

(4) No one shall be forced to work against his or her will.

Provided that nothing shall be deemed to prevent the making of law by the State requiring citizens to perform compulsory service for public purposes.

(5) An act contrary to clauses (3) and (4) shall be punishable by law and the victim shall have the right to obtain compensation from the perpetrator in accordance with law.

30. Right to Clean Environment: (1) Every citizen shall have the right to live in a clean and healthy environment.

(2) The victim shall have the right to obtain compensation, in accordance with law, for any damage caused by environmental pollution or degradation.

(3) This Article shall not be deemed to prevent the making of necessary legal provisions for a proper balance between environment and development in development works of the nation.

31. Right relating to Education: (1) Every citizen shall have the right of access to basic education.

(2) Every citizen shall have the right to get compulsory and free education up to the basic level and free education up to the secondary level from the State.

(3) The citizens with disabilities and the indigent citizens shall have the right to get free higher education in accordance with law.

(4) The visually impaired citizens shall have the right to get free education through brail script and the citizens with hearing or speaking impairment, to get free education through sign language, in accordance with law.

(5) Every Nepali community residing in Nepal shall have the right to get education in its own mother tongue and, for that purpose, to open and operate schools and educational institutes, in accordance with law.

32. Right to Language and Culture: (1) Every person and community shall have the right to use their own languages.

(2) Every person and community shall have the right to participate in the cultural life of his/her/its community.

(3) Every Nepali community residing in Nepal shall have the right to preserve and promote its language, script, culture, cultural civilization and heritage.

33. Right to Employment: (1) Every citizen shall have the right to employment. The terms and conditions of employment, and unemployment benefit shall be as provided for in the federal law.

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

34. Right to Labour: (1) Every labourer shall have the right to fair labour practice.

Explanation: For the purposes of this Article, "labourer" means a labourer or worker who does physical or intellectual work for an employer in consideration for remuneration.

(2) Every labourer shall have the right to appropriate remuneration, facilities and contributory social security.

(3) Every labourer shall have the right to form and join trade unions and to engage in collective bargaining, in accordance with law.

35. Right relating to Health: (1) Every citizen shall have the right to free basic health services from the State, and no one shall be deprived of emergency health services.

(2) Every person shall have the right to get information about his or her medical treatment.

(3) Every citizen shall have equal access to health services.

(4) Every citizen shall have the right of access to clean drinking water and sanitation.

36. Right relating to Food: (1) Every citizen shall have the right relating to food.

(2) Every citizen shall have the right to be safe from the state of being in danger of life from the scarcity of food.

(3) Every citizen shall have the right to food sovereignty in accordance with law.

37. Right to Housing: (1) Every citizen shall have the right to an appropriate housing.

(2) No citizen shall be evicted from the residence owned by him or her nor shall his or her residence be infringed except in accordance with law.

38. Rights of Women: (1) Every woman shall have equal lineage right without gender-based discrimination.

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

(3) No woman shall be subjected to physical, mental, sexual, psychological or other form of violence or exploitation on grounds of religion, social, cultural tradition, practice or on any other grounds. Such act shall be punishable by law, and the victim shall have the right to obtain compensation in accordance with law.

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

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

(6) The husband and wife shall have the equal right to property and family affairs.

39. Rights of Child: (1) Every child shall have the right to name and birth registration along with his or her identity.

(2) Every child shall have the right to education, health, maintenance, proper care, sports, entertainment and overall personality development from the families and the State.

(3) Every child shall have the right to elementary child development and child participation.

(4) No child shall be engaged in any factory, mine or similar other hazardous work.

(5) No child shall be subjected to child marriage, transported illegally and kidnapped or taken hostage.

(6) No child shall be recruited or used in army, police or any armed group, or be subjected, in the name of cultural or religious traditions, to abuse, exclusion or physical, mental, sexual or other form of exploitation or improper use by any means or in any manner.

(7) No child shall be subjected to physical, mental or any other form of torture in home, school or other place and condition whatsoever.

(8) Every child shall have the right to child-friendly justice.

(9) The child who is helpless, orphan, with disabilities, conflict victim, displaced or vulnerable shall have the right to special protection and facilities from the State.

(10) Any act contrary to in clauses (4), (5), (6) and (7) shall be punishable by law, and a child who is the victim of such act shall have the right to obtain compensation from the perpetrator, in accordance with law.

40. Rights of Dalit: (1) The *Dalit* shall have the right to participate in all bodies of the State on the basis of the principle of proportional inclusion. Special provision shall be

made by law for empowerment, representation and participation of the *Dalit* community in public services as well as other sectors of employment.

(2) Provision of free education with scholarship, from primary to higher education, shall be made by law for the *Dalit* students. Special provision shall be made by law for the *Dalit* in technical and vocational education.

(3) Special provision shall be made by law in order to provide health and social security to the *Dalit* community.

(4) The *Dalit* community shall have the right to use, protect and develop their traditional occupation, knowledge, skill and technology. The State shall accord priority to the *Dalit* community in modern business related with their traditional occupation and provide skills and resources required therefor.

(5) The State shall provide land to the landless *Dalit* for one time in accordance with law.

(6) The State shall, in accordance with law, make provision of settlement for the *Dalit* who do not have housing.

(7) The facilities conferred by this Article to the *Dalit* community shall be distributed in a just manner so that the *Dalit* women, men and *Dalit* in all communities may obtain such facilities proportionately.

41. Rights of Senior Citizens: The senior citizens shall have the right to special protection and social security from the State.

42. Right to Social Justice: ►(1) The economically, socially or educationally backward women, *Dalit*, indigenous nationalities (*Aadibasi Janajati*), *Madhesi*, *Tharu*, Muslims, backward classes, minorities, marginalized communities, persons with disabilities, gender and sexual minorities, farmers, labourers, oppressed or citizens of backward regions and indigent *Khas Arya* shall have the right to participate in the bodies of the State on the basis of principle of proportional inclusion.

(2) The indigent citizens and citizens of the communities on the verge of extinction shall have the right to get special opportunities and benefits in education,

health, housing, employment, food and social security for their protection, upliftment, empowerment and development.

(3) The citizens with disabilities shall have the right to live with dignity and honour, with the identity of their diversity, and have equal access to public services and facilities.

(4) Every farmer shall, in accordance with law, have the right to have access to land for agro activities, select and protect local seeds and agro species which have been used and pursued traditionally.

(5) The families of the martyrs who have sacrificed their life, and of the disappeared persons and those who became disabled and injured in all people's movements, armed conflicts and revolutions that have been carried out for progressive democratic changes in Nepal, democracy fighters, conflict victims and displaced ones, persons with disabilities, the injured and victims shall have the right to get a prioritized opportunity, with justice and due respect, in education, health, employment, housing and social security, in accordance with law.

43. Right to Social Security: The indigent citizens, incapacitated and helpless citizens, helpless single women, citizens with disabilities, children, citizens who cannot take care themselves and citizens belonging to the tribes on the verge of extinction shall have the right to social security, in accordance with law.

44. Rights of Consumer: (1) Every consumer shall have the right to obtain quality goods and services.

(2) A person who has suffered damage from any substandard goods or services shall have the right to obtain compensation in accordance with law.

45. Right against Exile: No citizen shall be exiled.

46. Right to Constitutional Remedies: There shall be a right to obtain constitutional remedies in the manner set forth in Article 133 or 144 for the enforcement of the rights conferred by this Part.

47. Implementation of Fundamental Rights: The State shall, as required, make legal provisions for the implementation of the rights conferred by this Part, within three years of the commencement of this Constitution.

48. Duties of Citizens: Every citizen shall have the following duties:-

- (a) To safeguard the nationality, sovereignty and integrity of Nepal, while being loyal to the nation;
- (b) To abide by the Constitution and law;
- (c) To render compulsory service as and when the State so requires;
- (d) To protect and preserve public property.

Nepal Law Commission

Part-4

Directive Principles, Policies and Obligations of the State

49. To be as Guidelines: (1) The directive principles, policies and obligations set forth in this Part shall be guidelines for governance of the State.

(2) The State shall mobilize, or cause to be mobilized, means and resources, as required, to implement the principles, policies and obligations set forth in this Part.

50. Directive Principles: (1) The political objective of the State shall be to establish a public welfare system of governance, by establishing a just system in all aspects of national life through the rule of law, values and norms of fundamental rights and human rights, gender equality, proportional inclusion, participation and social justice, while at the same time protecting the life, property, equality and liberties of the people, in keeping with the vitality of freedom, sovereignty, territorial integrity and independence of Nepal; and to consolidate the federal democratic republican system of governance in order to ensure an atmosphere conducive to the enjoyment of fruits of democracy, while at the same time maintaining the relations between the Federal Units on the basis of cooperative federalism and incorporating the principle of proportional participation in the system of governance on the basis of local autonomy and decentralization.

(2) The social and cultural objective of the State shall be to build a civilized and egalitarian society by eliminating all forms of discrimination, exploitation and injustice based on the grounds of religion, culture, tradition, usage, custom, practice or on any other similar grounds; to develop social, cultural values founded on national pride, democracy, pro-people, respect of labour, entrepreneurship, discipline, dignity and harmony; and to consolidate the national unity by maintaining social cohesion, solidarity and harmony, while recognizing cultural diversity.

(3) The economic objective of the State shall be to attain a sustainable economic development, while achieving rapid economic growth, by way of maximum mobilization of the available means and resources through participation and development of public, private and cooperatives; and to develop a socialism-oriented independent and prosperous economy while making the national economy independent, self-reliant and progressive in order to build an exploitation-free society

by abolishing economic inequality through equitable distribution of the achievements made.

(4) The State shall direct its international relations towards enhancing the dignity of the nation in the world community by maintaining international relations on the basis of sovereign equality, while safeguarding the freedom, sovereignty, territorial integrity and independence and national interest of Nepal.

51. Policies of the State: The State shall pursue the following policies:-

(a) Policies relating to National Unity and National Security:

- (1) To maintain national unity intact, while protecting the freedom, sovereignty, territorial integrity and independence of Nepal;
- (2) To promote national unity while developing mutual cooperative relations among the Federal Units by maintaining mutual cohesion, harmony and solidarity among various castes, tribes, religions, languages, cultures and communities;
- (3) To maintain law and order by developing national security system;
- (4) To guarantee overall human security system;
- (5) To make all security organs, including the Nepal Army, Nepal Police and Armed Police Force Nepal, competent, strong, professional, inclusive and accountable to people, on the basis of national security policies;
- (6) To make and keep citizens ready and competent to serve the nation as and when the nation requires;
- (7) To make proper use, in nations' interest, of knowledge, skills and experiences of former public employees including former employees, military and police.

(b) Policies relating to Political and Governance System of State:

- (1) To guarantee the best interests and prosperity of people through economic, social and cultural transformations, while safeguarding, consolidating and developing political achievements;
- (2) To maintain rule of law by protecting and promoting human rights;

- (3) To implement international treaties, agreements to which Nepal is a party;
- (4) To guarantee good governance by ensuring equal and easy access of people to services and facilities delivered by the State, while making public administration fair, competent, impartial, transparent, free from corruption, accountable and participatory;
- (5) To make necessary provisions to make mass media fair, healthy, impartial, decent, responsible and professional;
- (6) To develop and expand harmonious and cooperative relations between the Federal Units by way of sharing of responsibilities, resources and administration between them.

(c) Policies relating to Social and Cultural Transformation:

- (1) To build a society founded on cordial social relations by developing a healthy and civilized culture;
- (2) To carry out studies, research works, excavation and dissemination for the protection, promotion and development of historical, archaeological and cultural heritages;
- (3) To make community development through enhancement of local public participation, by promoting and mobilizing the creativity of local communities in social, cultural and service-oriented works;
- (4) To focus on development of arts, literature and music which form part of national heritages;
- (5) To eliminate all forms of discrimination, inequality, exploitation and injustice in the name of religion, custom, usage, practice and tradition existing in society;
- (6) To protect and develop languages, scripts, culture, literature, arts, motion pictures and heritages of various castes, tribes, and communities on the basis of equality and co-existence, while maintaining the cultural diversity of the country;
- (7) To pursue a multi-lingual policy.

(d) Policies relating to Economy, Industry and Commerce:

- (1) To strengthen national economy through participation and independent development of the public, private and cooperative sectors;
- (2) To achieve economic prosperity by way of optimum mobilization of the available means and resources, while focusing on the role of private sector in economy;
- (3) To promote the cooperative sector and mobilize it in national development to the maximum extent;
- (4) To encourage and mobilize the economic sector in the overall national development, while providing for regulation to maintain fairness, accountability and competition in all of its activities;
- (5) To make equitable distribution of the available means and resources and benefits of economic development;
- (6) To diversify and expand markets for goods and services, while promoting exports through development and expansion of industries upon identifying areas of comparative advantage;
- (7) To protect interests of consumers by maintaining trade fairness and discipline by making national economy competitive, while eliminating activities such as black marketing, monopoly, creating artificial scarcity and restricting competition;
- (8) To protect and promote national industries and resources and accord priority to domestic investment based on Nepali labour, skills and raw materials for development of national economy;
- (9) To accord priority to domestic investment for development of national economy;
- (10) To encourage foreign capital and technological investment in areas of import substitution and export promotion, in consonance with national interest, and encourage and mobilize such investment in development of infrastructure;

- (11) To make the receiving of foreign assistance transparent, while making the national needs and priorities as the bases for obtaining foreign assistance, and incorporating amounts received in form of foreign assistance in the national budget,
- (12) To utilize knowledge, skill, technology and capital of the non-resident Nepali in the national development;
- (13) To make economic development dynamic by establishing coordination among Provinces and Provinces and the Federation in relation to industrial corridors, special economic zones, national projects and projects involving foreign investment.

(e) Policies relating to Agriculture and Land Reforms:

- (1) To introduce scientific land reforms having regard to the interests of the farmers, while ending the dual ownership existing in the land;
- (2) To enhance product and productivity by carrying out land pooling, while discouraging absentee land ownership;
- (3) To carry out land management and commercialization, industrialization, diversification and modernization of agriculture by pursuing land-use policies to enhance agriculture product and productivity, while protecting and promoting the rights and interests of the farmers;
- (4) To make proper use of land, while regulating and managing it on the basis of, *inter alia*, productivity, nature of land and ecological balance;
- (5) To make provisions for appropriate prices of agricultural inputs and agricultural products and for market access.

(f) Policies relating to Development:

- (1) To formulate sustainable socio-economic development strategies and programs under the regional development plan for inclusive economic development with regional balance, and implement them in a coordinative manner;

- (2) To develop balanced, environment friendly, quality standard and sustainable physical infrastructures, while according priority to the regions lagging behind from development perspective;
- (3) To enhance local public participation in the process of development works;
- (4) To enhance investment in scientific study, research works and in invention, progress and development of science and technology, and protect scientists, technologists, intellectual and eminent talents;
- (5) To ensure easy and simple access of public-in-general to information technology by developing and expanding information technology in tune with national needs, and make optimum utilization of information technology in the national development;
- (6) To make provisions enabling public-in-public-in-general to enjoy fruits of development in just manner, while according priority to the indigent citizens in the distribution of such fruits;
- (7) To develop an integrated national identity management information system and manage all types of information and data of the citizens in an integrated manner, and link such system with the services and facilities provided by the State and with national development plans;
- (8) To update demographic statistics and link it with national development plans.

(g) Policies relating to Protection, Promotion and Use of Natural Resources:

- (1) To protect, promote, and make environmental friendly and sustainable use of, natural resources available in the country, in consonance with national interest and by adopting the concept of inter-generational equity, and make equitable distribution of benefits, according priority and preferential right to the local communities;
- (2) To achieve multi-purpose development of water resources having accorded priority to national investment based on public participation;

- (3) To ensure reliable supply of energy in an affordable, and easy manner, and make proper use of energy, for the fulfilment of the basic needs of citizens, by generating and developing renewable energy;
 - (4) To develop sustainable and reliable irrigation by making control of water-induced disasters, and river management;
 - (5) To conserve, promote, and make sustainable use of, forests, wildlife, birds, vegetation and bio-diversity, by mitigating possible risks to environment from industrial and physical development, while raising awareness of public-in-general about environment cleanliness;
 - (6) To maintain forest area in territory required for ecological balance;
 - (7) To adopt appropriate measures to abolish or mitigate existing or possible adverse environmental impacts on the nature, environment or biological diversity;
 - (8) To pursue principles of environmentally sustainable development such as the principles of polluter pay, of precaution in environmental protection and of prior informed consent;
 - (9) To make provisions of advance warning, preparedness, rescue, relief and rehabilitation in order to mitigate risks from natural disasters.
- (h) Policies relating to Basic Needs of Citizens:
- (1) To prepare human resources that are competent, competitive, ethical, and devoted to national interests, while making education scientific, technical, vocational, skill-oriented, employment and people-oriented;
 - (2) To promote investment of the State in education sector and to make private sector investment in education service-oriented by regulation and management;
 - (3) To make higher education easy, qualitative and accessible, and free gradually;
 - (4) To establish and promote community information centres and libraries for personality development of citizens;

- (5) To keep on increasing investment necessary in public health sector by the State in order to make the citizens healthy;
- (6) To ensure easy, convenient and equal access of all to quality health services;
- (7) To protect and promote health systems including *Ayurveda*, as a traditional medical system of Nepal, natural therapy and homeopathy system;
- (8) To make private sector investment in the health sector service-oriented by regulating and managing such investment, while enhancing the State's investment in this sector;
- (9) To focus on health research and keep on increasing the number of health institutions and health workers in order to make health services widely available and qualitative;
- (10) To increase average life expectancy by reducing maternal and infant mortality rates, while encouraging family planning for population management on the basis of Nepal's capacity and need;
- (11) To manage unplanned settlement and develop planned and systematic settlement;
- (12) To provide for sustainable production, supplies, storage, security, and easy and effective distribution of foods by encouraging food production in tune with climate and soil, in consonance with the concept of food sovereignty, while enhancing investment in the agriculture sector;
- (13) To ensure planned supply system by according special priority to the remote and backward regions, while ensuring equal access of all citizens to basic goods and services;
- (14) To enhance investment in the transportation sector, while ensuring simple, easy and equal access of the citizens to transportation facilities, and to make the transportation sector safe, systematic and friendly to persons with disabilities by encouraging public transportation and

regulating private transportation, while according priority to the environment friendly technologies;

(15) To arrange for access to medical treatment while ensuring citizen's health insurance.

(i) Policies relating to Labour and Employment:

(1) To make competent and professional the labour force that has remained as the main socio-economic strength of the country and enhance employment within the country, while ensuring a condition enabling all to work;

(2) To guarantee social security, while ensuring the basic rights of all labours, in consonance with the concept of decent labour;

(3) To abolish all forms of labour exploitation including child labour;

(4) To encourage participation of labourer in management, while maintaining cordial relations between the labourer and entrepreneurs;

(5) To regulate and manage the foreign employment sector in order to make it free from exploitation, safe and systematic and to guarantee employment and rights of the labourer;

(6) To encourage mobilizing the capital, skills, technology and experience gained from foreign employment in productive sectors in the country.

(j) Policies relating to Social Justice and Inclusion:

(1) To keep on making appropriate arrangements for the livelihoods of helpless single women, while according priority to them in employment on the basis of skills, competency and qualification;

(2) To make self-reliant women who are at risks, subjected to social and family exclusion and victims of violence by their rehabilitation, protection and empowerment;

(3) To ensure enjoyment of requisite services and facilities at the reproductive stage;

(4) To evaluate economically the work and contribution such as maintenance of children and care of families;

- (5) To take into consideration primarily of the best interests of the child;
- (6) To identify the freed bonded labours, *Kamlari*, *Harawa*, *Charawa*, tillers, landless, squatters and rehabilitate them by providing housing, housing plot for residence and cultivable land or employment for their livelihoods;
- (7) To create an atmosphere conducive to the full enjoyment of the political, economic, social and cultural rights, while enhancing the participation of youths in national development, to make their personality development, while providing special opportunity in areas including education, health and employment for the empowerment and development of the youths and provide them with appropriate opportunities for the overall development of the State;
- (8) To make the indigenous nationalities (*Aadibasi Janajati*) participate in decisions concerning that community by making special provisions for opportunities and benefits in order to ensure the right of these nationalities to live with dignity, along with their identity, and protect and promote traditional knowledge, skill, culture, social tradition and experience of the indigenous nationalities and local communities;
- (9) To make special provisions for opportunities and benefits to minority communities to enjoy social and cultural rights, having maintained their identity;
- (10) To make special provisions for equal distribution of economic, social and cultural opportunities and benefits to the *Madhesi* community, Muslims and backward class, and for opportunities and benefits to the indigent citizens within such communities for their protection, upliftment, empowerment and development;
- (11) To make special provisions for opportunities and benefits for the protection, upliftment, empowerment and development of the citizens of the oppressed and backward regions and for the fulfilment of their basic needs;
- (12) To accord priority to the indigent persons within all sexes, regions and communities while providing social security and social justice;

- (13) To make planned investment in sports and sport-persons in order to prepare healthy, competent and disciplined citizens, and to develop sports as a means of consolidating national unity and enhancing national prestige at the international level;
 - (14) To adopt a single door system for the establishment, approval, operation, regulation and management of community-based and national or international non-governmental organizations and to involve such organizations only in the sectors of national need and priority, while making investment and role of such organizations transparent and accountable.
- (k) Policies relating to Justice and Penal System:
- (1) To make administration of justice speedy, efficient, widely available, cost-effective, impartial, effective, and accountable to people;
 - (2) To pursue alternative means such as mediation and arbitration for the settlement of disputes of ordinary nature;
 - (3) To adopt effective measures for control of corruption and irregularities in all sectors including political, administrative, judicial and social sectors.
- (l) Policies relating to Tourism: To develop eco-friendly tourism industries as an important base of national economy by way of identification, protection, promotion and publicity of the historical, cultural, religious, archaeological and natural heritages of Nepal, to make environment and policy required for the development of tourism culture, and to accord priority to local people in the distribution of benefits of tourism industries.
- (m) Policies relating to International Relations:
- (1) To conduct independent foreign policy based on the Charter of the United Nations, non-alignment, principles of *Panchsheel*, international law and the norms of world peace, taking into consideration of the overall interest of the nation, while remaining active in safeguarding the sovereignty, territorial integrity, independence and national interest of Nepal;

- (2) To review treaties concluded in the past, and conclude treaties, agreements based on equality and mutual interest.
52. Obligations of the State: It shall be the obligation of the State to make Nepal a prosperous and affluent country by protecting and promoting fundamental rights and human rights, pursuing directive principles of the State and gradually implementing policies of the State, while keeping intact the freedom, sovereignty, territorial integrity and independence of Nepal.
53. To Submit Report: The Government of Nepal shall submit to the President an annual report containing the steps taken and achievements made in the implementation of the directive principles, policies and obligations of the State set forth in this Part, and the President shall cause such report to be laid through the Prime Minister before the Federal Parliament.
54. Provisions relating to Monitoring: There shall be a committee, in accordance with law, in the Federal Parliament in order to monitor and evaluate whether or not the directive principles, policies and obligations of the State set forth in this Part have been implemented progressively.
55. Questions not to be raised in Court: No question shall be raised in any court as to whether or not any matter contained in this Part has been implemented.

Part-5

Structure of State and Distribution of State Power

56. **Structure of State:** (1) The main structure of the Federal Democratic Republic of Nepal shall be of three levels, namely the Federation, the Province and the Local Level.

(2) The Federation, Provinces and Local Levels shall exercise the State power of Nepal in accordance with this Constitution and law.

(3) There shall be Provinces consisting of the Districts referred to in Schedule-4 existing in Nepal at the time of commencement of this Constitution.

(4) There shall be Rural Municipality, Municipality and District Assembly under the Local Level. The number of Wards in a Rural Municipality and Municipality shall be as provided for in the federal law.

(5) Any Special, Protected or Autonomous Region may be set up by the federal law for social, cultural protection or economic development.

(6) The Federation, Provinces and Local Levels shall protect Nepal's freedom, sovereignty, territorial integrity, independence, national interest, overall development, multi-party, competitive, democratic, republican, federal system of governance, human rights and fundamental rights, rule of law, separation of powers and check and balance, egalitarian society based on pluralism and equality, inclusive representation and identity.

57. **Distribution of State Power:** (1) The powers of the Federation shall be vested on the matters enumerated in Schedule-5 and such powers shall be exercised in accordance with this Constitution and the federal law.

(2) The powers of a Province shall be vested on the matters enumerated in Schedule-6 and such powers shall be exercised in accordance with this Constitution and the provincial law.

(3) The concurrent powers of the Federation and a Province shall be vested on the matters enumerated in Schedule-7 and such powers shall be exercised in accordance with this Constitution, federal law and provincial law.

(4) The powers of the Local Level shall be vested on the matters enumerated in Schedule-8 and such powers shall be exercised in accordance with this Constitution and law made by the Rural Municipal Assembly or Municipal Assembly, as the case may be.

(5) The concurrent powers of the Federation, Provinces and Local Levels shall be vested on the matters enumerated in Schedule-9 and such powers shall be exercised in accordance with this Constitution, federal law, provincial law and law made by the Rural Municipal Assembly or Municipal Assembly, as the case may be.

(6) Any law to be made by a Provincial Assembly, Rural Municipal Assembly or Municipal Assembly pursuant to clause (3) or (5) shall be so made as not to be inconsistent with the federal law; and any law made by the Provincial Assembly, Rural Municipal Assembly or Municipal Assembly which is inconsistent with the federal law shall be invalid to the extent of such inconsistency.

(7) Any law to be made by a Rural Municipal Assembly or Municipal Assembly, as the case may be, pursuant to clause (5) shall be so made as not to be inconsistent with a provincial law; and any law made by the Rural Municipal Assembly or Municipal Assembly which is inconsistent with a provincial law shall be invalid to the extent of such inconsistency.

58. Residuary Powers: The Federation shall have power on any matter not enumerated in the list of powers of the Federation, Province and Local Level or Concurrent Lists or on any matter which is not so specified in this Constitution as to be exercised by any level.

59. Exercise of Financial Powers: (1) The Federation, Province and Local Level shall make laws, make annual budget, decisions, formulate and implement policies and plans on any matters related to financial powers within their respective competence.

(2) The Federation may so make necessary policies, standards and laws on any of the matters enumerated in the Concurrent List and other areas of financial powers as to be applicable also to the Provinces.

(3) The Federation, Province and Local Level shall make budget of their respective levels, and the time for submission of budget by Province and Local Level shall be as provided for in the federal law.

(4) The Federation, Province and Local Level shall provide for equitable distribution of benefits derived from the use of natural resources or development. Certain portions of such benefits shall be distributed, in accordance with law, in the form of royalty, services or goods to the project affected regions and local communities.

(5) In case, in utilising natural resources, the local community desires to make investment therein, the Federation, Province and Local Level shall accord priority to such investment in such portion as provided by law on the basis of the nature and size of such investment.

(6) The Government of Nepal shall have power to obtain foreign assistance and borrow loans. Such assistance or loans shall be so obtained or borrowed as to have macro-economic stability of the country.

(7) Provisions relating to the management of budget deficits and other fiscal discipline of the Federation, Province and Local Level shall be as provided for in the federal law.

60. Distribution of Sources of Revenue: (1) The Federation, Province and Local Level may impose taxes on matters falling within their respective competence and collect revenue from these sources.

Provided that provisions relating to the imposition of taxes and collection of revenue on matters enumerated in the Concurrent List and on matters that are not contained in the List of any level shall be as determined by the Government of Nepal.

(2) The Government of Nepal shall make provisions for the equitable distribution of the collected revenue to the Federation, Province and Local Level.

(3) The amount of fiscal transfer receivable by Province and Local Level shall be as recommended by the National Natural Resources and Fiscal Commission.

(4) The Government of Nepal shall, on the basis of the need of expenditure and revenue capacity, distribute fiscal equalization grants to Province and Local Level.

(5) Each Province shall, in accordance with the provincial law, distribute fiscal equalization grants out of the grants received from the Government of Nepal and

revenues collected from its own sources, on the basis of the need of expenditure and revenue capacity of its subordinate Local Level.

(6) Provisions relating to distribution of conditional grants, complementary grants or special grants for other purposes to be provided by the Government of Nepal from the Federal Consolidated Fund shall be as provided for in the federal law.

(7) While distributing revenues between the Federal, Provincial and Local Levels, it shall be made in a balanced and transparent manner.

(8) In making a federal Act on the distribution of revenues, regard shall be had to the matters of national policies; national requirements; autonomy of the Province and Local Levels; services to be rendered by the Province and Local Level to the people and financial powers granted to them; capacity to collect revenues; potentiality and use of revenues; assistance to be made in development and construction; reduction of regional imbalances; poverty and inequality; end of deprivation; and assistance to be made in the performance of contingent works and fulfilment of temporary needs.

Part-6

President and Vice-President

61. President: (1) There shall be a President of Nepal.
- (2) The President shall be the Head of State of Nepal. He or she shall perform his or her functions in accordance with this Constitution and federal law.
- (3) The President shall promote national unity of Nepal.
- (4) The main duty of the President shall be to abide by and protect the Constitution.
62. Election of President: (1) The President shall be elected by an electoral college consisting of the members of the Federal Parliament and members of the Provincial Assemblies. The voting weightage of the members of the Federal Parliament and of the Provincial Assemblies shall vary as provided for in the federal law.
- (2) Notwithstanding anything contained in clause (1), nothing shall be deemed to bar the formation of an electoral college for the purpose of election to the President by the sole reason that election to Provincial Assembly has not been held in any Province.
- (3) A person who secures a majority of the then existing total votes of the Electoral College referred to in clause (1) shall be elected as the President.
- (4) In case none of the candidates secures a majority pursuant to clause (3), there shall be the voting between the two candidates who have secured the highest number of votes, and a candidate who secures more than fifty percent of the total votes in such voting shall be elected as the President.
- (5) In case none of the candidates secures more than fifty percent of the total votes even in the voting under clause (4), re-voting shall be held. A candidate who secures a majority of the total valid votes cast in such voting shall be elected as the President.
- (6) In case a person who holds a political office to be fulfilled by way of election, nomination or appointment is elected as the President under this Article, such office shall, *ipso facto*, fall vacant.

(7) Election to the President and other matters related thereto shall be as provided for in the federal law.

63. Term of Office of President: (1) The term of office of the President shall be five years from the date on which he or she is elected.

(2) The President whose term of office under clause (1) has expired shall continue to discharge the functions under this Constitution until another elected President assumes his or her office.

64. Qualification for President: (1) A person who has the following qualifications shall be eligible to become the President:-

- (a) One who is eligible to become a member of the Federal Parliament;
- (b) One who has completed the age of at least forty-five years; and
- (c) One who is not disqualified by any law.

(2) Notwithstanding anything contained in clause (1), a person who has already been elected twice as the President shall not be eligible to be a candidate in the election to the President.

65. Vacation of Office of President: The office of the President shall fall vacant in any of the following circumstances:

- (a) In case he or she tenders resignation in writing to the Vice-President;
- (b) In case the motion of impeachment against him or her is adopted under Article 101;
- (c) In case his or her term of the office expires;
- (d) In case he or she dies.

66. Functions, Duties and Powers of President: (1) The President shall exercise such powers and perform such duties as conferred on him or her in accordance with this Constitution or the federal law.

(2) In exercising the powers or duties under clause (1), the President shall perform all other functions to be performed by him or her on recommendation and with the consent of the Council of Ministers than those functions specifically provided to be performed on recommendation of any institution or official under this

Constitution or federal law. Such recommendation and consent shall be submitted through the Prime Minister.

(3) Any decision or order to be issued in the name of the President under clause (2) and other instrument of authorization pertaining thereto shall be authenticated as provided for in the federal law.

67. Vice-President: (1) There shall be a Vice-president of Nepal.

(2) The functions to be performed by the President shall be performed by the Vice-president during the absence of the President.

(3) In case a person who holds a political office to be fulfilled by way of election, nomination or appointment is elected as the Vice-president, such office shall, *ipso facto*, fall vacant.

68. Vacation of Office of Vice-President: The office of the Vice-president shall fall vacant in any of the following circumstances:-

- (a) In case he or she tenders resignation in writing to the President,
- (b) In case a motion of impeachment against him or her is adopted under Article 101,
- (c) In case his or her term of office expires,
- (d) In case he or she dies.

69. Other provisions relating to Vice-President: Provisions relating to the qualification, procedures of election and term of office of the Vice-President shall be the same as that of the President.

70. President and Vice-President to Belong to Different Sex or Community: Election to the President and the Vice-president under this Constitution shall be so made as to have representation of different sex or community.

71. Oath by President and Vice-President: Prior to assuming their respective offices, the President shall take an oath of office and secrecy before the Chief Justice, and the Vice-President, before the President, as provided for in the federal law.

72. Remuneration and Facilities of President and Vice-President: The remuneration and other facilities of the President and the Vice-president shall be as provided for in a Federal Act, and until such Act is enacted as specified by the Government of Nepal.

73. Office of President and Vice-President: (1) There shall be separate offices for the performance of the functions of the President and the Vice-President.

(2) The Government of Nepal shall make arrangements for employees and other provisions as required to perform the functions of the offices referred to in clause (1).

Nepal Law Commission

Part-7

Federal Executive

74. **Form of Governance:** The form of governance of Nepal shall be multi-party competitive federal democratic republican parliamentary form of governance based on pluralism.
75. **Executive Power:** (1) The executive power of Nepal shall, in accordance with this Constitution and law, be vested in the Council of Ministers.
- (2) The responsibility for issuing general directives, controlling and regulating the governance of Nepal shall, subject to this Constitution and law, lie in the Council of Ministers.
- (3) All federal executive functions of Nepal shall be performed in the name of the Government of Nepal.
- (4) Any decision or order to be issued in the name of the Government of Nepal pursuant to clause (3) and other instruments of authorization pertaining thereto shall be authenticated as provided for in the federal law.
76. **Constitution of Council of Ministers:** (1) The President shall appoint the leader of the parliamentary party that commands a majority in the House of Representatives as the Prime Minister, and the Council of Ministers shall be constituted under his or her chairpersonship.
- (2) In cases where no party has a clear majority in the House of Representatives pursuant to clause (1), the President shall appoint as the Prime Minister a member of the House of Representatives who is able to command a majority with the support of two or more parties representing to the House of Representatives.
- (3) In cases where the Prime Minister cannot be appointed pursuant to clause (2) within thirty days after the date of declaration of the final results of election to the House of Representatives or where the Prime Minister so appointed fails to secure a vote of confidence pursuant to clause (4), the President shall appoint as the Prime Minister the leader of the parliamentary party which has the highest number of members in the House of Representatives.

(4) The Prime Minister appointed pursuant to clause (2) or (3) shall be required to secure the vote of confidence from the House of Representatives within thirty days after the date of such appointment.

(5) In cases where the Prime Minister appointed pursuant to clause (3) fails to secure the vote of confidence pursuant to clause (4) and any member referred to in clause (2) presents a ground on which he or she is able to secure the vote of confidence in the House of Representatives, the President shall appoint such member as the Prime Minister.

(6) The Prime Minister appointed pursuant to clause (5) shall be required to secure the vote of confidence pursuant to clause (4).

(7) In cases where the Prime Minister appointed pursuant to clause (5) fails to secure a vote of confidence or the Prime Minister cannot be appointed, the President shall, on the recommendation of the Prime Minister, dissolve the House of Representatives and appoint a date of election so that the election to another House of Representatives is completed within six months.

(8) Procedures as to the appointment of the Prime Minister under this Article shall be required to be completed within thirty-five days after the date of declaration of the final results of election to the House of Representatives held under this Constitution or the date on which the office of the Prime Minister has fallen vacant.

(9) The President shall, on recommendation of the Prime Minister, constitute the Council of Ministers comprising a maximum of twenty-five Ministers including the Prime Minister, in accordance with the inclusive principle, from amongst the members of the Federal Parliament.

Explanation: For the purposes of this Article, "Minister" means a Deputy Prime Minister, Minister, Minister of State and Assistant Minister.

(10) The Prime Minister and Ministers shall be collectively responsible to the Federal Parliament, and the Ministers shall be individually responsible for the business of their respective Ministries to the Prime Minister and the Federal Parliament.

77. Vacation of Office of Prime Minister and Minister: (1) The office of the Prime Minister shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case a resolution of confidence is not adopted or a resolution of no confidence is adopted against him or her pursuant to Article 100;
- (c) In case he or she ceases to be a member of the House of Representatives;
- (d) In case he or she dies.

(2) The office of a Minister shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the Prime Minister;
- (b) In case the Prime Minister removes him or her from the office;
- (c) In case the office of Prime Minister falls vacant pursuant to sub-clause (a), (b) or (c) of clause (1);
- (d) In case he or she dies.

(3) In case the office of Prime Minister falls vacant pursuant to clause (1), the same Council of Ministers shall continue to act until another Council of Ministers is constituted.

Provided that in case the Prime Minister dies, the senior-most Minister shall act as the Prime Minister until a new Prime Minister is appointed.

78. Non-Member of Federal Parliament to become Minister: (1) Notwithstanding anything contained in clause (9) of Article 76, the President may, on the recommendation of the Prime Minister, appoint a person who is not a member of the Federal Parliament as a Minister

(2) A Minister appointed pursuant to clause (1) shall be required to become a member of the Federal Parliament within six months from the date of taking oath by him or her.

(3) In the event of failure to obtain membership of the Federal Parliament within the period referred to in clause (2), he or she shall not be qualified to be reappointed to the office of Minister during the term of the then House of Representatives.

(4) Notwithstanding anything contained in clause (1), a person who has lost the election to the then House of Representatives shall not be eligible to be appointed to the office of Minister as referred to in clause (1) during the term of such House of Representatives.

79. Remuneration and other Facilities of Prime Minister and Ministers: The remuneration and other facilities of the Prime Minister and Ministers shall be as provided for in a Federal Act. It shall be as specified by the Government of Nepal until such Act is made.
80. Oath: The Prime Minister, Deputy Prime Minister and Ministers shall, prior to assuming their respective offices, take an oath of office and secrecy before the President, and Ministers of State and Assistant Ministers, before the Prime Minister, as provided for in the federal law.
81. To inform President: The Prime Minister shall inform the President on the following matters:-
- (a) Resolutions of the Council of Ministers;
 - (b) Bills to be introduced in the Federal Parliament;
 - (c) Such other necessary information as commanded by the President on matters set forth in clauses (a) and (b); and
 - (d) Current general state of affairs of Nepal and matters concerning foreign relations.
82. Transaction of Business of Government of Nepal: (1) The business of the Government of Nepal shall be allocated and transacted in accordance with the rules approved by the Government of Nepal.
- (2) No question may be raised in any court as to whether or not the rules referred to in clause (1) have been observed.

Part-8

Federal Legislature

83. Federal Legislature: There shall be a Federal Legislature consisting of two Houses to be known as the House of Representatives and the National Assembly, which shall be called as the Federal Parliament.

84. Composition of House of Representatives: (1) The House of Representatives shall consist of a total of two hundred and seventy five members, as follows :-

(a) One hundred and sixty-five members to be elected through the first past the post electoral system, with one being elected from each of one hundred and sixty-five election constituencies delimited in Nepal ► on the basis of population and geographical convenience and specificity;

(b) One hundred and ten members to be elected through the proportional electoral system where voters vote for political parties, with the whole country being considered as a single election constituency.

(2) The federal law shall provide that in filing candidacy by political parties for the election to the House of Representatives under the proportional electoral system, representation shall be ensured on the basis of a closed list also from women, *Dalit*, indigenous nationalities (*Aadibasi Janajati*) *Khas Arya*, *Madhesi*, *Tharu*, Muslims and backward regions, on the basis of population. In so filing candidacy, regard shall also be had to geography and regional balance.

Explanation: For the purposes of this clause, "*Khas Arya*" means *Kshetri*, *Brahmin*, *Thakuri*, *Sanyasi (Dashnami)* communities.

(3) In filing candidacy pursuant to clause (2), political parties shall provide for representation of the persons with disabilities as well.

(4) Election to the House of Representatives referred to in clause (1) shall be held through secret ballots in accordance with law.

(5) Each citizen of Nepal who has completed the age of eighteen years shall have the right to vote in any one election constituency as provided for in the federal law.

(6) A person who is qualified pursuant to Article 87 and entitled to vote in an election to the members of the House of Representatives may, subject to the federal law, be a candidate in any election constituency.

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

(7) In case the seat of any member of the House of Representatives falls vacant while its term still remains for more than six months, the vacancy shall be fulfilled in the same manner of electoral system as in which such seat was fulfilled.

(8) Notwithstanding anything contained elsewhere in this Part, at least one third of the total number of members elected from each political party representing in the Federal Parliament shall be women. In case women are not so elected as to constitute one third of the elected members of any political party pursuant to sub-clause (a) of clause (1) and sub-clause (a) of clause (2) of Article 86, such political party must, in electing members under sub-clause (b) of clause (1), so elect that women members constitute at least one third of the total number of members elected to the Federal Parliament from that party.

(9) Election to the House of Representatives and other matters pertaining thereto shall be as provided for in the federal law.

85. Term of House of Representatives: (1) Unless dissolved earlier in accordance with this Constitution, the term of the House of Representatives shall be five years.

(2) Notwithstanding anything contained in clause (1), the term of the House of Representatives may be extended by a Federal Act for a period not exceeding one year in cases where a proclamation or order of a state of emergency is in effect.

(3) The term of the House of Representatives extended pursuant to clause (2) shall *ipso facto* expire upon the expiry of six months from the date of revocation of the proclamation or order of the state of emergency.

86. Composition of National Assembly and Term of Office of its Members: (1) The National Assembly shall be a permanent House.

(2) The National Assembly shall consist of fifty-nine members as follows: -

- (a) Fifty six elected members consisting of at least three women, one Dalit and one from persons with disabilities or minorities, from each Province by an electoral college consisting of members of the Provincial Assembly, chairpersons and vice-chairpersons of the Rural Municipalities, and Mayors and Deputy-Mayors of the Municipalities, with different weightage of vote by members of the Provincial Assembly, chairpersons and vice-chairpersons of the Rural Municipalities, and Mayors and Deputy-Mayors of the Municipalities, as provided for in the federal law,
- (b) Three members consisting of at least one woman nominated by the President on the recommendation of the Government of Nepal.

(3) The term of office of the members of the National Assembly shall be six years. The term of office of one third of the members of the National Assembly shall expire in every two years.

Provided that, for the first time after the commencement of this Constitution, arrangements shall be made by drawing lots 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) In computing the term of office of the members of the National Assembly for the first time after the commencement of this Constitution, the term of office of all members shall be deemed to have commenced on the day on which the first session of the National Assembly is held.

(5) Any vacancy of seat in the National Assembly shall be fulfilled for the remainder of the term of office in the same manner of election or nomination as in which the seat of the vacating member was fulfilled.

(6) Other matters relating to election to the members of the National Assembly shall be as provided for in the federal law.

87. Qualifications for Member: (1) A person who has the following qualifications shall be eligible to become a member of the Federal Parliament:-

- (a) One who is a citizen of Nepal;

- (b) One who has completed the age of twenty-five years, for the House of Representatives, and of thirty-five years for the National Assembly;
- (c) One who has not been convicted of a criminal offense involving moral turpitude;
- (d) One who is not disqualified under any federal law; and
- (e) One who is not holding any office of profit.

Explanation: For the purposes of this clause, "office of profit" means any position, other than a political position which is to be fulfilled by election or nomination, for which a remuneration or financial benefit is paid out of a government fund.

(2) No person may be a member of both Houses at the same time.

(3) In case a person who holds a political office to be fulfilled by way of election, nomination or appointment is elected or nominated as a member of the Federal Parliament under this Part, his or her office shall *ipso facto* fall vacant from the day on which he or she takes an oath of office of member of the Federal Parliament.

88. Oath: Every member of each House of the Federal Parliament shall be required, before taking part for the first time in the meeting of the House or any of its committees, to take an oath as provided for in the federal law.
89. Vacation of Seat: The seat of a member of the Federal Parliament shall fall vacant in any of the following circumstances:-
- (a) In case he or she tenders resignation in writing to the Speaker or Chairperson;
 - (b) In case he or she is no longer qualified or ceases to possess the qualification pursuant to Article 87;
 - (c) In case the term of the House of Representatives or the term of office of the member of the National Assembly expires;
 - (d) In case he or she is absent in ten consecutive meetings without providing information to the concerned House;

- (e) In case the political party of which he or she was a member when elected provides a notification in accordance with the federal law that he or she has defected from the party,
- (f) In case he or she dies.

90. Decision as to Disqualification of Member: In case question arises as to whether any member of the Federal Parliament is disqualified or has become disqualified pursuant to Article 87, the Constitutional Bench of the Supreme Court shall finally decide that question.

91. Speaker and Deputy Speaker of House of Representatives: (1) The members of the House of Representatives shall, within fifteen days of the date of holding of the first meeting of the House of Representatives, elect a Speaker and a Deputy Speaker from amongst themselves.

(2) Election pursuant to clause (1) shall be so held that there is one woman out of the Speaker and the Deputy Speaker, and the Speaker and the Deputy Speaker of the House of Representatives shall be representatives from different parties.

Provided that in case there is no representation of more than one party in the House of Representatives or no candidacy is filed by more than one party in spite of representation, nothing shall prevent the members of the same party from being the Speaker and the Deputy Speaker of the House of Representatives.

(3) In case the office of the Speaker or the Deputy Speaker falls vacant, the members of the House of Representatives shall fulfil the vacancy by electing the Speaker or Deputy Speaker from amongst themselves.

(4) The Deputy Speaker shall, in the absence of the Speaker, preside over the House of Representatives.

(5) In case election to the Speaker and the Deputy Speaker is not held or in case both the positions fall vacant, the attending member who is by age the senior-most shall preside over the meeting of the House of Representatives.

(6) The office of the Speaker or Deputy Speaker of the House of Representatives shall fall vacant in any of the following circumstances:-

- (a) In case he or she ceases to be a member of the House of Representatives;

Provided that, in the event of dissolution of the House of Representatives, the Speaker and the Deputy Speaker of the House of Representatives holding their respective offices shall continue in office until the previous day of the filing of nominations for another election to the House of Representatives;

- (b) In case he or she tenders resignation in writing;
- (c) In case a resolution is adopted by a majority of two-thirds of the total number of the then members of the House of Representatives that his or her conduct is not compatible with his or her office.

(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 or her office. The Speaker of the House of Representatives may take part and vote in the deliberations on such resolution.

92. Chairperson and Vice-Chairperson of National Assembly: (1) The members of the National Assembly shall, within fifteen days of the date of holding of its first meeting, elect the Chairperson and the Vice-Chairperson of the National Assembly from amongst themselves.

(2) Election pursuant to clause (1) shall be so held that there is one woman out of the Chairperson and the Vice-Chairperson of the National Assembly.

(3) In case the office of the Chairperson or Vice-Chairperson of the National Assembly falls vacant, the members of the National Assembly shall fulfil the vacancy by electing its Chairperson or Vice-Chairperson from amongst themselves.

(4) The Vice-Chairperson of the National Assembly shall, in the absence of its Chairperson, preside over the National Assembly.

(5) In case the election to the Chairperson and the Vice-Chairperson of the National Assembly is not held or in case both the positions fall vacant, the member who is by age the senior-most out of the attending members shall preside over the meeting of the National Assembly.

(6) The office of the Chairperson or Vice-Chairperson of the National Assembly shall fall vacant in any of the following circumstances:-

- (a) In case he or she ceases to be a member of the National Assembly;

- (b) In case he or she tenders resignation in writing;
- (c) In case a resolution is adopted by a majority of two-thirds of the total number of the then members of the National Assembly that his or her conduct is not compatible with the office.

(7) The Vice-Chairperson of the National Assembly 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 or her office. The Chairperson of the National Assembly may take part and vote in the deliberations on such resolution.

93. Summoning and Prorogation of Session: (1) The President shall summon a session of the Federal Parliament within thirty days of the declaration of final results of the election to the House of Representatives. Thereafter, the President shall, from time to time, summon sessions of both or either of the Houses in accordance with this Constitution.

Provided that the interval between the two consecutive sessions shall not exceed six months.

(2) The President may prorogue the sessions of both or either of the Houses of the Federal Parliament.

(3) In case, during the prorogation or recess of the session of the House of Representatives, one-fourth of the total number of its members submit a requisition in writing that it is appropriate to convene a session or meeting, the President shall specify the date and time for such session or meeting. The House of Representatives shall meet or commence its session at the date and time so specified.

94. Quorum: Except as otherwise provided for in this Constitution, no question or motion shall be presented for a decision in a meeting of either House of the Federal Parliament unless one-fourth of the total number of its members are present.

95. Address by President: (1) The President may address either a meeting of any House or a joint sitting of both Houses of the Federal Parliament, and may summon the members for that purpose.

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

96. Deputy Prime Minister, Minister, Minister of State and Assistant Minister entitled to take part in both Houses: The Deputy Prime Minister, Minister, Minister of State and Assistant Minister shall be entitled to attend and take part in the proceedings and deliberations of either House of the Federal Parliament or its committees.

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

97. Constitution of Committees: (1) The House of Representatives and the National Assembly may constitute committees as provided for in the federal law.

(2) In case a resolution is adopted by either House demanding that a joint committee of both the Houses be constituted for the purpose of managing the working procedures between the two Houses of the Federal Parliament, resolving disagreement on any Bill or for any other specified function, a joint committee thereon shall be constituted. The joint committee shall consist of a maximum of twenty-five members in the ratio of five members from the House of Representatives to one member from the National Assembly on the basis of inclusion.

98. Transaction of Business In case of Vacancy of Seat of a Member: Either House of the Federal Parliament shall have the power to transact its business notwithstanding any vacancy in a seat of its member. No proceedings of either House of the Federal Parliament shall become invalid even in case it is subsequently discovered that a person who was not so entitled took part in such proceedings.

99. Voting: Except as otherwise provided for in this Constitution, any motion submitted for decision in either House of the Federal Parliament shall be decided by a majority vote of the members present and voting. The member presiding over the meeting shall not have the right to vote.

Provided that he or she may exercise the casting vote in case of a tie of votes.

100. Provisions relating to Vote of Confidence and Motion of No Confidence: (1) The Prime Minister may, whenever he or she considers necessary or appropriate to show

that he or she has confidence from the House of Representatives, table a motion in the House of Representatives for the vote of confidence.

(2) In case the political party, which the Prime Minister represents, is divided or a political party in coalition government withdraws its support, the Prime Minister shall table a motion in the House of Representatives for a vote of confidence within thirty days.

(3) In case a motion tabled pursuant to clauses (1) and (2) is not adopted by a majority of the total number of the then members of the House of Representatives, the Prime Minister shall be relieved of his or her office.

(4) One-fourth of the total number of the then members of the House of Representatives may table a motion of no confidence in writing that the House has no confidence in the Prime Minister.

Provided that a motion of no confidence shall not be tabled until the first two years after the appointment of the Prime Minister and until another one year after the date of failure of the motion of no confidence once tabled.

(5) A motion of no confidence to be tabled pursuant to clause (4) shall also mention the name of a member proposed for the Prime Minister.

(6) In case a motion of no confidence tabled pursuant to clause (4) is adopted by a majority of the total number of the then members of the House of Representatives, the Prime Minister shall be relieved of his or her office.

(7) In case the office of Prime Minister falls vacant because of the adoption of a motion of no confidence pursuant to clause (6), the President shall, pursuant to Article 76, appoint as the Prime Minister the member of the House of Representatives proposed pursuant to clause (5).

101. Impeachment: (1) One fourth of the total number of the then members of the House of Representatives may move a motion of impeachment against the President or Vice-President on the ground of serious violation of this Constitution and law. In case the motion is adopted by at least two thirds majority of the total number of the then members of both Houses of the Federal Parliament, he or she shall be relieved of his or her office.

(2) One fourth of the total number of the then members of the House of Representatives may move a motion of impeachment against the Chief Justice of Nepal or a Justice of Supreme Court, member of the Judicial Council, chief or official of a Constitutional Body on the ground of his or her failure to fulfil his or her duties of the office because of serious violation of this Constitution and law, incompetence or misconduct or failure to discharge the duties of the office honestly or serious violation of the code of conduct. In case the motion is adopted by at least two thirds majority of the total number of the then members of the House of Representatives, the concerned person shall be relieved of his or her office.

(3) There shall be an impeachment recommendation committee in the House of Representatives for the purpose of making recommendation after inquiring into whether or not there exists ground and reason for moving a motion of impeachment against any person referred to in clause (2).

(4) The committee referred to in clause (3) shall consist of eleven members of the House of Representatives.

(5) In case at least three members of the House of Representatives certify and submit that the received information, notice or complaint is admissible on the ground of serious violation of the Constitution or incompetence or misconduct or failure to discharge the duties of office honestly or serious violation of the code of conduct by the person relieving of office on impeachment pursuant to clause (2), and the committee referred to in clause (3) makes recommendation, upon inquiring into such complaint in accordance with federal law, to the House of Representatives for impeachment proceedings, a motion of impeachment may be moved pursuant to clause (2).

(6) After the commencement of impeachment proceedings pursuant to clause (2), the Chief Justice of Nepal or the Justice of Supreme Court, the member of the Judicial Council, the chief or official of the Constitutional Body shall not be allowed to discharge the duties of his or her office pending the settlement of such proceedings.

(7) A person who is charged with impeachment pursuant to clause (1) or (2) shall be provided with a reasonable opportunity to defend himself or herself.

(8) Nothing shall bar the taking of action under the federal law in relation to the offence, if any, committed while in office by the President or Vice-President, the

Chief Justice of Nepal or a Justice of Supreme Court of Nepal, the member of the Judicial Council, the chief or official of a Constitutional Body who is relieved of office upon the adoption of a motion of impeachment under this Article.

(9) A person who is relieved of the office on the adoption of a motion of impeachment pursuant to clause (1) or (2) shall not be entitled to obtain any facility accruing from such office and to be appointed or nominated to any public office in the future.

(10) Other matters relating to impeachment shall be as provided for in the federal law.

102. Penalty for Unauthorized Presence or Voting: In case a person who has not taken oath pursuant to Article 88 or who is not a member of the Federal Parliament is present or casts vote in the capacity of a member in a meeting of either House of the Federal Parliament or of its committee, the person shall, by order of the person presiding over the meeting, be fined with a sum of five thousand rupees for each instance of such presence or voting, and such fine shall be recovered as a government due.

103. Privileges: (1) There shall be full freedom of speech in both Houses of the Federal Parliament; and no member shall be arrested, detained or prosecuted in any court for anything expressed or any vote cast by him or her in the House.

(2) Each House of the Federal Parliament shall, subject to this Constitution, have full power to regulate and decide its internal business, and the concerned House shall have the exclusive right to decide whether or not any of its proceedings is regular or irregular. No question shall be raised in any court in this regard.

(3) No comment shall be made about good faith concerning any proceeding of any House of the Federal Parliament, and no publication and broadcasting of any type shall be made about anything said by any member, intentionally distorting or misinterpreting the meaning of the speech.

(4) The provisions of clauses (1) and (3) shall apply also to persons, other than the members of the Federal Parliament, who are entitled to participate in the meetings of the House.

(5) No proceedings shall be initiated in any court against any person in respect of the publication, under the authority granted by any House of the Federal Parliament, of any document, report, vote or proceeding.

Explanation: For the purposes of this clause and clauses (1), (2), (3) and (4), "House" means the House of Representatives or the National Assembly, and includes a joint sitting or committee or joint committee of the Federal Parliament.

(6) No member of the Federal Parliament shall be arrested during the period from the issuance of a notice summoning the session to its prorogation.

Provided that nothing in this clause shall be deemed to prevent the arrest under the federal law of any member on a criminal charge. In case any member is so arrested, the authority making such arrest shall forthwith give information thereof to the person presiding over the concerned House.

(7) Any breach of the privileges shall be deemed to constitute the contempt of the Federal Parliament, and the concerned House shall have the exclusive right to decide whether or not any privilege has been breached.

(8) In case any person is in contempt of any House, the person presiding over the concerned House may, after a decision by the House to that effect, admonish, warn or impose a sentence of imprisonment for a term not exceeding three months or of a fine not exceeding ten thousand rupees on such person, and such fine shall be recovered as a government due.

Provided that in case such person apologies to the satisfaction of the concerned House, the House may pardon, remit or commute the sentence imposed on him or her.

(9) Other matters relating to the privileges of the Federal Parliament shall be as provided for in the federal law.

104. Procedures relating to Conduct of Business: (1) Each House of the Federal Parliament shall frame rules to conduct its business, maintain order during its meetings and regulate the constitution, functions and procedures of the committees and procedures of the House or its committee. Until such rules are framed, the Federal Parliament shall regulate its procedures on its own.

(2) The conduct of business of the joint sitting of the Federal Parliament and constitution and proceedings of the joint committee of the Federal Parliament shall be regulated by the rules or procedures approved by the joint sitting of both Houses of the Federal Parliament.

105. Restriction on Discussion: No discussion shall be held in either House of the Federal Parliament on any matters that may cause adverse effect on the dispensation of justice in cases which are *sub judice* in any court of Nepal and in any judicial act carried out by Judges in the course of performance of their duties.

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

106. Secretary General and Secretary of Federal Parliament: (1) The President shall appoint the Secretary General of the House of Representatives on recommendation of both the Speaker of the House of Representatives and the Chairperson of the National Assembly, the Secretary of the House of Representatives on recommendation of the Speaker, and the Secretary of the National Assembly on recommendation of the Chairperson.

(2) The qualification, functions, duties, powers and other conditions of service of the Secretary General of the Federal Parliament, Secretary of the House of Representatives and Secretary of the National Assembly shall be as provided for in the federal law.

107. Secretariat of Federal Parliament: There shall be a Secretariat for conducting and managing the business of the Federal Parliament. The establishment of such Secretariat and other matters related thereto shall be as provided for in the federal law.

108. Remuneration: The remuneration and facilities of the Speaker and the Deputy Speaker of the House of Representatives, the Chairperson and the Vice-Chairperson of the National Assembly, chairpersons of the committees and members of the Federal Parliament shall be as provided for in the federal law, and shall be as specified by the Government of Nepal until such law is made.

Part-9

Federal Legislative Procedures

109. Legislative Powers of Federal Parliament: The legislative powers of the Federal Parliament shall be as enumerated in the lists of Schedule-5, Schedule-7 and Schedule-9.
110. Procedures for Introduction of Bills: (1) A Bill may, subject to this Constitution, be introduced in any House of the Federal Parliament.

Provided that a Money Bill shall be introduced only in the House of Representatives.

(2) A Money Bill and a Bill concerning a security institution including the Nepal Army, Nepal Police and Armed Police Force, Nepal shall be introduced only as a Government Bill.

(3) "Money Bill" means a Bill concerning any or all of the following matters: -

- (a) Matters concerning Imposition, collection, abolition, remission, alteration or regulation of taxes;
- (b) Matters concerning preservation of the Federal Consolidated Fund or any other Federal Government Fund, the deposit of moneys into or the appropriation or the withdrawal of moneys from such Funds, or the reduction, increment or cancellation of appropriations of proposed expenditures from such Funds;
- (c) Regulation of matters relating to the borrowing of money or the guarantee to be given by the Government of Nepal, or any matter pertaining to the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of Nepal,
- (d) Matters concerning custody of all revenues received by the Federal Government Fund, moneys acquired through the repayment of loans, and grant moneys, investments to be made or accounts or audits of the accounts of the Government of Nepal; and

- (e) Other incidental matters directly related to any of the matters specified in clause (a), (b), (c) or (d).

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

(4) In case any question arises as to whether or not a Bill is a Money Bill, the decision of the Speaker shall be final.

111. Procedures for Adoption of Bills: (1) A Bill adopted by one House of the Federal Parliament shall be transmitted to the other House as soon as possible and such Bill shall, if adopted by the receiving House, be submitted to the President for authentication.

(2) A Money Bill adopted by the House of Representatives shall be transmitted to the National Assembly. The National Assembly shall, after deliberations on such Bill, send the Bill back to the House of Representatives within fifteen days from the date of receipt of the Bill, with suggestions, if any.

(3) The House of Representatives shall, upon deliberations on a Bill returned with suggestions pursuant to clause (2), present the Bill incorporating such suggestions as it may deem appropriate to the President for authentication.

(4) In case the National Assembly does not return a Money Bill received pursuant to clause (2) for more than fifteen days, the House of Representatives may present the Bill to the President for authentication.

(5) Any Bill, except for a Money Bill, adopted by the House of Representatives and transmitted to the National Assembly shall be returned with approval or suggestions within two months from the date of receipt. In case the National Assembly does not return the Bill within that period, the House of Representatives may, by a resolution adopted by a majority of the total number of its then existing members, present the Bill to the President for authentication.

(6) In case any Bill, other than a Money Bill, adopted by one House is rejected or is accepted with amendments by the other House, the Bill shall be returned to the House where it was originated.

(7) In case the House of Representatives, in considering a Bill which has been rejected or amended and returned by the National Assembly pursuant to clause (6), adopts it again as it was or with amendments, by a majority of the total number of the then existing members, the Bill shall be submitted to the President for authentication.

(8) In case a Bill which has been returned with amendments by the House of Representatives to the National Assembly pursuant to clause (6) is also again adopted, with such amendments, by a majority of the number of the then existing members of the National Assembly, the Bill shall be submitted to the President for authentication.

(9) The following Bills shall be referred to a joint sitting of the both Houses, and in case the joint sitting adopts the Bill as it was or with amendments, the House in which the Bill originated shall present it to the President for authentication:-

- (a) A Bill which, though adopted by the National Assembly, has been rejected by the House of Representatives; or
- (b) A Bill which has been sent back to the National Assembly with amendments by the House of Representatives, but the National Assembly has not agreed on such amendments.

(10) Even though a session of a House is prorogued while a Bill is under its consideration, deliberations on the Bill may continue at the succeeding session.

Provided that in case the House of Representatives is dissolved or its term expires when any Bill introduced in the House of Representatives is under its consideration or when any Bill adopted by the House of Representatives is under consideration in the National Assembly, such Bill shall lapse.

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

113. Authentication on Bills: (1) The Bill to be presented to the President for authentication pursuant to Article 111 shall be certified by the Speaker or the Chairperson of the House in which the Bill originated and so presented.

Provided that in case of a Money Bill, the Speaker shall so certify.

(2) A Bill presented to the President for his or her authentication in accordance with this Article shall be authenticated within fifteen days, and both Houses shall be informed thereof as soon as possible.

(3) In case the President is of the opinion that any Bill, except a Money Bill, presented for authentication needs reconsideration, he or she may, within fifty days from the date of submission of such Bill, send back the Bill along with his or her message to the House in which the Bill originated.

(4) In case any Bill is sent back along with a message by the President, and both Houses reconsider and adopt such Bill as it was or with amendments and present it again, the President shall authenticate that Bill within fifteen days of such presentation.

(5) A Bill shall become an Act after the President authenticates it.

114. Provisions relating to Ordinance: (1) In case, at any time, except when both Houses of the Federal Parliament are in session, circumstances exist which render it necessary to take immediate action, the President may, on recommendation of the Council of Ministers, promulgate an Ordinance.

(2) The Ordinance promulgated pursuant to clause (1) shall have the same force and effect as an Act.

Provided that every such Ordinance,-

- (a) Shall be tabled at the session of both Houses of the Federal Parliament held after the promulgation, and in case not adopted by both Houses, it shall, *ipso facto*, cease to be effective;
- (b) May be repealed at any time by the President; and
- (c) Shall, unless rendered ineffective or repealed pursuant to sub-clause (a) or (b), *ipso facto* cease to be effective at the expiration of sixty days after the day on which a meeting of both Houses is held.

Explanation: For the purposes of this clause, "day on which a meeting of both Houses is held" means the day on which a session or meeting of both Houses of the Federal Parliament commences or is held, and this term means the later day on which a meeting of the House is held in case the Houses of the Federal Parliament meet on different dates.

Part-10

Federal Financial Procedures

115. 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 Government of Nepal except as provided for in the federal law.

116. Federal Consolidated Fund: Except for the revenues of trusts (*Guthi*), all revenues received by the Government of Nepal, all loans raised on the security of revenues, all amounts received in repayment of any loan made under the authority of any Act and any other moneys received by the Government of Nepal shall, except as otherwise provided by a Federal Act, be credited to a Government Fund to be known as the Federal Consolidated Fund.

117. Expenditures 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 except the following:-

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

Provided that matters relating to the Federal Contingency Fund shall be governed by Article 124.

118. Expenditures Chargeable on Federal Consolidated Fund: The expenditures relating to the following matters shall be charged on the Federal Consolidated Fund, and approval of the Federal Parliament shall not be required for such expenditures:-

- (a) The amount required as remuneration and facilities of the President and the Vice-president;

- (b) The amount required as remuneration and facilities payable to the Chief Justice of Nepal, Justices of the Supreme Court, and members of the Judicial Council;
- (c) The amount required as remuneration and facilities payable to the Speaker and the Deputy Speaker of the House of Representatives, and the Chairperson and the Vice Chairperson of the National Assembly;
- (d) The amount required as remuneration and facilities payable to the chiefs and officials of the Constitutional Bodies,
- (e) The amount required as remuneration and facilities of the Chiefs of Provinces,
- (f) The administrative expenses of the Office of the President or the Vice President, the Supreme Court, the Judicial Council, the Constitutional Bodies, and the offices of Chiefs of Provinces;
- (g) All charges relating to debts for which the Government of Nepal is liable;
- (h) Any sum required to satisfy any judgment or decree made by a court against the Government of Nepal; and
- (i) Any other sum to be chargeable by the federal law on the Federal Consolidated Fund.

119. Estimates of Revenues and Expenditures: (1) The Minister for Finance of the Government of Nepal shall, in respect of every fiscal year, lay before the joint sitting of both Houses of the Federal Parliament an annual estimate setting out, *inter alia*, the following matters:-

- (a) Estimate of revenues;
- (b) Moneys required to meet the charges on the Federal Consolidated Fund; and
- (c) Moneys required to meet the expenditure to be provided for in the Federal Appropriation Act.

(2) The annual estimate to be laid pursuant to clause (1) shall also be accompanied by a statement of the expenses allocated to every Ministry in the

previous fiscal year and particulars of whether or not the objectives of the expenses have been achieved.

(3) The Minister for Finance of the Government of Nepal shall lay before the Federal Parliament an estimate of revenues and expenditures referred to in clause (1) on the 15th of Jeshta (mid May) each year.

120. Appropriation Act: The moneys to be spent under an Appropriation Act shall be specified under concerned heads in the Appropriation Bill.

121. Supplementary Estimate: (1) The Minister for Finance of the Government of Nepal may lay before the House of Representatives a supplementary estimate in case it is found in any fiscal year:-

(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 expenditures on some new service not provided for in 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 estimate shall be specified under the related heads in a Supplementary Appropriation Bill.

122. Votes on Account: (1) Notwithstanding anything contained elsewhere in this Part, a portion of the expenditure estimated for the fiscal year may, when an Appropriation Bill is under consideration, be incurred in advance, as provided for in Federal Act.

(2) No Vote on Account Bill shall be introduced until the estimates of revenues and expenditures have been laid pursuant to Article 119, and the sums involved in the Vote on Account shall not exceed one-third of the estimate of expenditures for the fiscal year.

(3) The expenditures incurred in accordance with the Federal Vote on Account Act shall be included in the Appropriation Bill.

123. Votes of Credit: Notwithstanding anything contained elsewhere in this Part, in case owing to an emergency due to either natural causes or a threat of external aggression or internal disturbances or other reasons, it appears to be impractical or inexpedient in view of the security or interest of the State to specify the details required pursuant to

clause (1) of Article 119, the Minister for Finance of the Government of Nepal may lay before the House of Representatives a Vote of Credit Bill giving only a statement of expenditures.

124. Federal Contingency Fund: (1) A Federal Act may create a fund to be known as the contingency fund into which such moneys as may be determined by the Federal Act shall be deposited from time to time.

(2) The fund referred to in the clause (1) shall be under the control of the Government of Nepal and may meet any unforeseen expenditure out of such fund.

(3) The amount of the expenditure referred to in clause (2) shall be reimbursed as soon as possible as provided for in the Federal Act.

125. Act relating to Financial Procedures: Matters relating to the transfer of moneys appropriated by a Federal Act from one head to another and other financial procedures shall be as provided for in the Federal Act.

Part-11

Judiciary

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

(2) All shall abide by the orders or decisions made by courts in the course of hearing of lawsuit.

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), judicial institutions may be constituted at the local level to try cases under law or other institutions as required may be formed to pursue alternative dispute resolution methods.

128. Supreme Court: (1) There shall be a Supreme Court of Nepal.

(2) The Supreme Court shall be a court of record. All courts and judicial institutions shall, except as otherwise provided in this Constitution, be under the Supreme Court. The Supreme Court shall have the final authority to interpret this Constitution and laws.

(3) The Supreme Court may inspect, supervise and give necessary directives to, itself and courts, specialized courts or other judicial institutions under its jurisdiction, on matters relating to administration of justice or management.

(4) All shall abide by any interpretation of the Constitution or a law made by or any legal principle laid down by the Supreme Court in the course of hearing a lawsuit. In case anyone makes obstruction in the dispensation of justice or disregard any order or judgment handed down by it or any of its subordinate courts, the Supreme Court may, in accordance with law, initiate proceedings of contempt and impose punishment therefor.

129. Appointment and Qualification of Chief Justice of Nepal and Justices of Supreme Court: (1) The Supreme Court shall consist of a maximum of twenty Justices, in addition to the Chief Justice of Nepal.

(2) The President shall appoint the Chief Justice on recommendation of the Constitutional Council and other Justices of the Supreme Court on recommendation of the Judicial Council.

(3) Any person who has served as a Justice of the Supreme Court for at least three years shall be eligible for appointment as the Chief Justice.

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

(5) Any citizen of Nepal who has obtained a bachelor's degree in law and served as the Chief Judge or a Judge of a High Court for at least five years or who has obtained a bachelor's degree in law and constantly practised law as a senior advocate or advocate for at least fifteen years or who is a distinguished jurist having constantly worked for at least fifteen years in the judicial or legal field or who has served in the post of Gazetted first class or a higher post of the Judicial Service for at least twelve years shall be deemed to be eligible for appointment as a Justice of the Supreme Court.

Explanation: The period during which one has served as the Chief Judge or Judge of an Appellate Court prior to the commencement of this Constitution shall, for the purposes of this clause, be deemed to be the period of service in the capacity of the Chief Judge or Judge of the High Court.

(6) In case the office of the Chief Justice falls vacant or the Chief Justice is unable to carry out the duties of his or her office by reason of illness or otherwise or he or she cannot be present in the Supreme Court by reason of a leave of absence or his or her being outside of Nepal, the senior-most Justice of Supreme Court shall act as the Acting Chief Justice.

130. Conditions of Service and Facilities of Chief Justice and Justices: (1) In case the Chief Justice or a Justice of the Supreme Court who has served for at least five years resigns or undergoes compulsory retirement or dies, he or she shall be entitled to such pension as may be provided for in the federal law.

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

(3) Notwithstanding anything contained in clauses (1) and (2), the Chief Justice or a Justice of the Supreme Court who has been removed from the office by way of impeachment or who has been punished by a court for a criminal offence involving moral turpitude shall not be entitled to gratuity or pension.

(4) The remuneration and other conditions of service of the Chief Justice or a Justice of the Supreme Court shall not be altered to his or her disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

131. Vacation of office of Chief Justice or Justice of Supreme Court: The office of the Chief Justice or a Justice of the Supreme Court shall fall vacant in any of the following circumstances:-

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case he or she attains the age of sixty-five years;
- (c) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (d) In case the Chief Justice or a Justice of Supreme Court is relieved of his or her office by the President, in the case of Chief Justice on recommendation of the Constitutional Council, and in the case of Justice of Supreme Court, on recommendation of the Judicial Council, on the ground that he or she is unable to discharge his or her duties because of physical or mental illness;
- (e) In case he or she is punished by a court for a criminal offence involving moral turpitude;
- (f) In case he or she dies.

132. Chief Justice and Justice of Supreme Court not to be engaged in Any Other Office: (1) No Chief Justice or Justice of the Supreme Court shall be engaged in or deputed to any office other than that of a Judge.

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

(2) No person who has once held the office of Chief Justice or a Justice of the Supreme Court shall be eligible for appointment to any government office, except as otherwise provided for in this Constitution.

133. Jurisdiction of Supreme Court: (1) Any citizen of Nepal 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 unreasonable restriction on the enjoyment of any fundamental right conferred by this Constitution or on any other ground; or to have any law or any part thereof made by a Provincial Assembly declared void because it is inconsistent with any law made by the Federal Parliament; or to have any law or any part thereof made by a Municipal Assembly or Rural Municipal Assembly declared void because it is inconsistent with a law made by the Federal Parliament or the Provincial Assembly; the Supreme Court shall have an extra-ordinary power to declare such law to be void either *ab initio* or from the date of its decision in case the law in question appears to be so inconsistent.

(2) The Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution or of any other legal right for which no other remedy has been provided for 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, provide appropriate remedies, enforce such right or settle such dispute.

(3) Under the extra-ordinary jurisdiction referred to in clause (2), the Supreme 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 Supreme Court shall not under this clause interfere with any internal proceedings of the Federal Parliament or Provincial Assembly, and with any proceedings instituted by the Federal Parliament or Provincial Assembly concerning violation of its privileges and penalties imposed therefor.

(4) Subject to this Constitution, the Supreme Court shall, as provided for in the federal law, have the power to originally try and settle cases, hear appeals, test judgments referred for confirmation, revise cases, hear petitions or review its judgments or final orders. While so reviewing the judgements, Justices other than those having handed down the previous judgment shall make such review.

(5) The Supreme Court shall have the power to settle appeals from cases originally heard and settled by a High Court and matters of public importance involving questions of interpretation of the Constitution and law or cases recommended by a High Court, accompanied by its opinion that it is reasonable that decision be made by the Supreme Court.

(6) Other powers and procedures of the Supreme Court shall be as provided for in the federal law.

134. Power to Transfer Cases: (1) In case the cases which involve substantially the same questions are *sub judice* before the Supreme Court and a High Court, and the Supreme Court is satisfied on its own or on application by the Attorney General or parties to such cases that such questions are of public importance, the Supreme Court shall have the power to procure and adjudge the cases together.

(2) In case there exists a special circumstance where judicial impartiality may be questioned if a case filed in a High Court is heard by that Court, the Supreme Court may, stating the reasons and grounds thereof, order such case to be transferred from such High Court to another High Court and be heard by the latter High Court, in accordance with law.

135. Not to be engaged in Practice of Law: No Chief Justice or Justice of the Supreme Court shall, after retirement from office, be engaged in the practice of law, mediation or arbitration proceedings before any office or court.

136. Responsibility of Chief Justice: The Chief Justice shall have the ultimate responsibility to make effective the administration of justice by the Supreme Court, subordinate courts, specialized courts or other judicial institution.

137. Constitution of Constitutional Bench: (1) There shall be a Constitutional Bench in the Supreme Court. The Constitutional Bench shall consist of the Chief Justice and other four Justices designated by the Chief Justice on recommendation of the Judicial Council.

(2) The Bench referred to in clause (1) shall originally hear and settle the following cases, in addition to the petitions filed pursuant to clause (1) of Article 133:-

- (a) Disputes relating to jurisdiction between the Federation and a Province, between Provinces, between a Province and a Local Level and between Local Levels;
- (b) Disputes relating to election to members of the Federal Parliament or Provincial Assembly and matters relating to disqualification of a member of the Federal Parliament or of the Provincial Assembly.

(3) Notwithstanding anything contained in Article 133, in case it appears that any case *sub judice* in the Supreme Court involves a question of serious constitutional interpretation, the Chief Justice may appoint such case to be heard by the Bench referred to in clause (1).

(4) Other provisions relating to the functioning of the Constitutional Bench shall be as determined by the Supreme Court.

138. Annual Report: (1) The Supreme Court, Judicial Council and Judicial Service Commission shall submit every year annual reports to the President, and the President shall submit such reports to the Federal Parliament through the Prime Minister.

(2) In case the Federal Parliament, upon deliberating on the annual reports submitted pursuant to clause (1), deems it necessary to give any suggestion, it may give such suggestion to the concerned institution through the Government of Nepal, Ministry of Law and Justice.

(3) Other provisions relating to annual reports referred to in clause (1) shall be as provided for in the federal law.

139. High Courts: (1) There shall be a High Court in each Province.

(2) In case anyone makes obstruction in the dispensation of justice by, or disregard any order or judgment handed down by, it or any of its subordinate courts or judicial institutions, the High Court may initiate proceedings on and impose punishment for contempt, as provided for in the federal law.

(3) Each High Court shall consist of such number of Judges, in addition to the Chief Judge, as provided for in the federal law.

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

(2) Any citizen of Nepal who has obtained a bachelor's degree in law and served as a Judge of a District Court for at least five years or who has obtained a bachelor's degree in law and constantly practised law as a senior advocate or advocate for at least ten years or who has constantly been engaged in the teaching or research of law or in any other field relation to law or justice for at least ten years or who has served in the post of at least Gazetted first class of the Judicial Service for at least five years shall be deemed to be eligible for appointment as the Chief Judge or a Judge of the High Court.

(3) Appointments to the Chief Judge and Judges of a High Court shall be made from amongst the persons who have possessed the qualifications referred to in clause (2) on the basis of the proportion of cases settled by him or her annually and of evaluation of cases upheld, quashed or reversed by superior courts in the course of final decision thereof, in the case of a District Judge, and of his or her seniority, qualification and evaluation of standard of performance of business, in the case of a person who has served in the post of at least Gazetted first class of the Judicial Service, and of evaluation of seniority, professional continuity, honesty, professional conduct and contribution made to the field of law and justice, in the case of others.

(4) In case the office of the Chief Judge falls vacant or the Chief Judge is otherwise unable to carry out the duties of his or her office or cannot be present in the High Court by reason of a leave of absence or his or her 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 Facilities of Chief Judge and Judges: (1) Except as otherwise provided for in this Constitution, the remuneration and other conditions of service of the Chief Judge and Judges of the High Court shall be as provided for in the federal law.

(2) Notwithstanding anything contained in clause (1), the Chief Judge or a Judge of a High Court who has been removed from office upon action taken by the Judicial Council or upon punishment by a court for a criminal offence involving moral turpitude shall not be entitled to gratuity or pension.

Provided that this provision shall not apply in cases where the Judicial Council has removed him or her from office on the ground of inability to perform the duties of his or her office because of physical or mental illness.

(3) The remuneration and other conditions of service of the Chief Judge or a Judge of the High Court shall not be altered to his or her disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

142. Vacation of office of Chief Judge or Judge: (1) The office of Chief Judge or Judge of a High Court shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the Chief Justice;
- (b) In case he or she attains the age of sixty-three years;
- (c) In case he or she is relieved of office by the Chief Justice on recommendation of the Judicial Council, on the ground of his or her incompetence, misconduct, failure to perform his or her duties honestly, performance of business with mala fide intention or serious violation by him or her of the code of conduct required to be observed by him or her;
- (d) In case he or she is removed from office by the Chief Justice on recommendation of the Judicial Council on the ground that he or she is unable to discharge his or her duties because of physical or mental illness;
- (e) In case he or she is convicted and punished by a court for a criminal offence involving moral turpitude;
- (f) In case he or she dies.

(2) A Judge who is facing a charge shall be provided with a reasonable opportunity to defend himself or herself prior to removing him or her from the office pursuant to sub-clause (c) of clause (1). The Judge against whom the proceedings have been so instituted shall not be allowed to perform the duties of his or her office until the proceedings are completed.

(3) Nothing shall bar the institution of action in accordance with the federal law against the Chief Judge or Judge who has been removed from office for an offence which he or she has committed while in office.

143. Chief Judge and Judges not to be engaged in any Other Office and Provisions relating to Transfer: (1) No Chief Judge or Judge of a High Court shall be engaged in or deputed to any office other than that of Judge.

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

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

144. Jurisdiction of High Court: (1) The High Court shall have the power to issue necessary and appropriate orders, for the enforcement of the fundamental rights conferred by this Constitution or 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.

(2) For the purposes 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 any internal proceedings of the Federal Parliament or Provincial Assembly, and with any proceedings instituted by the Federal Parliament or Provincial Assembly concerning violation of its privileges and penalties imposed therefor.

(3) The High Court shall, in accordance with the federal law, have the power to originally hear and settle cases, hear appeals and test judgments referred for confirmation.

(4) Other powers and procedures of the High Court shall be as provided for in the federal law.

145. Power to Transfer Cases: (1) In case a High Court is of the opinion that a case which is *sub judice* in a subordinate court within its jurisdiction involves a question relating to a provincial law and it is essential to settle that question in order to decide the case, the High Court may procure the case and dispose the case wholly or decide only such question and remand the case to the court of first instance.

(2) In case it is satisfied with the reason that there exists a situation where judicial impartiality may be questioned if a case filed in a District Court is heard by that Court, the High Court may, stating the reasons and grounds thereof, order such case to be transferred from such District Court to another District Court under its jurisdiction and heard by the latter District Court, as provided for in the federal law.

146. Allowed to be engaged in Practice of Law: A person who has retired from the office of a Judge of a High Court may be engaged in the practice of law before the Supreme Court and a High Court, other than the High Court and subordinate courts where he or she has served as a Judge.

147. Responsibility of Chief Judge: The Chief Judge shall have the ultimate responsibility to make effective the administration of justice by the High Court and the Courts or other judicial institutions which are subordinate to it. For that purpose, the Chief Judge may, subject to this Constitution and the federal law, give necessary direction to the subordinate Courts and judicial institutions

148. District Court: (1) There shall be a District Court in each District.

(2) The Local Level judicial institutions established in accordance with the provincial law shall be subordinate to the District Court. The District Court may inspect as well as supervise and give necessary direction to its subordinate judicial institutions.

149. Appointment, Qualification, Remuneration and Other Conditions of Service of Judges of District Courts: (1) The Chief Justice shall, on recommendation of the Judicial Council, appoint Judges of the District Courts.

(2) The vacant posts of Judges of the District Court shall be fulfilled as follows:-

(a) Twenty percent of the total vacant posts, on the basis of evaluation of seniority, qualification and competency, from amongst the officers

who have obtained bachelor's degree in law and served for at least three years in the post of Gazetted Second Class of the Judicial Service;

- (b) Forty percent of the total vacant posts, on the basis of open competitive examination, from amongst the officers who have obtained bachelor's degree in law and served for at least three years in the post of Gazetted Second Class of the Judicial Service;
- (c) The remaining forty percent of the total vacant posts, on the basis of open competitive examination, from amongst the citizens of Nepal who, having obtained bachelor's degree in law, have constantly practised law for at least eight years as an advocate or who, having obtained bachelor's degree in law, have served in a Gazetted post of the Judicial Service for at least eight years or have constantly been engaged in the teaching or research of law or served in any other field of law or justice for at least eight years.

(3) The Judicial Service Commission shall, in accordance with the federal law, hold written and oral competitive examinations for the persons who have possessed the qualifications referred to in sub-clauses (b) and (c) of clause (2), and make recommendation, in order of merit, to the Judicial Council for appointment as District Judges.

(4) The remuneration and other conditions of service of the Judges of the District Court shall be as provided for in the federal law.

(5) The remuneration and other conditions of service of a Judge of the District Court shall not be altered to his or her disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(6) The office of a Judge of the District Court shall fall vacant in any of the following circumstances:-

- (a) In case he or she tenders resignation in writing to the Chief Justice;
- (b) In case he or she attains the age of sixty-three years;

- (c) In case he or she is removed from office by the Chief Justice on recommendation of the Judicial Council, on the ground of his or her incompetence, misconduct, failure to perform his or her duties honestly, performance of business with malafide intention or serious violation by him or her of the code of conduct required to be observed by him or her;
- (d) In case he or she is removed from office by the Chief Justice on recommendation of the Judicial Council on the ground that he or she is unable to continue service and discharge his or her duties because of physical or mental illness;
- (e) In case he or she is convicted and punished by a court for a criminal offence involving moral turpitude;
- (f) In case he or she dies.

(7) A District Judge who is accused shall be given a reasonable opportunity to defend himself or herself before removing him or her from office pursuant to sub-clause (c) of clause (6). The District Judge against whom the proceedings are so initiated shall not perform the duties of his or her office until the proceedings are completed.

(8) Nothing shall prevent the instituting of an action, in accordance with the federal law, against a District Judge who is removed from office for the offence which he or she has committed while in office.

150. District Judges not to be engaged in any Other Office and Provisions relating to Transfer: (1) No District Judge shall be engaged in or deputed to any office other than that of Judge.

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

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

151. Jurisdiction of District Court: (1) Except as otherwise provided for in the federal law, a District Court shall have the power to initially hear and settle all cases under its jurisdiction, to hear petitions under law, including petitions of *habeas corpus* and injunction, hear appeals under law from decisions made by quasi-judicial institutions, hear appeals from decisions made by Local Level judicial institutions formed under the provincial law, institute contempt proceedings and punish for contempt under the federal law in case anyone makes obstruction in the dispensation of justice by, or disregards any order or judgment by, it or any of its subordinate courts.

(2) Other provisions relating to the jurisdiction and procedures of the District Courts shall be as provided for in the federal law.

152. Specialized Courts: (1) Other specialized courts, judicial institutions or tribunals may be constituted to initiate and settle specific types and nature of cases other than those referred to in Article 127, as provided for in the federal law.

Provided that no specialized court, judicial institutions or tribunal shall be constituted for any specific case.

(2) No criminal offence involving imprisonment for a term of more than one year shall fall under the jurisdiction of an institution other than a court, specialized court, military court or judicial institution.

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

- | | |
|---|---------------|
| (a) The Chief Justice | - Chairperson |
| (b) The Federal Minister for Law and Justice | - Member |
| (c) The senior-most Justice of Supreme Court | - Member |
| (d) One jurist appointed by the President on recommendation of the Prime Minister | - Member |

- (e) A senior advocate or advocate who has gained at least twenty years of experience, appointed by the President - Member on recommendation of the Nepal Bar Association

(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 facilities shall be equivalent to those of a Justice of the Supreme Court.

(3) The members referred to in sub-clauses (d) and (e) of clause (1) shall be removed from office in the same manner and on the same grounds as a Justice of the Supreme Court.

(4) The chairperson and a member of the Judicial Council may study the case associated with a complaint filed in respect of any Judge, and make a report thereof to the Judicial Council.

(5) In case a preliminary inquiry of a complaint filed in respect of any Judge reveals a need to have a detailed inquiry by an expert, the Judicial Council may form an inquiry committee.

(6) In case a Judge, other than a Judge who may be removed from the office by way of impeachment in accordance with this Constitution, commits an abuse of authority by way of corruption, the Judicial Council may investigate into the matter and institute a case in accordance with law.

(7) The Judicial Council shall be required to prepare updated records of the persons who are qualified for appointment to offices of the Chief Justice, Justices of the Supreme Court, Chief Judges and Judges of the High Courts.

(8) Other functions, duties and powers of the Judicial Council shall be as provided for in the federal law.

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

Provided that the Government of Nepal shall consult the Public Service Commission for new permanent appointments to gazetted posts of the Federal Judicial

Service from persons who are not already in the Federal Government Service or for promotions from non-gazetted posts of the Federal Judicial Service to gazetted ones of that Service.

Explanation: For the purposes of this Article, the Public Service Commission shall hold open and internal competitive examinations to be held for appointments to Gazetted posts of the Federal Judicial Service.

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

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

(3) Other functions, duties, powers and procedures of the Judicial Service Commission shall be as provided for in the federal law.

155. Provisions relating to Conditions of Service and Facilities: Provisions relating to the remuneration, facilities and conditions of service of the employees of the Federal Judicial Service shall be as provided for in a Federal Act.

156. Provisions relating to Provincial Judicial Service Commission: Provisions relating to the formation of a Provincial Judicial Service Commission and the remuneration, facilities and conditions of service of the employees of a Provincial Judicial Service shall be as provided for in the federal law.

Part-12

Attorney General

157. Attorney General: (1) There shall be an Attorney General of Nepal.

(2) The President shall, on recommendation of the Prime Minister, appoint the Attorney General. The Attorney General shall hold his or her office during the pleasure of the Prime Minister.

(3) A person who is eligible to be appointed as a Justice of the Supreme Court shall be eligible to be appointed as the Attorney General.

(4) The office of the Attorney General shall fall vacant in any of the following circumstances:

- (a) In case he or she tenders resignation in writing to the President through the Prime Minister;
- (b) In case he or she is relieved of the office by the President on recommendation of the Prime Minister;
- (c) In case he or she dies.

(5) The remuneration and other facilities of the Attorney General shall be similar to those of a Justice of Supreme Court. Other conditions of service of the Attorney General shall be in accordance with 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 advices on constitutional and legal matters to the Government of Nepal and such other authorities as the Government of Nepal may specify.

(2) The Attorney General or government attorneys subordinate to him or her shall represent the Government of Nepal in lawsuits wherein the rights, interests or concerns of the Government of Nepal are involved. Except as provided otherwise in this Constitution, the Attorney General shall have the right to make a final decision as to whether or not to institute any case on behalf of the Government of Nepal in any court, judicial institution or authority.

(3) Opinion of the Attorney General shall be required for withdrawing a case filed on behalf of the Government of Nepal.

(4) The Attorney General may, upon invitation by the Federal Parliament or any of its committees, appear and express his or her opinion on any legal question in such meeting.

(5) In the course of discharging the duties of his or her office, the Attorney General shall have the right to appear in any Court, office and authority of Nepal.

(6) The Attorney General shall, in the course of performing his or her duties, in addition to that set forth in clause (2) have the power to carry out the following acts:-

- (a) To defend, on behalf of the Government of Nepal, any lawsuit in which the Government of Nepal is a plaintiff or a defendant;
- (b) To monitor, or cause to be monitored, whether any interpretation given to a law or any legal principle laid down by the Supreme Court in the course of hearing of lawsuits has been implemented;
- (c) In case a complaint is made alleging that any person held in custody has not been treated humanely subject to this Constitution or such person has not been allowed to meet his or her relative or through his or her legal practitioner or in case information of such matter is received, to inquire there into and give necessary directive to the concerned authority to prevent such act.

(7) The Attorney General may so delegate his or her functions, duties and powers referred to in this Article to his or her subordinate government attorneys as to be exercised and complied with subject to the specified conditions.

(8) In addition to the functions, duties and powers referred to in this Article, other functions, duties and powers of the Attorney General shall be in accordance with this Constitution and the federal law.

159. Annual Report: (1) The Attorney General shall, every year, submit to the President an annual report on the works which he or she has performed in accordance with this Constitution and the federal law, and the President shall cause such report to be laid before the Federal Parliament through the Prime Minister.

(2) The annual report to be submitted pursuant to clause (1) shall set out, *inter alia*, the number of advices and opinions on constitutional and legal matters rendered by him or her throughout the year, along with short description of such advices and opinions, details of cases instituted as State cases, details of defence made in lawsuits in which the Government of Nepal is a plaintiff or defendant, details of reforms to be made in the future in relation to cases to be instituted as State cases and information relating to crime trends.

160. Chief Attorney: (1) There shall be a Chief Attorney in every Province, who shall be subordinate to the Attorney General.

(2) The Chief of Province shall, on recommendation of the concerned Chief Minister, appoint the Chief Attorney. The Chief Attorney shall hold office during the pleasure of the Chief Minister.

(3) A person who is qualified to be appointed as a Judge of High Court shall be eligible to be appointed as the Chief Attorney.

(4) The office of the Chief Attorney shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the Chief of Province through the Chief Minister;
- (b) In case he or she is removed from office by the Chief of Province on recommendation of the Chief Minister;
- (c) In case he or she 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 advices on constitutional and legal matters to the Provincial Government and such other authorities as the Provincial Government may specify.

(6) The Office of Attorney General shall manage the employees under the Office of Chief Attorney.

(7) The remuneration and other facilities of the Chief Attorney shall be similar to those of a Judge of High Court. The functions, duties and powers and other conditions of service of the Chief Attorney shall be as provided for in the provincial law.

161. Provisions relating to Conditions of Service and Facilities: Provisions relating to the remuneration, facilities and conditions of service of the government attorneys and other employees under the Attorney General shall be as provided for in a Federal Act.

Nepal Law Commission

Part-13

Provincial Executive

162. Executive Power of Province: (1) The executive power of a Province shall, in accordance with this Constitution and provincial law, be vested in the Provincial Council of Ministers.

Provided that in case a Provincial Executive does not exist because of enforcement of Federal rule, the Chief of Province shall exercise the executive power of the Province as directed by the Government of Nepal.

(2) The responsibility for issuing general directives, controlling and regulating the governance of the Province shall, subject to this Constitution and other laws, lie in the Provincial Council of Ministers.

(3) All Provincial Executive functions shall be performed in the name of the Provincial Government.

(4) The executive power of the Province shall be as referred to in Schedule-6, Schedule-7 and Schedule-9 subject to this Constitution.

Provided that the Provincial Council of Ministers shall exercise the executive powers in coordination with the Government of Nepal, except as explicitly provided for in this Constitution and in the federal law in relation to concurrent powers of the Federation and the Province.

(5) Any decision or order to be issued in the name of the Provincial Government pursuant to clause (3) and other instruments of authorization pertaining thereto shall be authenticated as provided for in the provincial law.

163. Provisions relating to Chief of Province: (1) There shall be a Chief of Province in each Province as a representative of the Government of Nepal.

(2) The President shall appoint one Chief of Province for each Province.

(3) The term of office of a Chief of Province shall be five years except where the President removes him or her from the office prior to the expiration of his or her term of office.

(4) The same person may not be the Chief of Province for more than once in the same Province.

164. Qualification for Chief of Province: A person who has the following qualification shall be eligible to become the Chief of Province:-
- (a) One who is eligible to become a member of the Federal Parliament;
 - (b) One who has completed the age of thirty-five years; and
 - (c) One who is not disqualified by any law.
165. Vacation of Office of Chief of Province: (1) The office of the Chief of Province shall fall vacant in any of the following circumstances:-
- (a) In case he or she tenders resignation in writing to the President;
 - (b) In case his or her term of office expires or he or she is removed from office by the President prior to expiration of the term;
 - (c) In case he or she dies.
- (2) In case the office of the Chief of Province of any Province falls vacant, the President may so designate the Chief of Province of another Province to act as such also for such Province.
166. Functions, Duties and Powers of Chief of Province: (1) The Chief of Province shall exercise such powers and perform such duties as conferred to him or her in accordance with this Constitution or law.
- (2) In exercising the powers or fulfilling the duties pursuant to clause (1), the Chief of Province shall perform all other functions to be performed by him or her on recommendation and with the consent of the Provincial Council of Ministers than those functions specifically provided to be performed on recommendation of any institution or official in accordance with this Constitution or law. Such recommendation and consent shall be submitted through the Chief Minister.
- (3) Any decision or order to be issued in the name of the Chief of Province pursuant to clause (2) and other instrument of authorization pertaining thereto shall be authenticated as provided for in the provincial law.
167. Oath by Chief of Province: The Chief of Province shall, prior to assuming office, take an oath of office and secrecy before the President as provided for in the federal law.
168. Constitution of Provincial Council of Ministers: (1) The Chief of Province shall appoint the leader of the parliamentary party commanding a majority in the Provincial

Assembly as the Chief Minister and the Provincial Council of Ministers shall be constituted under his or her chairpersonship.

(2) In cases where no party has a clear majority in the Provincial Assembly pursuant to clause (1), the Chief of Province shall appoint as the Chief Minister a member of the Provincial Assembly who is able to command majority with the support of two or more parties representing to the Provincial Assembly.

(3) In cases where the Chief Minister cannot be appointed pursuant to clause (2) within thirty days after the date of declaration of the final results of election to the Provincial Assembly the Chief Minister so appointed fails to secure a vote of confidence pursuant to clause (4), the Chief of Province shall appoint as the Chief Minister the parliamentary party leader of the party which has the highest number of members in the Provincial Assembly.

(4) The Chief Minister appointed pursuant to clause (2) or (3) shall secure a vote of confidence from the Provincial Assembly within thirty days after the date of such appointment.

(5) In cases where the Chief Minister appointed pursuant to clause (3) fails to secure a vote of confidence under clause (4) and any member referred to in clause (2) presents a ground on which he or she is able to secure a vote of confidence in the Provincial Assembly, the Chief of Province shall appoint such member as the Chief Minister.

(6) The Chief Minister appointed pursuant to clause (5) shall secure a vote of confidence pursuant to clause (4).

(7) In cases where the Chief Minister appointed pursuant to clause (5) fails to secure a vote of confidence or the Chief Minister cannot be appointed, the Chief of Province shall, on recommendation of the Chief Minister, dissolve the Provincial Assembly and appoint a date of election so that the election to another Provincial Assembly is completed within six months.

(8) Procedures on the appointment of the Chief Minister pursuant to this Article shall be required to be completed within thirty-five days after the date of declaration of the final results of election to the Provincial Assembly held in accordance with this Constitution or the date on which the office of the Chief Minister has fallen vacant.

(9) The Chief of Province shall, on recommendation of the Chief Minister, constitute the Provincial Council of Ministers consisting of a maximum of twenty percent of the total number of members of the Provincial Assembly, including the Chief Minister, in accordance with the inclusive principle, from amongst the members of the Provincial Assembly.

Explanation: For the purposes of this Article, "Minister" means a Minister, Minister of State and Assistant Minister.

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

169. Vacation of Office of Chief Minister and Minister: (1) The office of the Chief Minister shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the Chief of Province;
- (b) In case a vote of no confidence is adopted against him or her or a vote of confidence is not adopted pursuant to Article 188;
- (c) In case he or she ceases to be a member of the Provincial Assembly;
- (d) In case he or she dies.

(2) The office of a Minister shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the Chief Minister;
- (b) In case the Chief Minister removes him or her from the office;
- (c) In case the office of the Chief Minister falls vacant pursuant to sub-clause (a), (b) or (c) of clause (1);
- (d) In case he or she dies.

(3) Even though the office of the Chief Minister falls vacant pursuant to clause (1), the same Council of Ministers shall continue to act until another Provincial Council of Ministers is constituted.

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

170. Non-Member of Provincial Assembly may Become Minister: (1) Notwithstanding anything contained in clause (9) of Article 168, the Chief of Province may, on the recommendation of the Chief Minister, appoint any person who is not a member of the Provincial Assembly as a Minister.

(2) A Minister appointed pursuant to clause (1) shall be required to become a member of the Provincial Assembly within six months from the date of taking an oath by him or her.

(3) In the event of failure to become a member of the Provincial Assembly within the period referred to in clause (2), he or she shall not be eligible to be reappointed to the office of Minister during the term of the then Provincial Assembly.

(4) Notwithstanding anything contained in clause (1), a person who has lost the election to the then Provincial Assembly shall not be eligible to be appointed to the office of Minister pursuant to clause (1) during the term of such Provincial Assembly.

171. Remuneration and other Facilities of Chief Minister and Minister: The remuneration and other facilities of the Chief Minister and Ministers shall be as provided for in a provincial Act, and until such Act is made, shall be as specified by the Provincial Government.

172. Oath: The Chief Minister and Ministers shall, before assuming their respective offices, take an oath of office and secrecy before the Chief of Province, and Ministers of State and Assistant Ministers, before the Chief Minister, as provided for in the provincial law.

173. To Give Information to Chief of Province: The Chief Minister shall inform the Chief of Province about the following matters:-

- (a) Resolutions of the Provincial Council of Ministers;
- (b) Bills to be introduced in the Provincial Assembly;
- (c) Such other necessary information as commanded by the Chief of Province on matters set forth in clauses (a) and (b); and

(d) Current general state of affairs of the Province.

174. Transaction of Business of Provincial Government: (1) The allocation and transaction of business of the Provincial Government shall be carried out in accordance with the rules approved by the Provincial Government.

(2) No question shall be raised in any court as to whether or not the rules referred to in clause (1) have been observed.

Nepal Law Commission

Part-14

Provincial Legislature

175. Provincial Legislature: The legislature of a Province shall be unicameral which shall be called as the Provincial Assembly.
176. Composition of Provincial Assembly: (1) Each Provincial Assembly shall consist of a number of members as follows:-
- (a) Members in a number that is twice as many as the number of members elected to the House of Representatives from the concerned Province, through the first past the post electoral system;
 - (b) The number of members to be set pursuant to clause (a) shall be considered to be sixty percent, and the rest forty percent members to be elected, through the proportional electoral system.
- (2) Election constituencies shall be set on the basis of geography and population as provided for in the federal law for the election to members pursuant to sub-clause (a) of clause (1).
- (3) Sixty percent members of the Provincial Assembly shall be elected in accordance with the first past the post electoral system and the forty percent members in accordance with the proportional electoral system.
- (4) Election to the members of the Provincial Assembly pursuant to clause (3) shall be held through adult suffrage by secret ballots in accordance with law.
- (5) Each citizen of Nepal who resides within the territory of the Province and who has completed the age of eighteen years shall have a right to vote in any one election constituency in accordance with law.
- (6) A federal law shall provide that in filing candidacy by political parties for the election to the Provincial Assembly under the proportional electoral system, representation shall be ensured on the basis of a closed list also from women, *Dalit*, indigenous nationalities (*Aadibasi Janajati*), *Khas Arya*, *Madhesi*, *Tharu*, Muslims and backward regions, minority communities, on the basis of population. In so filing candidacy, regard shall also be had to geographical balance of the concerned Province.

Explanation: For the purposes of this clause, "Khas Arya" means *Kshetri, Brahmin, Thakuri, Sanyasi (Dashnami)* community.

(7) In filing candidacy pursuant to clause (6), political parties shall provide for representation of the persons with disabilities as well.

(8) In case the seat of a member of the Provincial Assembly falls vacant while its term still remains for more than six months, the vacancy shall be fulfilled through the same electoral system as through which such seat was fulfilled.

(9) Notwithstanding anything contained elsewhere in this Article, at least one third of the total number of members elected from each political party representing in the Provincial Assembly shall be women. In case women are not so elected as to constitute one third of the elected members of any political party pursuant to sub-clause (a) of clause (1), such political party shall, in electing members pursuant to sub-clause (b) of that clause, so elect that women members constitute at least one third of the total number of members elected to the Provincial Assembly from that party.

(10) A person who is qualified pursuant to Article 178 and entitled to vote in an election to the members of the Provincial Assembly may, subject to law, be a candidate in any election constituency of the Province.

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

(11) Other provisions relating to election to the Provincial Assembly shall be as provided for in the federal law.

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

(2) Notwithstanding anything contained in clause (1), the term of the Provincial Assembly may be extended by a provincial Act for a period not exceeding one year in cases where a proclamation or order of a state of emergency is in effect.

(3) The term of the Provincial Assembly extended pursuant to clause (2) shall, *ipso facto*, be terminated after the expiry of six months from the date of revocation of the proclamation or order of the state of emergency in the concerned Province.

178. Qualification for a Member of Provincial Assembly: (1) A person who has the following qualifications shall be eligible to become a member of the Provincial Assembly:-

- (a) One who is a citizen of Nepal;
- (b) One who is a voter of the concerned Province;
- (c) One who has completed the age of twenty-five years;
- (d) One who is not convicted of a criminal offense involving moral turpitude;
- (e) One who is not disqualified by any law; and
- (f) One who is not holding any office of profit.

Explanation: For the purposes of this clause, "office of profit" means any position, other than a political position which is to be fulfilled by election or nomination, for which a remuneration or financial benefit is paid out of a government fund.

(2) In case a person who holds a political office to be fulfilled by way of election, nomination or appointment is elected as a member of the Provincial Assembly under this Part, such office shall, *ipso facto*, fall vacant with effect from the day on which he or she takes an oath of such office.

179. Oath of Member of Provincial Assembly: Every member of the Provincial Assembly shall be required, before taking part for the first time in the meeting of the Assembly or any of its committees, to take an oath as provided for in the provincial law.

180. Vacation of Seat of a Member of Provincial Assembly: The seat of a member of the Provincial Assembly shall fall vacant in any of the following circumstances:-

- (a) In case he or she tenders resignation in writing to the Speaker of Province;
- (b) In case he or she is no longer qualified or ceases to possess the qualifications referred to in Article 178;
- (c) In case the term of the Provincial Assembly expires or it is dissolved;

- (d) In case he or she is absent in ten consecutive meetings without giving information to the Provincial Assembly;
- (e) In case the political party of which he or she was a member when elected provides a notification as provided for in the federal law that he or she has defected from the party;
- (f) In case he or she dies.

181. Decision as to Disqualification of Member: In case question arises as to whether any member of the Provincial Assembly is disqualified or has ceased to possess any of the qualifications referred to in Article 178, the Constitutional Bench of the Supreme Court shall make the final decision of such question.

182. Speaker and Deputy Speaker of Provincial Assembly: (1) The members of the Provincial Assembly shall, within fifteen days of the date of holding of the first meeting of the Provincial Assembly, elect a Speaker of Province and a Deputy Speaker of Province from amongst themselves.

(2) Election pursuant to clause (1) shall be so held that there is one woman out of the Speaker of Province and the Deputy Speaker of Province, and the Speaker of Province and the Deputy Speaker of Province shall be representatives from different parties.

Provided that in case there is no representation of more than one party in the Provincial Assembly or no candidacy is filed by more than one party despite representation, nothing shall prevent the members of the same party from being the Speaker of Province and the Deputy Speaker of Province.

(3) In case the office of the Speaker of Province or the Deputy Speaker of Province falls vacant, the members of the Provincial Assembly shall fulfil the vacancy through election to the Speaker of Province or the Deputy Speaker of Province from amongst themselves.

(4) The Deputy Speaker of Province shall, in the absence of the Speaker of Province, preside over the Provincial Assembly.

(5) In case the election to the Speaker of Province and the Deputy Speaker of Province has not taken place, or in case both the positions have fallen vacant, the

attending member who is by age the senior-most shall preside over the meeting of the Provincial Assembly.

(6) The office of the Speaker of Province or the Deputy Speaker of Province shall fall vacant in any of the following circumstances:-

- (a) In case he or she ceases to be a member of the Provincial Assembly;
Provided that, in the event of the dissolution of the Provincial Assembly, the Speaker of Province and the Deputy Speaker holding their respective offices shall continue in office until the previous day of the filing of nominations for another election to the Provincial Assembly;
- (b) In case he or she tenders resignation in writing;
- (c) In case a resolution is adopted by a majority of two-thirds of the total number of the then members of the Provincial Assembly to the effect that his or her conduct is not compatible with his or her office.

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

183. Summoning and Prorogation of Session of Provincial Assembly: (1) The Chief of Province shall summon a session of the Provincial Assembly within twenty days of the declaration of final results of the election to the Provincial Assembly. Thereafter, the Chief of Province shall, from time to time, summon other sessions in accordance with this Constitution.

Provided that the interval between the two consecutive sessions shall not exceed six months.

(2) The Chief of Province may prorogue the sessions of the Provincial Assembly.

(3) In case, during the prorogation or recess of the session of the Provincial Assembly, one-fourth of the total number of its members make a requisition in writing that it is expedient to convene a session or meeting, the Chief of Province shall

specify the date and time for such session or meeting. The Provincial Assembly shall meet or commence its session at the date and time so specified.

184. Address by Chief of Province: (1) The Chief of Province may address a sitting of the Provincial Assembly and summon the members for that purpose.

(2) The Chief of Province shall address the first session after an election to the Provincial Assembly and a sitting of the Provincial Assembly after the commencement of the first session of each year.

185. Quorum of Provincial Assembly: Except as otherwise provided for in this Constitution, no question or motion shall be submitted for a decision in the Provincial Assembly unless one-fourth of the total number of its members are present.

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

Provided that he or she may exercise his or her casting vote in the case of a tie.

187. Privileges of Provincial Assembly: (1) Subject to this Constitution, there shall be full freedom of speech in the Provincial Assembly and no member shall be arrested, detained or prosecuted in any court for anything expressed or any vote cast by him or her in the Provincial Assembly.

(2) Subject to this Constitution, the Provincial Assembly shall have full power to regulate and decide its internal business and it shall be the exclusive right of the Provincial Assembly to decide whether or not any of its proceedings is regular or irregular. No question shall be raised in any court in this regard.

(3) No comment shall be made about the good faith concerning any proceeding of the Provincial Assembly, and no publication and broadcasting of any type shall be made about anything said by any member, intentionally distorting or misinterpreting the meaning of the speech.

(4) The provisions of clauses (1) and (3) shall also apply to other persons who are entitled to participate in the meetings of the Provincial Assembly other than the members of the Provincial Assembly.

(5) No proceedings shall be initiated in any court against any person in respect of the publication, under the authority granted by the Provincial Assembly, of any document, report, vote or proceeding.

Explanation: For the purposes of this clause and clauses (1), (2), (3) and (4), "Provincial Assembly" means and includes a meeting of a committee of the Provincial Assembly.

(6) No member of the Provincial Assembly may be arrested during the period from the issuance of a notice summoning the session to its prorogation.

Provided that nothing in this clause shall be deemed to prevent the arrest under the law of any member on a criminal charge. In case any member is so arrested, the authority making such arrest shall forthwith give information thereof to the person presiding over the Provincial Assembly.

(7) Any breach of the privileges shall be deemed to constitute the contempt of the Provincial Assembly, and the Provincial Assembly shall have the exclusive right to decide whether or not any breach of its privileges has taken place.

(8) In case any person is in contempt of the Provincial Assembly, the person presiding over the Provincial Assembly may, after a decision by the Provincial Assembly to that effect, admonish, warn or impose a sentence of imprisonment for a term not exceeding three months or of a fine not exceeding ten thousand rupees on such person, and such fine shall be recovered as a government due.

Provided that in case such person apologies to the satisfaction of the Provincial Assembly, it may either pardon him or her or remit or commute the sentence imposed on him or her.

(9) Other matters relating to privileges of the Provincial Assembly shall be as provided for in a provincial law.

188. Provisions relating to Vote of Confidence and Motion of No confidence: (1) The Chief Minister may, whenever he or she considers necessary or appropriate to show that he or she has confidence from the Provincial Assembly, table a resolution to that effect in the Provincial Assembly for the vote of confidence.

(2) In case the political party which the Chief Minister represents is divided or a political party in coalition Provincial Government withdraws its support, the Chief

Minister shall table a resolution in the Provincial Assembly for a vote of confidence within thirty days.

(3) In case a resolution tabled pursuant to clauses (1) and (2) is not adopted by a majority of the total number of then members of the Provincial Assembly, the Chief Minister shall relieve of his or her office.

(4) One-fourth of the total number of then members of the Provincial Assembly may table in writing a motion of no confidence against the Chief Minister.

Provided that a motion of no confidence may not be tabled until the first two years after the appointment of the Chief Minister and until another one year after the date of failure of the motion of no confidence once tabled.

(5) A motion of no confidence to be tabled pursuant to clause (4) shall also mention the name of a member proposed for the Chief Minister.

(6) In case a motion of no confidence tabled pursuant to clause (4) is adopted by a majority of the total number of then members of the Provincial Assembly, the Chief Minister shall be relieved of his or her office.

(7) In case the office of the Chief Minister falls vacant because of the adoption of a vote of no confidence pursuant to clause (6), the Chief of Province shall, pursuant to Article 168, appoint as the Chief Minister the member of the Provincial Assembly proposed pursuant to clause (5).

189. Minister, Minister of State and Assistant Minister entitled to Take part in Meetings of Provincial Assembly: The Minister, Minister of State and Assistant Minister shall be entitled to attend, and take part in the proceedings and deliberations of, the Provincial Assembly or its committees.

Provided that a Minister, Minister of State or Assistant Minister who is not a member of the Provincial Assembly shall not be entitled to cast a vote in a meeting of the Provincial Assembly or its committee, and a Minister, Minister of State or Assistant Minister shall not be entitled to vote in a meeting of a committee of which he or she is not a member.

190. Penalty for unauthorized Presence or Voting in Provincial Assembly: In case a person who has not taken oath pursuant to Article 179 or who is not a member of the Provincial Assembly is present or votes in a meeting of the Provincial Assembly or of

its committee as a member, the person shall, by order of the person presiding over the meeting, be fined with a sum of five thousand rupees for each instance of such presence or voting, and such fine shall be recovered as a government due.

191. Restriction on Discussion: No discussion shall be held in the Provincial Assembly on any matters that may cause adverse effect on the dispensation of justice on any cases which are *sub judice* in any court of Nepal and on any judicial acts carried out by Judges in the course of performance of their duties.
192. Transaction of Business in Case of Vacancy in Seat of Member: The Provincial Assembly shall have the power to transact its business notwithstanding any vacancy in the seat of its member; and no proceedings of the Provincial Assembly already conducted shall become invalid even in case it is subsequently discovered that a person who was not so entitled took part in such proceedings.
193. Power of Provincial Assembly to Constitute Committees: The Provincial Assembly may, in accordance with its rules, constitute committees or special committees, as required, in order to manage its working procedures.
194. Procedures relating to Conduct of Business of Provincial Assembly: The Provincial Assembly shall frame rules to conduct its business, maintain order during its meetings and regulate the constitution, functions and procedures of, and other matters relating to, its committees. Until such rules are framed, the Provincial Assembly shall regulate its procedures on its own.
195. Secretary and Secretariat of Provincial Assembly: (1) The Chief of Province shall appoint the Secretary of the Provincial Assembly on recommendation of the Speaker of Province.
- (2) There shall be a Secretariat for conducting and managing the business of the Provincial Assembly. The establishment of such Secretariat and other matters related thereto shall be as provided for in the provincial law.
- (3) The qualification, functions, duties, powers and other conditions of service of the Secretary of the Provincial Assembly shall be as provided for in the provincial law.

196. Remuneration: The remuneration and facilities of the Speaker, Deputy Speaker and members of the Provincial Assembly shall be as provided for in the provincial law, and until such law is made, as specified by the Provincial Government.

Nepal Law Commission

Part-15

Provincial Legislative Procedures

197. Legislative Powers of Provincial Assembly: The legislative powers of the Provincial Assembly shall be as enumerated in lists of Schedule-6, Schedule-7 and Schedule-9.

198. Procedures for Introduction of Bills in Provincial Assembly: (1) A Bill may, subject to this Constitution, be introduced in the Provincial Assembly.

(2) A Money Bill and a Bill concerning law and order may be introduced only as a Government Bill.

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

- (a) Matters concerning imposition, collection, abolition, remission, alteration or regulation of taxes in the Province;
- (b) Matters concerning preservation of the Provincial Consolidated Fund or any other Provincial Government Fund, the deposit of moneys into and the appropriation or the withdrawal of moneys from such Funds, or the reduction, increment or cancellation of appropriations of proposed expenditures from such Funds;
- (c) Regulation of matters relating to the borrowing of money or the guarantee to be given by the Provincial Government, or any matter pertaining to the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Provincial Government,
- (d) Matters concerning custody of all revenues received by Provincial Government Fund, moneys acquired through the repayment of loans, and grant moneys, investments to be made or account or audits of the accounts of the Provincial Government, or
- (e) Other incidental matters directly related to any of the subjects specified in clause (a), (b), (c) or (d).

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

(4) In case any question arises as to whether or not a Bill is a Money Bill, the decision of the Speaker of Provincial Assembly shall be final.

199. Procedures for Adoption of Bills: (1) A Bill adopted by the Provincial Assembly shall be submitted to the Chief of Province for authentication.

(2) In case a session of the Provincial Assembly is prorogued while a Bill is under consideration, deliberations on the Bill may continue at the succeeding session.

Provided that in case the Provincial Assembly is dissolved or its term expires when any Bill is under its consideration, such Bill shall lapse.

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

201. Authentication on Bills: (1) The Bill to be presented to the Chief of Province for authentication pursuant to Article 199 shall be certified by the Speaker of Provincial Assembly and so presented.

Provided that in the case of a Money Bill, the Speaker of Province shall so certify.

(2) A Bill presented to the Chief of Province for the authentication shall be authenticated within fifteen days, and the Provincial Assembly shall be informed thereof as soon as possible.

(3) Except for a Money Bill, in case the Chief of Province is of the opinion that any Bill needs further deliberations, he or she may send back the Bill along with his or her message to the Provincial Assembly within fifteen days from the date of presentation of the Bill to him or her.

(4) In case any Bill is sent back along with his or her message by the Chief of Province pursuant to clause (3), it shall be reconsidered by the Provincial Assembly and in case the Bill so reconsidered is again adopted as it was or with amendments, and is again submitted to him or her, the Chief of Province shall authenticate that Bill within fifteen days of such submission.

(5) A Bill shall become an Act after the Chief of Province authenticates it.

202. Ordinance: (1) In case, at any time, except when the Provincial Assembly is in session, a circumstance exists which renders it necessary to take immediate action, the

Chief of Province may, on the recommendation of the Provincial Council of Ministers, promulgate an Ordinance.

(2) An Ordinance promulgated pursuant to clause (1) shall have the same force and effect as an Act.

Provided that every such Ordinance,-

- (a) Shall be tabled at the session of the Provincial Assembly held after the promulgation, and in case not adopted by the Provincial Assembly, it shall *ipso facto* cease to be effective;
- (b) May be repealed at any time by the Chief of Province; and
- (c) Shall, unless rendered ineffective or repealed pursuant to sub-clause (a) or (b), *ipso facto* cease to be effective at the expiration of sixty days after the day on which a meeting of the Provincial Assembly is held.

Part-16

Province Financial Procedures

203. No Tax to be levied or Loan to be raised: (1) No tax shall be levied and collected in a Province except in accordance with law.

(2) No loan shall be raised and guarantee be given by the Provincial Government except as provided for in the federal law.

204. Provincial Consolidated Fund: Except for the revenues of trusts (*Guthi*), all revenues received by the Provincial Government, all loans raised on the security of revenues, all moneys received in repayment of any loans made under the authority of any provincial Act and any amounts of grants or loans received from the Government of Nepal shall, except as otherwise provided for in the provincial Act, be credited to a Provincial Government Fund to be known as the Provincial Consolidated Fund.

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

- (a) Moneys charged on the Provincial Consolidated Fund;
- (b) Moneys required to meet the expenditure under an Appropriation Act;
- (c) Advance moneys 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 expenditures.

Provided that matters relating to the Provincial Contingency Fund shall be pursuant to Article 212.

206. Expenditures Chargeable on Province Consolidated Fund: The expenditures relating to the following matters shall be charged on the Provincial Consolidated Fund, and approval of the Provincial Assembly shall not be required for such expenditures:-

- (a) The amount required as remuneration and facilities payable to the Speaker of Province and the Deputy Speaker of Province;

- (b) The amount required as remuneration and facilities payable to the Chairperson and members of the Provincial Public Service Commission;
 - (c) All charges relating to debts to which the Provincial Government is liable;
 - (d) Any sum required to satisfy any judgment or decree made by a court against the Provincial Government; and
 - (e) Any other sum specified by the provincial law to be chargeable on the Province Consolidated Fund.
207. Estimates of Revenues and Expenditures: (1) The Provincial Minister for Finance shall, in respect of every fiscal year, lay before the Provincial Assembly an annual estimate setting out, *inter alia*, the following matters:-
- (a) An estimate of revenues;
 - (b) The moneys required to meet the charges on the Provincial Consolidated Fund; and
 - (c) The moneys required to meet the expenditure to be provided for by a Provincial Appropriation Act.
- (2) The annual estimate to be laid pursuant to clause (1) shall also be accompanied by a statement of the expenses allocated to every Ministry in the previous fiscal year and particulars of whether or not the objectives of the expenses have been achieved.
208. Provincial Appropriation Act: The moneys required to meet the expenditure to be provided for by the Provincial Appropriation Act shall be specified under appropriate heads in an Appropriation Bill.
209. Supplementary Estimates: (1) The Provincial Minister for Finance may lay before the Provincial Assembly a supplementary estimate in case it is found in any fiscal year,-
- (a) That the sum authorized to be spent for a particular service by the Provincial Appropriation Act for the current financial year is insufficient, or that a need has arisen for expenditures upon some new

service not provided for in the Provincial Appropriation Act for that year; or

- (b) That the expenditures made during that fiscal year are in excess of the amount authorized by the Provincial Appropriation Act.

(2) The sums included in the supplementary estimates shall be specified under the heads in a Supplementary Appropriation Bill.

210. Votes on Account: (1) Notwithstanding anything contained elsewhere in this Part, a portion of the expenditure estimated for the fiscal year may, when a Provincial Appropriation Bill is under consideration, be incurred in advance in accordance with a Province Act.

(2) No Vote on Account Bill shall be introduced until the estimates of revenues and expenditures have been laid pursuant to Article 207, and the sums involved in the Vote on Account shall not exceed one-third of the estimate of expenditures for the fiscal year.

(3) The expenditures incurred in accordance with the Provincial Vote on Account Act shall be included in the Provincial Appropriation Bill.

211. Votes of Credit: Notwithstanding anything contained elsewhere in this Part, in case owing to an emergency due to natural cause or other reasons, it appears to be impractical or inexpedient in view of the security or interest of the Province to specify the details required pursuant to clause (1) of Article 207, the Provincial Minister for Finance may lay before the Provincial Assembly a Vote of Credit Bill giving only a statement of expenditures.

212. Provincial Contingency Fund: (1) A provincial Act may create a Fund to be known as the Provincial Contingency Fund into which shall be paid from time to time such moneys as may be determined by a provincial Act.

(2) The Fund referred to in clause (1) shall be under the control of the Provincial Government. Any unforeseen expenditure may be met out of such Fund by the Provincial Government.

(3) The amount of the expenditure referred to in clause (2) shall be reimbursed as soon as possible by a provincial Act.

213. Act relating to Financial Procedures: Matters relating to the transfer of moneys appropriated by a provincial Act from one head to another and other financial procedures shall be as provided for in the provincial Act.

Nepal Law Commission

Part-17

Local Executive

214. Executive Power of Local Level: (1) The executive power of the Local Level shall, in accordance with this Constitution and the federal law, be vested in the Rural Municipal Executive or the Municipal Executive.

(2) The local executive power shall be as referred to in Schedule-8 and Schedule-9.

(3) The responsibility for issuing general directives, controlling and regulating the governance of the Rural Municipality and the Municipality shall, subject to this Constitution and other laws, lie in the Rural Municipal Executive and the Municipal Executive.

(4) The executive functions of the Rural Municipality and the Municipality shall be performed in the name of the Rural Municipal Executive and the Municipal Executive.

(5) Any decision or order to be issued in the name of the Rural Municipal Executive and the Municipal Executive pursuant to clause (4) and other instruments of authorization pertaining thereto shall be authenticated as provided for in the Local law.

215. Provisions relating to Chairperson and Vice-Chairperson of Rural Municipal Executive: (1) There shall be a Chairperson of Rural Municipal Executive in each Rural Municipality. The Rural Municipal Executive shall be formed under his or her chairpersonship.

(2) The Rural Municipal Executive referred to in clause (1) shall consist of one Vice-Chairperson, Ward Chairperson elected from each Ward and members elected pursuant to clause (4).

(3) The Chairperson and the Vice-Chairperson shall be elected by the voters residing within the concerned Rural Municipality area by secret ballots on the basis of one person one vote, in accordance with the first past the post electoral system.

Explanation: For the purposes of this Article, "Chairperson" and "Vice-Chairperson" mean the Chairperson and the Vice-Chairperson of the Rural Municipal Executive.

(4) The members of the Rural Municipal Executive shall also include four women members elected by the members of the Rural Municipal Assembly from amongst themselves and two members elected by the Rural Municipal Assembly from the *Dalit* or minority communities, having possessed the qualifications referred to in clause (5), within fifteen days after receipt of the final results of the election to the Rural Municipal Assembly referred to in Article 222.

(5) A person who has the following qualifications shall be qualified to be elected to the office of the Chairperson, Vice-Chairperson, Ward Chairperson and member: -

- (a) One who is a citizen of Nepal;
- (b) One who has completed the age of twenty-one years;
- (c) One whose name is included in the electoral rolls of the Rural Municipality;
- (d) One who is not disqualified by any law.

(6) The term of office of the Chairperson, Vice-Chairperson, Ward Chairperson and member shall be five years after the date of being elected.

(7) A person who has been elected as the Chairperson for two terms shall not be eligible to be a candidate in an election to the Rural Municipality.

(8) The office of the Chairperson, Vice-Chairperson, Ward Chairperson or member shall fall vacant in any of the following circumstances: -

- (a) In case the Chairperson tenders resignation in writing to the Vice-Chairperson, and in case the Vice-Chairperson tenders resignation to the Chairperson;
- (b) In case his or her term of office expires;
- (c) In case he or she dies.

(9) In case the seat falls vacant pursuant to clause (7) while the term of office of the Chairperson or Vice-Chairperson still remains for more than one year, the vacancy shall be fulfilled through by-election for the remaining term.

216. Provisions relating to Mayor and Deputy Mayor of Municipal Executive: (1) There shall be a Mayor in each Municipality as Head of the Municipal Executive. The Municipal Executive shall be formed under his or her chairpersonship.

(2) The Municipal Executive referred to in clause (1) shall consist of one Deputy Mayor, Ward Chairperson elected from each Ward and members elected pursuant to clause (4).

(3) The Mayor and the Deputy Mayor shall be elected by the voters residing within the concerned Municipal area by secret ballots on the basis of one person one vote, in accordance with the first past the post electoral system.

Explanation: For the purposes of this Article, "Mayor" and "Deputy Mayor" mean the Mayor and the Deputy Mayor of the Municipal Executive.

(4) The members of the Municipal Executive shall also include five women members elected by the members of the Municipal Assembly from amongst themselves and three members elected by the Municipal Assembly from the *Dalit* or minority communities, in possession of the qualifications referred to in clause (5) within fifteen days after the final results of the election to the Municipal Assembly pursuant to Article 223.

(5) A person who has the following qualifications shall be qualified to be elected to the office of the Mayor, Deputy Mayor, Ward Chairperson and member:-

- (a) One who is a citizen of Nepal;
- (b) One who has completed the age of twenty-one years;
- (c) One whose name is included in the electoral rolls of the Municipality;
- (d) One who is not disqualified by any law.

(6) The term of office of the Mayor, Deputy Mayor, Ward Chairperson and member shall be five years after the date of being elected.

(7) A person who has been elected as the Mayor for two terms shall not be eligible to be a candidate in an election to the Municipality.

(8) The office of the Mayor, Deputy Mayor, Ward Chairperson or Member shall fall vacant in any of the following circumstances:-

- (a) In case the Mayor tenders resignation in writing to the Deputy Mayor, and in case the Deputy Mayor tenders resignation in writing to the Mayor;
- (b) In case his or her term of office expires;
- (c) In case he or she dies.

(9) In case the seat falls vacant pursuant to clause (8) while the term of office of the Mayor or Deputy Mayor still remains for more than one year, the vacancy shall be fulfilled through by-election for the remaining term of office.

217. Judicial Committee: (1) There shall be a three-member judicial committee to be coordinated by its Vice-Chairperson in case of a Rural Municipality and by its Deputy Mayor in case of a Municipality, in order to settle disputes under their respective jurisdictions in accordance with law.

(2) The judicial committee referred to in clause (1) shall consist of two members elected by the members of the Rural Municipal Assembly or the Municipal Assembly from amongst themselves.

218. Conduct of Business of Rural Municipal Executive and Municipal Executive: Allocation and conduct of business of the Rural Municipal Executive and the Municipal Executive shall be carried out in accordance with the rules approved by the Rural Municipal Executive and the Municipal Executive, respectively.

219. Other Provisions relating to Local Level Executive: Other provisions relating to the Local Level Executive, except those contained in this Part, shall be as provided for in the federal law subject to this Constitution.

220. District Assembly and District Coordination Committee: (1) There shall be a District Assembly to make coordination between the Rural Municipalities and Municipalities within a district.

(2) The District Assembly shall consist of Chairpersons and Vice-Chairpersons of Rural Municipal Executives, and Mayors and Deputy Mayors of Municipal Executives within the district. The first meeting of the District Assembly shall be held within thirty days of the date of final results of the election to the Village Assemblies and the Municipal Assemblies.

(3) The District Assembly shall elect the District Coordination Committee consisting of a maximum of nine Members including one Chief, one Deputy Chief, at least three women and at least one *Dalit* or minority. The District Coordination Committee shall discharge all functions required to be discharged by the District Assembly.

(4) A Member of a Rural Municipal Assembly or Municipal Assembly within the concerned district shall be eligible to be a candidate for the office of Chief, Deputy Chief or Member of the District Coordination Committee. In case a member is elected to the office of Chief, Deputy Chief or Member of the District Coordination Committee, his or her office of Member of Rural Municipal Assembly or of Municipal Assembly, as the case may be, shall *ipso facto* fall vacant.

(5) The term of office of the Chief, Deputy Chief and member of the District Coordination Committee shall be five years after the date of being elected.

(6) The office of the Chief, Deputy Chief and member of the District Coordination Committee shall fall vacant in any of the following circumstances:-

- (a) In case the Chief tenders resignation in writing to the Deputy Chief, and in case the Deputy Chief or member tenders resignation in writing to the Chief;
- (b) In case his or her term of office expires;
- (c) In case he or she dies.

(7) The functions, duties and powers of the District Assembly shall be as follows: -

- (a) To make coordination between the Rural Municipalities and Municipalities within the district;
- (b) To monitor development and construction works to make balance of such works;
- (c) To make coordination between the Federal and the Provincial Government offices and Rural Municipalities and Municipalities in the district;

(d) To perform such other functions as provided for in the provincial law.

(8) Provisions relating to the conduct of the District Assembly, facilities of Members of the District Coordination Committee and other matters relating to the District Assembly shall be as provided for in the provincial law.

Nepal Law Commission

Part-18

Local Legislature

221. Legislative Powers of Local Level: (1) Subject to this Constitution, the legislative powers of the Local Level shall be vested in the Rural Municipal Assembly and the Municipal Assembly.

(2) The legislative powers of the Rural Municipal Assembly and the Municipal Assembly shall be as enumerated in the lists contained in Schedule-8 and Schedule-9.

222. Composition of Rural Municipal Assembly: (1) There shall be a Rural Municipal Assembly in each Rural Municipality.

(2) A Rural Municipal Assembly referred to in clause (1) shall consist of the Chairperson and Vice-Chairperson of the Rural Municipal Executive, Ward Chairpersons, and four members elected from each ward and Members of the Rural Municipal Executive elected from *Dalit* and minority communities pursuant to clause (4) of Article 215.

(3) A Rural Municipal Assembly to be formed pursuant to clause (1) shall have representation of at least two women from each ward.

(4) Each ward of a Rural Municipality shall have a Ward Committee composed of the Ward Chairperson and four members in accordance with the federal law. Such Ward Chairperson and Ward members shall be elected in accordance with the first past the post electoral system.

(5) Every person who has completed the age of eighteen years and whose name is included in the electoral rolls of the Rural Municipality shall have a right to vote as provided for in the federal law.

(6) A person who has the following qualifications shall be eligible to become a candidate for the office of the Member of the Rural Municipal Assembly:-

- (a) One who is a citizen of Nepal;
- (b) One who has completed the age of twenty-one years;
- (c) One whose name is included as a voter in the electoral rolls of the Rural Municipality; and

(d) One who is not disqualified by any law.

(7) Matters relating to the election to the Rural Municipal Assembly and other matters pertaining thereto shall be as provided for in the federal law.

223. Composition of Municipal Assembly: (1) Each Municipality shall have a Municipal Assembly.

(2) A Municipal Assembly referred to in clause (1) shall consist of the Mayor and the Deputy Mayor of the Municipal Executive, Ward Chairpersons, and four members elected from each Ward and members of the Municipal Executive elected from *Dalit* or minority communities pursuant to clause (4) of Article 216.

(3) A Municipal Assembly to be formed pursuant to (1) shall have representation of at least two women from each Ward.

(4) Each ward of a Municipality shall have a Ward Committee composed of one Ward Chairperson and four members as provided for in the federal law. Such Ward Chairperson and Ward members shall be elected in accordance with the first past the post electoral system.

(5) Every person who has completed the age of eighteen years and whose name is included in the electoral rolls of the Municipality shall have a right to vote as provided for in federal law.

(6) A person who has the following qualifications shall be qualified to be a candidate for the office of member of the Municipal Assembly:-

(a) One who is a citizen of Nepal;

(b) One who has completed the age of twenty-one years;

(c) One whose name included in the electoral rolls of the Municipality;
and

(d) One who is not disqualified by any law.

(7) Matters relating to the election to the Municipal Assembly and other matters pertaining thereto shall be as provided for in the federal law.

224. Chairperson and Vice-Chairperson of Rural Municipal Assembly and Municipal Assembly: The Chairperson and Vice-Chairperson of a Rural Municipal Executive and the Mayor and Deputy Mayor of a Municipal Executive shall *ipso facto* be the

Chairperson and Vice-Chairperson of the Rural Municipal Assembly and the Municipal Assembly, respectively, and perform functions as such.

225. Term of Rural Municipal Assembly and Municipal Assembly: The term of a Rural Municipal Assembly and of a Municipal Assembly shall be five years from the date of election. Election to another Rural Municipal Assembly and Municipal Assembly shall be completed within six months of the expiration of such term.

226. Powers to Make Law: (1) A Rural Municipal Assembly and Municipal Assembly may make necessary laws on the matters enumerated in the lists contained in Schedule-8 and Schedule-9.

(2) The process for making laws referred to in clause (1) shall be as provided for in a provincial law.

227. Other Matters relating to Rural Municipal Assembly and Municipal Assembly: Other matters relating to the conduct of business of a Rural Municipal Assembly and Municipal Assembly, rules of procedures of meetings, formation of committees, conditions in which the office of member falls vacant, facilities to be entitled to members of the Rural Municipal Assembly and Municipal Assembly and employees and offices of the Rural Municipality and Municipality, as the case may be, shall be as provided for in a provincial law.

Part-19

Local Financial Procedures

228. No Tax to be levied or Loan to be raised: (1) No tax shall be levied and collected and no loan raised in the Local Level except in accordance with law.

(2) The Local Level may levy tax by making a law on matters falling within its jurisdiction without prejudice to national economic policies, carriage of goods and services, capital and labour market, and the neighbouring Province or Local Level.

229. Local Consolidated Fund: (1) There shall be a Local Consolidate Fund in each Rural Municipality and Municipality under the Local Level. All revenues received by the Rural Municipality or Municipality, any amounts of grants received from the Government of Nepal and the Provincial Government, all loans raised by the Rural Municipality and Municipality, and amounts received from other sources shall be credited to such Fund.

(2) Matters relating to expenditures from the Local Consolidated Fund referred to in clause (1) shall be as provided for in a Local law.

230. Estimates of Revenues and Expenditures of Rural Municipality and Municipality: (1) The Rural Municipal Executive and the Municipal Executive shall, subject to this Constitution, lay an estimate of revenues and expenditures of every fiscal year before, and have the estimate adopted by, the Rural Municipal Assembly and the Municipal Assembly, respectively, as provided for in the Local law.

(2) In case, in laying an estimate of revenues and expenditures pursuant to clause (1), the Rural Municipal Executive or Municipal Executive is required to make a deficit budget, it shall also propose the sources to meet the deficit as provided for in the federal law and provincial law.

Part-20

Interrelations between Federation, Province and Local Level

231. Legislative Interrelations between Federation and Provinces: (1) A federal law may be made to be applicable to the whole of, or, if required, to any part of, the territory of Nepal.

(2) A provincial law may be made to be applicable to the whole of, or as required, to any part of the territory of the Province.

(3) In case two or more Provinces make a request to the Government of Nepal to make laws on any matter enumerated in Schedule-6, the Federal Parliament may make necessary laws. Such laws shall be applicable to the concerned Provinces only.

232. Relations between Federation, Province and Local Level: (1) The relations between the Federation, Provinces and Local Levels shall be based on the principles of cooperation, co-existence and coordination.

(2) The Government of Nepal may, in accordance with this Constitution and federal law, give necessary directions to any Provincial Council of Ministers on matters of national importance and on matters to be coordinated among the Provinces, and it shall be the duty of the concerned Provincial Council of Ministers to abide by such directions.

(3) In case any type of act that may seriously undermine the sovereignty, territorial integrity, nationality or independence of Nepal is carried out in any Province, the President may, as required, warn such Provincial Council of Ministers, suspend the Provincial Council of Ministers and the Provincial Assembly for a period not exceeding six months or dissolve them.

(4) Any suspension or dissolution of any Provincial Council of Ministers and the Provincial Assembly shall be approved by a majority of the total number of the then members of the Federal Parliament within thirty-five days.

(5) In case dissolution made pursuant to clause (3) is approved by the Federal Parliament, election to the Provincial Assembly shall be held in such Province within six months.

Provided that such suspension or dissolution shall, *ipso facto* be ceased to operate in case the Federal Parliament does not approve it.

(6) The Federal Rule shall apply to such Province during the period of such suspension in case the suspension made pursuant to clause (3) is approved pursuant to clause (4) and until the election to the Provincial Assembly is held pursuant to clause (5).

(7) During the continuance of the Federal Rule, the Federal Parliament may make laws with respect to any matter enumerated in the List contained in Schedule-6. Such laws shall continue to apply until repealed by another laws made by the concerned Provincial Assembly.

(8) The Government of Nepal may, directly or through the Provincial Government, render necessary assistance and give necessary directives to any Rural Municipal Executive or Municipal Executive in accordance with this Constitution and the federal law. It shall be the duty of the Rural Municipal Executive or Municipal Executive to abide by such directives.

233. Relations between Provinces: (1) One Province shall render assistance in the execution of legal provisions or judicial and administrative decisions or orders of another Province.

(2) A Province may exchange information and consult with another Province on matters of common concern and interest, coordinate each other on their activities and legislations and extend mutual assistance.

(3) A Province shall, in accordance with its provincial law, provide equal security, treatment and facility to residents of another Province.

234. Inter-Province Council: (1) There shall be an Inter-Province Council as follows to settle political disputes arising out between the Federation and a Province and between Provinces:-

- | | | |
|-----|--|---------------|
| (a) | Prime Minister | - Chairperson |
| (b) | Minister for Home Affairs of the Government of Nepal | - Member |
| (c) | Minister for Finance of the Government of Nepal | - Member |
| (d) | Chief Ministers of the concerned Province | - Member |

(2) The Inter-Province Council may meet as required.

(3) The Inter-Province Council may invite to its meeting a Minister of the Government of Nepal and a Minister of the concerned Province who is responsible for the matter of dispute and a concerned expert.

(4) The rules of procedures of the meeting of the Inter-Province Council shall be as determined by the Council itself.

235. Coordination between Federation, Province and Local Level: (1) The Federal Parliament shall make necessary laws in order to maintain coordination between the Federation, Province and Local Level.

(2) The Provincial Assembly may maintain coordination between the Province and Rural Municipalities or Municipalities and settle political disputes, if any, that have arisen, in coordination with the concerned Rural Municipality, Municipality and the District Coordination Committee.

(3) The processes and procedures for the settlement of disputes referred to in clause (2) shall be as provided for in the provincial law.

236. Inter-Province Commerce: Notwithstanding anything contained elsewhere in this Constitution, it is prohibited to make any type of obstruction to the carriage of goods or extension of services by a Province or Local Level to another Province or Local Level or to the carriage of goods or extension of services to any Province or Local Level or to levy tax, fee or charge thereon or to make any type of discrimination on the carriage or extension of such services or goods.

237. Not to Affect Jurisdiction of Constitutional Bench of Supreme Court: Nothing contained in this Part shall affect the jurisdiction of the Constitutional Bench of the Supreme Court referred to in Article 137.

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 of Nepal consisting of the 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 recommendation of the Constitutional Council, appoint the Chief Commissioner and Commissioners.

(3) The term of office of the Chief Commissioner and 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 fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case he or she attains the age of sixty-five years,
- (c) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (d) In case he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness;
- (e) In case he or she dies.

(5) The Chief Commissioner and Commissioners appointed pursuant to clause (2) shall not be eligible for reappointment.

Provided that a Commissioner may be appointed to the office of Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his or her term of office shall be so computed as to include his or her term as the Commissioner.

(6) A person shall be eligible to be appointed as the Chief Commissioner or a Commissioner of the Commission for the Investigation of Abuse of Authority in case he or she possesses the following qualifications:-

- (a) One who has acquired a bachelor's degree from a recognized university;
- (b) One who is not a member of any political party at the time of appointment;
- (c) One who has gained at least twenty years of experiences in the field of either accounting, revenue, engineering, law, development or research and being a distinguished person;
- (d) One who has attained the age of forty-five years; and
- (e) One who bears high moral character.

(7) The remuneration and other terms and conditions of service of the Chief Commissioner and the Commissioners shall be as provided for in the federal law. The remuneration and terms and 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 cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chief Commissioner or Commissioner shall not be eligible for appointment in 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.

239. Functions, Duties and Powers of Commission for the Investigation of Abuse of Authority: (1) The Commission for the Investigation of Abuse of Authority may, in accordance with law, conduct, or cause to be conducted investigations of any abuse of authority committed through corruption by any person holding public office.

Provided that this clause shall not apply to any official in relation to whom this Constitution itself separately provides for such action and to any official in relation to whom other law provides for a separate special provision.

(2) In the case of the persons who may be removed from the office by the virtue of adoption of a motion of impeachment pursuant to Article 101, the Judges who may be removed by the Judicial Council and the persons who are liable to action in accordance with the Army Act, it may conduct, or cause to be conducted, investigations in accordance with the federal law after they have been removed from office.

(3) In case the Commission for the Investigation of Abuse of Authority finds, on investigation conducted pursuant to clause (1) or (2), that a person holding public office has committed an act which is defined by law as corruption, it may file, or cause to be filed, a case against that person and other person involved in that offense in the competent court in accordance with law.

(4) In case, on investigation conducted pursuant to clause (1) or (2), any act or action done or taken by a person holding public office appears to be of such nature as to be falling under the jurisdiction of another official or institution, the Commission for the Investigation of Abuse of Authority may write to the concerned official or institution for necessary action.

(5) The Commission for the Investigation of Abuse of Authority may delegate any of its functions, duties and powers on the conducting of investigations or filing cases, to the Chief Commissioner, a Commissioner or an officer employee of the Government of Nepal to be exercised and complied with subject to the specified conditions.

(6) Other functions, duties and powers and rules of procedure of the Commission for the Investigation of Abuse of Authority shall be as provided for in the federal law.

Part-22

Auditor General

240. Auditor General: (1) There shall be an Auditor General of Nepal.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Auditor General.

(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 fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case he or she attains the age of sixty-five years;
- (c) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (d) In case he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness;
- (e) In case he or she dies.

(5) The Auditor General appointed pursuant to clause (2) shall not be eligible for reappointment.

(6) A person shall be eligible to be appointed as the Auditor General in case he or she possesses the following qualifications:-

- (a) One who has served in the Special Class of the Government of Nepal or having at least twenty years of experiences in audit related work, after having obtained a bachelor's degree in management, commerce or accounting from a recognized university or having passed a chartered accountancy examination;
- (b) One who is not a member of any political party at the time of appointment;

- (c) One who has attained the age of forty-five years; and
- (d) One who bears high moral character.

(7) The remuneration and terms and conditions of service of the Auditor General shall be as provided for in the federal law. The remuneration and conditions of service of the Auditor General shall not, so long as he or she holds office, be altered to his or her disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Auditor General shall not be eligible for appointment in another 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.

241. Functions, Duties and Powers of Auditor-General: (1) The accounts of all Federal and Provincial Government Offices including the Office of the President, Office of the Vice-President, Supreme Court, Federal Parliament, Provincial Assembly, Provincial Government, Local Level, Constitutional Bodies and Offices thereof, Courts, Office of the Attorney General, Nepal Army, Nepal Police and Armed Police Force, Nepal shall be audited by the Auditor-General in accordance with law, having regard to, *inter alia*, the regularity, economy, efficiency, effectiveness and the propriety thereof.

(2) The Auditor General shall be consulted in the matter of appointment of an auditor to carry out the audit of a 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 body.

(3) The Auditor General shall, at all times, have power to examine any books of accounts for the purpose of carrying out the functions referred to in clause (1). It shall be the duty of the concerned chief of office to provide all such documents and

information as may be demanded by the Auditor General or any of his or her employees.

(4) The accounts to be audited pursuant to clause (1) shall be maintained in the form prescribed by the Auditor General, as provided for in the federal law.

(5) In addition to the accounts of the offices referred to in clause (1), federal law may also require the accounts of any other offices or bodies to be audited by the Auditor General.

Nepal Law Commission

Part-23

Public Service Commission

242. Public Service Commission (1) There shall be a Public Service Commission of Nepal, consisting of the Chairperson and four other Members.

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

(3) At least fifty percent of the total number of Members of the Public Service Commission shall be appointed from amongst the persons who have worked for twenty years or more in any government service, and the rest of the Members shall be appointed from amongst the persons who hold reputation after having conducted research, studies, teaching or any other significant work in the field of science, technology, art, literature, law, public administration, sociology or other sphere of national life.

(4) The term of office of the Chairperson and 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 a Member may be appointed to the office of Chairperson, and when a Member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the Member.

(6) Notwithstanding anything contained in clause (4), the office of the Chairperson or a Member of the Public Service Commission shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case he or she attains the age of sixty-five years;
- (c) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (d) In case he or she is removed from the office by the President on recommendation of the Constitutional Council on grounds of his or

her inability to hold office and discharge the functions due to physical or mental illness;

(e) In case he or she dies.

(7) A person shall be eligible to be appointed as the Chairperson or a member of the Public Service Commission in case he or she possesses the following qualifications:-

- (a) One who has acquired a Master's degree from a recognized university;
- (b) One who is not a member of any political party at the time of appointment;
- (c) One who has attained the age of forty-five years; and
- (d) One who bears high moral character.

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

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(9) A person once appointed as the Chairperson and the members 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 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.

243. Functions, Duties and Powers of 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 the positions in the Civil Service.

Explanation: For the purposes of this Article, "positions in the Civil Service" means all positions in the services of the Government of Nepal, other than the positions in the services of Army personnel, Nepal Police or Armed Police Force, Nepal and such other positions in the services as are excluded by an Act from the Civil Service.

(2) The Public Service Commission shall conduct written examinations to be held for appointment to the offices of the Nepal Army, Nepal Police, Armed Police Force, Nepal, other federal governmental services and of bodies corporate, other than the positions in the Civil Service.

Explanation: For the purposes of this Article, "body corporate" means a corporation, company, bank or board of which more than fifty percent or more of the shares or assets is owned or controlled by the Government of Nepal, except a University or Teacher Service Commission, or a Commission, Corporation, Authority, Body, Academy, Board, Centre, Council and other body corporate of similar nature established under federal law or formed by the Government of Nepal.

(3) The Public Service Commission shall be consulted on the general principles to be followed in the course of making appointment and promotion to any position of the Nepal Army, Nepal Police, Armed Police Force, Nepal and other federal government services.

(4) The Public Service Commission shall be consulted on the laws relating to the conditions of service of the employees in the service of a body corporate and on the general principles to be followed in the course of making promotion to any position of such service and taking departmental action against any such employee.

(5) No permanent appointment to any pensionable position chargeable on the Government of Nepal shall be made except in consultation with 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) Principles to be followed in making appointments to, promotions to, the Federal Civil Service or positions thereof and taking departmental action;
- (c) Matters concerning the suitability of any candidate for appointment to the 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 a position in one type of Federal Civil Service to a position in other type of Federal Civil Service or transfer or promotion from other government service to the Federal Civil Service or for a change in service or transfer from a position in a Provincial Civil Service to a position in the Federal Civil Service or from a position in the Federal Civil Service to a Provincial Civil Service;
- (e) Matters concerning the permanent transfer or promotion of an employee working in any position which does not require consultation with the Public Service Commission to any position which requires consultation with the Public Service Commission; and
- (f) Matters relating to departmental action against any employee of the Federal Civil Service.

(7) Notwithstanding anything contained in clause (6), matters falling within the jurisdiction of the Judicial Service Commission referred to in Article 154 shall be as provided for in that Article.

(8) The Public Service Commission may delegate any of its functions, duties and powers to its Chairperson or Member, an employee of the Government of Nepal as to be exercised and complied with subject to the specified conditions.

(9) Other functions, duties and powers and rules of procedure of the Public Service Commission shall be as provided for in the federal law.

244. Provisions relating to Provincial Public Service Commission: (1) Each Province shall have a Provincial Public Service Commission.

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

(3) The Federal Parliament shall by a law determine grounds and standards for the purposes of clause (2).

Nepal Law Commission

Part-24

Election Commission

245. Election Commission (1) There shall be an Election Commission of Nepal, consisting of a Chief Commissioner and four other Commissioners. The Chief 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 Commissioners.

(3) The term of office of the Chief Election Commissioner and Commissioners of the Election Commission shall be six years from the date of appointment.

(4) Notwithstanding anything contained in clause (3), the office of the Chief Election Commissioner or Election Commissioner shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case he or she attains the age of sixty-five years;
- (c) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (d) In case he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness;
- (e) In case he or she dies.

(5) The Chief Election Commissioner and Commissioners appointed pursuant to clause (2) shall not be eligible for reappointment.

Provided that a Commissioner may be appointed to the office of Chief Election Commissioner, and when a Commissioner is so appointed as the Chief Election Commissioner, his or her term of office shall be so computed as to include his or her term as the Commissioner.

(6) A person shall be eligible to be appointed as the Chief Election Commissioner or an Election Commissioner in case he or she possesses the following qualifications:-

- (a) One who has attained a bachelor's degree from a recognized university;
- (b) One who is not a member of any political party at the time of appointment;
- (c) One who has attained the age of forty-five years; and
- (d) One who bears high moral character.

(7) The remuneration and other conditions of service of the Chief Election Commissioner and Election Commissioners shall be as provided for in the federal law. The remuneration and conditions of service of the Chief Election Commissioner and the Commissioners shall not be altered to their disadvantage so long as they hold office.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chief Election Commissioner and a Commissioner of the Election 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 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 federal law, conduct, supervise, direct and control the election to the President, Vice-President, members of the Federal Parliament, members of Provincial Assemblies and members of Local Level. The Election Commission shall, for these purposes, prepare electoral rolls.

(2) The Election Commission shall hold a referendum on a matter of national importance in accordance with this Constitution and federal law

(3) In case, after nomination of candidacy for the President, Vice-President, member of the Federal Parliament, member of Provincial Assemblies or member of Local Level has been filed but before the election results are declared, a question

arises about the qualification of a candidate, the Election Commission shall decide that question.

(4) The Election Commission may so delegate any of its functions, duties and powers to the Chief Election Commissioner, Election Commissioner or any government employee as to be exercised and complied with subject to the specified conditions.

(5) Other functions, duties and powers and rules of procedure of the Election Commission shall be as provided for in federal law.

247. To provide Necessary Assistance to Election Commission: The Government of Nepal, Provincial Government and Local Government shall provide such employees and other assistance to the Election Commission as may be required to perform its functions 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 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 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 a Member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the Member.

(5) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National Human Rights Commission shall fall vacant in any of the following circumstances:-

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (c) In case he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness;
- (d) In case he or she dies.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National Human Rights Commission in case he or she possesses the following qualifications:-

- (a) In the case of the Chairperson, one who is a retired Chief Justice or a retired Justice of Supreme Court and has rendered outstanding contribution to the protection and promotion of human rights or

being a renowned person having been active for at least twenty years in and rendered outstanding contribution to the protection and promotion of human rights or to various fields of national life;

- (b) In the case of a Member, one who is involved in the field of the protection and promotion of human rights or rights and interests of the child or being a renowned person having been active for at least twenty years in and rendered outstanding contribution to various fields of national life;
- (c) One who has acquired a Bachelor's degree from a recognized university;
- (d) One who has attained the age of forty-five years;
- (e) One who is not a member of any political party at the time of appointment;
- (f) One who bears high moral character.

(7) The remuneration and other conditions of service of the Chairperson and members of the National Human Rights Commission shall be as provided for in the federal law. The remuneration and conditions of service of the Chairperson and 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 cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National Human Rights 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 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 respect, protect and promote human rights and ensure effective enforcement thereof.

(2) For the accomplishment of the duty referred to in clause (1), the National Human Rights Commission shall perform the following functions:

- (a) To inquire, on its own initiative or on petition or complaint presented in or sent to the Commission by a victim or any person on his or her behalf or on information received by the Commission from any source, into and investigate complaints of violations of human rights of an individual or group or abetment thereof, and make recommendation for action against the perpetrators;
- (b) In case any official who has the responsibility or duty to prevent violations of human rights fails to fulfil or perform his or her responsibility or duty or shows reluctance in the fulfilment or performance of his or her responsibility or duty, to make recommendation to the concerned authority to take departmental action against such official;
- (c) In case it is required to institute a case against any person or organization who has violated human rights, to make recommendation to file a case in the court in accordance with law;
- (d) To coordinate and collaborate with civil society in order to enhance awareness on human rights;
- (e) To make recommendation, accompanied by the reasons and grounds, to the concerned body for taking departmental action against and imposing punishment on those who are violators of human rights;
- (f) To carry out periodic reviews of the relevant laws relating to human rights and make recommendation to the Government of Nepal for necessary improvements in and amendments to such laws;
- (g) In case Nepal has to become a party to any international treaty or agreement on human rights, to make recommendation, accompanied by the reasons therefor, to the Government of Nepal; and monitor

whether any such treaty or an agreement to which Nepal is already a party has been implemented, and in case it is found not to have been implemented, to make recommendation to the Government of Nepal for its implementation;

- (h) To publish, in accordance with law, the names of the officials, persons or bodies who have failed to observe or implement any recommendations or directives made or given by the National Human Rights Commission in relation to the violations of human rights, and record them as violators of human rights.

(3) In discharging its functions or performing its duties, the National Human Rights Commission may exercise the following powers: -

- (a) To exercise all such powers as of a court in respect of the summoning and requiring the presence of any person before the Commission and seeking and recording his or her information or statements or depositions, examining evidence and producing exhibits and proofs;
- (b) On receipt of information by the Commission in any manner that a serious violation of human rights has already been committed or is going to be committed, to search any person or his or her residence or office, enter such residence or office without notice, and, in the course of making such search, take possession of any document, evidence or proof related with the violation of human rights;
- (c) In the event of necessity to take action immediately on receipt of information that the human rights of any person are being violated, to enter any government office or any other place without notice and rescue such person;
- (d) To order for the provision of compensation in accordance with law to any person who is a victim of the violations of human rights.

(4) The National Human Rights Commission may so delegate any of its functions, duties and powers to the Chairperson of the Commission, any of its Members or a government employee as to be exercised and complied with subject to the specified conditions.

(5) Other functions, duties and powers and rules of procedure of the National Human Rights Commission shall be as provided for in the federal law.

Nepal Law Commission

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 of Nepal, consisting of a maximum of five members including a Chairperson.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the National Natural Resources and Fiscal Commission.

(3) The term of office of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be six years from the date of appointment.

(4) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National Natural Resources and Fiscal Commission shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case he or she attains the age of sixty-five years;
- (c) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (d) In case he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness;
- (e) In case he or she dies.

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

Provided that a member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the member.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National Natural Resources and Fiscal Commission in case he or she possesses the following qualifications:-

- (a) One who has expertise upon being active for at least twenty years in the field of natural resources or fiscal management, economics, law, management, after holding a bachelor's degree in the relevant subject from a recognized university;
- (b) One who is not a member of any political party at the time of appointment,
- (c) One who has attained the age of forty-five years,
- (d) One who bears high moral character.

(7) The remuneration and other conditions of service of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be as provided for in the federal law, and their remuneration and conditions of service shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National Natural Resources and Fiscal 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 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. 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) To determine detailed basis and modality for the distribution of revenues between the Federal, Provinces and Local Governments out of the Federal Consolidated Fund in accordance with the Constitution and law;

- (b) To make a recommendation about equalization grants to be provided to the Province and Local Governments out of the Federal Consolidated Fund;
- (c) To conduct study and research work and prepare parameters as to conditional grants to be provided to the Province and Local Governments in accordance with national policies and programs, norms and condition of infrastructures;
- (d) To determine detailed basis and modality for the distribution of revenues between the Province and Local Governments out of the Provincial Consolidated Fund;
- (e) To recommend measures to meet expenditures of the Federal, Province and Local Governments, and to reform revenue collection;
- (f) To analyse macro-economic indicators and recommend ceiling of internal loans that the Federal, Province and Local Governments can borrow;
- (g) To review the bases for the distribution between the Federal and Provincial Governments of revenues and recommend for revision;
- (h) To set bases for the determination of shares of the Government of Nepal, Provincial Government and Local Level in investments and returns, in the mobilization of natural resources;
- (i) To do study and research work on possible disputes that may arise between the Federation and the Provinces, between Provinces, between a Province and a Local Level, and between Local Levels, and make suggestions to act in a coordinated manner for the prevention of such disputes.

(2) The National Natural Resources and Fiscal Commission shall carry out necessary study and research work about environmental impact assessment required in the course of distribution of natural resources, and make recommendations to the Government of Nepal.

(3) Other functions, duties and powers and rules of procedure of the National Natural Resources and Fiscal Commission, detailed bases required to be followed in

the mobilization of natural resources or distribution of revenues, and other matters including conditions of service of the officials of the Commission shall be as provided for in the federal law.

Nepal Law Commission

Part-27

Other Commissions

252. **National Women Commission:** (1) There shall be a National Women 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 National Women Commission.

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

(4) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National Women Commission shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case he or she attains the age of sixty-five years;
- (c) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (d) In case he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness;
- (e) In case he or she dies.

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

Provided that a member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the member.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National Women Commission in case he or she possesses the following qualifications:-

- (a) A woman who has rendered outstanding contribution, for at least ten years, in the field of rights and interests of women or gender justice or women development or human rights and law;
- (b) In the case of the Chairperson, one who has acquired a Bachelor's degree from a recognized university;
- (c) One who has attained the age of forty-five years;
- (d) One who is not a member of any political party at the time of appointment, and
- (e) One who bears high moral character.

(7) The remuneration and conditions of service of the Chairperson and members of the National Women Commission shall be as provided for in the federal law, and their remuneration and conditions of service shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National Women 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 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 National Women Commission: (1) The functions, duties and powers of the National Women Commission shall be as follows:-

- (a) To formulate policies and programs concerning the rights and interests of the women and submit them to the Government of Nepal for implementation;
- (b) To monitor as to whether or not laws concerning the rights and interests of the women and obligations under the international treaties to which Nepal

is a party have been implemented, and make suggestions, accompanied by the measures for their effective compliance and implementation to the Government of Nepal;

- (c) In order to have the women included in the mainstream of national development and ensure proportional participation in all organs of the State, to assess, monitor and evaluate the existing policies and programs, and make recommendation to the Government of Nepal for their effective implementation;
- (d) To carry out study and research work on the legal provisions relating to gender equality, empowerment of women and relating to women, make recommendations to the concerned bodies on reforms to be made on such laws, and monitor the same;
- (e) To make suggestions to the Government of Nepal about the preparation of reports to be submitted by Nepal in accordance with the provisions contained in the international treaties or agreements concerning women's rights, to which Nepal is a party;
- (f) In case it is necessary to file cases against any persons or bodies on matters of violence against women or being subjected to social ill-practices or infringement of or deprivation of enjoyment of women's rights, to make recommendations to the concerned bodies to file such cases in courts in accordance with the law.

(2) The National Women Commission may so delegate any of its functions, duties and powers to the Chairperson of the Commission, any of its members or any employee of the Government of Nepal as to be exercised and complied with subject to the specified conditions.

(3) Other functions, duties and powers and other relevant matters of the National Women Commission shall be as provided for in the federal law.

- 254. Powers to Establish Offices in Provinces: The National Women Rights Commission may, as required, establish its offices in Provinces.
- 255. National Dalit Commission: (1) There shall be a National *Dalit* 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 National *Dalit* Commission.

(3) The term of office of the Chairperson and members of the National *Dalit* Commission shall be six years from the date of appointment.

(4) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National *Dalit* Commission shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case he or she attains the age of sixty-five years;
- (c) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (d) In case he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness;
- (e) In case he or she dies.

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

Provided that a member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the member.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National *Dalit* Commission in case he or she possesses the following qualifications:

- (a) One who has rendered outstanding contribution to the field of rights and interests of the *Dalit* community or human rights and law, for at least ten years;
- (b) In the case of the Chairperson, one who has acquired at least a bachelor's degree from a recognized university;
- (c) One who has attained the age of forty-five years;

- (d) One who is not a member of any political party at the time of appointment; and
- (e) One who bears high moral character.

(7) The remuneration and conditions of service of the Chairperson and members of the National *Dalit* Commission shall be as provided for in the federal law, and their remuneration and conditions of service shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National *Dalit* 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 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.

256. Functions, Duties and Powers of National *Dalit* Commission: (1) The functions, duties and powers of the National *Dalit* Commission shall be as follows:-

- (a) To conduct study and research as to the overall situation of the *Dalit* community, identify areas of necessary policy, legal and institutional reforms in that field, and make recommendations to the Government of Nepal;
- (b) To formulate national policies and programs concerning the interests of the *Dalit* for the upliftment and development of the Dalit, putting an end to caste-based discrimination, oppression and discrimination, and submit such policies and programs to the Government of Nepal for their implementation;
- (c) To monitor as to whether laws concerning the interests of the *Dalit*, including the special provisions made for the upliftment and interests of the *Dalit* community have been effectively implemented, and in the event

of absence of observance or implementation, to make suggestions to the Government of Nepal for the observance or implementation thereof;

- (d) To make suggestions to the Government of Nepal about the preparation of reports to be submitted by Nepal in accordance with the provisions contained in the international treaties or agreements concerning the rights of the *Dalit* community, to which Nepal is a party;
- (e) In order to have the *Dalit* community included in the mainstream of national development and ensure proportional participation in all organs of the State, to assess, monitor and evaluate the existing policies and programs, and make recommendation to the Government of Nepal for their effective implementation;
- (f) In case it is necessary to file a case against any person or institution on matters of being a victim of caste-based discrimination and untouchability or social ill-practices or infringement of or deprivation of enjoyment of the rights of the *Dalit*, to make recommendations to the concerned bodies to file such case in courts in accordance with the law.

(2) The National *Dalit* Commission may so delegate any of its functions, duties and powers to the Chairperson of the Commission, any of its members or any employee of the Government of Nepal as to be exercised and complied with subject to the specified conditions.

(3) Other functions, duties and powers and other relevant matters of the National *Dalit* Commission shall be as provided for in the federal law.

257. Powers to Establish Offices in Provinces: The National *Dalit* Commission may, as required, establish its offices in Provinces.

258. National Inclusion Commission: (1) There shall be a National Inclusion Commission of Nepal, consisting of a Chairperson and four other members in the maximum.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the National Inclusion Commission.

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

(4) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National Inclusion Commission shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case he or she attains the age of sixty-five years;
- (c) In case a motion of impeachment is adopted against him or her pursuant to Article 101;
- (d) In case he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness;
- (e) In case he or she dies.

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

Provided that a member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the member.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National Inclusion Commission in case he or she possesses the following qualifications:-

- (a) One who has rendered outstanding contribution, for at least ten years, to the field of social inclusion, rights and interests or development of persons with disabilities, minority and marginalized communities and backward areas and classes or human rights;
- (b) In the case of the Chairperson, one who has acquired a bachelor's degree from a recognized university;
- (c) One who has attained the age of forty-five years;
- (d) One who is not a member of any political party at the time of appointment; and
- (e) One who bears high moral character.

(7) The remuneration and conditions of service of the Chairperson and members of the National Inclusion Commission shall be as provided for in the federal law, and their remuneration and conditions of service shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National Inclusion 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 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.

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

- (a) To conduct study and research works for the protection of the rights and interests of the communities, including *Khas Arya*, *Pichhada* class, persons with disabilities, senior citizens, labours, peasants, minorities and marginalized community, backward class, people of Karnali and the indigent class;
- (b) To study the status of implementation of the policies and laws adopted by the Government of Nepal for the inclusion of the community, class and region referred to in sub-clause (a) and make suggestions to the Government for reforms;
- (c) To study as to whether or not there has been appropriate representation of the community, class and region referred to in sub-clause (a) in the organs of the State and make suggestions to the Government of Nepal to review the special provisions made for the representation of such community, class and region;

- (d) To study as to whether or not the protection, empowerment and development of the community, class and region referred to in sub-clause (a) has been satisfactory and make recommendations to the Government of Nepal about policies to be pursued in the future;
- (e) To make suggestions to the Government of Nepal about policies and programs to be pursued for the development and prosperity of the *Karnali* and backward regions;
- (f) To make recommendations for timely revisions of laws concerning minority and marginalized communities;
- (g) To monitor the status of implementation of rights and interests guaranteed for minority and marginalized communities and make recommendations for revision upon necessary review on the basis of periodic national census and human development index.

(2) The National Inclusion Commission may so delegate any of its functions, duties and powers to the Chairperson of the Commission, any of its members or any employee of the Government of Nepal as to be exercised and complied with subject to the specified conditions.

(3) Other functions, duties and powers and other relevant matters of the National Inclusion Commission shall be as provided for in the federal law.

260. Powers to Establish Offices in Provinces: The National Inclusion Commission may, as required, establish its offices in Provinces.

261. Indigenous Nationalities Commission: (1) There shall be an Indigenous Nationalities Commission of Nepal, consisting of a Chairperson and four other members in maximum.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the Indigenous Nationalities Commission.

(3) The term of office of the Chairperson and members of the Indigenous Nationalities Commission shall be six years from the date of appointment.

(4) Other matters relating to the qualification for the Chairperson and members of the Indigenous Nationalities Commission, circumstances in which their

offices fall vacant, their remuneration and conditions of service and the functions, duties and powers of this Commission shall be as provided for in the federal law.

262. Madhesi Commission: (1) There shall be a *Madhesi* Commission of Nepal, consisting of a Chairperson and four other members in the maximum.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the *Madhesi* Commission.

(3) The term of office of the Chairperson and members of the *Madhesi* Commission shall be six years from the date of appointment.

(4) Other matters relating to the qualification for the Chairperson and members of the *Madhesi* Commission, circumstances in which their offices fall vacant, their remuneration and conditions of service and the functions, duties and powers of this Commission shall be as provided for in the federal law.

263. Tharu Commission: (1) There shall be a *Tharu* Commission of Nepal, consisting of a Chairperson and four other members in the maximum.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the *Tharu* Commission.

(3) The term of office of the Chairperson and members of the *Tharu* Commission shall be six years from the date of appointment.

(4) Other matters relating to the qualification for the Chairperson and members of the *Tharu* Commission, circumstances in which their offices fall vacant, their remuneration and conditions of service and the functions, duties and powers of this Commission shall be as provided for in the federal law.

264. Muslim Commission: (1) There shall be a Muslim Commission of Nepal, consisting of a Chairperson and four other members in the maximum.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the Muslim Commission.

(3) The term of office of the Chairperson and members of the Muslim Commission shall be six years from the date of appointment.

(4) Other matters relating to the qualification for the Chairperson and members of the Muslim Commission, circumstances in which their offices fall vacant,

their remuneration and conditions of service and the functions, duties and powers of this Commission shall be as provided for in the federal law.

265. Review of Commissions: The Federal Parliament shall, after ten years of the commencement of this Constitution, review the Commissions constituted under this Part.

Nepal Law Commission

Part-28

Provisions Relating to National Security

266. National Security Council: (1) There shall be a National Security Council for making recommendation to the Government of Nepal, Council of Ministers for the formulation of a policy on overall national interest, security and defence of Nepal, and for the mobilization or control of the Nepal Army, which shall consist of the following as the Chairperson and members:-

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

(2) The secretary at the Ministry of Defence shall act as the member secretary to the National Security Council.

(3) The National Security Council shall submit its annual report to the President, and the President shall cause the report to be laid through the Prime Minister before the Federal Parliament.

(4) Other matters relating to the National Security Council shall be as provided for in the federal law.

267. Provisions relating to Nepal Army: (1) There shall be an organization of the Nepal Army, which shall be inclusive and committed to this Constitution, in order to safeguard of independence, sovereignty, territorial integrity and freedom and national unity of Nepal.

(2) The President shall be the Supreme Commander of the Nepal Army.

(3) Entry of women, *Dalit*, indigenous people, indigenous nationalities (*Aadibasi Janajati*), *Khas Arya*, *Madhesi*, *Tharu*, *Pichhada* class and backward region

citizens into the Nepal Army shall, on the basis of principles of equality and inclusion, be ensured by the federal law.

(4) The Government of Nepal may also mobilize the Nepal Army in other works including development, construction and disaster management works, as provided for in the federal law.

(5) The President shall, on recommendation of the Council of Ministers, appoint the Chief of the Army Staff and remove him or her from office.

(6) The President shall, in accordance with a decision of the Government of Nepal, Council of Ministers on recommendation of the National Security Council, declare the mobilization of the Nepal Army in cases where a grave emergency arises in regard to the sovereignty or territorial integrity of Nepal or the security of any part thereof, by war, external aggression, armed rebellion or extreme economic disarrays. A declaration of the mobilization of the Nepal Army shall be required to be approved by the House of Representatives within one month after the date of such declaration.

(7) Other matters pertaining to the Nepal Army shall be in accordance with law.

268. Provisions Relating to Nepal Police, Armed Police Force, Nepal and National Investigation Department: (1) The Federation shall have Nepal Police, Armed Police Force, Nepal and National Investigation Department.

(2) Each Province shall have a Provincial Police Organization.

(3) Matters relating to the operation, supervision and coordination of functions to be discharged by the Nepal Police and the Provincial police shall be as provided for in federal law.

(4) Other matters relating to the Nepal Police, Armed Police Force, Nepal and National Investigation Department shall be as provided for in the by federal law.

Part-29

Provisions Relating to Political Parties

269. Formation, Registration and Operation of Political Parties: (1) Persons who are committed to common political ideology, philosophy and program may, subject to laws made pursuant to sub-clause (c) of clause (2) of Article 17, form and operate political parties, and generate, or cause to be generated, publicity in order to secure support and cooperation from public-in-general for their ideology, philosophy and program or carry out other necessary activity for this purpose.

(2) A political party formed in accordance with clause (1) shall be required to be registered the party with the Election Commission upon fulfilment of the procedures as laid down by law.

(3) A petition to be filed for the purpose of registration of a party pursuant to clause (2) shall be accompanied by the constitution and manifesto of the concerned political party and such other documents as required by federal law.

(4) For a petition to be filed for the registration of a party pursuant to clause (2), the political party shall fulfil the following conditions:-

- (a) Its constitution and rules shall be required be democratic;
- (b) Its constitution shall provide for election of each of the office-bearers of the party at the Federal and Provincial levels at least once in every five years;

Provided that nothing shall bar the making of provision in the constitution of a political party to hold such election within six months in the event of failure to hold election of its office-bearers within five years because of occurrence a special circumstance;

- (c) There shall be a provision of such inclusive representation in its executive committees at various levels as may be reflecting the diversity of Nepal.

(5) In case the name, objective, insignia or flag of a political party is of such a nature as to jeopardize the religious and communal unity of the country or to fragment the country, that party shall not be registered.

270. Restrictions on Imposition of Prohibition on Political Parties: (1) Any law, arrangement or decision so made as to impose any restriction on the formation and operation of a political party and on the generation of publicity in order to secure support and cooperation from public-in-general for the ideology, philosophy and program of the party pursuant to Article 269 shall be deemed to be inconsistent with this Constitution and shall, *ipso facto*, be void.

(2) Any law, arrangement or decision so made as to allow for participation or involvement of only a single political party or persons having similar political ideology, philosophy or program in the elections or in the political system of, or in the conduct of governance of the State shall be deemed to be inconsistent with this Constitution and shall, *ipso facto*, be void.

271. Registration required for Securing Recognition for the Purpose of Contesting Elections as Political Party: (1) Every political party that is registered pursuant to Article 269 and intends to secure recognition from the Election Commission for the purposes of elections shall be registered with the Election Commission in fulfilment of the procedures set forth in the federal law.

(2) The political party shall be required to submit a yearly audit report in addition to the matters set forth in clause (3) of Article 269 a petition to be filed for the purpose of clause (1) and also fulfil the terms set forth in clause (4) of that Article.

272. Other Provisions relating to Political Parties: Provisions relating to the formation, registration, operation and facilities of political parties and other matters pertaining thereto shall be as provided for in the federal law.

Part-30

Emergency Powers

273. Emergency Provisions: (1) In case a grave emergency arises in sovereignty, territorial integrity or the security of any part of Nepal by the reason of war, external aggression, armed rebellion, extreme economic disarrays, natural disaster or epidemic; the President may, by Proclamation, declare or order a state of emergency in respect of the whole of Nepal or of any particular part thereof.

(2) Notwithstanding anything contained in clause (1), in case there arises a grave emergency in a Province by the reason of a natural disaster or epidemic, the concerned Provincial Government may request the Government of Nepal to declare a Proclamation or order a state of emergency in respect of the whole of the Province or of any specified part thereof, in accordance with this Article.

(3) The Proclamation or order issued pursuant to clause (1) shall be laid before both Houses of the Federal Parliament for approval within one month from the date of issuance of such proclamation or order.

(4) In case the Proclamation or order laid for approval pursuant to clause (3) is approved by at least a two-thirds majority of the total number of the then members of both Houses of the Federal Parliament, the Proclamation or order shall continue in force for a period of three months from the date of its issuance.

(5) In case the Proclamation or an order laid for approval pursuant to clause (3) is not approved pursuant to clause (4), the Proclamation or order shall *ipso facto* be inoperative.

(6) Notwithstanding anything contained elsewhere in this Article, prior to expiration of the period referred to in clause (4), a motion to extend the period of the Proclamation or order of state of emergency as referred to in clause (1) for another period not exceeding three months may be submitted to the Federal Parliament.

(7) In case a motion referred to in clause (6) is adopted by at least two-thirds majority of the total number of the then members of both Houses of the Federal Parliament, the Proclamation or order shall continue in force for the period referred to in that motion.

(8) In the event of dissolution of the House of Representatives, the powers exercisable by the Federal Parliament pursuant to clauses (3), (4), (6) and (7) shall be exercised by the National Assembly.

(9) The President may, after the issuance of a Proclamation or order of a state of emergency pursuant to clause (1), issue such orders as are necessary 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) At the time of issuance of the Proclamation or order of a state of emergency pursuant to clause (1), the fundamental rights as provided for in Part-3 may be suspended until the proclamation or order is in operation.

Provided that Article 16, sub-clauses (c) and (d) of clause (2) of Article 17, Article 18, clause (2) of Article 19, Articles 20, 21, 22 and 24, clause (1) of Article 26, Articles 29, 30, 31, 32, 35, clauses (1) and (2) of Article 36, Articles 38, 39, clauses (2) and (3) of Article 40, Articles 41, 42, 43, 45, and the right to constitutional remedy in relation to such Articles pursuant to Article 46 and the right to seek the remedy of *habeas corpus* shall not be suspended.

(11) In case any Article of this Constitution is suspended pursuant to clause (10), no petition may lie in any court for the enforcement of the fundamental right conferred by that Article nor may a question be raised in any Court in that respect.

(12) In case, during the continuance of a Proclamation or order pursuant to this Article, any damage is caused to a person from any act carried out by any official in bad faith, the victim may, within three months from the date of termination of that Proclamation or order, file a petition for compensation for such damage. In case such petition is made, the court may order for compensation by, and punish, the perpetrator as provided for in the federal law.

(13) The President may, at any time, withdraw a Proclamation or order of a state of emergency issuance pursuant to this Article.

Part-31

Amendment to Constitution

274. Amendment to Constitution: (1) No amendment shall be made to this Constitution in manner to be prejudicial to sovereignty, territorial integrity, independence of Nepal and sovereignty vested in the people.

(2) Subject to clause (1) and other Articles of this Constitution, a Bill to amend to or repeal any Article of this Constitution may be introduced in either House of the Federal Parliament.

Provided that clause (1) shall not be amended.

(3) A Bill introduced pursuant to clause (2) shall be publicly published for information to public-in-general within thirty days of its introduction in the concerned House.

(4) In case a Bill introduced pursuant to clause (2) is related with the alteration in the borders of any Province or matters set forth in Schedule-6, the Speaker or the Chairperson of the concerned House shall send that Bill to the Provincial Assembly for its consent, within thirty days after its introduction in the Federal Parliament.

(5) The concerned Provincial Assembly shall, by a majority of the total number of its the then members, approve or reject the Bill presented for its consent pursuant to clause (4) and give information thereof to the Federal Parliament within three months.

Provided that in case any Provincial Assembly is not in existence, such Bill shall be either approved or rejected within three months after the date of holding of the first meeting following the formation of that Provincial Assembly.

(6) In the event of failure to give information of approval or rejection of such Bill within the period set forth in clause (5), nothing shall prevent the House of the Federal Parliament in which the Bill was originated from proceeding with the Bill.

(7) In case a majority of the Provincial Assemblies gives a notice of rejection of such Bill to the concerned House of the Federal Parliament within the period referred to in clause (5), the Bill shall be inoperative.

(8) A Bill which does not require the consent of the Provincial Assembly or a Bill accepted by a majority of the Provincial Assemblies pursuant to clause (5) shall be adopted by at least two-thirds majority of the total number of the then members of both Houses of the Federal Parliament.

(9) A Bill adopted pursuant to clause (8) shall be submitted to the President for authentication.

(10) The President shall authenticate the Bill submitted pursuant to clause (9) within fifteen days from the date of its receipt and the Constitution shall get amended from the date of authentication.

Nepal Law Commission

Part-32

Miscellaneous

275. Provisions relating to Referendum: (1) In case a decision is made by a two-thirds majority of the total number of the then members of the Federal Parliament that it is necessary to hold a referendum with respect to any matter of national importance, a decision on that matter may be taken by way of referendum.
- (2) Matters relating to referendum and other relevant matters shall be as provided for in the federal law.
276. Pardons: The President may, in accordance with law, grant pardons, suspend, commute or remit any sentence passed by any Court, judicial or quasi-judicial institution or administrative authority or institution.
277. Titles, Honours and Decorations: (1) The President shall confer titles, honours and decorations to be conferred on behalf of the State.
- (2) No citizen of Nepal may, without the approval of the Government of Nepal, accept any title, honour or decoration from any foreign government.
278. Power to Conclude Treaty: (1) The Federation shall have the power to conclude treaties or agreements.
- (2) In concluding a treaty or agreement on a matter falling within the list of powers of Province, the Government of Nepal shall be required to consult the concerned Province.
- (3) A Provincial Council of Ministers may, with the consent of the Government of Nepal, enter into contractual agreements on financial and industrial matters.
279. Ratification of, Accession to, Acceptance or Approval of, Treaties or Agreements: (1) The ratification of, accession to, acceptance or approval of, treaties or agreements to which Nepal or the Government of Nepal is to become a party shall be as provided for in the federal law.
- (2) Any law to be made pursuant to clause (1) shall, *inter alia*, require that the ratification of, accession to, acceptance or approval of, treaties or agreements on the

following subjects shall be made by a majority of two-thirds of the total number of the then members of both Houses of the Federal Parliament:-

- (a) Peace and friendship;
- (b) Defence and strategic alliance;
- (c) Boundaries of the Nepal; and
- (d) Natural resources, and the distribution of their uses.

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

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

(4) Notwithstanding anything contained in clauses (1) and (2), no treaty or agreement that is detrimental to the territorial integrity of Nepal may be concluded.

280. Special provision relating to Discharge of Functions of President: In case the offices of both the President and the Vice-President fall vacant in accordance with this Constitution, the Speaker of the House of Representatives shall discharge the functions required to be performed by the President under this Constitution until election to the President or Vice-President is held and he or she assumes office.

281. Appraisal and Review of Special Rights: The Government of Nepal shall make appraisal and review of the implementation of special rights of the women and *Dalit* community and impacts thereof, on the basis of human development index, concurrently with a national census to be held in every ten years.

282. Ambassadors and Special Emissaries: (1) The President may, on the basis of the principle of inclusion, appoint Nepali ambassadors, and special emissaries for any specific purposes.

(2) The President shall receive letters of credentials from foreign ambassadors and diplomatic representatives.

283. Appointments to be made in accordance with Inclusive Principle: Appointments to offices of Constitutional Organs and Bodies shall be made in accordance with the inclusive principle.

284. Provisions relating to Constitutional Council: (1) There shall be a Constitutional Council for making recommendations for appointment of the Chief Justice and Chiefs and officials of the Constitutional Bodies in accordance with this Constitution, which shall consist of the following as the Chairperson and members:-

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

(2) While making a recommendation for appointment to the office of the Chief Justice, the Constitutional Council shall include the Minister for Law and Justice of the Government of Nepal, as its member.

(3) The Constitutional Council shall make a recommendation for appointment under this Constitution before one month of the vacation of the office of the Chief Justice or a chief or official of a Constitutional Body.

Provided that in case such office falls vacant because of death or resignation, it may so make recommendation for appointment that the office is fulfilled within one month after the date of vacancy.

(4) Other functions, duties and powers of the Constitutional Council and rules of procedures on the appointment of the Chief Justice or chiefs or officials of Constitutional Bodies shall be as provided for in the federal law.

(5) The Chief Secretary to the Government of Nepal shall act as the secretary to the Constitutional Council.

285. Constitution of Government Service: (1) The Government of Nepal may, in order to run the administration of the country, constitute the federal civil service and such other

federal government services as may be required. The constitution, operation and conditions of service of such services shall be as provided for in a Federal Act.

(2) Positions in the federal civil service as well as all federal government services shall be fulfilled through competitive examinations, on the basis of open and proportional inclusive principle.

(3) The Provincial Council of Ministers, Rural Municipal Executive and Municipal Executive may by law constitute and operate various government services as required for the operation of their administration.

286. Election Constituency Delimitation Commission: (1) The Government of Nepal may constitute an Election Constituency Delimitation Commission, to determine election constituencies for the purpose of election to the members of the Federal Parliament and members of the Provincial Assemblies in accordance with this Constitution, which shall consist of the following as the Chairperson and members:-

- | | |
|--|-------------------|
| (a) A retired Justice of Supreme Court | -Chairperson |
| (b) One Geographer | -Member |
| (c) One Sociologist or Demographer | -Member |
| (d) One Administration Expert or Jurist | -Member |
| (e) Gazetted special class officer of the Government of Nepal. | -Member-secretary |

(2) The term of office of the Election Constituency Delimitation Commission shall be as prescribed at the time of its constitution.

(3) A person shall be eligible to be appointed as the Chairperson or a member of the Election Constituency Delimitation Commission in case he or she possesses the following qualifications:-

- One who has acquired at least bachelor's degree in related subject from a recognized university;
- One who has attained the age of forty-five years; and
- One who bears high moral character.

(4) The office of the Chairperson or a member of the Election Constituency Delimitation Commission shall fall vacant in any of the following circumstances: -

- (a) In case he or she tenders resignation in writing;
- (b) In case he or she is removed by the Government of Nepal, Council of Ministers;
- (c) In case he or she dies.

►(5) While determining election constituencies pursuant to this Article, the Election Constituency Delimitation Commission shall, subject to sub-clause (a) of clause (1) of Article 84, determine the constituencies in a Province in accordance with the federal law, having regard to the population as the main basis and geography as the second basis for representation, and there shall be at least one election constituency in each district within the Province.

(6) While delimitating election constituencies pursuant to clause (5), attention shall be required to be given, *inter alia*, the population and geographical convenience, density of population, geographical specificity, administrative and transportation convenience, community and cultural aspects of the constituencies.

(7) No question may be raised in any court on any matter of the determination, or review, of election constituencies made by the Election Constituency Delimitation Commission.

(8) The Election Constituency Delimitation Commission shall submit a report on the works it has performed to the Government of Nepal.

(9) The Government of Nepal, Council of Ministers, shall lay the report received pursuant to clause (8) before the Federal Parliament and shall also send it to the Election Commission for implementation.

(10) The Election Constituency Delimitation Commission shall determine its rules of procedures itself.

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- Amended by the First Amendment.
 - Inserted by the First Amendment.

(11) The remuneration and facilities of the Chairperson and the members of the Election Constituency Delimitation Commission shall be similar to those of the Chief Election Commissioner and the Election Commissioners of the Election Commission, respectively.

(12) The election constituencies delimited pursuant to clause (5) shall be reviewed in every twenty years.

(13) The Government of Nepal shall provide such employees as may be required for the Election Constituency Delimitation Commission.

287. Language Commission: (1) The Government of Nepal shall, within one year of the commencement of this Constitution, constitute a Language Commission comprising representation of Provinces.

(2) The Language Commission shall consist of one Chairperson and a required number of members.

(3) The term of office of the Chairperson and members of the Language Commission shall be six years from the date of their appointment. They may not be reappointed.

(4) A person shall be eligible to be appointed as the Chairperson or a member of the Language Commission in case he or she possesses the following qualifications:-

- (a) One who has acquired Master's degree in related subject from a recognized university;
- (b) One who has gained at least twenty years of experience in the fields of study, teaching and research on various languages of Nepal;
- (c) One who has completed the age of forty-five years; and
- (d) One who bears high moral character.

(5) The office of the Chairperson or a member of the Language Commission shall fall vacant in any of the following circumstances:-

- (a) In case he or she tenders resignation in writing;
- (b) In case he or she is removed by the Government of Nepal, Council of Ministers;

- (c) In case he completes the age of sixty-five years;
- (d) In case he or she dies.

(6) The functions, duties and powers of the Language Commission shall be as follows:-

- (a) To determine the criteria to be fulfilled for the recognition as the official language and make recommendations on languages to the Government of Nepal;
- (b) To make recommendations to the Government of Nepal, on the measures to be adopted for the protection, promotion and development of languages;
- (c) To measure the levels of development of mother tongues and make suggestions to the Government of Nepal, on the potentiality of their use in education;
- (d) To conduct study and research on languages and monitor them.

(7) The Language Commission shall complete its tasks referred to in sub-clause (a) of clause (6) within five years after the date of its constitution.

(8) The Government of Nepal may, in coordination with the Provincial Government, establish a branch of the Language Commission in the Province.

(9) The other functions, duties, powers and rules of procedures of the Language Commission shall be as provided for in federal law.

288. Capital: (1) The capital of Nepal shall be located in Kathmandu.

(2) The capital of a Province in accordance with this Constitution shall be as decided by a two-thirds majority of the number of the then members of the concerned Provincial Assembly.

(3) The business of a Province shall be conducted through the place as specified by the Government of Nepal until a decision is made pursuant to clause (2).

289. Special Provision relating to Citizenship of Officials: (1) In order for a person to be elected, nominated or appointed to the office of President, Vice-President, Prime Minister, Chief Justice, of the Speaker of House of Representatives, Chief of

Province, Chief Minister, Speaker of a Provincial Assembly and Chief of a security body, a person shall have to obtain the citizenship of Nepal by descent.

(2) A person who has obtained the citizenship of Nepal by descent, a person who has obtained the naturalized citizenship of Nepal or a person who has obtained the citizenship of Nepal by birth shall also be eligible for the office of a constitutional body other than those referred to in clause (1).

Provided that a person shall have resided in Nepal for at least ten years in the case of a person who has obtained the naturalized citizenship of Nepal, and for at least five years in the case of a person who has obtained the citizenship of Nepal by birth or who has obtained the naturalized citizenship of Nepal pursuant to clause (6) of Article 11.

290. Provisions relating to Guthi (trusts): (1) The Federal Parliament shall make necessary laws in relation to the rights of the trust and the farmers enjoying possessory rights over trust land in a manner not to be prejudicial to the basic norms of the trusts.

(2) Other matters relating to trusts shall be as provided by the federal law.

291. Not to be Eligible for Appointment: (1) Notwithstanding anything contained elsewhere in this Constitution, a citizen of Nepal who has obtained a foreign permanent residence permit shall not be eligible for election, nomination or appointment to an office to be elected, nominated or appointed in accordance with this Constitution.

Provided that nothing shall prevent electing, nominating or appointing a person who has renounced such foreign permanent residence permit to such office after the expiry of a period of at least three months.

(2) Other matters relating to the citizens of Nepal who have obtained foreign permanent residence permits as referred to in clause (1) shall be as provided for in federal law.

292. Provisions relating to Parliamentary Hearings: (1) Parliamentary hearings shall be conducted as to appointments to the offices of the Chief Justice and Justices of the Supreme Court, members of the Judicial Council, chiefs and members of Constitutional Bodies, who are appointed on the recommendation of the

Constitutional Council under this Constitution, and to the offices of ambassadors, as provided for in the federal law.

(2) For the purposes of clause (1), there shall be constituted a fifteen-member joint committee consisting of members of both Houses of the Federal Parliament, in accordance with the federal law.

(3) No member of the joint committee referred to in clause (2) shall practice law in the Supreme Court during that term of the Federal Parliament.

293. Monitoring of Functioning of Constitutional Bodies: The chiefs and officials of the Constitutional Bodies shall be accountable and responsible to the Federal Parliament. The committees of the House of Representatives may monitor and evaluate the functioning, including reports, of the Constitutional Bodies, other than the National Human Rights Commission, and give necessary direction or advice.

294. Annual Reports of Constitutional Bodies: (1) Every Constitutional Body in accordance with this Constitution shall submit an annual report of its functioning to the President, and the President shall cause that report to be laid through the Prime Minister before the Federal Parliament.

(2) The matters to be set out in the annual report referred to in clause (1) shall be as provided for in federal law.

(3) Notwithstanding anything contained in clause (1), a Constitutional Body may prepare a separate report in relation to the functioning of each Province and submit it to the Chief of Province.

Part-33

Transitional Provisions

295. Constitution of Federal Commission: (1) The Government of Nepal may constitute a Federal Commission for making suggestions on matters relating to the boundaries of Provinces.

(2) The names of the Provinces referred to in clause (3) of Article 56 shall be set by a two thirds majority of the total number of members of the concerned Provincial Assemblies.

(3) The Government of Nepal shall constitute a Commission for the determination of the number and boundaries of Rural Municipalities, Municipalities and Special, Protected or Autonomous Regions to be formed pursuant to clauses (4) and (5) of Article 56. The Commission shall determine the number and boundaries of the Rural Municipalities, Municipalities and Special, Protected or Autonomous Regions in accordance with the criteria set by the Government of Nepal.

(4) The Commission referred to in clause (3) shall be constituted within six months of the date of commencement of this Constitution. The term of such Commission shall be one year.

296. Constituent Assembly to be converted into Legislature-Parliament: (1) The Constituent Assembly existing at the time of commencement of this Constitution shall *ipso facto* be converted into the Legislature-Parliament after the commencement of this Constitution, and the term of that Legislature-Parliament shall exist until 21 January 2018 (7 Magha 2074).

Provided that in case an election is to be held to the House of Representatives set forth in this Constitution prior to the expiration of that term, the Legislature-Parliament shall continue to exist until the day before the day specified for the filing of nominations of candidates for that election.

(2) The Bills under consideration of the Legislature-Parliament at the time of commencement of this Constitution shall *ipso facto* be transferred to the Legislature-Parliament set forth in clause (1).

(3) The Legislature-Parliament set forth in clause (1) shall perform the business required to be performed by the Federal Parliament in accordance with this

Constitution until election to the House of Representatives is held in accordance with this Constitution.

(4) The legislative power of the Provincial Assembly with respect of matters set forth in Schedule-6 shall, upon the commencement of this Constitution, be vested in the Legislature-Parliament set forth in clause (1) until the Provincial Assembly is constituted. Any law so made shall be inoperative in relation to that Province after one year of the date of constitution of the Provincial Assembly set forth in this Constitution.

(5) The Legislature-Parliament Secretariat, its Secretary General, Secretary and employees existing at the time of commencement of this Constitution shall, subject to the conditions of service in force at the time of their appointment, exist in the Federal Parliament Secretariat set forth in this Constitution.

(6) Where the Legislature-Parliament is in recess at the time of commencement of this Constitution, the President shall summon its session within seven days after the date of commencement of this Constitution. The President shall, thereafter, summon a session of the Legislature-Parliament from time to time.

297. Provisions relating to President and Vice-President: (1) The President and the Vice-President existing at the time of commencement of this Constitution shall continue to hold their respective offices until other President and Vice-President are elected pursuant to this Article.

(2) The Legislature-Parliament set forth in clause (1) of Article 296 shall, on the basis of political understanding, elect the President and the Vice-President, within one month after the date of the commencement of this Constitution where the Legislature-Parliament is not in recess at the time of commencement of this Constitution and after the date on which the session is summoned pursuant to clause (6) of Article 296 where the Legislature-Parliament is in recess.

(3) In the event of failure to have an understanding pursuant to clause (2), the President and the Vice-President shall be elected by a majority of all the then members of the Legislature-Parliament.

(4) In case the office of the President or Vice-President elected pursuant to clause (2) or (3) falls vacant for any reason, the President or Vice-President shall be

elected by the Legislature-Parliament pursuant to this Article until the Federal Parliament is constituted.

(5) The term of office of the President or Vice-President elected pursuant to this Article shall continue to exist until another President or Vice-President elected by an electoral college set forth in Article 62 assumes office.

(6) The office of the President or Vice-President elected pursuant to this Article shall fall vacant in any of the following circumstances: -

- (a) In case the President tenders resignation in writing to the Vice-President and the Vice-President, to the President;
- (b) In case a motion of impeachment against him or her is adopted pursuant to clause (7);
- (c) In case another President or Vice-President elected by an electoral college set forth in Article 62 assumes office;
- (d) In case he or she dies.

(7) At least one fourth of the total number of the then members of the Legislature-Parliament referred to in clause (1) of Article 296 may move a motion of impeachment against the President or Vice-President elected pursuant to this Article on the ground of serious violation of this Constitution and law. In case the motion is adopted by at least two-thirds majority of the total number of the then members of the Legislature-Parliament, he or she shall be relieved of his or her office

298. Provisions relating to Constitution of Council of Ministers: (1) The Council of Ministers existing at the time of commencement of this Constitution shall continue to exist until the Council of Ministers referred to clause (2) is constituted.

(2) The Prime Minister shall, on the basis of political understanding, be elected within seven days after the date of the commencement of this Constitution where the Legislature-Parliament is not in recess at the time of commencement of this Constitution, and after the date on which the session of the Legislature-Parliament summoned pursuant to clause (6) of Article 296 commences where the Legislature-Parliament is in recess, and a Council of Ministers shall be constituted under his or her chairpersonship.

(3) In the event of failure to have an understanding pursuant to clause (2), the Prime Minister shall be elected by a majority of all the then members of the Legislature-Parliament.

(4) The a composition and allocation of portfolios of the Council of Ministers to be constituted pursuant to this Article shall be made through mutual understanding.

(5) The Council of Ministers to be constituted pursuant to this Article shall consist of a Deputy Prime Minister and other Ministers, as required.

(6) The Prime Minister appointed pursuant to this Article shall, in appointing Ministers pursuant to clause (5), appoint Ministers from amongst the members of the Legislature-Parliament, on the recommendation of the concerned party.

(7) The Prime Minister and other Ministers appointed pursuant to this Article shall be collectively responsible to the Legislature-Parliament, and the Ministers shall be individually responsible to the Prime Minister and the Legislature- Parliament for the works of their respective Ministries.

(8) The office of the Prime Minister appointed pursuant to this Article shall fall vacant in any of the following circumstances:-

- (a) In case he or she tenders resignation in writing to the President;
- (b) In case a vote of no confidence is adopted against him or her pursuant to clause (14) or a vote of confidence is not adopted;
- (c) In case he or she ceases to be a member of the Legislature-Parliament;
- (d) In case he or she dies.

(9) The office of the Deputy Prime Minister, Minister, Minister of State and Assistance Minister appointed pursuant to this Article shall fall vacant in any of the following circumstances:-

- (a) In case he or she tenders resignation in writing to the Prime Minister;
- (b) In case the Prime Minister is removed from office pursuant to clause (8);
- (c) In case he or she is removed from office by the Prime Minister on the recommendation or on advice of the concerned party;

(d) In case he or she dies.

(10) Even though the office of the Prime Minister falls vacant pursuant to clause (8), the same Council of Ministers shall continue to act until another Council of Ministers is constituted.

(11) In case the Prime Minister appointed pursuant to this Article dies, the Deputy Prime Minister or senior-most Minister shall act as the Prime Minister until another Prime Minister is appointed.

(12) The Prime Minister appointed pursuant to this Article may, whenever he or she considers necessary or appropriate to clarify that he or she has confidence from the Legislature-Parliament, table a motion to that effect in the Legislature-Parliament for the vote of confidence.

(13) At least one-fourth of the total number of the then members of the Legislature-Parliament may table in writing a motion of no confidence against the Prime Minister appointed pursuant to this Article.

Provided that a motion of no confidence shall not be tabled more than once in six months' period against the same Prime Minister appointed pursuant to this Article.

(14) A motion tabled pursuant to clause (12) or (13) shall be decided by a majority of the total number of the then members of the Legislature Parliament.

(15) The Government of Nepal shall, after the commencement of this Constitution, exercise the executive powers of a Province until the Council of Ministers of the Province set forth in this Constitution is constituted.

299. Provisions relating to Speaker and Deputy Speaker: (1) The Speaker and Deputy Speaker existing at the time of commencement of this Constitution shall continue to hold their respective offices until another Speaker and Deputy Speaker is elected in accordance with this Constitution.

(2) The members of the Legislature-Parliament shall, on the basis of political understanding, elect one Speaker and Deputy Speaker from among themselves within twenty days after the date of the commencement of this Constitution where the Legislature-Parliament is not in recess at the time of commencement of this Constitution, and after the date on which the session of the Legislature-Parliament is

summoned pursuant to clause (6) of Article 296 where the Legislature-Parliament is in recess.

(3) In the event of failure to have an understanding pursuant to clause (2), a member of the Legislature-Parliament who commands a majority of all the then members of the Legislature-Parliament shall be deemed to be elected as the Speaker or Deputy Speaker.

(4) In holding electing pursuant to clause (2) or (3), the Speaker and Deputy Speaker shall be members representing different political parties in the Legislature-Parliament.

(5) In discharging his or her functions in accordance with this Constitution, the Speaker and Deputy Speaker shall so discharge functions in the capacity of a neutral person without standing for or against any political party whatsoever.

(6) The office of the Speaker and Deputy Speaker shall fall vacant in any of the following circumstances:-

- (a) In case he or she resigns in writing;
- (b) In case he or she ceases to be a member of the Legislature-Parliament;
- (c) In case a motion is adopted by a majority of at least two-thirds of the total number of the members of the Legislature-Parliament to the effect that his or her conduct is not compatible with his or her office;
- (d) In case he or she dies.

(7) The Deputy Speaker or another member shall preside over a meeting at which deliberations are to be held on a motion that the conduct of the Speaker of the Legislature-Parliament is not compatible with his or her office, and the Speaker may take part and vote in the deliberations on such motion.

(8) Other procedures on the election to the Speaker and Deputy Speaker and procedures on the moving and adoption of a motion that the Speaker or Deputy Speaker has committed conduct not compatible with his or her office shall be as provided by the then prevailing rules of the Legislature-Parliament.

300. Provisions relating to Judiciary: (1) The Supreme Court, Constituent Assembly Court, Appellate Courts and District Courts existing at the time of commencement of this

Constitution shall continue to exist until the structure of Judiciary set forth in this Constitution is set up. Nothing in this Constitution shall be deemed to bar the settlement by respective Courts of the cases already filed in such Courts prior to the commencement of this Constitution and of the cases to be filed after the commencement of this Constitution.

(2) The Chief Justice and Justices of the Supreme Court, Chief Judges and Judges of the Appellate Courts and Judges of the District Courts at the time of commencement of this Constitution shall be deemed to have been appointed under this Constitution.

(3) The High Courts set forth in Article 139 shall be established within one year after the date of commencement of this Constitution. The Appellate Courts existing at the time of commencement of this Constitution shall be dissolved after the establishment of such Courts.

(4) After the establishment of the High Courts pursuant to clause (3), the cases *sub judice* in the Appellate Courts shall be transferred to such High Courts as specified by the Government of Nepal, in consultation with the Judicial Council, by a notification in the Nepal Gazette.

(5) After the establishment of the High Courts pursuant to clause (3), the Chief Justice shall, on recommendation of the Judicial Council, post the Chief Judges and Judges of the Appellate Courts who are holding office at the time of commencement of this Constitution to the offices of the Chief Judges and Judges of the High Courts.

(6) The Additional Judges of the Appellate Courts who are holding office at the time of commencement of this Constitution may continue to hold office until the term specified at the time of their appointment.

(7) The cases on criminal offences punishable by imprisonment for a term of more than one year and *sub judice* in any body other than a Court at the time of commencement of this Constitution shall, after the commencement of this Constitution, be transferred to the concerned District Court.

301. Provisions relating to Constitutional Bodies and Officials thereof: (1) The Constitutional Bodies which are existing at the time of commencement of this Constitution and provided in this Constitution shall be deemed to have been formed in

accordance with this Constitution, and nothing shall be deemed to bar the settlement of the matters under consideration of such Bodies subject to this Constitution.

(2) The chiefs or officials of the Constitutional Bodies holding office at the time of commencement of this Constitution shall be deemed to have been appointed in accordance with this Constitution and shall continue to hold their respective offices subject to the conditions of services at the time of their appointments.

(3) The officials holding office in the Commission for the Investigation of the Abuse of Authority and the Public Service Commission, at the time of commencement of this Constitution, in excess of the number specified in this Constitution, shall continue to hold their respective offices subject to the conditions of services at the time of their appointments.

302. Formation and Operation of Government Services at Province and Local Levels: (1) The Government of Nepal shall make necessary provisions for the delivery of services at the Province and Local Levels.

(2) The Government of Nepal may, in making provisions pursuant to clause (1), arrange for the delivery of services by making adjustment of the employees serving in the government services at the time of commencement of this Constitution with the Federal, Provincial and Local Levels in accordance with law.

303. Provisions relating to Local Bodies: (1) The Local Bodies existing at the time of commencement of this Constitution shall continue to exist until the determination of the number and areas of the Local Level in accordance with this Constitution.

(2) Election to the officials of the Local Bodies existing pursuant to clause (1) shall be held in accordance with law.

(3) The officials of the Local Bodies elected in pursuant to clause (2) shall continue to hold office until election to the Local Level is held in accordance with this Constitution.

304. Existing Laws to Remain in Force: (1) The Nepal laws in force at the time of commencement of this Constitution shall continue to be in force until such laws are repealed or amended.

Provided that any law, which is inconsistent with this Constitution, shall *ipso facto* be void to the extent of such inconsistency, after one year of the date on which the first session of the Federal Parliament set forth in this Constitution is held.

(2) Acts relating to peace process in accordance with the Interim Constitution of Nepal, 2007 shall be deemed to be carried out in accordance with this Constitution.

305. Power to Remove Difficulties: In case any difficulty arises in connection with the implementation of this Constitution until the commencement of the first session of the Federal Parliament, upon being elected in accordance with this Constitution, the President may, on the recommendation of the Government of Nepal, Council of Ministers, issue necessary orders to remove such difficulty; and such orders shall be submitted to the Legislature-Parliament or Federal Parliament, held immediately after the issue such orders, for approval.

Part-34

Definitions and Interpretations

306. Definitions and Interpretations: (1) Unless the subject or the context otherwise requires, in this Constitution,-

- (a) "Minority" means ethnic, linguistic and religious groups whose population is less than the percentage specified by the federal law, and includes groups that have their distinct ethnic, religious or linguistic characteristics, aspirations to protect such characteristics and subjected to discrimination and oppression.
- (b) "Law" means federal law, provincial law and local law.
- (c) "Article" means an Article of this Constitution.
- (d) "Municipality" means and includes a Metropolitan City and Sub-Metropolitan City.
- (e) "Citizen" means a citizen of Nepal.
- (f) "Province" means the area and form of a federal unit of Nepal divided into the federal units in accordance with this Constitution.
- (g) "Remuneration" means and includes salary, allowance, pension and any other form of emolument and facility.
- (h) "State power" means the power relating to the Executive, Legislative and Judiciary of the State, and includes residuary power as well.
- (i) "Bill" means a draft of amendment to the Constitution or of an Act, which has been introduced in the Federal Parliament or a Provincial Assembly, as the case may be.
- (j) "Federation" means the federal level that is the apex unit of the federal structure.
- (k) "Federal Units" means the Federation, Province and Local Level.
- (l) "Constitutional Bodies" means the Commission for the Investigation of Abuse of Authority, Auditor General, Public Service Commission, Election Commission, National Human Rights Commission, National

Natural Resources and Fiscal Commission, National Women Commission, National *Dalit* Commission, National Inclusion Commission, Indigenous Nationalities Commission, *Madhesi* Commission, *Tharu* Commission and Muslim Commission.

- (m) "Marginalized" means communities that are made politically, economically and socially backward, are unable to enjoy services and facilities because of discrimination and oppression and of geographical remoteness or deprived thereof and are in lower status than the human development standards under federal law, and includes highly marginalized groups and groups on the verge of extinction.
- (n) "Local Level" means the Rural Municipality, Municipality and District Assembly to be established in accordance with this Constitution.

(2) Unless the subject or the context otherwise requires, the legal provisions relating to interpretation of laws shall, subject to the provisions of this Constitution, apply to the interpretation of this Constitution in the same manner as that provisions apply to the interpretation of the Nepal laws.

Part-35

Short Title, Commencement and Repeal

307. Short Title and Commencement: (1) This Constitution may be cited as the "Constitution of Nepal".

(2) This Constitution shall commence on Twenty September, Two Thousand Fifteen A.D. (corresponding to the third day of the month of Ashwin of the year Two Thousand Seventy Two of Bikram Era).

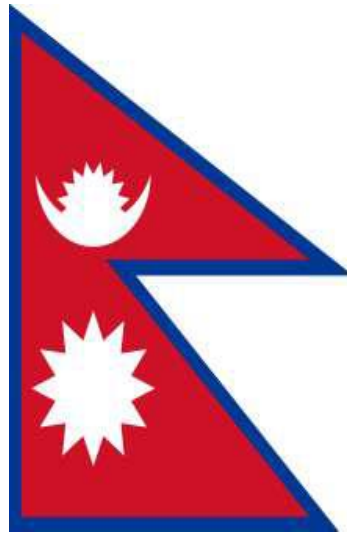
308. Repeal: The Interim Constitution of Nepal, 2007 is hereby repealed.

Nepal Law Commission

Schedule-1

(Relating to clause (2) of Article 8)

National Flag of Nepal



The 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 AB making AC equal to AB plus one third AB. From AC mark off D making line AD equal to line AB. Join B and D.
- (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, and parallel to AB to the right hand-side. Mark off FG equal to AB.
- (5) Join C and G.

(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 J and G.
- (10) Let M be the point where line JG and HI cut one another.
- (11) With centre M and with a distance shortest from M to BD mark off N on the lower portion of line HI.
- (12) Touching M and starting from O, a point on AC, draw a line from left to right parallel to AB.
- (13) With centre L and radius LN draw a semi-circle on the lower portion and let P and Q be the points where it touches the line OM respectively.
- (14) With centre M and radius MQ draw a semi-circle on the lower portion touching P and Q.
- (15) With centre N and radius NM draw an arc touching PNQ at R and S. Join RS. Let T be the point where RS and HI cut one another.
- (16) With centre T and radius TS draw a semi-circle on the upper portion of PNQ touching it at two points.
- (17) With centre T and radius TM draw an arc on the upper portion of PNQ touching at two points.
- (18) Eight equal and similar triangles of the moon are to be made in the space lying inside the semi-circle of No. (16) and outside the arc of No. (17) of this Schedule.

(c) Method of making the sun

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

(d) Method of making the border

(23) The width of the border will be equal to the width TN. This will be of deep blue colour and will be provided on all the side of the flag. However, on the five angles of the flag the external angles will be equal to the internal angles.

(24) The above-mentioned border will be provided in case the flag is to be used with a rope. On the other hand, in case it is to be hoisted on a pole, the hole on the border on the side AC can be extended in accordance with requirements.

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

Note: The size of the National Flag of Nepal shall be as determined by the Government of Nepal.

Schedule-2

(Relating to clause (1) of Article 9)

National Anthem of Nepal

Sayaun Thunga Phool Ka Hami Eutai Mala Nepali

Sarvavhaum Vai Failiyeka Mechi Mahakali

Prakitika Koti Koti Sampada Ko Aanchala

Bir Haruka Ragata Le Swatantra Ra Atala

Gyana Bhumi Shanti Bhumi Terai Pahad Himala

Akhanda Yo Pyaro Hamro Matri Bhumi Nepal

Bahul Jati Bhasa Dharma Sanskriti Chan Bishala

Aragami Rastra Hamro Jaya Jaya Nepal.

°Schedule-3

(Relating to clause (2) of Article 9)

Coat of Arms of Nepal



Note: This Coat of Arms may be made in larger or smaller size as may be necessary.
The colours determined by the Government of Nepal shall be used on it.

● Amended by the Second Amendment.

Schedule-4

(Relating to clause (3) of Article 56)

Provinces, and Districts to be included in the concerned Provinces

Province No. 1	Province No. 2
1. Taplejung	1. Saptari
2. Panchthar	2. Siraha
3. Ilam	3. Dhanusa
4. Sankhuwasabha	4. Mahottari
5. Tehrathum	5. Sarlahi
6. Dhankuta	6. Rautahat
7. Bhojpur	7. Bara
8. Khotang	8. Parsa
9. Solukhumbu	
10. Okhaldhunga	
11. Udayapur	
12. Jhapa	
13. Morang	
14. Sunsari	

Province No. 3	Province No. 4
1. Dolakha	1. Gorkha
2. Ramechhap	2. Lamjung
3. Sindhuli	3. Tanahun
4. Kavrepalanchok	4. Kaski
5. Sindhupalchok	5. Manang
6. Rasuwa	6. Mustang
7. Nuwakot	7. Parbat
8. Dhading	8. Syangja
9. Chitwan	9. Myagdi
10. Makawanpur	10. Baglung
11. Bhaktapur	11. Nawalparasi (East of Bardaghat Susta)
12. Lalitpur	
13. Kathmandu	

Province No. 5	Province No. 6	Province No. 7
1. Nawalparasi (West of Bardaghat Susta)	1. Rukum (Western Part)	1. Bajura
2. Rupandehi	2. Salyan	2. Bajhang
3. Kapilbastu	3. Dolpa	3. Doti
4. Palpa	4. Jumla	4. Achham
5. Arghakhanchi	5. Mugu	5. Darchula
6. Gulmi	6. Humla	6. Baitadi
7. Rukum (Eastern Part)	7. Kalikot	7. Dadeldhura
8. Rolpa	8. Jajarkot	8. Kanchanpur
9. Pyuthan	9. Dailekh	9. Kailali
10. Daang	10. Surkhet	
11. Banke		
12. Bardiya		

Schedule-5**(Relating to clause (1) of Article 57, and Article 109)****List of Federal Powers**

S.N.	<u>Matters</u>
1.	Relating to defence and military
(a)	Protection of national unity and territorial integrity
(b)	Relating to national security
2.	War and defence
3.	Arms and ammunitions factories and production thereof
4.	Central Police, Armed Police Force, national intelligence and investigation, law and order.
5.	Central planning, central bank, financial policies, monetary and banking, monetary policies, foreign grants, aid and loans
6.	Foreign and diplomatic affairs, international relations and United Nations related matters
7.	International treaties or agreements, extradition, mutual legal assistance and international borders, international boundary rivers
8.	Telecommunications, allocation of radio frequency, radio, television and postal matters
9.	Customs, excise-duty, value-added tax, corporate income tax, individual income tax, remuneration tax, passport fee, visa fee, tourism fee, service charge and fee, penalty
10.	Federal civil service, judicial service and other government services
11.	Policies relating to conservation and multiple uses of water resources
12.	Inland and inter-Province electricity transmission lines

13.	Central statistics (national and international standards and quality)
14.	Central level large electricity, irrigation and other projects
15.	Central universities, central level academies, universities standards and regulation, central libraries
16.	Health policies, health services, health standards, quality and monitoring, national or specialised service providing hospitals, traditional treatment services and communicable disease control
17.	Federal Parliament, Federal Executive, Local Level related affairs, special structure
18.	International trade, exchange, port, quarantine
19.	Civil aviation, international airports
20.	National transportation policies, management of railways and national highways
21.	Laws relating to the Supreme Court, High Courts, District Courts and administration of justice
22.	Citizenship, passport, visa, immigration
23.	Atomic energy, air space and astronomy
24.	Intellectual property (including patents, designs, trademarks and copyrights)
25.	Measurement
26.	Mines excavation
27.	National and international environment management, national parks, wildlife reserves and wetland, national forest policies, carbon services
28.	Insurance policies, securities, cooperatives regulation
29.	Land use policies, human settlement development policies, tourism policies, environment adaptation

30.	Enactment of Criminal and civil laws
31.	Security printing
32.	Social security and poverty alleviation
33.	Constitutional Bodies, Commissions of national importance
34.	Sites of archaeological importance and ancient monuments
35.	Any matter not enumerated in the Lists of Federal Powers, Province Powers and Local Level Powers or in the Concurrent List and any matter not specified in this Constitution and in federal laws

Nepal Law Commission

Schedule-6

(Relating to clause (2) of Article 57, clause (4) of Article 162, Article 197, clause (3) of Article 231, clause (7) of Article 232, clause (4) of Article 274 and clause (4) of Article 296)

List of Provincial Powers

S.N.	Matters
1.	Provincial police administration and law and order
2.	Operation of banks and financial institutions in accordance with the policies of Nepal Rastra Bank, cooperative institutions, foreign grants and assistance with the consent of the Centre
3.	Operation of Radio, F.M., television
4.	Housing and land registration fee, motor vehicle tax, entertainment tax, advertisement tax, tax on tourism, agro-income, service charge, fee, penalty
5.	Provincial civil service and other government services
6.	Provincial statistics
7.	Province level electricity, irrigation and water supply services, navigation
8.	Provincial universities, higher education, libraries, museums
9.	Health services
10.	Matters relating to the Provincial Assembly, Provincial Council of Ministers
11.	Intra-Province trade
12.	Provincial highways
13.	Provincial Bureau of Investigation
14.	Physical management and other necessary matters of Provincial governmental offices

15.	Provincial Public Service Commission
16.	Management of land, land records
17.	Exploration and management of mines
18.	Protection and use of languages, scripts, cultures, fine arts and religions
19.	Use of forests and waters and management of environment within the Province
20.	Agriculture and livestock development, factories, industrialization, trade, business, transportation
21.	Management of trusts (<i>Guthi</i>)

Nepal Law Commission

Schedule-7

(Relating to clause (3) of Articles 57, Article 109, clause (4) of Article 162, and Article 197)

List of Concurrent Powers of Federation and Province

S.N.	Matters
1.	Civil and criminal procedure, evidence and oaths (legal recognition, public acts and records, and judicial proceedings)
2.	Supply, distribution, price control, quality and monitoring of essential goods and services
3.	Preventive detention for reasons connected with the security of the country, prison and detention management, and maintenance of peace and order
4.	Transfer of accused persons, detainees and prisoners from one Province to another Province
5.	Laws relating to family affairs (marriage, transfer of property, divorce, persons on the verge of extinction, orphan, adoption, succession and joint family)
6.	Acquisition, requisitioning of property and creation of right in property
7.	Contracts, cooperatives, partnership and agency related matters
8.	Matters relating to bankruptcy and insolvency
9.	Drugs and pesticides
10.	Planning, family planning and population management
11.	Social security and employment, trade unions, settlement of industrial disputes, labour rights and disputes related matters
12.	Legal profession, auditing, engineering, medicines, <i>Ayurvedic</i> medicines, veterinary, <i>Amchi</i> and other professions
13.	Provincial boundary river, waterways, environment protection, biological diversity

14.	Matters related to means of communication
15.	Industries and mines and physical infrastructures
16.	Casino, lottery
17.	Preparedness for, rescue and relief during, and recovery from, natural and non-natural disasters.
18.	Tourism, water supply and sanitation
19.	Motion pictures, cinema halls and sports
20.	Insurance business operation and management
21.	Poverty alleviation and industrialization
22.	Scientific research, science and technology and human resources development
23.	Utilization of forests, Himalayan (mountains), forest conservation areas and waters stretching in inter-provincial form
24.	Land policies and laws relating thereto
25.	Employment and unemployment benefit

Schedule-8

(Relating to clause (4) of Article 57, clause (2) of Article 214, clause (2) of Article 221 and clause (1) of Article 226)

List of Local Level Powers

S.N.	Matters
1.	Town police
2.	Cooperative institutions
3.	Operation of F.M.
4.	Local taxes (property tax, house rent tax, land and building registration fee, motor vehicle tax), service charge, fee, tourism fee, advertisement tax, business tax, land tax (land revenue), penalty, entertainment tax, land revenue collection
5.	Management of the Local services
6.	Collection of local statistics and records
7.	Local Level development plans and projects
8.	Basic and secondary education
9.	Basic health and sanitation
10.	Local market management, environment protection and bio-diversity
11.	Local roads, rural roads, agro-roads, irrigation

12.	Rural Municipal Assembly, Municipal Assembly, District Assembly, local courts, management of mediation and arbitration
13.	Local records management
14.	Distribution of house and land ownership certificates

15.	Agriculture and animal husbandry, agro-products management, animal health, cooperatives
16.	Management of senior citizens, persons with disabilities and the incapacitated
17.	Collection of statistics of the unemployed
18.	Management, operation and control of agricultural extension
19.	Water supply, small hydropower projects, alternative energy
20.	Disaster management
21.	Conservation of watersheds, wildlife, mines and minerals
22.	Protection and development of languages, cultures and fine arts

Schedule-9

(Relating to clause (5) of Article 57, Article 109, clause (4) of Article 162, Article 197, clause (2) of Article 214, clause (2) of Article 221, and clause (1) of Article 226)

List of Concurrent Powers of Federation, Province and Local Level

S.N.	Matters
1.	Cooperatives
2.	Education, sports and newspapers
3.	Health
4.	Agriculture
5.	Services such as electricity, water supply, irrigation
6.	Service fee, charge, penalty and royalty from natural resources, tourism fee
7.	Forests, wildlife, birds, water uses, environment, ecology and bio-diversity
8.	Mines and minerals
9.	Disaster management
10.	Social security and poverty alleviation
11.	Personal events, births, deaths, marriages and statistics
12.	Archaeology, ancient monuments and museums
13.	Squatters management
14.	Royalty from natural resources
15.	Motor vehicle permits