

# **Constitution of Nepal, 2072**

## **Preliminary Draft**



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## **PREAMBLE**

We, the sovereignty and state authority inherent people of Nepal,

Internalizing the sovereign right of the people and right to autonomy and self-rule and preserving the sovereignty, independence, territorial integrity, independence and prestige of Nepal;

Remembering the proud history of our historical movements, armed struggle, and sacrifice done by the Nepali people time and again for national interest, democracy and progressive change, and respecting the martyrs, disappeared and victimized citizens;

Ending all forms of discrimination and suppression created by feudal, tyrannical, centralized and unitary state mechanism;

Determining to create society based on equity on the basis of proportional inclusive and participatory principles to preserve and promote unity among diversity, socio-cultural solidarity, tolerance and harmony by internalizing the characteristics with multiethnic, multilingual, multi-religious, multicultural and geographical diversities, and to ensure economic equality, prosperity and social justice by ending class-based, ethnic, regional, lingual, religious, gender-based and all forms of caste-based untouchability;

Expressing commitment to create foundation of socialism by adopting democratic values and norms including the people's competitive multi-party democratic system of governance, civil liberties, fundamental rights, human rights, adult franchise, periodic elections, freedom of the press, independent, impartial and capable judiciary and concepts of the rule of law;

Hereby declare, to fulfill the aspirations of sustainable peace, good governance, development and prosperity by means of federal democratic republican system of governance, the promulgation of this constitution through the Constituent Assembly.

## PART 1

### Preliminary

**1. Constitution as the Fundamental Law:** (1) This Constitution is the fundamental law of Nepal. Any laws inconsistent with it shall, to the extent of such inconsistency, be void.

(2) It is the duty of every person to uphold this Constitution.

**2. Sovereignty and State Authority:** The sovereignty and the state authority of Nepal is vested in the people of Nepal. Its use shall be as provided in this constitution.

**3. Nation:** Having multiethnic, multilingual, multi-religious and multicultural characteristics and geographically diversified with common aspirations and being united by a bond of allegiance to national independence, integrity, national interest and prosperity of Nepal, all the Nepalese people collectively constitute the nation.

**4. State of Nepal:** (1) Nepal is an independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented, republican, multiethnic state which shall be called Nepal in short.

(2) The territory of Nepal shall comprise of:

(a) The territory existing at the commencement of this constitution; and

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

**5. National Interest:** (1) Sovereignty, national integrity, independence, unity, and protection of right and prestige of Nepali, security of border, economic development and prosperity shall be the fundamental subjects of national interest.

(2) Any behavior or action against the national interest shall be punishable by law.

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

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

(2) In addition to the Nepali Language, state can determine one or more than one languages of the nation spoken by the majority of people as its official language on the basis of law.

**8. National Flag:** (1) The flag consisting of two juxta-posed triangular figures with a crimson-colored base and deep blue borders, there being a white emblem of the crescent moon with

eight rays visible out of sixteen in the upper part and a white emblem of a twelve rayed sun in the lower part, is the national flag of Nepal.

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

**9. National Anthem etc.:** (1) The National Anthem of Nepal shall be as set forth in the Schedule-2.

(2) The Coat-of-Arms of Nepal shall be as set forth in the Schedule- 3.

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

## **PART 2**

### **Citizenship**

**10. Not to be deprived of Citizenship:** (1) No Nepali citizen shall be deprived of the right to acquiring the citizenship.

(2) Provision of single federal citizenship comprising of the state identity is made in Nepal.

**11. Deemed to be citizen of Nepal:** The following persons who have their permanent domicile in Nepal shall be deemed to be the citizens of Nepal:

- (a) Any person who has acquired citizenship of Nepal prior to the commencement of this Constitution,
- (b) Any person who shall acquire citizenship of Nepal after the commencement of this constitution,
- (c) Any person who is capable of acquiring citizenship in accordance with Article 12.

**12. Citizenship by Descent:** (1) The following persons who have their permanent domicile in Nepal shall be provided citizenship of Nepal by descent:

- (a) Any person whose father and mother was a citizen of Nepal at his or her birth.
- (b) Any person whose either father or mother was a citizen of Nepal at his or her birth and both father and mother are citizens of Nepal at the time of receiving citizenship.

(2) Child of persons who are deemed citizen according to sub-article (1) and citizens who have acquired citizenship of Nepal by birth prior to the commencement of this Constitution shall receive citizenship of Nepal by descent on the basis of the name of father or mother upon becoming an adult.

(3) Every child who is found within the territory of Nepal and the whereabouts of whose parents are not known shall, until the father or the mother of the child is traced, be deemed to be a citizen of Nepal.

(4) Person born to Nepali citizen mother and domiciled permanently in Nepal, and whose father is unidentified shall be provided citizenship of Nepal by descent.

But if the father is proven to be a foreign citizen, the citizenship of such person shall be converted into naturalized citizenship as provided in the law.

**13. Provision related to Naturalized citizenship:** (1) A man of foreign nationality married with a citizen of Nepal after the commencement of this constitution may, if he so wishes, acquire the naturalized citizenship of Nepal pursuant to the laws in force, after domiciling permanently in Nepal for fifteen years and fulfilling the process of renouncing his foreign citizenship.

(2) A woman of foreign nationality who has a matrimonial relationship with a citizen of Nepal may, if she so wishes, acquire the naturalized citizenship of Nepal pursuant to the laws in force, after fulfilling the process of renouncing her foreign citizenship.

(3) A person born from a citizen of Nepal married to a foreign citizen, if such person was born in Nepal, has permanently resided in Nepal and has not acquired the citizenship of a foreign country, he or she may acquire the naturalized citizenship of Nepal, pursuant to the laws in force.

(4) After the commencement of this Constitution, the Government of Nepal may grant the naturalized citizenship to a foreign citizen who has made special contribution to economic or social development of Nepal, pursuant to the laws in force which may, inter alia, require the fulfillment of the following conditions:-

- (a) That he or she can read and write any of the languages of nation of Nepal,
- (b) That he or she is engaged in any occupation in Nepal,
- (c) That he or she has renounced the citizenship of foreign country,
- (d) That he or she has resided legally in Nepal for at least fifteen years,
- (e) That he or she is a citizen of the country which has legal provision or tradition of providing acquired citizenship to Nepali Citizens, and
- (f) That he or she possesses good characters.

(5) Details of naturalized citizenship provided in accordance with sub-article (4) should be presented to the federal parliament.

**14. Citizenship when Territory acquired:** Whenever any territory is acquired by way of incorporation into Nepal, every person having his or her domicile in such territory shall become a citizen of Nepal, subject to the provisions of the laws in force.

**15. Basis of Descent and Citizenship with Sexual Identification:** Every citizen shall be provided citizenship certificate with sexual identification on the basis of descent of his or her mother or father.

**16. Reacquisition of Citizenship:** A person who has acquired foreign citizenship and renounced Nepali citizenship, can be provided Nepali citizenship of the same type provided before the renouncement if he or she returns to Nepal and resides for at least five years.

**17. Honorary Citizenship:** Government of Nepal may grant the honorary citizenship of Nepal to internationally renowned person having good will for Nepal.

**18. Termination of Citizenship:** (1) Citizenship of Nepal of any person may be terminated on the following conditions:

- (a) That he or she renounces the citizenship out of free will,
- (b) That he or she acquires the citizenship of any other country,
- (c) That a non-Nepali is proven to have taken Nepali citizenship except any other provisions made in this Part.

(2) If a person eligible to acquire citizenship of Nepal happens to be eligible to acquire citizenship of a foreign country does not choose Nepali citizenship within two years of being eligible to acquire citizenship and five years after becoming adult in case of juvenile, he or she shall not remain citizen of Nepal.

**19. Citizenship to Non-Resident Nepalese:** A person of Nepali origin who has acquired foreign citizenship and resides in countries outside of the South Asian Association for Regional Cooperation (SAARC) region can be provided Non-Resident Nepali citizenship allowing to enjoy economic, social and cultural rights as provided by the law.

**20. Other provisions related to Citizenship of Nepal:** (1) Actions involving acquiring and providing one or more citizenship certificate or providing false information or recommending for the same are punishable by law.

(2) Keeping records of identification of every Nepali citizen and other provisions related to citizenship shall be as provided in the laws in force.



## PART 3

### Fundamental Rights and Duties

**21. Right to live with dignity:** (1) Every person shall have the right to live with dignity.

(2) No law shall be made which provides for the death penalty.

**22. Right to Freedom:** (1) No person shall be deprived of his or her personal liberty save 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; and
- (f) Freedom to practice any profession, carry on any occupation, industry and trade.

Provided that:

- (1) Nothing in Sub-clause (a) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the nationality, sovereignty, independence and integrity of Nepal, or which may jeopardize the harmonious relations subsisting among the federal units or peoples of various castes, tribes, religions or communities, or on inciting ethnic discrimination or untouchability or on any act of defamation, contempt of court or 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 laws to impose reasonable restrictions on any act which may undermine the nationality, sovereignty, independence and integrity or good relations among federal units or public peace and order of Nepal.
- (3) Nothing in Sub-clauses (c) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the nationality, sovereignty and integrity of Nepal, or on spying against the state, breaching national privacy or on assisting any other foreign state, organization or representative leading to undermining of Nepal's security or on any act of treason or which may jeopardize the harmonious relations subsisting among the federal units or peoples of various castes, tribes, religions or communities, or on acquiring or prohibiting membership of any political party only on the basis of ethnicity, language, religion community or sex or on forming political

parties discriminating among citizens or which may incite violent activities, or which may be contrary to public morality.

- (4) Nothing in Sub-clauses (d) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the nationality, sovereignty and integrity of Nepal, or on spying against the state, breaching national privacy or on assisting any other foreign state, organization or representative leading to undermining of Nepal's security or on any act of treason or which may jeopardize the harmonious relations subsisting among the federal units or peoples of various castes, tribes, religions or communities or which may incite violent activities, or which may be contrary to public morality.
- (5) Nothing in Sub-clauses (e) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine public interest or jeopardize the harmonious relations subsisting among the federal units or peoples of various castes, tribes, religions or communities or which may incite violent activities, or commit or incite offences or which may be contrary to public morality.
- (6) Nothing in Sub-clause (f) shall be deemed to prevent the making of laws to impose restrictions on any act which may jeopardize the harmonious relations subsisting among the federal units or be contrary to public health or morality of the general public, to confer on the State the exclusive right to undertake any specific industry, business or service, or to prescribe any condition or qualification for carrying on any industry, trade, profession or employment.

**23. Right to Equality:** (1) All citizens shall be equal before the law. No person shall be denied the equal protection of the laws.

2) No discrimination shall be made against any citizen in the application of general laws on grounds of religion, color, caste, tribe, sex, sexual orientation, bodily condition, disability, status of health, marital status, pregnancy, financial status, origin, language or region, ideological conviction or any of these.

(3) The State shall not discriminate against citizens among citizens on grounds of religion, color, caste, tribe, sex, sexual orientation, bodily condition, disability, status of health, marital status, pregnancy, financial status, origin, language or region, ideological conviction or any of these.

Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of economically poor, socially or culturally backward women, *Dalits, Adibasi, Adibasi Janajati, Khas Arya, Madhesi, Tharu*, farmers,

laborers, suppressed classes, *Muslim*, backward class, minorities, marginalized, endangered communities, youth, children, the aged, gender-based and sexually oriented minorities and the disabled or those who are physically or mentally incapacitated or citizens of backward regions.

**Explanation:** For provision of this Part and Part 4, "economically poor" means citizens under the poverty line.

(4) No discrimination in regard to remuneration and social security shall be made between men and women for the same work.

(5) All children have equal right to ancestral property without any discrimination based on gender.

**24. Right to Mass Communication:** (1) No publication, broadcasting or printing of any news item, editorial, feature, article or other reading 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 laws to impose reasonable restrictions on any act which may undermine the nationality, sovereignty, and integrity of Nepal, or which may jeopardize the harmonious relations subsisting among the federal units or peoples of various castes, tribes or communities, or on any act of treason, defamation, contempt of court or incitement to an offence, discrimination based on ethnicity or caste or gender, or on disregarding labor, or on any act which may be contrary to public decency or morality.

(2) No radio, television, on-line or other form of digital or electronic equipment, press or other means of communication publishing and broadcasting or printing any material shall be closed nor shall registration thereof be canceled by the reason of the publication, broadcasting or printing of such material through any audio, audio-visual or electronic equipment.

Provided that nothing this sub-article shall be deemed to prevent the making of laws to regulate radio, television, online or any other type of digital or electronic equipment, press or any other means of communication.

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

**25. Right to relating to Justice:** (1) No person who is arrested shall be detained in custody without informing him or her of the reasons for such arrest.

(2) Every person who is arrested shall have the right to consult a legal practitioner of his or her choice at the time of such arrest. Any consultation made by such person with his or her legal practitioner and advice given by such practitioner shall be secret; and such person shall not be deprived of the right to be defended by his or her legal practitioner.

Provided that nothing in this clause shall apply to preventive detention and to a citizen of an enemy state.

**Explanation:** For the purpose of this Clause, the expression "legal practitioner" shall mean any person who is authorized by law to represent any person in any court.

(3) Every person who is arrested shall be produced before the case trying 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 any such person shall not be detained in custody except on the order of such authority.

Provided that nothing in this clause shall apply to preventive detention and to a citizen of an enemy state.

(4) No person shall be punished for an act which was not punishable by law when the act was committed 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 charged with an Offence shall be presumed innocent until proved guilty of the offence.

(6) No person shall be prosecuted or punished for the same offence in a court more than once.

(7) No person charged with an offence shall be compelled to testify against him/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 a competent court or judicial body.

(10) Any incapable party shall have the right to free legal aid, as provided in law.

**26. Right of Victim of Offence:** (1) Victim of an offence shall have the right to be informed about the investigation and proceedings of the case.

(2) Victim of an offence shall have the right to social rehabilitation and compensation as provided in law.

**27. Right against Torture:** (1) No person who is detained during investigation or for trial or for any other reason 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 so treated shall be provided with such compensation as may be determined by law.

**28. 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, integrity or law and order situation of the State of Nepal.

(2) The situation of the person taken into preventive detention according to sub-article (1) should be informed to his or her family members or closest relatives as provided by law.

Provided that nothing in this sub-article shall apply to a citizen of an enemy state.

(3) Any person held under preventive detention shall, if he or she has been held under such detention by the authority making preventive detention contrary to law or in bad faith, have the right to such compensation as may be prescribed by law.

**29. Right against Untouchability and Discrimination:** (1) No person shall be discriminated against as untouchable and subjected to discrimination in any form, on grounds of caste, race, community, origin, occupation or bodily condition in any public or private place.

(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 facilities nor shall such goods, services facilities or facilities be sold or distributed only to the persons belonging to any particular caste or tribe.

(3) No such act as to purport to demonstrate any superiority or inferiority of the person or persons belonging to any caste, tribe, origin or bodily condition or to justify social discrimination on the ground of caste or race or to publicize ideology based on racial superiority or hatred or to encourage caste discrimination in any manner shall be allowed.

(4) Discriminating against as untouchable or touchable in any form shall not be allowed in workplace.

(5) All forms of acts of untouchability and discriminatory treatment contrary to this article shall be punishable as serious social offence, and the victim shall be entitled to such compensation as determined by law.

**30. Right to Property:** (1) Every citizen shall, subject to the laws in force, have the right to acquire, own, sell, dispose of, and otherwise deal with, property.

(2) The State can impose taxes on the property of person as necessary on the basis of principles of progressive taxation.

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

Provided that this Clause shall not apply to any property acquired in an illicit manner.

(4) In requisition of private land for public interest according to sub-article (3), it shall be done on the basis of compensation and procedural law.

(5) Nothing in sub-articles (3) and (4) shall be deemed to prevent the State in enforcing land reform, management and regulation for the purpose of increasing production and productivity of land, modernization and commercialization of agriculture, environment preservation, organized housing and planned urbanization.

**31. Right to Religious freedom:** (1) Every person shall have the right to profess, practice and protect his or her own religion according to conviction and the freedom to separate oneself from any religion.

(2) Every religious denomination shall have the right to maintain its independent existence, and, for this purpose, to operate and protect its religious sites and religious trusts, in accordance with law.

(3) In exercising right entrusted by this article, any act which may be contrary to public health, public decency or morality or incitement to breach public peace or act to convert another person from one religion to another or any act or behavior to undermine or jeopardize the religion of each other is not allowed and such act shall be punishable by law.

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

Provided that nothing shall be deemed to compel any person to provide information on any matter of which secrecy is to be maintained by law.

**33. Right to privacy:** Except as provided by law, the privacy of any person, his or her home, property, document, data, correspondence or matters relating to his or her character shall be inviolable.

**34. Right against exploitation:** (1) Every person shall have the right against exploitation.

(2) No one shall be exploited in the name of any custom, tradition and usage or in any manner whatsoever.

(3) No one shall be trafficked in nor shall one be held in slavery or in servitude.

(4) No one shall be required to perform forced labor.

Provided that nothing in this clause shall be deemed to prevent the making of law which require citizens to perform compulsory service for public purposes.

(5) Acts contrary to sub-article (3) and (4) shall be punishable by law and the victim shall be entitled to such compensation as determined by law.

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

(2) Victim of environmental pollution or degradation shall be entitled the right to compensation from the polluter as provided in the law.

(3) Nothing in this article shall be deemed to prevent the State in making laws to maintain adequate balance between environment and development for the purpose of acts of national development.

**36. Right relating to Education:** (1) Every citizen shall have the right of access to elementary education.

(2) Every citizen shall have the right to get compulsory and free education at elementary level and free education up to the secondary level.

(3) Citizens with disability and economically poor shall have the right to free higher education.

(4) Person with no eye vision, by means of Braille script and person with hearing or speaking imparity, by means of sign language shall have the right to free education as provided by the law.

(5) Every Nepali community living in Nepal shall have the right to get education up to secondary level in its own mother tongue and start and operate school and educational institution as provided in law.

**37. Right to Language and Culture:** (1) Every person and community shall have the right to use own language.

(2) Every person and community shall have the right to participate in the cultural life of own community.

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

**38. Right to Employment:** (1) Every citizen shall have the right to employment. The terms and conditions of the employment shall be as provided by the law.

Provided that, until employment is not available according to this sub-article, unemployed citizens shall have the right to receive unemployed allowance as provided by the law.

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

**39. Right to Labor:** (1) Every worker and employee shall have the right to appropriate labor exercise.

(2) Every worker and employee shall have the right to appropriate remuneration, amenities and social security.

(3) Every worker and employee shall have the right to form and join trade unions and to engage in collective bargaining for the protection of their respective interests, as provided in law.

**40. Right related to Health:** (1) Every citizen shall have the right to basic health services free of cost and no one shall be deprived of emergency health services.

(2) Every citizen shall have the right to be informed about the treatment of his or her health.

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

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

**41. Right related to Food:** (1) Every citizen shall have the right related to food.

(2) Every citizen shall have the right to protect himself or herself from putting life at risk due to lack of food materials.

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

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

(2) No citizen shall be removed or exploited from the ownership of the place of residence except when provided by law.

**43. Rights of Women:** (1) Women shall have equal ancestral right without any gender-based discrimination.

(2) Every woman shall have the right to safe maternity and reproduction, and abortion of fetus on the basis of identification of sex shall be punishable by law.



(3) No acts of physical, mental, sexual, and psychological or any other forms of violence or exploitation against women on the basis of religious, social, cultural tradition, custom or any other basis shall be done. Such act shall be punishable by law and the victim shall be entitled to such compensation as determined by law.

(4) Women shall have the right to participate in all agencies of the State mechanism on the basis of proportional inclusive principles.

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

(6) Couple shall have equal rights in the property and family affairs.

**44. Rights of the child:** (1) Every child shall have the right to his or her identity and name.

(2) Every child shall have the right to education, health, nurture, appropriate care, sports, entertainment and personality development.

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

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

(5) Child marriage, illegal transportation, abduction or kidnapping of any child shall not be allowed.

(6) No child shall be admitted or used in army, police or armed groups or mistreated or neglected in any way in the name of cultural or religious tradition or exploited physically, mentally, sexually or used in any inappropriate way.

(7) No child can be tortured physically, mentally or in any other way in home, school, or any other places and conditions.

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

(9) The helpless, orphan, disabled, conflict victim, displaced, and vulnerable children shall have the right to get special protection and facilities from the State.

(11) Any act contrary to sub-articles (4), (5), (6) and (7) shall be punishable by law and the victim shall be entitled to compensation from the perpetrator as determined by law.

**45. Right of Dalits:** (1) Person from Dalit community shall have right to get employment in civil service, army, police and all other agencies and areas of the State on the principle of

proportional inclusive principles. Special provision shall be made for empowerment, representation and participation of Dalit community in public service and other sectors of employment as provided by the law.

(2) Provision of free education including scholarship shall be made from primary level to higher education for Dalit students as determined by law. Special provision shall be made for Dalits in technical and professional higher education in accordance with the law.

(3) Special provision shall be made according to the law to provide health and social security for the Dalits.

(4) Dalit community shall have the right to preserve and develop their traditional occupation, knowledge, skill and technology. State shall provide necessary skills and resources by prioritizing Dalits in the modern professions related to the traditional occupations of Dalits.

(5) State shall once provide land to landless Dalits by making necessary laws.

(6) State shall make provision of housing to homeless Dalits by making necessary laws.

(7) The facilities provided by this article for Dalit community should be justifiably distributed among Dalit women, men and all communities on proportional basis.

**46. Right of Senior Citizens:** Senior citizens shall have the right to receive special protection and social security from the State in accordance with the law.

**47. Right to Social Justice:** (1) Socially backward women, *Dalits, Adibasi, Adibasi Janajati, Khas Arya, Madhesi, Tharu*, farmers, laborers, suppressed classes, *Muslim*, backward class, minorities, marginalized, endangered communities, youth, children, the aged, gender-based and sexually oriented minorities and the disabled or those who are physically or mentally incapacitated or citizens of backward regions shall have the right of participation in structure of the State and public service on the basis of inclusive principles.

(2) For the protection, uplifting, empowerment and development of citizens of economically poor and endangered communities shall have the right to get special opportunity and benefit in education, health, housing, employment, food and social security.

(3) Citizens with disability shall have the right to live a life with recognition of diversity with self-dignity and equal access to public service and facilities.

(4) Every farmer shall have the right to access to land, selection and preservation of traditionally used and followed local seeds and agricultural species.

(5) Family of martyrs and disappeared, strugglers of democracy, victims of conflict, displaced, disabled, injured and victims in all mass movements, armed conflict and revolution

for progressive democratic change shall have right to get prioritized opportunities in education, health, employment, housing and social security along with justice and appropriate dignity.

**48. Right to Social Security:** Single women, disabled, children, those unable to take care of themselves and citizens of endangered ethnicity in economically poor, incapacitated and helpless state shall have right to social security as provided by the law.

**49. Right of Consumers:** (1) Every consumer shall have right to get quality goods and services.

(2) Victim of loss incurred from low quality goods or services shall have right to compensation as provided by the law.

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

**51. Right to constitutional remedies and implementation of fundamental rights:** The right to proceed in the manner set forth in Articles 137 and 138 for the enforcement of the rights conferred by this Part is guaranteed.

(2) The State shall make necessary laws within three years of commencement of this constitution for the implementation of rights conferred by this Part.

**52. Duties of Citizens:** Duties of every citizen shall be as follows:

- (a) To protect the nationality, sovereignty and integrity of Nepal by being benevolent to the nation,
- (b) To abide by the constitution and laws,
- (c) To perform obligatory service when desired by the nation.

## **PART 4**

### **Directive Principles, Policies and Obligations of the State**

**53. To remain the Guidelines:** (1) The directive principles, policies and obligations stated in this Part shall remain the guidelines in operating the state.

(2) State shall mobilize and enforce mobilization of means and resources necessary for the implementation of principles, policies and obligations stated in this Part.

**54. Directive principles of the State:** (1) The political objective of the State shall be to establish federal democratic republican system to ensure the use of democratic rights by operating relationship among federal units based on cooperative federalism, local autonomy, decentralization and proportional principles in governance and establish a welfare state by maintaining justifiable system in all sectors of national life by keeping sovereignty, independence and integrity at the highest level and preserving the life, property, equality and liberty of the citizens by means of rule of law, fundamental rights and values and principles of human rights, gender equality, proportional inclusion, participation and social justice.

(2) The socio-cultural objective of the State shall be to end all forms of discrimination, exploitation and injustice based on religion, culture, custom, tradition, usage or any other basis and building society based on equity and developing socio-cultural values based on national pride, democracy, people-centrism, respect for labor, entrepreneurship, discipline, dignity and tolerance and promoting national unity and maintaining social harmony, solidarity and coordination by respecting cultural diversity.

(3) The economic objective of the state shall be to develop sustainably through equitable distribution of resources, end of all forms of economic exploitation and inequality and promote participation of the public, cooperative and private sector and maximum utilization of available resources and develop socialism-oriented economy by equitable distribution of accomplishments, building exploitation free society and making self-reliant, independent and progressive national economy.

(4) The international relations of the state shall be directed towards enhancing the dignity of the nation in the international arena by maintaining the sovereignty, independence, integrity and national interest of the country and maintaining international relations on the basis of sovereign equality.

**55. Policies of the State:** The state shall adopt the following policies:-

**(a) Policies related to national unity and national security:**

(1) Maintaining the national unity by preserving the sovereignty, independence and integrity of the nation,

- (2) Maintaining the national unity by developing mutually cooperative relation among federal units by establishing mutual harmony, tolerance and solidarity among different castes, ethnicity, religion, language, culture and communities,
- (3) Maintaining peace and order by developing national security system,
- (4) Guaranteeing overall human security,
- (5) Developing capable, strong, professional, inclusive and people-centric army, police, armed police and all other security agencies on the basis on national security policy,
- (6) Making the citizens capable and ready to serve in case of national necessity.

**(b) Policies related to political and governance system:**

- (1) Guaranteeing maximum benefit and prosperity of the people by means of preservation, strengthening and development of political achievements and economic, social and cultural transformation,
- (2) Maintaining rule of law by protecting and promoting human rights,
- (3) Implementing the international treaties and conventions related to human rights to which Nepal is a party,
- (4) Guaranteeing good governance by ensuring equal and easy access to public services by developing healthy, capable, impartial, transparent and participatory public administration,
- (5) Creating necessary provisions to make the mass communication healthy, clean, protected, responsible and professional,
- (6) Developing and expanding good and cooperative relation among the federal units by partnering in responsibilities, resources, means and administration.

**(c) Policies related to social and cultural transformation:**

- (1) Building society based on harmonic social relation by developing healthy and civilized culture,
- (2) Conducting study, research, and advertisement of historical, archaeological and cultural heritages for their preservation, promotion and development,
- (3) Promoting and mobilizing creativity of local communities and increasing local participation in social, cultural and service-oriented activities for community development,
- (4) Prioritizing the development of art, literature and music which have remained national heritages,
- (5) Ending all forms of discrimination, exploitation and injustice prevailing in the society in the name of religion, custom, tradition, rites and rituals,

- (6) Preserving and developing language script, culture, art and heritages of various ethnicities and communities on the basis of equality and coexistence by maintaining cultural diversity of the country.

**(d) Policies related to economy and commerce:**

- (1) Strengthening national economy through the participation of public, cooperative and private sector and independent development,
- (2) Achieving economic prosperity by maximum mobilization of available means and resources,
- (3) Prioritizing the cooperative sector, mobilizing capital from this sector in national development,
- (4) Motivating and mobilizing the regulation of investment and contribution of private sector to maintain transparency, accountability and competition,
- (5) Distributing the available means, resources and accomplishments of economic development in equitable manner,
- (6) Identifying the areas of comparative advantage by promoting exports and diversifying and expanding the market of goods and services,
- (7) Protecting the consumers' interests by controlling black marketing, syndicate, artificial scarcity and competition control and maintaining commercial transparency and discipline,
- (8) Protecting and promoting national industries and means and resources and prioritizing Nepali labor, skills and native investment based on raw materials for the development of national economy,
- (9) Increasing competitiveness by prioritizing native investment in service sector to develop it as an industry for the development of national economy,
- (10) Motivating and mobilizing investment of foreign capital and technology in infrastructure development , import substitution and export promotion in accordance with national interest,
- (11) Creating transparency of foreign aid by making national requirements and priorities as bases and incorporating funds collected from foreign cooperation into national budget,
- (12) Utilizing knowledge, skills, technology and capital of non-resident Nepali for national development.

**(e) Policies related to agriculture and land reform:**

- (1) Conducting scientific land reform by ending dual ownership of land by taking the interest of farmer into consideration.
- (2) Increasing production and productivity by demotivating absent land ownership and clustering of land,
- (3) Industrializing and commercializing agriculture by protecting and promoting the interests of the farmers,

- (4) Utilizing land properly by regulating and managing on the basis of productivity, nature and environmental balance,
- (5) Managing agricultural equipment, appropriate price of the agricultural products, and access to the market,
- (6) Conducting scientific land reform by taking into consideration the land use policy, agriculture, land management, modernization, commercialization of agriculture, diversification and increment in production and interest of the farmers,

**(f) Policies related to development:**

- (1) Developing the physical infrastructures in balanced, environment friendly and sustainable way by prioritizing the backward regions in terms of development,
- (2) Increasing local people's participation in the development process,
- (3) Increasing investment in scientific study, research, innovation, invention and development of science and technology and protecting the scientific, technical, intellectual and distinguished talents,
- (4) Ensuring easy access of information to common public by development and expansion of information technology on the basis of national necessity and utilizing information technology in national development to its maximum level,
- (5) Creating provisions for equitable distribution of the accomplishments of development by prioritizing economically poor people,
- (6) Managing all kinds of information and details of all citizens collectively by developing aggregated national identification management system and affiliating it with services and facilities provided by the state and national development projects,
- (7) Updating the demographic statistics and integrating it into national development projects.

**(g) Policies related to protection, promotion and utilization of natural resources:**

- (1) Sustainably utilizing the available means and resources by protecting and promoting in environment-friendly way and equitably distributing the achievements by prioritizing and providing preferential rights to local community taking into consideration the national interest and values of intergenerational coordination,
- (2) Developing water resources for multiple use by prioritizing native investment based on people's participation,
- (3) Ensuring supply of affordable and reliable energy to meet the requirements of citizens by producing and developing renewable energy and appropriately utilizing energy,
- (4) Developing sustainable and reliable irrigation system by controlling disaster caused by water sources and managing rivers properly,
- (5) Preventing adverse impacts of industrial and physical development activities in the environment by increasing the awareness of the general public about environmental cleanliness, as well as the protection and sustainable uses of the forests, wild animals, birds, plants and biological diversity,

- (6) Maintaining forest areas in at least forty percent of the total area of the country for environmental balance,
- (7) Adopting methods of eliminating or controlling negative environmental outcomes in case of negative impact on nature, environment or biological diversity,
- (8) Formulating policies and laws related to environment on the basis of principles of ecological sustainable development like liabilities for polluters, alertness and pre-informed agreements in environment conservation,
- (9) Formulating and implementing policy on minimizing the risks of natural disaster by means of pre-information, preparation, rescue, relief and rehabilitation.

**(h) Policies related to elementary needs of citizens:**

- (1) Preparing capable, competitive, moral and dedicated human resources by making education scientific, technical, professional, practical, employment-oriented and people-oriented,
- (2) Increasing the investment of the State in education sector and developing education as a service sector by regulating and managing the investment of private sector in education,
- (3) Making higher education easy, qualitative and accessible and gradually free of cost,
- (4) Establishing and promoting community information center and library for the personality development of citizens,
- (5) Increasing State's investment in public health sector to make citizens healthy,
- (6) Ensuring easy and accessible access for all to quality health service,
- (7) Increasing the investment of the State in health sector and developing health as a service sector by regulating and managing the investment of private sector in health,
- (8) Increasing the number of health organizations and personnel by focusing on health researches to make health services affordable and qualitative,
- (9) Motivating family planning to manage population on the basis of capacity and necessity of the country and increasing average life expectancy by decreasing child mortality rate,
- (10) Managing haphazard settlements and developing planned settlements,
- (11) Increasing investment in agriculture and managing sustainable production, supply, storage, security and effective distribution of food productions favorable to climate and soil conditions on the basis of the principle of food sovereignty,
- (12) Ensuring equal access of all citizens to basic goods and services and supplying in a planned way specially prioritizing the backward regions,
- (13) Ensuring easy and equal access of all citizens to transportation service and increasing investment in transportation sector, motivating public transportation prioritizing environment friendly technologies, regulating private transportation and making the transportation sector safe, managed and equitable for disabled people,
- (14) Ensuring health insurance for citizens and managing access to health services,



**(i) Policies related to labor and employment:**

- (1) Promoting employment in Nepal by ensuring conditions to work for all and developing a capable and professional manpower, the main social and economic power of the nation,
- (2) Guaranteeing social security by ensuring basic rights of all workers and laborers based on the concept of dignity of labor,
- (3) Ending all forms of exploitation of labor including exploitation of child labor,
- (4) Ensuring the participation of worker or laborer in management,
- (5) Regulating and managing the foreign employment sector to make it exploitation free, safe and systematic and guarantee the employment and rights of the worker or laborer,
- (6) Motivating the capital, skills, technology and experience earned through foreign employment to be utilized in productive sectors in Nepal

**(j) Policies related to social justice and inclusion:**

- (1) Managing appropriate means of livelihood for single women in helpless conditions by prioritizing them in employment,
- (2) Making vulnerable women, and women who are victims of social denouncement and violence self-reliant by rehabilitation, protection and empowerment,
- (3) Ensuring utilization of necessary services and facilities during maternity conditions,
- (4) Economically evaluating the work and contribution like nurturing of children, taking care of family affairs etc.,
- (5) Considering primarily the maximum interest of children,
- (6) Identifying and rehabilitating bonded labors, *kamlahri*, *harawa*, *charawa*, *huliya*, landless people and landless squatters by arranging house, land for livelihood or employment,
- (7) Creating environment of full utilization of political, social and cultural rights by promoting participation of the youth in national development, developing personality of the youths by providing special opportunities in education, health, employment and other sectors for empowerment and development of youths and creating appropriate opportunities for contribution to overall development of the State,
- (8) Increasing participation of *Adibasi Janajati* in decisions concerning them by creating special provision for opportunities and benefits to ensure their right to live with identity and dignity and protecting and promoting the traditional knowledge, skills, culture, social tradition and experiences of *Adibasi Janajati* and local communities,
- (9) Creating special provisions for opportunities and benefits to maintain the identity of minority communities and exercise social and cultural rights,
- (10) Creating special provisions for economic, social and cultural opportunities and equal distribution of benefits for *Madhesi* community and protection, uplifting, empowerment and development of poor and backward class within the community,
- (11) Creating special provisions for opportunities and benefits for protection, uplifting, empowerment, development and fulfillment of basic needs of oppressed and citizens of backward regions,

- (12) Prioritizing economically poor inside all gender, area and communities on providing social security and social justice,
- (13) Investing in a planned way in sports and players to prepare healthy, capable and disciplined citizens and developing sports as medium of strengthening national unity and increasing national prestige in international arena ,
- (14) Adopting one door system for establishment, approval, operation, regulation and management of community and national or international non-governmental organizations and making their investment and roles more accountable and transparent and involving them in areas of national need and priority only.

**(k) Policies related to justice and punishment provisions:**

- (1) Making justice administration fast, affordable, accessible, economic, impartial, effective and people-centric,
- (2) Adopting alternatives methods like reconciliation, mediation to solve disputes of simple nature,
- (3) Adopting effective measures to control corruption and malpractices in political, administrative, social and all sectors.

**(l) Policies related to tourism:** Developing ecology-friendly tourism industry as an important foundation of economy by identification, preservation, promotion and advertisement of Nepal's historical, cultural, religious, archaeological and natural heritages, formulating necessary policies and creating necessary environment for tourism culture and prioritizing local people in distributing benefits of tourism industry.

**(m) Policies related to international relations:**

- (1) Pursuing independent foreign policy to protect sovereignty, integrity, national independence and national interest by considering the highest interest of the nation based on the principles of the Charter of the United Nations, non-alignment, and the principles of *Panchsheel*, international law and the norms of world peace.
- (2) Reviewing past treaties and conducting treaties and agreements based on equality and mutual benefit.

**56. Obligations of the State:** It shall be the obligation of the State to keep intact the sovereignty, national independence and integrity, protect and promote fundamental rights and human rights, follow the directive principles of the State and gradually implement the policies of the State.

**57. Submission of Report:** Government of Nepal shall submit an annual report of the activities conducted and achievements made on the directive principles of the State, policies and obligations stated in this Part to the President and the President shall arrange to submit such report to the Federal Parliament through the Prime Minister.

**58. Provision related to monitoring:** A committee shall remain in Federal Parliament in accordance with the law to monitor the level of progressive implementation of the directive principles of the State, policies and obligations stated in this Part.

**59. Question cannot be raised:** No question can be raised in any court regarding the implementation or non-implementation of any matter written in this Part.

## **PART 5**

### **Structure of the State and Distribution of State Power**

**60. Structure of the State:** (1) The main structure of federal Nepal shall be of three tiers that includes federation, state and local.

(2) The exercise of Nepal's state power shall be used by federation, states, and local units as mentioned in the constitution.

(3) On the basis of ethnic/communal, linguistic, cultural geographical/continuity of regional identity and continuity of historical identity and economic inter-relationship and capability, infrastructure development and potential, availability of natural means and resources and administrative accessibility, there shall be eight states in Nepal. Government shall form a Federal Commission to provide suggestion regarding demarcation of states. Tenure of such Commission shall be of six months.

(4) The final decision regarding demarcation of the states shall be made, on the basis of the recommendation of the Commission formed according to sub-article (3), by two-third majority of the transformed legislature-parliament as mentioned in the constitution within three months of submission of the report of the Commission.

(5) The nomenclature of the states formed according to sub-article (4) shall be done by two-third majority of the total number of seats of the respective state assembly.

(6) *Gaon Palika* (Village Council), municipality and District assembly shall remain under the local level. The number of wards in village council and municipality shall be as provided by the law.

(7) Special structure including the special regions shall be as provided by the law.

(8) Government of Nepal shall form a Commission to determine number and area of the village council, municipality and special structure to be formed according to sub-article (6)

and (7). Such Commission should meet the criteria determined by Government of Nepal in determining the number and area of the village council, municipality and special structure.

(9) The Commission mentioned in sub-article (8) shall be formed within six months of promulgation of this constitution. The tenure of such Commission shall be of one year.

(10) The federation, states and local units shall protect and preserve Nepal's sovereignty, national unity, integrity, independence, national interest, overall development, federal democratic republic multiparty system of governance, human rights and fundamental rights, rule of law, separation of power, control and balance, equitable society based on pluralism and equality, inclusive representation and identity.

**61. Distribution of State Power:** (1) The rights of the federation shall be in the matters as specified in Schedule- 4 and the exercise of such rights shall be according to this constitution and federal law.

(2) The rights of the state shall be in the matters as specified in Schedule- 5 and the exercise of such rights shall be according to this constitution and state law.

(3) The common rights of the federation and state shall be in the matters as specified in Schedule- 6 and the exercise of such rights shall be according to this constitution and laws made by federal parliament and state assembly.

(4) According to sub-article (3), state assembly should make laws consistent to the laws made by federal parliament.

(5) The law made by state assembly according to sub-article (3), if inconsistent with laws made by federal parliament, shall, to the extent of such inconsistency, be void.

(6) The rights of the local unit shall be in the matters as specified in Schedule- 7 and the exercise of such rights shall be according to this constitution and laws made by village council or municipality.

**62. Residual Rights:** The residual rights shall remain with the federation on matters not stated in the list of rights of federation, state and local unit or the list of common rights of federation and state and matters not mentioned in this constitution.

**63. Use of Economic Rights:** (1) The federation, states and local units shall decide on making annual budget, preparing policies and plans and implement them on matters related to financial rights of matters concerning respectively.

(2) Federation shall have the right to make fundamental laws, applicable for the state as well, related to necessary policies and criteria on matters of the common list or other sectors of economic rights.

(3) Federation, state and local units shall prepare budget of their respective levels and the time of presenting the budget shall be as determined by the federal law.

(4) The profit received from the development of natural resources should be distributed equitably by the federation, state and local unit. A certain portion of this profit should be distributed to the local communities and communities in the project-affected areas in the form of royalty, service or commodities.

(5) The federation, state and local unit should prioritize investment of the local community to a certain portion on the basis of nature and size of investment should they have will to invest, on utilizing natural resources.

(6) Government of Nepal shall have the right to receive foreign aid and loan. The aggregate economic stability of the country should be maintained upon receiving loan.

(7) Provisions related to debt management of federal, state and local units and other financial discipline shall be as provided by federal law.

**64. Distribution of Sources of Revenue:** (1) Federation, state and local units shall have the rights to impose taxes within their respective areas of economic rights and collect revenues from those sources.

Provided that the matters in the list of common rights and sources not mentioned in any of the lists shall be as determined by the Government of Nepal.

(2) Government of Nepal shall arrange to justifiably distribute the revenues collected from its sources to the federation, state and local unit.

(3) The amount of financial provision for state and local level shall be as recommended by the National Natural Resources and Fiscal Commission stated in Part 25.

(4) Government of Nepal shall distribute fiscal equalization grant to the state and local level on the basis of their need of expenditure, revenue capacity and generation efforts.

(5) State shall distribute fiscal equalization grant from the grant received from Government of Nepal and revenue collected from its sources, to the local level on the basis of their need of expenditure and revenue capacity on the basis of state laws.

(6) Government of Nepal shall arrange the necessary provision of distribution of conditional grants from Federal Provident Fund, equal supplementary grants or special grants to be provided for other purposes.

(7) The distribution of revenues among federation, state and local unit shall be transparent.

(8) The Federal Act on distribution of revenues should include national policy, national requirement, autonomy of state and local units, services to be provided by state and local units and economic rights entrusted to them, capacity of revenue collection, assistance needed for development, regional disparity, poverty and inequality, deprivation, emergency acts and assistance to meet temporary needs.

## **PART 6**

### **President and Vice-President**

**65. President:** (1) There shall be a President in Nepal.

(2) The President shall be the head of state of the country, and in that capacity perform his or her functions in accordance with this Constitution and the laws in force.

(3) President shall remain the Supreme Commander-in-Chief of Nepal Army.

(4) President shall remain the symbol of unity of Nepal and Nepali people.

(5) The main duty of the President shall be to protect and abide by this Constitution.

**66. Election of President:** (1) President shall be elected from an Electoral College formed by the members of Federal Parliament and State Assembly as voters.

(2) Nothing in sub-article (1) shall prevent from constituting the Electoral College for the election of President due to not having conducted election of State Assembly in any state.

(3) A person who secures a majority of the total number of the then members of the Electoral College constituted according to sub-article (1) shall be elected to the Office of President.

(4) If no candidate wins majority as provided in sub-article (3), second round of elections shall take place between the top two candidates receiving the highest number of votes.

(5) The candidate receiving more than fifty percent of total valid votes in the second round of elections according to sub-article (4) shall be deemed elected to the Office of the President.

Provided that if the two candidates receive equal number of votes in such election, the decision is made by lottery.

(6) If any person holding any political office to be filled by way of election, nomination or appointment is elected to the office of President, such political office shall, *ipso facto*, be vacant.

(7) Other procedures relating to the election of President shall be as determined by the law.

**67. Term of office of President:** (1) The term of office of the President shall be for five years.

(2) The President whose term of office has ended according to sub-article (1), performs tasks according to this constitution until newly elected President assumes office.

**68. Qualification for President:** (1) In order to become the President, a person must possess the following qualification:

(a) Being qualified to become a member of the Federal Parliament,

(b) Having attained at least forty five years of age, and

(c) Not being ineligible by any law.

(2) Nothing in sub-article (1) shall allow a person to become a candidate in election for President after serving for two terms as the President.

**69. Vacation of office of President:** The office of the President shall become vacant in any of the following circumstances:

(a) if he or she tenders resignation before the Vice-president;

(b) if at least two-thirds majority of the total number of the members of the joint session of both Houses adopts a resolution of impeachment against him or her proposed by one-fourth members of the total number of the then members of Federal Parliament on the charge of serious violation of the Constitution by him or her;

(c) if his or her tenure of office is over; or

(d) if he or she dies.

**70. Functions, Duties and Rights of President:** (1) The functions, duties and rights of President shall be as follows:

- (a) Commencing and ending the sessions of both Houses of the Federal Parliament,
- (b) Certifying the bills approved by the Federal Parliament,
- (c) Nominating different officials as provided in the Constitution and laws,
- (d) Receiving credentials from foreign ambassadors and diplomatic representatives,
- (e) Conferring prizes, awards, titles, and medals on behalf of Nepal,
- (f) Pardoning, withholding and decreasing the punishments made according to the law by legal, paralegal and administrative agency or official.

(2) Unless stated with confirmation in this constitution and laws for acts on the recommendation of any agency or official, all other acts performed by the President shall be according to the recommendation and consent of the Council of Ministers. Such recommendation and consent shall be presented through the Prime Minister.

(3) Any decision or order to be issued in the name of the President pursuant to sub-article (1) and other instruments of authorization pertaining thereto shall be authenticated as provided by law.

**71. Vice-President:** (1) There shall be a Vice-president in Nepal.

(2) The Vice-president shall perform the functions to be performed by the President in case of vacation of the office of the President in any other way except in absence of the President or completion of the term of office.

(3) If any person holding any political office to be filled by way of election, nomination or appointment is elected to the office of Vice-president, such political office shall, *ipso facto*, be vacant.

**72. Vacation of office of Vice-President:** The office of the Vice-President shall become vacant in any of the following circumstances:

- (e) if he or she tenders resignation before the President;
- (f) if at least two-thirds majority of the total number of the members of the joint session of both Houses adopts a resolution of impeachment against him or her proposed by one-fourth members of the total number of the then members of Federal Parliament on the charge of serious violation of the Constitution by him or her;



(g) if his or her tenure of office is over; or

(h) if he or she dies.

**73. Other provisions related to Vice-President:** The qualification, election process, term of office of Vice-President shall be the same as those of President.

**74. Oath of President and Vice-President:** Prior to assuming his or her duties, according to law, President before the Chief Justice and Vice-President before the President, shall take oath of office and secrecy.

**75. Remuneration and Facilities of President and Vice-President:** Remuneration and other facilities of President and Vice-President shall be according to Act and if such Act is not made, shall be as determined by Government of Nepal.

**76. Office of the President and Vice-President:** (1) There shall be separate offices for rendering assistance in the functions of the President and the Vice-President.

(2) The Government of Nepal shall arrange for employees as required for the operation of the activities of, and other matters relating to the management of, the offices referred to in sub-article (1).

## **PART 7**

### **Federal Executive**

**77. Form of Governance:** The form of governance of the country shall be multiparty competitive federal democratic republican parliamentary system based on pluralism.

**78. Executive Power:** (1) The executive power of Nepal shall, pursuant to this Constitution and other laws, be vested in the Council of Ministers.

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

(3) All executive functions related to federal executive 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 sub-article (3) and other instruments of authorization pertaining thereto shall be authenticated as provided by law.

**79. Composition of Council of Ministers:** (1) President shall appoint the leader of the party which commands a majority in the House of Representatives as the Prime Minister and shall constitute the Council of Ministers under his chairmanship.

(2) If no one party has a clear-majority in the House of Representatives according to sub-article (1), President shall appoint as Prime Minister a member who is able to command a majority with the support of two or more parties represented in the House.

(3) If no Prime Minister is appointed within thirty days of the election of House of Representatives according to sub-article (2) or the Prime Minister appointed as such cannot obtain a vote of confidence as laid out in sub-article (4), President shall appoint as Prime Minister the leader of the parliamentary party that holds the largest number of seats in the House of Representatives.

(4) A Prime Minister appointed pursuant to sub-articles (2) or (3) shall be required to obtain a vote of confidence from the House of Representatives within thirty days of appointment.

(5) If the Prime Minister appointed according to sub-article (3) is unable to gain vote of confidence as mentioned in sub-article (4) and any member is likely to get vote of confidence according to sub-article (2), President shall appoint such member as Prime Minister.

(6) Prime Minister appointed pursuant to sub-articles (5) shall be required to obtain a vote of confidence as mentioned in sub-article (4).

(7) If Prime Minister appointed according to sub-articles (3) or (5) is unable to gain vote of confidence stated in sub-articles (4) or (6) or no Prime Minister can be appointed according to sub-article (5), President will dissolve the House of Representatives and declare date for another holding another election within six months.

(8) The procedures for appointing Prime Minister should be completed within thirty five days of the declaration of the final result of the election of House of Representatives or vacancy of the office of Prime Minister.

(9) President shall form a Council of Ministers, not exceeding twenty five ministers, from among the members of Federal Parliament as recommended by the Prime Minister on the principle of inclusion.

**Explanation:** For the purposes of this Article, the expression "Minister" shall include a Deputy Prime Minister, Minister, Minister of State and Assistant Minister.

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

**80. Prime Minister and Ministers to be relieved of office:** (1) The Prime Minister shall be relieved of his or her office in any of the following circumstances:

- (a) If he or she tenders resignation in writing to the President;
- (b) If a vote of no-confidence is passed against him or her pursuant to Article 104 or vote of confidence is not won;
- (c) If he or she ceases to be a member of the House of Representatives;
- (d) If he or she dies.

(2) A Deputy Prime Minister, Minister, Minister of State and Assistant Minister shall be relieved of his or her office in any of the following circumstances:-

- (a) If he or she tenders resignation in writing to the Prime Minister;
- (b) If the Prime Minister is relieved of his or her office pursuant to the provisions of sub-article (1);
- (c) If the Prime Minister relieves him or her of his or her office; or
- (d) If he or she dies.

(3) Even though the Prime Minister is relieved of his or her office pursuant to sub-article (1), the same Council of Ministers shall continue to function until a new Council of Ministers is constituted.

(10) If the Prime Minister dies, the senior most Minister shall act as the Prime Minister until a new Prime Minister is selected.

**81. Appointment of non-member of Legislature-Parliament as Minister:** (1) Nothing in Article 79 may prevent the President, on the recommendation of Prime Minister, to appoint a person who is not a member of the Federal Parliament as Deputy Prime Minister, Minister, Minister of State or Assistant Minister.

(2) Minister appointed pursuant to sub-article (1) shall be required to become a member of Federal Parliament within six months from the date of his appointment.

(3) If he or she cannot become a member of federal Parliament within the time period pursuant to sub-article (2), he or she shall not be eligible to be reappointed as Minister during the then tenure of the House of Representatives.

(4) Nothing in sub-article (1) shall allow a person defeated in the general election of the incumbent House of Representatives to be appointed as a Minister during the tenure of the House of Representatives.

**82. Remuneration and other facilities of Prime Minister, Deputy Prime Minister, Minister, Minister of State and Assistant Minister:** The remuneration and other facilities of the Prime Minister, Deputy Prime Minister, Minister, Minister of State and Assistant Minister shall be as determined by an Act, and until so determined, shall be as specified by the Government of Nepal.

**83. Oath:** The Prime Minister, Deputy Prime Minister and Minister shall take an oath of office and secrecy before the President, and the Minister of State and Assistant Minister shall take such oath before the Prime Minister.

**84. Information to be submitted to the President:** Prime Minister shall inform the President of the following matters:

- (a) decisions of the Council of Ministers;
- (b) Bills to be introduced in Federal Parliament;
- (c) such other information as commanded by the President on, matters mentioned in clauses (a) and (b); and
- (d) the current general state of affairs of the country and matters concerning international relations.

**85. Conduct of business of the Government of Nepal:** (1) The allocation and transaction of the business of the Government of Nepal shall be carried out as set forth in the rules approved by the Government of Nepal.

(2) No question whether the Rules referred to in sub-article (1) have been observed shall be inquired into in any court.

## **PART 8**

### **Federal Legislature**

**86. Constitution of Legislature:**

There shall be a Legislature, to be called Federal Parliament, which shall consist of two Houses, namely the House of Representatives and the National Assembly.

**87. Managerial Rights of Federal Parliament:** The managerial rights of Federal Legislature shall be as mentioned in Federal list in Schedule- 4 and Common list in Schedule- 6.

**88. Constitution of House of Representatives:** (1) The House of Representatives shall consist of two hundred and seventy five members as follows:

- (a) One hundred and sixty five members elected from first-past-the-post electoral system by dividing Nepal into one hundred and sixty five electoral districts with one representative from each electoral district formed on the basis of geography, population and balance among states.
- (b) One hundred and ten members elected from proportional electoral system by regarding whole country to be one electoral district and selecting the political parties.

(2) Provision of providing representation of women, *Dalit, Adibasi, Janajati, Adibasi Janajati, Khas Arya, Madhesi, Tharu, Muslim*, backward regions and minority communities on the basis of geography, population and balance among states in filing the candidacy by the political parties for proportional electoral system through closed list, shall be made by law.

**Clarification:** *Khas Arya* means *Chhetri, Brahmin, Thakuri* and *Sannyasi (Dasnami)* community.

(3) The election for the members of House of Representatives shall be held according to sub-article (1) through secret ballots as provided in the law.

(4) Every Nepali citizen who has reached eighteen years of age shall have right to vote in any one electoral district according to the law.

(5) A Nepali citizen with right to vote in the election for House of Representatives and eligible pursuant to Article 91 can become a candidate from any electoral district under the law.

(6) Any vacancy in a seat occurring in the House of Representatives while more than six months of its term still remains, shall be filled through election by the same electoral system through which it was first filled.

(7) The election of House of Representatives and other subsequently related matters shall be according to the law under this Article.

(8) Notwithstanding anything written elsewhere, at least one-third women should be elected from every political party out of the total seats won in the Federal Parliament. In electing in such manner, if women do not get elected in one-third of the total seats won by any political party according to clause (a) of sub-article (1) and clause (a) of sub-article (2) of Article 90, such political party should elect members according to clause (b) of sub-article (1) so that at least one-third of the total members in the Federal parliament are women.

**89. Tenure of House of Representatives:** (1) Except when dissolved earlier, the tenure of House of Representatives shall be five years.

Provided that the tenure of House of Representatives can be increased by one year at the most if declaration of emergency state is prevailing in the country.

(2) The tenure added according to sub-article (1) shall automatically end after six months of the cancellation of the declaration of emergency state.

**90. Constitution of National Assembly and tenure of office of its members:** (1) Nationally Assembly shall be a permanent house. One-third of its members retire in every two years.

(2) It shall have forty five members as follows:

- (a) Forty members elected from an Electoral College formed by the members of State Assembly and heads of local units with different weights of votes for the members of State Assembly and heads of local units with five members from each state including at least two women,
- (b) Five members, including at least two women, to be nominated by the President on the recommendation of Government of Nepal

(3) The tenure of members of National Assembly shall be for six 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) The tenure shall be considered to have commenced from the day of first meeting of the National Assembly.

(5) Vacancies of seats in the National Assembly shall be filled in the same manner of election or nomination through which the seat of the vacating member was filled.

(7) Other provisions relate to the election of National Assembly shall be as provided by the law.

**91. Qualifications for Membership:** (1) In order to become a member of Federal Parliament any person:-

- (a) Must be a citizen of Nepal.
- (b) Must have attained twenty five years of age for the House of Representatives and thirty five years for the National Assembly;
- (b) Should not be disqualified under any law; and
- (d) Should not hold an office of profit.

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

(2) No person shall be a member of both Houses simultaneously.

**92. Oath:** The members of each House of Parliament shall before taking part for the first time in a meeting of that House or any of its committees take an oath in the specified form.

**93. Vacation of seat:** The seat of a Member of Parliament shall become vacant in the following circumstances:

- (a) if he or she resigns in writing to the Speaker or Chairperson or
- (b) if he or she does not or has ceased to possess the qualifications referred to in Article 91; or
- (c) if his or her term of office expires or if the term of the House in accordance with this Constitution or
- (d) if he or she, without the leave of the concerned House absents himself or herself from ten consecutive meetings of the House: or
- (e) if the party of which he or she was a member when elected provides notification in the manner set forth by law that he or she has abandoned the party.
- (f) if he or she dies.

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

**95. Speaker and Deputy-Speaker of the House of Representatives:**

(1) The House of Representatives shall, within fifteen days of commencement of first meeting, elect a Speaker and a Deputy Speaker from among its members. Either Speaker or Deputy Speaker must be a women. If the office of the Speaker or the Deputy Speaker falls vacant, the House of Representatives shall fill the vacancy through election from among its members. The Speaker and Deputy Speaker must belong to different parties.

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

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

(3) If the election of the Speaker and Deputy Speaker has not taken place, or if both the positions have become vacant, the member of the House of Representatives who is by age the senior most shall preside over the meeting of the House of Representatives.

(4) The office of the Speaker or the Deputy Speaker shall become vacant in the following circumstances:

- (a) if he or she ceases to be a member of the House of Representatives: Provided that, after the dissolution of the House of Representatives, the Speaker and Deputy Speaker shall continue in office until the date of the filing of nominations for election to the House of Representatives or
- (b) if he or she submits a written resignation; or

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

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

#### **96. Chairman and Vice-Chairman of National Assembly:**

(1) After the commencement of its first session, the National Assembly shall, within fifteen days of commencement of first meeting, elect a Chairman and Vice Chairman from among its members. Either Chairman or the Vice-Chairman must be a women. If the office of the Chairman or the Vice-Chairman falls vacant, the National Assembly shall fill the vacancy through election from among its members. Chairman and the Vice-Chairman must belong to different parties.

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

(2) The Vice-Chairman shall, in the absence of the Chairman of the National Assembly, chair the National Assembly.

(3) If the election of the Chairman and Vice-Chairman has not taken place, or if both the positions have become vacant, the member of the National Assembly who is by age the senior most shall preside over the meeting of the National Assembly.

(4) The office of the Chairman or the Vice-Chairman shall become vacant in the following circumstances:

(a) if he or she ceases to be a member of the National Assembly; or

(b) if he or she submits a written resignation; or

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

(d) if he or she dies.

(5) The Vice-Chairman shall preside over a meeting at which deliberations are to be held on a resolution that the conduct of the Chairman of the National Assembly is not compatible with his position. The Chairman shall be entitled to take part and vote in the deliberations on such resolution.

#### **97. Summoning and Prorogation of Sessions and Dissolution of the House of Representatives:**



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

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

(2) President may prorogue the session of both or either of the Houses of Parliament.

( 3 ) If, during the prorogation or recess of the House of Representatives, one-fourth of its members make a representation that it is appropriate to convene a session or meeting, President shall specify the date and time for such session or meeting, and the House of Representatives shall meet or commence its session on the date and time thus fixed.

(4) President may dissolve the House of Representatives on the recommendation of the Prime Minister. President shall, when so dissolving the House of Representatives, specify a date, to be within six months, for new elections to the House of Representatives.

#### **98. Quorum:**

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

#### **99. Address by President:**

(1) President may address either House or a joint sitting of both the Houses of Parliament, and He or she may summon the members for that purpose.

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

#### **100. Minister Entitled to Take Part in Both Houses:**

A Minister shall be entitled to attend and take part in the proceedings and deliberations of either House of Parliament or its committees.

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

#### **101. Constitution of Committees:**

(1) House of Representatives and National Assembly shall have the right to form committees according to the law.

(2) If a resolution is passed by either House demanding that a Joint Committee of both the Houses be constituted for the purpose of managing the working procedure between the two Houses, resolving disagreements on any Bill, or for any other specified function, a Joint Committee thereon shall be constituted. The Joint Committee shall consist of up to a maximum of twenty-five members in the ratio of five members from the House of Representatives to one member from the National Assembly.

**102. Transaction of Business in case of vacancy of Members:**

Both House of Federal Parliament shall have the power to transact its business notwithstanding any vacancies in the seats of its members, and no proceedings shall become invalid even if it is subsequently discovered that a person not entitled to take part in the proceedings of either House had participated therein.

**103. Voting:**

Except as otherwise provided in this Constitution, all questions submitted for decision in either House of Parliament shall be decided by a majority vote of the members present and voting. Normally, the member presiding shall not have the right to vote, but he may exercise the casting vote in case of tie.

**104. Provision related to Vote of Confidence and Motion of non-confidence:**

(1) The Prime Minister, while he holds office, may, whenever he is of the opinion that it is necessary or appropriate to obtain a vote of confidence from the members of the House of Representatives, table a resolution to that effect in the House of Representatives.

(2) The Prime Minister, if his or her party is fragmented or the coalition partner withdraws its support, to obtain a vote of confidence from the members of the House of Representatives, table a resolution to that effect in the House of Representatives within thirty days.

(3) A decision on a resolution tabled pursuant to clauses (1) and (2) shall be made by a majority of the total number of members of the House of Representatives.

(4) One-fourth of the total number of members of the House of Representatives may table in writing a no-confidence motion against the Prime Minister:

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

(5) The name of the member proposed for Prime Minister should be mentioned when tabling the no-confidence motion according to sub-article (4).

(6) The Prime Minister shall be deemed to be relieved of his or her office if the no-confidence motion tabled according to sub-article (4) is passed by a majority of the total number of members of the House of Representatives.

(7) If the office of Prime Minister is vacant according to sub-article (6), the President appoints the proposed person as Prime Minister in the motion of no-confidence according to Article 79.

#### **105. Motion of Impeachment:**

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

(2) A motion of impeachment against the Chief Justice or any other Judge of Supreme Court, Judge of Constitutional Court, member of Judicial Council and Head or official of Constitutional Bodies may be moved by at least one-fourth majority of the total number of the then members of House of Representatives on the grounds of his or her incompetence, misbehavior or failure to discharge the duties of his or her office in good faith or his or her inability to discharge his or her duties because of physical or mental reason; and if the motion is passed by a two-thirds majority of the total number of the then members of joint session of both Houses of Federal Parliament, he or she shall *ipso facto* be relieved of his or her office.

(3) A motion of impeachment recommendation committee shall be formed in House of Representatives to recommend on charges of impeachment according to sub-article (1) or (2).

(4) Eleven members shall comprise of the committee formed according to sub-article (3).

(5) The committee formed according to sub-article (3) shall recommend the motion of impeachment to the House of Representatives when the charges of serious violation of constitution, other the grounds of his or her incompetence, misbehavior or failure to discharge the duties of his or her office in good faith or his or her inability to discharge his or her duties because of physical or mental reason are proven with evidence by at least three members.

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

(7) Other provisions related to impeachment motion shall be as provided by the laws.

#### **106. Penalty for Unauthorized Presence or Voting:**

If a person sits or votes in a meeting of either House of Parliament as a member without taking an oath pursuant to Article 92, or knowing that he or she is not qualified for membership in the House, he shall, on order of the person chairing the House, be liable to a fine of five thousand rupees for each day of such presence or voting. The fine shall recovered as government dues.

#### **107. Privileges:**

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

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

(3) Subject to the provisions of this Constitutions no comment shall be made about the good faith concerning any proceeding of either House of Parliament and no publication of any kind shall be made about anything said by any member which intentionally distorts or misinterprets the meaning of the speech.

(4) Subject to the provisions of this Constitution, the provisions of sub-articles (1) and (3) shall also apply to any person, other than a member, who is entitled to take part in a meeting of the House.

(5) No proceedings shall be initiated in any court against any person for publication of any document, report, vote or proceeding which is made under authority given, subject to the provisions of this Constitution, by a House of Parliament.

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

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

Provided that nothing in this clause shall be deemed to prevent the arrest under any law of any member on a criminal charge. If any member is so arrested, the official making such arrest shall forthwith inform the person chairing the concerned House.

(7) Any breach of privilege of either House of Parliament shall be deemed to constitute contempt of Parliament and the concerned House shall have the exclusive right to decide whether or not any breach of privilege has taken place.

(8) If a person is in contempt of either House of Parliament, the Chairperson of the concerned House may, after a decision by the House to that effect, admonish, warn or impose a sentence of imprisonment not exceeding three months, to remain effective only during the current session of the House, or impose a fine up to five thousand rupees on such person. The fine shall be recovered as government dues.

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

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

#### **108. Procedures relating to the Conduct of Business:**

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

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

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

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

#### **110. Secretary General and Secretary of Federal Parliament:**

(1) Secretary of the House of Representatives shall be appointed on the recommendation of its Speaker and the Secretary of the National Assembly shall be appointed on the recommendation of its Chairman and the secretary-general of Parliament shall be appointed in consultation with both the Speaker and the Chairman.

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

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

**112. Remuneration:**

The remuneration and privileges of the Speaker and Deputy Speaker of the House of Representatives, the Chairman and Vice-Chairman of the National Assembly and Chairperson of committees and members of Federal Parliament shall be determined by law, and until so determined shall be as specified by Government of Nepal.

**PART 9**  
**Federal Legislative Procedures**

**113. Procedure for Introducing a Bill:**

(1) A Bill may be introduced in either House of Federal Parliament.

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

(2) A Finance Bill or a Bill concerning the Nepal Army, Armed Police Force, Nepal Police as well as security body shall be introduced only as a Government Bill

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

(a) the imposition, collection, abolition, remission, alteration or regulation of taxes;

(b) the preservation of the Federal Consolidated Fund or any other Federal 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 or of proposed expenditures from such Funds;

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

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

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

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

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

#### **114. Procedure for Passage of Bills:**

(1) A Bill passed by one House of Parliament shall be transmitted to the other House as soon as possible and such Bill, if passed by the receiving House, shall be presented to President for assent.

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

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

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

(5) Any Bill, except for a Finance Bill, passed by the House of Representatives and transmitted to the National Assembly shall be sent back with approval or recommendations within two months from the date of receipt. If the National Assembly does not return the Bill within that period, the House of Representatives may, by a resolution passed by a majority of more than fifty percent of the sitting members, present the Bill to President for assent.

(6) If any Bill passed by one House is rejected or is passed with amendments by the other House, the Bill shall be transmitted back to the House where it originated.

(7) If the House of Representatives, in considering a Bill which has been rejected or amended by the National Assembly pursuant to clause (6), passes it again as it was or with amendments, by a majority of more than fifty percent of its sitting members, the Bill shall be presented to President for assent.

(8) A Bill for which amendments have been recommended and which has been transmitted to the National Assembly by the House of Representatives pursuant to clause (6) shall be

presented to President for assent if the National Assembly also passes a resolution to adopt the Bill with such amendments.

(9) The following Bills shall be referred to a joint sitting of the two Houses and if the joint sitting passes the Bill as it was or with amendments, the House in which the Bill originated shall present it to President – for assent:

(a) Bills which, though passed by the National Assembly, have been rejected by the House of Representatives; or

(b) Bills which have been returned to the National Assembly with amendments by the House of Representatives, but which the National Assembly fails to pass with such amendments.

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

Provided that if any Bill introduced in the House of Representatives is under consideration, or if a Bill, having been – passed by that House and transmitted to the National Assembly, is under consideration in the National Assembly, when the House of Representatives is dissolved or its term expires, such Bill shall be deemed to have lapsed.

#### **115. Withdrawal of Bills:**

A Bill may be withdrawn by the member introducing it with the approval of the House.

#### **116. Assent on Bills:**

(1) A Bill which is to be presented to President for assent pursuant to Article 114 shall be so presented by the Speaker or the Chairman of the House in which the Bill originated after it has been duly certified by him or her under his hand:

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

(2) Upon President's assent to any Bill that has been presented to him or her pursuant to this Article, both Houses shall be informed as soon as possible.

( 3 ) Except for a Finance Bill, if President is of the opinion that any Bill needs further deliberations, he or she may send back the Bill with his or her message to the House of origin of the Bill within fifteen days from the date of presentation of the Bill to her or her.

(4) If any Bill is sent back with a message from President, it shall be reconsidered by a joint sitting of the two Houses and if the Bill so reconsidered is again passed as it was or with



amendments, and is again presented to him or her, President shall give assent to that Bill within fifteen days of such presentation.

(5) A Bill shall become an Act after President grants his or her assent.

**117. Ordinance:**

(1) If at any time, except when both Houses of Federal Parliament are in session, President is satisfied that circumstances exist which render it necessary for him or her to take immediate action, He may, without prejudicing the provisions set forth in this Constitution, promulgate any Ordinance as he or she may deem necessary.

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

Provided that every such Ordinance:

- (a) shall be tabled at the next session of both Houses of Parliament, and if not passed by both Houses, it shall ipso facto cease to be effective;
- (b) may be repealed at any time by President; and
- (c) shall, unless rendered ineffective or repealed under sub-clause (a) or (b), ipso facto cease to have effect at the expiration of six months from its promulgation or sixty days from the commencement of a session of both the Houses.

**Explanation:** If the two Houses of Federal Parliament meet on different dates, the latter date on which a House commences its session shall be deemed to be the date of commencement of session for the purpose of computation of time under this sub-article.

**PART 10**  
**Federal Financial Procedures**

**118. No tax to be levied or loan to be raised except in accordance with law:**

(1) No tax shall be levied and collected except in accordance with law.

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

**119. Consolidated Fund:** Except for the revenues of religious endowments (Guthi), all revenues received by the Government of Nepal, all loans raised on the security of revenues, all moneys received in repayment of any loans made under the authority of any Act and any other moneys received by the Government of Nepal shall be credited to a Government Fund to be known as the Consolidated Fund. Provided that the revenues of any religious endowment (Guthi) other than any private religious endowments (Guthi) shall be regulated by a law made thereon.

**120. Expenditures from Government Fund or a consolidated fund:** No expenditure shall be incurred out of the Consolidated Fund or any other Government Fund except the following:

- (a) Moneys charged on the Consolidated Fund;
- (b) Moneys required meeting 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 Federal Contingency Fund shall be governed by Article 127.

**121. Expenditures chargeable on Federal Consolidated Fund:** The expenditures relating to the following matters shall be charged on the Consolidated Fund and permission of federal parliament is not needed for such funds:

- (a) the amount required as remuneration and facilities of the President.
- (b) the amount required as remuneration and facilities of the Vice-president;
- (c) the amount required as remuneration, facilities and pension payable to the Chief Justice and other Judges of the Supreme Court;
- (d) the amount required as remuneration and facilities payable to the following officials:
  - (1) the Speaker and the Deputy Speaker of the Legislature Parliament;
  - (2) the Chairperson and the Vice-chairperson of the Constituent Assembly;
  - (3) The Chief Commissioner and Commissioners of the Commission for the Investigation of Abuse of Authority;
  - (4) the Auditor General;
  - (5) The Chairperson and Members of the Public Service Commission;
  - (6) the Chief Election Commissioner and Election Commissioners; and
  - (7) the Chairperson and Members of the National Human Rights Commission.
- (e) the administrative expenses of the Supreme Court, the Commission for the Investigation of Abuse of Authority, the Auditor General, the Public Service Commission, the Election Commission and the National Human Rights Commission;
- (f) all charges relating to debts for which the Government of Nepal is liable;
- (g) any sum required to satisfy any judgment or decree made by a court against the Government of Nepal; and

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

**122. Estimates of revenues and expenditures:** (1) The Minister for Finance shall, in respect of every financial year, present before the Legislature Parliament an annual estimate setting out the following matters:

(a) an estimate of revenues;

(b) the moneys required to meet the charges on the Consolidated Fund; and

(c) the moneys required to meet the expenditure to be provided for by an Appropriation Act.

(2) The annual estimate to be laid pursuant to clause use (1) shall also be accompanied by a statement of the expenses allocated to every Ministry in the previous financial year and particulars of whether the objectives of the expenses have been achieved.

(3) The Minister for Finance shall present the estimation of revenue and expenses in respect of every Jestha 15 in federal parliament.

**123. Appropriation Act:** The moneys required to meet the expenditure to be provided for by any Appropriation Act shall be specified under appropriate heads in an Appropriation Bill.

**124. Supplementary estimates:** (1) The Minister for Finance shall present before the Legislature-Parliament a supplementary estimate if it is found in any financial year,-

(a) that the sum authorized to be spent for a particular service by the Appropriation Act for the current financial year is insufficient, or that a need has arisen for expenditures upon some new service not provided for by the Appropriation Act for that year; or

(b) that the expenditures made during that financial year are in excess of the amount authorized by the Appropriation Act.

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

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

(2) A Vote on Account Bill shall not be introduced until the estimates of revenues and expenditures have been presented in accordance with the provisions of Article 122, and the sums involved in the Vote on Account shall not exceed one-third of the estimate of expenditures for the financial year.

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

**126. Votes of credit:** Notwithstanding anything contained elsewhere in this Part, if owing to a local or national 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 under Article 122 to clause use 1, the Minister for Finance may lay before the Legislature-Parliament a Vote of Credit Bill giving only a statement of expenditures.

**127. Federal Contingency Fund:** An Act may create a Fund to be known as the Contingency Fund into which shall be paid from time to time such moneys as may be determined by the Act. The Fund shall be under the control of the Government of Nepal. Any unforeseen expenditure may be met out of such Fund by the Government of Nepal. The amount of the expenditures so met shall be reimbursed as soon as possible by an Act.

**128. Act relating to financial procedures:** Matters relating to the transfer of moneys appropriated by the Act from one head to another and other financial procedures shall be governed by an Act.

## **PART 11**

### **Judiciary**

#### **129. Courts to Exercise Powers Related to Justice:**

- (1) Powers relating to justice in Nepal shall be exercised by courts and other judicial bodies in accordance with the provisions of this Constitution, other laws and the recognized principles of justice.
- (2) All should abide by the verdicts or decisions on cases given by the courts.

#### **130. Courts:** (1) The following courts shall remain in Nepal:

- (a) Supreme Court;
- (b) High Court; and
- (c) District Court

- (3) In addition to the Courts referred to in sub-article (1), any other courts, judicial bodies or tribunals may be established and constituted by law at local level or for the purpose of trying and disposing cases.

**131. Specialized Courts:** (1) Except provided by Article 130, the law may also establish special types of courts or tribunals for the purpose of hearing special types of cases.

Provided that no special court or tribunal shall be constituted for the purpose of hearing a particular case.

(2) Criminal cases resulting more than six months of sentence shall not be under the jurisdiction of any other bodies except courts, specialized courts, military court or judicial body.

**132. Supreme Court:** (1) There shall be a Supreme Court in Nepal.

(2) The Supreme Court shall be a court of record. All courts and judicial bodies of Nepal shall be under the Supreme Court. The Supreme Court shall have the final authority to interpret this Constitution and the laws in force.

(3) The Supreme Court may inspect, supervise and give necessary directives to its subordinate courts and judicial bodies.

Provided that it shall not give any directions on decisions on justice.

(4) All must abide by the decisions made by Supreme Court in cases or explanation of constitution and law. It may initiate proceedings and impose punishment in accordance with law for contempt of itself and of its subordinate courts or judicial bodies.

(5) The Supreme Court shall consist of the Chief Justice and of not more than fourteen other Judges. If, at any time, the number of existing Judges becomes insufficient by the reason of an increase in the number of cases in the Supreme Court, Chief Judges of High Court can be summoned upon the work of Supreme Court.

**133. Appointment and qualification of Judges of the Supreme Court:**

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

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

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

(4) A person who has worked as a Judge of an Appellate Court or in any equivalent office of the Judicial Service for seven years or has worked in the post of Gazetted First Class or a higher post of the Judicial Service for at least twelve years or has practiced law for at least fifteen years as a law graduate advocate or senior advocate or who is a distinguished jurist having worked for at least fifteen years in the judicial or legal field shall only be eligible for appointment as a Judge of the Supreme Court.

**Clarification:** The tenure of work in Appellate Court before the commencement of this constitution shall be regarded as worked in High Court.

(5) If the office of the Chief Justice becomes 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 Judge of the Supreme Court shall act as the Acting Chief Justice.

**134. Conditions of service and facilities of Chief Justice and Judge:** (1) The Chief Justice, and permanent Judges of the Supreme Court, who have served for at least five years, shall, on retirement, be entitled to such pension as may be provided for in the law.

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

(3) Notwithstanding anything contained in Clauses (1) and (2), the Chief Justice or any Judge of the Supreme Court who has been removed from office by way of impeachment shall not be entitled to gratuity or pension.

(4) The remuneration, facilities or other conditions of service of the Chief Justice or a Judge of the Supreme Court shall not be altered to their disadvantage.

**135. Chief Justice and Judge of Supreme Court to be relieved of office:**

(1) The Chief Justice or any other Judge of the Supreme Court shall be relieved of his or her office in any of the following circumstances:

- (a) if the Chief Justice tenders resignation in writing before the President and the Judge tenders resignation in writing before the Chief Justice;
- (b) if he or she attains the age of sixty-five years;
- (c) if a motion of impeachment is passed by the Federal Parliament; or
- (d) If he or she dies.

(2) A motion of impeachment against the Chief Justice or any other Judge may be moved in the Legislature Parliament on the grounds of his or her incompetence, misbehavior or failure to discharge the duties of his or her office in good faith or his or her inability to discharge his or her duties because of physical or mental reason; and if the motion is passed by a two-thirds majority of the total number of the then members, he or she shall *ipso facto* be relieved of his or her office.

Provided that, the Chief Justice or the Judge being so charged shall not be deprived of an opportunity to defend him/herself.

(3) The Chief Justice or the Judge against whom impeachment proceedings are being initiated pursuant to sub-article (2) shall not perform the duties of his or her duties until the proceedings are completed.

- (4) The Chief Justice or other judges who are relieved of their duties according to sub-article (2) shall be punished of their offences by law.
- (5) Provisions of impeachment motion shall be as provided in the laws.

**136. Chief Justice and Judge not to be engaged in any other assignment:**

- (1) No Chief Justice or Judge of the Supreme Court shall be engaged in or deputed to any assignment other than that of Judge.

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

- (2) No person who has once held the office of Chief Justice or a Judge of the Supreme Court shall be eligible for appointment to any government office other than provided by this Constitution.

**137. Jurisdiction of the 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 an unreasonable restriction on the enjoyment of the fundamental rights conferred by this Constitution or on any other ground; and the Supreme Court shall have extra-ordinary power to declare that law to be void either *ab initio* or from the date of its decision if it appears that the law in question is inconsistent with this Constitution.

- (2) The Supreme Court shall, 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 constitutional or legal question involved in any dispute of public interest or concern, have the extraordinary power to issue necessary and appropriate orders to enforce such right or settle such dispute. For these purposes, the Supreme Court may, with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders and writs including the writs of *habeas corpus*, *mandamus*, *certiorari*, *prohibition* and *quo warrant*.

Provided that, except on the ground of absence of jurisdiction, the Supreme Court shall not under this Clause interfere with any proceedings and decisions of the Federal Parliament concerning violation of its privileges and penalties imposed therefor.

- (3) The Supreme Court shall have jurisdiction as prescribed by law to try original cases, to hear appeal references, to revise cases or hear petitions.

(4) The Supreme Court may review its own judgments or final orders subject to such conditions and in such circumstances as may be, prescribed by law. Judges other than those having handed down the previous judgment shall make such review.

**138. Cases can be transferred:** (1) Supreme Court can order to bring similar cases at Supreme Court and High Court with similar fundamental questions for processing and collectively.

(2) If the Supreme Court is satisfied with the reason that there exists a situation where justice can be adversely affected if a case filed in a Court is tried by that Court, the Supreme Court may order such case to be tried by another Court of the same level.

**139. Cannot practice law:**

Any person who has once held the office of Chief Justice or Judge of the Supreme Court shall not be entitled to practice law before any office or court.

**140. Responsibility of Chief Justice:** The Chief Justice shall have the final responsibility to make effective the administration of justice of the country; and to that end, he or she may, subject to this Constitution and other laws, give necessary directives to the Supreme Court and subordinate Courts.

**141. Constitutional Court:**

(1) Nepal Shall have a Constitutional Court.

(2) It shall be formed as follows:

- (a) Chief Justice- Chairperson
- (b) Two senior Judges of Supreme Court- Members
- (c) Two nominated by the President on the recommendation of Judicial Council – Members

(3) The jurisdiction of Constitutional Court shall be as follows:

- (a) Resolving disputes between federation and state, state and state, state and local unit and among local units
- (b) Resolving disputes related to the election of Federal Parliament or qualification of members of Federal Parliament.

(4) Decisions of Constitutional Court shall be final.

(5) The tenure of Constitutional Court shall be ten years from the commencement of this constitution.



**142. Annual Report:** The Supreme Court shall, every year, submit an annual report to the President; and the President shall arrange to submit such report to the Federal-Parliament through the Prime Minister.

**143. High Court:**

- (1) There shall be one High court in each state.
- (2) There shall be one Chief Judge in addition to other judges as provided by the federal law.

**144. Appointment and qualification of Judges of High Court:**

- (1) The Chief Justice shall, on the recommendation of the Judicial Council, appoint any Chief Judge and Judges of the High Court.
- (2) Any citizen of Nepal who has a Bachelor's Degree in law and has worked as a Judge of a District Court or in the post of Gazetted First Class of the Judicial Service for at least seven years or has practiced law for at least ten years as a law graduate advocate or senior advocate or who has taught law or done research thereon or worked in any other field of law or justice for at least ten years shall be considered eligible for appointment as the Chief Judge or a Judge of an High Court.

**145. Services and Conditions of Judges of High Court:**

(1)The remuneration, allowances, pension, leave, gratuities and other facilities and other conditions of service of the Chief Judges and other Judges of the Appellate Courts or the Judges of District Courts shall be as determined by law.

(2)The remuneration, facilities and conditions of service of the Chief Judges and Judges of the Appellate Courts and the Judges of District Courts shall not be altered to their disadvantage.

**146. Chief Judge and Judge of High Court to be relieved of office:**

The Chief Judge or any other Judge of the High Court shall be relieved of his or her office in any of the following circumstances:

- (a) if the Chief Judge tenders resignation in writing before the Chief Justice;
- (b) if he or she attains the age of sixty-three years;
- (c) if he or she is removed from office by Judicial council on ground stated in the laws; or
- (d) If he or she dies.

147. The **Chief Judge of High Court shall not be assigned any other tasks** except provided by the constitution.

**148. Jurisdiction of High Court:**

The High Court shall remain as an appellate body which can give decisions on writs including the writs of *habeas corpus*, *mandamus*, *certiorari*, *prohibition* and *quo warranto*.

149. **Transfer of cases:** High Court can transfer cases among the High Courts of different states and different district courts.

150. **Cannot practice law:** Retired Judge of High Court can practice law in Supreme Court, but not below High Court.

151. **Responsibilities of Chief Judge:** The Chief Justice shall have the responsibility to make effective the administration of justice of the country; and to that end, he or she may, subject to this Constitution and other laws, give necessary directives to the subordinate Courts.

152. **District Court:** There shall be one district court in each district. It has jurisdiction over local level cases.

**153. Appointment, qualification, remuneration and condition of service of Judges of District Court:** The judge of district court is appointed by Chief Justice on the recommendation of Judicial Council. He or she can be removed in the same way as a Judge of High Court.

154. The **Judge of District Court shall not be assigned any other tasks** except provided by the constitution.

**155. Jurisdiction of District Court:**

The District Court shall remain as the preliminary court and has jurisdiction as provided in the laws.

156. **Judicial Council:** 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 Minister for Justice - Member

(c) Senior most Judge of the Supreme Court - Member

(d) One jurist nominated by the President on the recommendation of the Prime Minister - Member

(e) A senior advocate or an advocate who has gained at least twenty years of experience, to be appointed by the Chief Justice on the recommendation of the Nepal Bar Association

The tenure of members of Judicial Council shall be of four years.

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

Provided that, the Government of Nepal shall act shall act on the recommendation of the public service commission for the purpose of permanent recruitment to the gazetted posts of the

Judicial Service from a persons who are not already in the Government Service or from person being promoted from non-gazatted to gazetted post within the judicial service.

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

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

**158. Provisions related to services and Conditions of members of Federal Judicial Service Commission** shall be as provided by the Act.

**159. Provisions related to State level Judicial Service Commission** shall be as provided by law.

## **PART 12**

### **State Executive**

**160. Use of executive power of the state:** The executive power at the state level shall be inherent in the council of Ministers of the state

**161. Provision of Head of the state:** (1) There shall remain a Head of state appointed by the President.

(2) Head of state shall function as the representative of the federal government

**162. Qualifications of Head of state:** The following qualifications are required to be appointed to the Head of state:

- (a) At least 35 years old,
- (b) Qualified to be member of federal Parliament,
- (c) Not ineligible under any laws.

**163. Conditions of relieving the Head of state:** The Head of state shall be relieved of duties from the office on the following conditions:

- (a) Written Resignation,
- (b) Completion of tenure,
- (c) Removal by President, or
- (d) Death

**164. Functions, duties and rights of Head of state:** The Head of state shall perform the following functions, duties and rights:

- (a) Commencing and ending the sessions of state Assembly,
- (b) Certifying the bills approved by the state Assembly,
- (c) Nominating different officials as provided in the state laws,
- (d) Conferring prizes, awards, titles, and medals on behalf of the state,
- (e) Pardoning, withholding and decreasing the punishments made according to the law by legal, paralegal and administrative agency or official according to state laws.

165. **Oath of Head of state:** The head of office shall take Oath of office and secrecy before the President.

166. **Formation of state council of ministers:** (1) Head of state shall appoint the leader of the party which commands a majority in the state assembly as the Chief Minister and shall constitute the Council of Ministers under his chairmanship.

(2) If no one party has a clear-majority in the state assembly according to sub-article (1), Head of state shall appoint as Chief Minister a member who is able to command a majority with the support of two or more parties represented in the assembly.

(3) If no Chief Minister is appointed within thirty days of the election of state assembly according to sub-article (2) or the Chief Minister appointed as such cannot obtain a vote of confidence as laid out in sub-article (4), Head of state shall appoint as Chief Minister the leader of the parliamentary party that holds the largest number of seats in the state assembly.

(4) A Chief Minister appointed pursuant to sub-articles (2) or (3) shall be required to obtain a vote of confidence from the state assembly within thirty days of appointment.

(5) If the Chief Minister appointed according to sub-article (3) is unable to gain vote of confidence as mentioned in sub-article (4) and any member is likely to get vote of confidence according to sub-article (2), Head of state shall appoint such member as Chief Minister.

(6) Chief Minister appointed pursuant to sub-articles (5) shall be required to obtain a vote of confidence as mentioned in sub-article (4).

(7) If Chief Minister appointed according to sub-articles (3) or (5) is unable to gain vote of confidence stated in sub-articles (4) or (6) or no Chief Minister can be appointed according to sub-article (5), Head of state will dissolve the State assembly and declare date for another holding another election within six months.

(8) The procedures for appointing Chief Minister should be completed within thirty five days of the declaration of the final result of the election of state assembly or vacancy of the office of Chief Minister.

(9) Head of state shall form a Council of Ministers, not exceeding twenty five ministers, from among the members of state assembly as recommended by the Chief Minister on the principle of inclusion.

**Explanation:** For the purposes of this Article, the expression "Minister" shall include a Deputy Chief Minister, Minister, Minister of State and Assistant Minister.

(10) The Chief Minister and other Ministers shall be collectively responsible to the state assembly and the Ministers shall be individually responsible for the work of their respective Ministries to the Chief Minister and the state assembly.

**167. Chief Minister and Ministers to be relieved of office:** (1) The Chief Minister shall be relieved of his or her office in any of the following circumstances:

(e) If he or she tenders resignation in writing to the Head of state;

(b) If a vote of no-confidence is passed against him or her pursuant to Article 187 or vote of confidence is not won;

(c) If he or she ceases to be a member of the House of Representatives;

(d) If he or she dies.

(2) A Deputy Chief Minister, Minister, Minister of State and Assistant Minister shall be relieved of his or her office in any of the following circumstances:-

(d) If he or she tenders resignation in writing to the Chief Minister;

(e) If the Chief Minister is relieved of his or her office pursuant to the provisions of sub-article (1);

(f) If the Chief Minister relieves him or her of his or her office; or

(d) If he or she dies.

(3) Even though the Chief Minister is relieved of his or her office pursuant to sub-article (1), the same Council of Ministers shall continue to function until a new Council of Ministers is constituted.

(10) If the Chief Minister dies, the senior most Minister shall act as the Chief Minister until a new Chief Minister is selected

**168. Appointment of a person who is not a member of state Assembly** (1) Nothing in Article 79 may prevent the Head of state, on the recommendation of Chief Minister, to appoint a person who is not a member of the State assembly as Deputy Chief Minister, Minister, Minister of State or Assistant Minister.

(2) Minister appointed pursuant to sub-article (1) shall be required to become a member of state assembly within six months from the date of his appointment.

(3) If he or she cannot become a member of state assembly within the time period pursuant to sub-article (2), he or she shall not be eligible to be reappointed as Minister during the then tenure of the state assembly.

(4) Nothing in sub-article (1) shall allow a person defeated in the general election of the incumbent state assembly to be appointed as a Minister during the tenure of the state assembly.

169. **Remuneration and facilities of the Chief Minister and other state Ministers:** The remuneration and other facilities of the Chief Minister, Deputy Chief Minister, Minister, Minister of State and Assistant Minister shall be as determined by an Act, and until so determined, shall be as specified by the Government of Nepal.

170. **Oath of office:** Chief Minister and Ministers shall take oath of office and secrecy before the Head of state and Minister of State and Assistant Minister shall take oath of office and secrecy before Chief Minister.

171. **Inform head of state:** Chief Minister shall inform the Head of state of the following matters:

- (a) decisions of the Council of Ministers;
- (f) Bills to be introduced in state assembly;
- (g) such other information as commanded by the Head of state on, matters mentioned in clauses (a) and (b); and
- (h) the current general state of affairs of the state,

172. **Working Procedure of state government:** (1) The allocation and transaction of the business of the state government shall be carried out as set forth in the rules approved by the state government.

(2) No question whether the Rules referred to in sub-article (1) have been observed shall be inquired into in any court.

## **PART 13**

### **State Legislature**

173. **Managerial Rights of State Legislature:** The managerial rights of state assembly shall be as mentioned in Federal list in Schedule- 5 and Common list in Schedule- 6.

174. **State legislature:** The state legislature shall be of a single house, to be called state assembly.

175. **Constitution of state assembly:** (1) The state assembly shall be constituted as follows:

- a. Double number of members than which gets elected to House of Representatives through First Past The Post electoral system,
- b. Assuming the number from clause (a) to be sixty percent, remaining forty percent elected through proportional electoral system.

(2) Electoral districts shall be formed on the basis of geography and population for the election to be held under clause (b) of sub-article (1).

(3) Every Nepali citizen who has reached eighteen years of age shall have right to vote through secret ballots as provided in the law.

(4) Provision of providing representation of women, *Dalit, Adibasi, Janajati, Adibasi Janajati, Khas Arya, Madhesi, Tharu, Muslim*, backward regions and minority communities on the basis of geography, population and balance among states in filing the candidacy by the political parties for proportional electoral system through closed list, shall be made by law.

**Clarification:** *Khas Arya* means *Chhetri, Brahmin, Thakuri* and *Sannyasi (Dasnami)* community.

(5) Notwithstanding anything written elsewhere, at least one-third women should be elected from every political party out of the total seats won in the state assembly. In electing in such manner, if women do not get elected in one-third of the total seats won by any political party according to clause (a) of sub-article (1), such political party should elect members according to clause (b) of sub-article (1) so that at least one-third of the total members in the state assembly are women.

(6) A Nepali citizen with right to vote in the election for state assembly can become a candidate from any electoral district under the law.

(7) Any vacancy in a seat occurring in the state assembly while more than six months of its term still remains, shall be filled through election by the same electoral system through which it was first filled.

(8) The election of state assembly and other subsequently related matters shall be according to the law under this Article.

**176. Tenure of state assembly:** (1) Except when dissolved earlier, the tenure of state assembly shall be five years.

Provided that the tenure of state assembly can be increased by one year at the most if declaration of emergency state is prevailing in the country.

(2) The tenure added according to sub-article (1) shall automatically end after six months of the cancellation of the declaration of emergency state.

**177. Qualifications to be member of state assembly:** (1) In order to become a member of state assembly any person:-

- (a) Must be a citizen of Nepal.
- (b) Must have attained twenty five years of age,
- (b) Should not be disqualified under any law; and
- (d) Should not hold an office of profit.

**Explanation:** For the purpose of this sub-clause, "office of profit" means any position, other than a political position, to be filled by election or nomination for which a remuneration or economic benefit is paid out of a government fund.

**178. Oath of office:** The members of state assembly shall before taking part for the first time in a meeting of state assembly or any of its committees take an oath in the specified form.

**179. Vacation of seat:** The seat of a member of state assembly shall become vacant in the following circumstances:

- (a) if he or she resigns in writing to the Speaker or
- (b) if he or she does not or has ceased to possess the qualifications referred to in Article 177; or
- (c) if his or her term of office expires or if the term of the assembly in accordance with this Constitution or
- (d) if he or she, without the leave of the assembly absents himself or herself from ten consecutive meetings of the assembly or
- (e) if the party of which he or she was a member when elected provides notification in the manner set forth by law that he or she has abandoned the party.



(f) if he or she dies.

**180. Decisions regarding disqualification of members of state assembly:** If a question arises as to whether a member of state assembly is disqualified or has ceased to possess any of the qualifications set forth in Article 177 the final decision shall be made by the Constitutional Court.

**181. Speaker and Deputy Speaker of the state assembly:** (1) The state assembly shall, within fifteen days of commencement of first meeting, elect a Speaker and a Deputy Speaker from among its members. Either Speaker or Deputy Speaker must be a women. If the office of the Speaker or the Deputy Speaker falls vacant, the state assembly shall fill the vacancy through election from among its members. The Speaker and Deputy Speaker must belong to different parties.

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

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

(3) If the election of the Speaker and Deputy Speaker has not taken place, or if both the positions have become vacant, the member of the state assembly who is by age the senior most shall preside over the meeting of the state assembly.

(4) The office of the Speaker or the Deputy Speaker shall become vacant in the following circumstances:

(a) if he or she ceases to be a member of the state assembly: Provided that, after the dissolution of the state assembly, the Speaker and Deputy Speaker shall continue in office until the date of the filing of nominations for election to the state assembly or

(b) if he or she submits a written resignation; or

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

(5) 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 state assembly is not compatible with his position. The Speaker shall be entitled to take part and vote in the deliberations on such resolution.

**182. Summoning and Prorogation of Sessions of state assembly:** (1) Head of state shall summon a session of parliament within one month after the elections to the state assembly are

held. Thereafter, Head of state shall summon other sessions from time to time in accordance with this Constitution:

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

(2) Head of state may prorogue the session state assembly.

( 3 ) If, during the prorogation or recess of the state assembly, one-fourth of its members make a representation that it is appropriate to convene a session or meeting, Head of state shall specify the date and time for such session or meeting, and the state assembly shall meet or commence its session on the date and time thus fixed.

**183. Addressing of the state assembly by Head of state:** Head of state may address state assembly, and He or she may summon the members for that purpose.

(2) Head of state shall address the first session after an election to the state assembly and after the commencement of the first session of each year.

**184. Quorum:** Except as otherwise provided in this Constitution, no resolution shall be presented for decision in state assembly unless one-fourth of the total number of members of the state assembly are present.

**185. Voting:** Except as otherwise provided in this Constitution, all questions submitted for decision in state assembly shall be decided by a majority vote of the members present and voting. Normally, the member presiding shall not have the right to vote, but he may exercise the casting vote in case of tie.

**186. Privileges of state assembly:** (1) Subject to the provisions of this Constitution there shall be full freedom of speech in state assembly and no member shall be arrested, detained or prosecuted in any court for anything said or any vote casted in state assembly

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

(3) Subject to the provisions of this Constitutions no comment shall be made about the good faith concerning any proceeding of either state assembly and no publication of any kind shall be made about anything said by any member which intentionally distorts or misinterprets the meaning of the speech.

(4) Subject to the provisions of this Constitution, the provisions of sub-articles (1) and (3) shall also apply to any person, other than a member, who is entitled to take part in a meeting of the state assembly.

(5) No proceedings shall be initiated in any court against any person for publication of any document, report, vote or proceeding which is made under authority given, subject to the provisions of this Constitution, by a State assembly.

**Explanation:** For the purpose of this clause and clauses (1), (2), (3) and (4), the word "State assembly" shall mean and include the committees of a state assembly.

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

Provided that nothing in this clause shall be deemed to prevent the arrest under any law of any member on a criminal charge. If any member is so arrested, the official making such arrest shall forthwith inform the person chairing the concerned state assembly.

(7) Any breach of privilege of either state assembly shall be deemed to constitute contempt of Parliament and the concerned state assembly shall have the exclusive right to decide whether or not any breach of privilege has taken place.

(8) If a person is in contempt of either State assembly, the Speaker of state assembly may, after a decision by the state assembly to that effect, admonish, warn or impose a sentence of imprisonment not exceeding three months, to remain effective only during the current session of the State assembly, or impose a fine up to five thousand rupees on such person. The fine shall be recovered as government dues.

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

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

#### **187. Provision related to Vote of Confidence and Motion of non-confidence:**

(1) The Chief Minister, while he holds office, may, whenever he is of the opinion that it is necessary or appropriate to obtain a vote of confidence from the members of the state assembly, table a resolution to that effect in the state assembly.

(2) The Chief Minister, if his or her party is fragmented or the coalition partner withdraws its support, to obtain a vote of confidence from the members of the state assembly, table a resolution to that effect in the state assembly within thirty days.

(3) A decision on a resolution tabled pursuant to clauses (1) and (2) shall be made by a majority of the total number of members of the state assembly.

(4) One-fourth of the total number of members of the State assembly may table in writing a no-confidence motion against the Chief Minister:

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

(5) The name of the member proposed for Chief Minister should be mentioned when tabling the no-confidence motion according to sub-article (4).

(6) The Chief Minister shall be deemed to be relieved of his or her office if the no-confidence motion tabled according to sub-article (4) is passed by a majority of the total number of members of the state assembly.

(7) If the office of Chief Minister is vacant according to sub-article (6), the Head of state appoints the proposed person as Chief Minister in the motion of no-confidence according to Article 166.

**188. Minister Entitled to Take Part in Both Houses:**

A Minister shall be entitled to attend and take part in the proceedings and deliberations of either state assembly or its committees.

Provided that he shall not be entitled to vote in the committee of which he is not a member.

**189. Penalty for Unauthorized Presence or Voting:**

If a person sits or votes in a meeting of state assembly as a member without taking an oath pursuant to Article 178, or knowing that he is not qualified for membership in the House, he or she shall, on order of the Speaker, be liable to a fine of five thousand rupees for each day of such presence or voting. The fine shall be recovered as government dues.

**190. Restriction on discussion:** No discussion shall be held in state assembly on a matter which is under consideration in any court of Nepal, and about anything done by a Judge in course of performance of his duties.

**191. Transaction of Business in case of vacancy of Members:**

The state assembly shall have the power to transact its business notwithstanding any vacancies in the seats of its members, and no proceedings shall become invalid even if it is subsequently discovered that a person not entitled to take part in the proceedings of the assembly had participated therein.

**192. Constitution of Committees:**

The state assembly shall have the right to form committees according to the law.

**193. Procedures relating to the Conduct of Business:**

The state assembly shall, subject to the provisions of this Constitution, frame rules for conducting its business, maintaining order during its meetings and regulating the constitution, functions and procedures of the committees or any other matter of the state assembly or committees. The state assembly shall determine its own conduct of business until such rules are formed.

**194. Appointment of secretary of state assembly and secretariat:** (1) A Secretary of the state assembly shall be appointed on the recommendation of its Speaker.

(2) A Secretariat shall be established for the purpose of conducting the business of state assembly. Other matters related thereto shall be as determined by law.

(3) The qualifications, duties, functions, rights and other services of Secretary of state assembly shall be as determined by law.

**195. Remuneration:** The remuneration and privileges of the Speaker and Deputy Speaker state assembly and Chairperson of committees and members shall be determined by law, and until so determined shall be as specified by state government.

## **PART 14**

### **Legislative Procedures of state**

**113. Procedure for Introducing a Bill:**

(1) A Bill may be introduced in the state assembly.

(2) A Finance Bill or a security shall be introduced only as a Government Bill

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

(a) the imposition, collection, abolition, remission, alteration or regulation of taxes;

(b) the preservation of the Federal Consolidated Fund or any other Federal 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 or of proposed expenditures from such Funds;

© the regulation of – matters relating to the raising of loans or the giving of guarantees by Government of Nepal, or any matter pertaining to amendment of the laws concerning the financial liabilities undertaken or to be undertaken by Government of Nepal;

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

© matters directly related to (a), (b), (c), (d) and ©.

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

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

#### **114. Procedure for Passage of Bills:**

(1) A Bill passed by the state assembly shall be presented to Head of state for assent.

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

Provided that if any Bill introduced in the state assembly when the state assembly dissolved or its term expires, such Bill shall be deemed to have lapsed.

#### **115. Withdrawal of Bills:**

A Bill may be withdrawn by the member introducing it with the approval of the state assembly.

#### **116. Assent on Bills:**

(1) A Bill which is to be presented to Head of state for assent.

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

(2) Upon Head of state's assent to any Bill that has been presented to him or her pursuant to this Article, state assembly shall be informed as soon as possible.

( 3 ) Except for a Finance Bill, if Head of state is of the opinion that any Bill needs further deliberations, he or she may send back the Bill with his or her message to the state assembly within fifteen days from the date of presentation of the Bill to her or her.

(4) If any Bill is sent back with a message from Head of state, it shall be reconsidered state assembly and if the Bill so reconsidered is again passed as it was or with amendments, and is

again presented to him or her, President shall give assent to that Bill within fifteen days of such presentation.

(5) A Bill shall become an Act after Head of state grants his or her assent.

**117. Ordinance:**

(1) If at any time, except when state assembly in session, Head of state is satisfied that circumstances exist which render it necessary for him or her to take immediate action, He may, without prejudicing the provisions set forth in this Constitution, promulgate any Ordinance as he or she may deem necessary.

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

Provided that every such Ordinance:

- (a) shall be tabled at the next session of state assembly, and if not passed by state assembly, it shall ipso facto cease to be effective;
- (b) may be repealed at any time by President; and

**(128)**      ©shall, unless rendered ineffective or repealed under sub-clause (a) or (b), ipso facto cease to have effect at the expiration of six months from its promulgation or sixty days from the commencement of a session of state assembly.

**PART 15**

**Financial Procedures of state**

**118. No tax to be levied or loan to be raised except in accordance with law:**

(1) No tax shall be levied and collected except in accordance with law.

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

**119. Consolidated Fund of the state:** Except for the revenues of religious endowments (Guthi), all revenues received by the state government, all loans raised on the security of revenues, all moneys received in repayment of any loans made under the authority of any Act and any other moneys received by the state government shall be credited to a state government Fund to be known as the Consolidated Fund of state. Provided that the revenues of any religious endowment (Guthi) other than any private religious endowments (Guthi) shall be regulated by a law made thereon.

**120. Expenditures from state government Fund or a consolidated fund:** No expenditure shall be incurred out of the Consolidated Fund of state or any other Government Fund of state except the following:

- (a) Moneys charged on the Consolidated Fund;
- (b) Moneys required meeting the expenditure under an Appropriation Act;
- © 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 Contingency Fund of state shall be governed by Article 211.

**121. Expenditures chargeable on Consolidated Fund of state:** The expenditures relating to the following matters shall be charged on the Consolidated Fund of state and permission of state assembly is not needed for such funds:

- (a) Salary and remuneration of head of state, Chief Minister, Speaker and Deputy Speaker of state assembly, head of state level public service commission
- (b) As directed to be claimed by the court against the state government
- © any other sum declared by law to be chargeable on the Consolidated Fund.

**122. Estimates of revenues and expenditures:** (1) The Minister for Finance of the state shall, in respect of every financial year, present before the state assembly an annual estimate setting out the following matters:

- (a) an estimate of revenues;
- (b) the moneys required to meet the charges on the Consolidated Fund of state; and
- (c) the moneys required to meet the expenditure to be provided for by an Appropriation Act.

**123. Appropriation Act:** The moneys required to meet the expenditure to be provided for by any Appropriation Act shall be specified under appropriate heads in an Appropriation Bill.

**124. Supplementary estimates:** (1) The Minister for Finance of the state shall present before the state assembly a supplementary estimate if it is found in any financial year,-

- (a) that the sum authorized to be spent for a particular service by the Appropriation Act for the current financial year is insufficient, or that a need has arisen for expenditures upon some new service not provided for by the Appropriation Act for that year; or
- (b) that the expenditures made during that financial year are in excess of the amount authorized by the Appropriation Act.



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

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

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

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

**126. Votes of credit:** Notwithstanding anything contained elsewhere in this Part, if owing to a local or national 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 under sub-article (1) of Article 205 to clause use 1, the Minister for Finance may lay before the Legislature-Parliament a Vote of Credit Bill giving only a statement of expenditures.

**127. Contingency Fund of state:** An Act may create a Fund to be known as the Contingency Fund into which shall be paid from time to time such moneys as may be determined by the Act. The Fund shall be under the control of the state government. Any unforeseen expenditure may be met out of such Fund by state government. The amount of the expenditures so met shall be reimbursed as soon as possible by an Act.

**128. Act relating to financial procedures:** Matters relating to the transfer of moneys appropriated by the Act from one head to another and other financial procedures shall be governed by an Act.

## **PART 16**

### **Local Executive**

**212. Use of local executive power:** The local executive power shall remain with the Village Council and municipality under the Constitution and laws.

**213. Provisions related to Head and Deputy Head of Village Council:** (1) There shall be a Head of Village Executive in every Village Council. The Village Council shall be formed under his or her Chairmanship.

(2) Village Council shall have a Deputy Head and fifteen members according to sub-article (1).

(3) The election of Head and Deputy Head shall be done by First-past-the-post electoral system through secret ballot.

(4) The following qualification is required to become a Head and Deputy Head of Village Council:

- (a) A Nepalese citizen,
- (b) Has attained twenty-one years of age
- (c) Possesses qualification to become a voter under the prevailing law
- (d) Not disqualified under any law

**214. Provisions related to Head and Deputy Head of Municipality:** (1) There shall be a Head of Municipal Executive in every municipality. The municipality shall be formed under his or her Chairmanship.

(2) Every municipality shall have a Deputy Head and fifteen members according to sub-article (1).

(3) The election of Head and Deputy Head shall be done by first-past-the-post electoral system through secret ballot.

(4) The following qualification is required to become a Head and Deputy Head of municipality:

- (a) A Nepalese citizen,
- (b) Has attained twenty-one years of age
- (c) Possesses qualification to become a voter under the prevailing law
- (d) Not disqualified under any law

**215. Judicial Committee:** (1) As denominated by federal and state laws, there shall be a judicial committee with the Deputy Head of Village Council and Municipality as Coordinators to decide on the cases referred to by entrusting right of judicial power.

(2) The judicial committee shall have members nominated by the Heads of Village Council or Municipality according to sub-article (1).

**216. Working of Village executive and Municipal Executive:** Work division and operation procedures of the village executive and municipal executive shall be determined by the rules.

**217. Other provisions related to executive of local units:** Anything unwritten on this Part regarding the executive power at local level shall be exercised by making laws from Federal Assembly under this Constitution.

**218. District Assembly:** (1) There shall remain a District Assembly to coordinate and manage the Village Council and Municipalities according to the law.

(2) Heads of every Village Council and Municipalities within the district shall remain members of the District Assembly.

(3) District Assembly shall elect a District Coordination Committee including one Head, one Deputy Head, at least three women and at least one from Dalit or minority groups.

(4) The members of Village Assembly or Municipal Assembly shall be eligible to be a candidate of Head, Deputy Head or member of District Coordination Committee.

(5) The tenure of Head, Deputy Head or member of District Coordination Committee shall be for five years.

(6) The Head, Deputy Head or member of District Coordination Committee shall be relieved of their offices on written resignation, death or completion of tenure.

## **PART 17**

### **Local Legislature**

**219. Legislative Rights of Local units:** (1) The legislative rights at local level are entrusted to Village Council and Municipal Council according to the Constitution.

(2) The legislative rights at local level shall be as stated in Schedule- 7.

**220. Village Assembly or Municipal Assembly:** A Village Assembly shall remain in Village Council and a Municipal Assembly shall remain at Municipality.

**221. Constitution of Village Assembly:** (1) A Village Assembly shall be constituted in any Village Council.

(2) The Village Assembly shall consist of the forty five elected Members Chairman and Vice-chairman, and five members from of each Ward.

(3) Two women shall be represented from each ward according to sub-article (2).

(4) The election of Village Assembly members shall be done by First-past-the-post electoral system through secret ballot.

(5) The following qualification is required to become a member of Village Assembly:

(a) A Nepalese citizen,

(b) Has attained twenty-one years of age

- (c) Possesses qualification to become a voter under the prevailing law
- (d) Not disqualified under any law

**222. Chairman and Vice-chairman of Village Assembly:** The Head and Deputy Head of Village Executive and Municipal Executive shall function as Chairperson and Vice- Chairperson of Village Council and Municipality.

**223. Tenure of office:** The tenure of Village Assembly and Municipal Assembly shall be for five years.

**224. Can make legislations:** (1) Village Assembly and Municipal Assembly can make laws according to the list in Schedule-7.

(2) The procedure of making laws according to sub-article (1) shall be according to the state laws.

**225. Other provisions related to Village Assembly and Municipal Assembly:** The method of operation, procedures of meetings, vacancy, facilities and remuneration of office bearers and personnel shall be according to the state laws.

## **PART 18**

### **Local Financial Procedures**

**227. No tax to be levied or loan to be raised except in accordance with law:**

- (1) No tax shall be levied and collected except in accordance with law.
- (2) Local unit can impose taxes not inconsistent with national economic policy, transportation of goods, services, capital and labor and neighboring state or local units.

**119. Consolidated Fund:** (1) There shall be a Local Consolidated Fund in each Village Council and Municipality at the local level. Except for the revenues of religious endowments (Guthi), all revenues received by the local units, all loans raised on the security of revenues, all moneys received in repayment of any loans made under the authority of any Act and any other moneys received by the local units shall be credited to a Local Consolidated Fund.

(2) The provision for expenditure from Local Consolidated Fund according to sub-article (1) shall be as provided in the laws.

**122. Budget of Village Council and Municipalities:** (1) The Village Council and Municipalities shall, in respect of every financial year, present before the Village and Municipal Assembly an annual estimate of revenues and expenditure.

(2) The Village Council and Municipalities should propose the sources of fulfilling the deficit according to the federal and state laws in case a deficit budget has to be formulated.

## **PART 19**

### **Interrelationship among Federation, state and local units**

#### **230. Legislative Relation between Federation and state:**

(1) Federal law shall be made to enforce on whole Nepal or only on any area on the basis of necessity. Law of state can be made by the state to prevail within the state.

(2) Upon request by two or more than two states to formulate law on any matter stated in the list of rights of states in Schedule- 5 to the Federal Parliament, the Federal Parliament can make such laws. Such law shall prevail on the respective states.

#### **231. Executive relations among the Federation, state and local unit:**

(1) The relationship among federation, states and local units shall be based upon the principles of cooperation, coexistence and coordination.

(2) Government of Nepal can direct, on the basis of Constitution and common laws, on matters of national importance and coordination among states, and it shall be the duty of respective state to follow such direction.

(3) President can, on serious violation of nationality, sovereignty, integrity or independence by any state, bring into attention, annul or dissolve the council of ministers of the state or the state assembly.

(4) On suspension or dissolution of the council of ministers of the state or the state assembly according to sub-article (3), such act should be approved by majority of the then number of members of Federal Parliament within thirty five days.

(5) If the suspension or dissolution according to sub-article (3), is approved by the Federal Parliament, fresh election of state assembly shall be held within six months.

Provided that non-approval by the Federal Parliament shall automatically repeal such suspension or dissolution.

(9) Until election is done according to sub-article (5), federal rule shall be imposed on such state. During the period of federal rule, Federal parliament can make laws regarding the matters listed in the rights of states.

(10) Government of Nepal can provide necessary assistance and direction to village executive and municipal executive through state government in accordance with Constitution and federal law.

#### **232. Executive relations among the states:**

(1) One state should cooperate in implementing the legal system or legal and administrative decisions or orders of the other state.

(2) One state can exchange information on mutual concern and interest, consult, coordinate on acts and legislations, and extend mutual cooperation with the other states.

(3) A state should provide equal protection and facilities to dwellers from the other states according to its state laws.

### **233. Inter-state Council:**

(1) An Inter-state Council shall remain to resolve the political disputes among federation and states and state and state comprising of the following Chairperson and members:

- a) Prime Minister- Chairperson
- b) Home Minister of Government of Nepal- Member
- c) Home Minister of Government of Nepal- Member
- d) Chief Ministers of respective states- Members

(2) The Inter-state Council can invite respective Minister of Government of Nepal or the state and experts to its meetings as required.

### **234. Coordination among federation, states and local units:**

(1) Federal Parliament shall make necessary laws to maintain coordination among federation, states and local units.

(2) The state assembly shall establish coordination with the Village Council or Municipality and coordinate with District Coordination Committee to resolve any political disputes at local level.

(3) The process and working procedure as stated in sub-article (2) shall be as provided by state laws.

### **235. Interstate Trade**

No discrimination or obstruction shall be done or taxes imposed in transporting any goods or services from one state or local unit to other state or local unit or any state or local unit of Nepal through any other state or local unit or import and export done at local level.

236. No impact on jurisdiction of Constitutional Court: Nothing on this Article shall have any impact on the jurisdiction of Constitutional Court as stated in Article 141.

## **PART 20**

### **Commission for the Investigation of Abuse of Authority**

**237. Commission for the Investigation of Abuse of Authority:** (1) There shall be a Commission for the Investigation of Abuse of Authority in Nepal, consisting of 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 the recommendation of the Constitutional Council, appoint the Chief Commissioner and other Commissioners.

(3) The term of office of the Chief Commissioner and other Commissioners shall be six years from the date of appointment.

(4) Notwithstanding anything written in sub-article (3), Chief Commissioner or Commissioner shall be relieved of his or her office in any of the following circumstances:

- (a) If he or she tenders written resign to the President;
- (b) If he or she attains the age of sixty-five years;
- (c) If a motion of impeachment is passed against him or her;
- (d) If he or she dies.

(5) A person shall be eligible to be appointed as the Chief Commissioner or a Commissioner if he or she possesses the following qualifications:

- (a) Holds a bachelor's degree from a university recognized by the Government of Nepal;
- (b) Is not a member of any political party immediately before the appointment;
- (c) Has at least fifteen years of experience in the field of either accounting, revenue, engineering, law, development or research and is a distinguished person;
- (d) Has attained the age of forty years; and
- (e) Possesses a high moral character.

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

Provided that this provision shall not apply in emergency situation declared due to extreme financial volatility.

(8) A person once appointed as the Chief Commissioner or Commissioner shall not be eligible for appointment in any other government service.

Provided that,

(a) Nothing in this Clause shall be deemed to be a bar to the appointment of a Commissioner of the Commission for the Investigation of Abuse of Authority as its Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his or her term of office shall be so computed as to include his or her term as the Commissioner.

(c) 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.

## **PART - 21**

### **AUDITOR GENERAL**

**239. 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 be deemed to be vacant in any of the following circumstances:

- (a) if she/he tenders written resignation before the President,
- (b) if she/he attains the age of sixty-five years,
- (c) if a resolution of impeachment is passed against her/him, or
- d) if she/he dies.

(5) A person having the following qualification shall be eligible to be appointed as the Auditor General:

(a) holds a Bachelor's Degree in Management, Commerce or Accounts from a university recognized by the Government of Nepal, or has worked as a Special Class



Officer of the Government of Nepal after successfully completing the Chartered Accountants examination, or has at least twenty years' experience in the field of auditing;

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

(c) has attained forty years of age, and

(d) possesses high moral character.

(6) The remuneration and conditions of service of the Auditor General shall be as determined by law. The remuneration and other conditions of service of the Auditor General shall not, so long as she/he holds office, be altered to her/his disadvantage.

Provided that, in the case of state of emergency declared due to the extreme economic disarray this provision shall not come to enforcement.

(7) A person once appointed as the Auditor General shall not be eligible for appointment in other Government service.

Provided that, nothing in this clause shall be a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

**240. Functions, duties and powers of the Auditor General:** (1) The accounts of the Supreme Court, the Constitutional Court, the Federal Parliament, Provincial Assembly, Provincial Government, Constitutional Entities or their offices, Office of the Attorney General and the Nepal Army and Armed Police and the Nepal Police as well as of all other government offices and courts shall be audited by the Auditor General in the manner determined by law, with due consideration given to the regularity, economy, efficiency, effectiveness and the propriety thereof.

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

(3) The Auditor General shall, at all times, have access to documents concerning the accounts for the purpose of carrying out the functions specified in clause (1). It shall be the duty of the head of the office in question to provide all documents or information which may be demanded by the Auditor General or her/his employees.

(4) The accounts to be audited pursuant to clause (1) shall, subject to the relevant law, be maintained in such form as is prescribed by the Auditor General.

(5) In addition to the accounts of the offices referred to in clause (1), the law may also require that the accounts of any other office or institution be audited by the Auditor General.

## **Part – 22**

### **FEDERAL PUBLIC SERVICE COMMISSION**

**241. Federal Public Service Commission:** (1) There shall be a Federal Public Service Commission of Nepal consisting of a Chairperson and such number of other members as may be required.

(2) The President, shall on the recommendation of the Constitutional Council, appoint the Chairperson and other members of the Federal Public Service Commission.

(3) At least fifty percent of the total number of members of the Federal Public Service Commission shall be appointed from persons who have worked for at least twenty years in any government service, and the rest of the members shall be appointed from persons who have done research, investigation, teaching or any other significant

work in fields such as science, technology, art, literature, law, public administration, sociology or any other sphere of national life and who hold a high reputation.

(4) The term of office of the Chairperson and members of the Federal Public Service Commission shall be six years from the date of appointment.

(5) Notwithstanding anything contained in clause (4), the office of Chairperson or other members shall be deemed to be vacant in any of the following circumstances:

- (a) if she/he tenders written resignation before the President,
- b) if she/he attains the age of sixty-five years,
- c) if a resolution of impeachment is passed against her/him, or
- d) if she/he dies.

(6) A person having the following qualification shall be eligible to be appointed as the Chairperson and member of the Federal Public Service Commission:

- (a) holding a post-graduate degree from a university recognized by the Government of Nepal,
- (b) is not a member of any political party immediately before appointment;
- (c) has attained forty years of age, and
- (d) possesses high moral character.

(7) The remuneration and conditions of service of the Chairperson and members shall be as determined by law. The remuneration and other conditions of service of the Chairperson and members shall not, so long as she/he holds office, be altered to her/his disadvantage.

Provided that, in the case of state of emergency declared due to the extreme economic disarray this provision shall not come to enforcement.

(8) A person once appointed as the Chairperson and the member of the Federal Public Service Commission shall not be eligible for appointment in other Government service.

Provided that,

(a) Nothing in this clause shall be deemed to be a bar to the appointment of a member of the Federal Public Service Commission as Chairperson thereof, and when a member is so appointed as the Chairperson, her/his term of office shall be computed so as to include her/his tenure as member as well.

(b) Nothing in this clause shall be deemed to be a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

**242. Functions, duties and powers of the Federal Public Service Commission:** (1) It shall be the duty of the Federal Public Service Commission to conduct examinations for the selection of suitable candidates to be appointed to Civil Service posts.

**Explanation:** For the purposes of this Article, "the position of the civil service" means all services and positions in the Explanation Government of Nepal included within the Civil Service, except Army officers or soldiers and the service and positions of Federal Police or Armed Police, and such other services and positions as are excluded from the Civil Service or positions in accordance to Act.

(2) In addition to the Civil Service, provisions shall be made in the Law allowing the arrangements regarding recruitment, appointment and promotion of Army, Federal Police or Armed Police, the Government University under the Federal jurisdiction, other government service and public enterprise by the Federal Public Service Commission.

**Explanation:** For the purpose of this Article the words "public enterprise" means any corporate body in which the Government of Nepal owns and controls more than fifty percent of the shares or assets.

(3) Permanent appointment to any position in the Civil Service which carries the benefit of pension shall not be made except in consultation with the Federal Public Service Commission.

(4) The Federal Public Service Commission shall be consulted on the following subjects:

a) matters concerning the law relating to the conditions of service of the Federal Civil Service,

b) the general principles to be followed in the course of appointment to, promotion to, and departmental action concerning therein, the Federal Civil Service or positions therein,

c) matters concerning the suitability of any candidate for appointment to a Federal Civil Service position for a period of more than six months,

d) matters concerning the suitability of any candidate for transfer or promotion from one service to another within the Federal Civil Service or from any other Government Service to the Federal Civil Service or for changing the service or transfer from the Federal Civil Service positions to the Provincial Civil Service,

e) matters concerning the permanent transfer or promotion of any employee working in any position of an organization which is not required to consult with the Federal Public Service Commission on matters of appointment, to any position for which consultation with the Federal Public Service Commission is required, and

f) matters relating to departmental actions proposed against any Federal Civil Servant.

(5) Notwithstanding anything contained in clause (3), matters falling within the purview of the Federal Judicial Service Commission pursuant to Article 157 shall be governed by that Article.

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

(7) Subject to this Constitution, other functions, duties and working procedures of the Federal Public Service Commission shall be determined in accordance with law.

**243. Provision Regarding Provincial Public Service Commission:** (1) There shall be a Provincial Public Service Commission in each of the Provinces.

(2) The constitution, functions, duties and powers of the Provincial Public Service Commission shall be determined in accordance with law.

## **PART 23**

### **Election Commission**

**244. Election Commission:** (1) There shall be an Election Commission of Nepal, consisting of the Chief Election Commissioner and a maximum of four other Election Commissioners. The Chief Election Commissioner shall act as the Chairperson of the Election Commission.

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

(3) The term of office of the Chief Election Commissioner and other Election Commissioners shall be six years from the date of appointment.

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

- (a) if he or she tenders resignation in writing to the President;
- (b) if, pursuant to Clause (3), his or her term expires or he or she ceases to hold his or her office; or
- (c) if he or she dies.

(5) No person shall be eligible to be appointed as the Chief Election Commissioner or an Election Commissioner unless he or she possesses the following qualification:

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

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

(7) A person once appointed as the Chief Election Commissioner or the Election Commissioner shall not be eligible for appointment in other government service.

Provided that-

(a) nothing in this Clause shall be deemed to be a bar to the appointment of an Election Commissioner as the Chief Election Commissioner, and when an Election 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 Election Commissioner.

(b) 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.

**245. Functions duties and, powers of Election Commission:** (1) The Election Commission shall, subject to the provisions of this Constitution and other laws, conduct, supervise, direct and control the election to President, Vice-President, House of Representatives, National Assembly, state assemblies and local units and referendum.

(2) If, after nominations of candidacy for the member of the Constituent Assembly have been filed but before the election is completed, a question arises whether a candidate is disqualified or has ceased to possess the qualification set forth in Article 68, 91 and 177 the Election Commission shall make decision thereon.

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

(4) Subject to this Constitution, other functions, duties and rules of procedure of the Election Commission shall be as determined by law.

**246. Government of Nepal to provide necessary employees to Election Commission:** The Government of Nepal shall provide the Election Commission with such employees and other things as may be required to perform its functions in accordance with this Constitution

## **PART 24**

### **National Human Rights Commission**

**247. National Human Rights Commission:** (1) There shall be a National Human Rights Commission of Nepal, which shall consist of the Chairperson and Members, as follows:

(a) one person from amongst the retired Chief Justices or Judges of the Supreme Court who have rendered an outstanding contribution to the protection and promotion of human rights or a person who holds a high reputation and has been actively involved in the field of, and rendered an outstanding contribution to the protection and promotion of human rights, or social service. - President

(b) Four persons from amongst the persons who hold a high reputation and have been actively involved in the field of, and rendered an outstanding contribution to, the protection and promotion of human rights, or social service. – Member

(2) There shall be maintained diversity including gender perspective while making appointment of the Chairperson and Members of the National Human Rights Commission.

(3) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and the Members of the National Human Rights Commission. The term of office of the Chairperson and Members of the National Human Rights Commission shall be six years from the date of appointment.

Provided that the Chairperson or a Member of the National Human Rights Commission may be removed from his or her office on the same ground and in the same manner as has been set for the removal of a Judge of the Supreme Court.

(5) The office of the Chairperson or a Member of the National Human Rights Commission shall be deemed vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if, pursuant to Clause (4), his or her term expires or he or she ceases to hold his or her office;
- (c) or if he or she is sixty five years old,
- (d) if he or she dies.



(7) No person shall be eligible to be appointed as the Chairperson or a Member of the National Human Rights Commission unless he or she possesses the following qualification:

- (a) holds a Bachelor's Degree from a university recognized by the Government of Nepal;
- (b) Is at least forty years old,
- (c) Does not membership of any political party at the time of appointment, and
- (b) possess a high moral character.

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

(9) A person once appointed as the Chairperson or a Member of the National Human Rights Commission shall not be eligible for appointment in any other government service.

Provided that,

(a) Nothing in this sub-article shall bar a member of the Commission to be appointed to Chief Commissioner,

(b) 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, opinions or recommendation after carrying out a study or research on any subject.

#### **248. Functions, duties and powers of National Human Rights Commission:**

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

(2) For the accomplishment of the duty mentioned in clause (1), the National Human Rights Commission shall carry out the following functions:

- (a) To conduct inquiries into, and investigations of the instances of the violation of the human rights of any person or a group of persons or abetment thereof, on a petition or complaint presented or communicated to the Commission by the victim of such violation or by any person on his or her behalf or on any information received by' the Commission from any source or on its own initiative, and make recommendation for action against the perpetrators;

- (b) If 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) If it is required to institute a case against any person who has violated human rights, to make recommendation to file case in the court in accordance with law;
- (d) To coordinate and collaborate with the 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 have violated human rights;
- (f) To carry out periodic reviews of the laws in force relating to human rights and make recommendation to the Government of Nepal for necessary improvements in and amendments to, such laws;
- (g) If it is necessary that Nepal should 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 agreement to which Nepal is already a party has been implemented, and if 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 enforcing the attendance of any person before the Commission and seeking and recording his or her information or statement or deposition, examining evidence and producing exhibits and proof;
- (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 the provision of compensation, in accordance with law, to any person who is a victim of the violations of human rights;

(e) To exercise and perform, or cause to be exercised and performed, such other powers and duties as provided in law

## **PART 25**

### **National Natural Resources and Fiscal Commission**

249. **National Natural Resources and Fiscal Commission:** (1) There shall be a National Natural Resources and Fiscal Commission of Nepal, consisting of a Chairperson and a maximum of five members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and other members.

(3) The term of office of the Chairperson and other members shall be six years from the date of appointment.

(4) The office of the Chairperson and other members shall be deemed vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President;
- (b) if he or she is sixty five years old,
- (b) if a motion of impeachment is passed against him or her
- (c) if he or she dies.

(5) No person shall be eligible to be appointed as the Chairperson or member of National Natural Resources and Fiscal Commission unless he or she possesses the following qualification:

- (a) holds at least Master's Degree from a university recognized by the Government of Nepal with specialization in natural resources management, financial management, economics, law or management ;
- (b) is not a member of any political party immediately before the appointment;
- (c) has attained the age of forty five years; and
- (d) Possess a moral character

(6) The remuneration and other conditions of service of the Chairperson or member of National Natural Resources and Fiscal Commission shall be as determined by law. The remuneration and other conditions of service of the Chairperson or member of National Natural Resources and Fiscal Commission shall not, so long as they hold office, be altered to their disadvantage.

- (8) A person once appointed as the Chairperson or member of National Natural Resources and Fiscal Commission shall not be eligible for appointment in other government service.

Provided that-

(a) nothing in this Clause shall be deemed to be a bar to the appointment of the member of National Natural Resources and Fiscal Commission as Chairperson of National Natural Resources and Fiscal Commission, and when member is so appointed as the Chairperson of National Natural Resources and Fiscal Commission, his or her term of office shall be so computed as to include his or her term as member.

(b) 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.

**250. Functions, duties and powers of National Natural Resources and Fiscal Commission:**

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

- (a) To determine the detailed basis and mechanism of distributing the revenues from Federal Consolidated Fund among federation, states and local units,
- (b) To recommend the equalization grant to states and local units as per the law,
- (c) To prepare the basis of providing conditional grants to states and local units by conducting research on the basis of national policies and programs, standards and status of infrastructure,
- (d) To determine the detailed basis and mechanism to distribute the revenue from Consolidated Fund of states to federation, states and local units,
- (e) To recommend ways of improving expenditure management and tax collection to federation, states and local units,
- (f) To recommend internal loans after conducting aggregated study of economic indicators,
- (g) To recommend change after evaluation of the basis of revenue distribution among federation, states and local units,
- (h) To provide suggestions on coordinated way in disputes among federation and states, among the states, states and local units and among the local units.

(2) The details of exercising of functions, rights and powers, qualifications of officials, terms of service etc. of National Natural Resources and Fiscal Commission shall be according to the law.

(3) Other functions, rights and powers of National Natural Resources and Fiscal Commission shall be as provided in law.

## PART 26

### National Women Commission

**251. National Women Commission :**( 1) There shall be a National Women Commission of Nepal, consisting of a Chairperson and a maximum of five members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and other members.

(3) The term of office of the Chairperson and other members shall be six years from the date of appointment.

(4) The office of the Chairperson and other members shall be deemed vacant in any of the following circumstances:

- (a) if she tenders resignation in writing to the President;
- (b) if she is sixty five years old,
- (b) if a motion of impeachment is passed against him or her
- (c) if she dies.

(5) No person shall be eligible to be appointed as the Chairperson or member of National Women Commission unless he or she possesses the following qualification:

- (a) Woman with contribution of at least ten years in women rights, gender justice, women empowerment or human rights, advocacy or law,
- (b) Holds at least Bachelor's Degree from a university recognized by the Government of Nepal for the position of Chairperson,
- (b) Is not a member of any political party immediately before the appointment;
- (c) Has attained the age of forty five years; and
- (d) Possess a moral character

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

(9) A person once appointed as the Chairperson or member of National Women Commission shall not be eligible for appointment in other government service.

Provided that-

(a) nothing in this Clause shall be deemed to be a bar to the appointment of the member of National Women Commission as Chairperson of National Women Commission, and when member is so appointed as the Chairperson of National Women Commission, his or her term of office shall be so computed as to include his or her term as member.

(b) 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.

**252. Functions, duties and powers of National Women Commission:**

(1) The functions, duties and powers of National Women Commission shall be as follows:

- (a) To formulate and submit the policies and plans of Government of Nepal related to women rights and issues for implementation before the Government of Nepal,
- (b) To recommend the Government of Nepal on the status of implementation of laws related to women and international treaties and protocols to which Nepal is a party,
- (c) To monitor, evaluate and judge the policies and programs and the situation of proportional participation of women in all mechanism of government to integrate women into the mainstream of national development, and recommend the Government of Nepal for effective implementation,
- (d) To study and analyze the legal provisions on gender equality, women empowerment and other women related laws and recommend the concerned authorities for improvement and monitor the improvement,
- (e) To monitor the work of Government of Nepal regarding the reports to be sent by Nepal according to the requirements of international treaties and protocols to which Nepal is a party,
- (f) To recommend filing of cases to concerned authorities regarding women violence, victimizations of social traditions, barring from women rights against any person or organization,
- (g) Other works according to the law.

(2) National Women Commission can delegate its certain power to its Chairperson, member, committees, sub-committees or personnel of officer level or officer of Government of Nepal as necessary.

**PART 27**

**National Dalit Commission**

**253. National Dalit Commission :**(1) There shall be a National Dalit Commission of Nepal, consisting of a Chairperson and a maximum of five members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and other members.

(3) The term of office of the Chairperson and other members shall be six years from the date of appointment.

(4) The office of the Chairperson and other members shall be deemed vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President;
- (b) if he or she is sixty five years old,
- (b) if a motion of impeachment is passed against him or her
- (c) if he or she dies.

(5) No person shall be eligible to be appointed as the Chairperson or member of National Women Commission unless he or she possesses the following qualification:

- (c) Has contributed at least ten years in empowerment of Dalit issues, Dalit communities or human rights, advocacy or law,
- (d) Holds at least Bachelor's Degree from a university recognized by the Government of Nepal for the position of Chairperson,
- (b) Is not a member of any political party immediately before the appointment;
- (c) Has attained the age of forty five years; and
- (d) Possess a moral character

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

(7) A person once appointed as the Chairperson or member of National Dalit Commission shall not be eligible for appointment in other government service.

Provided that-

- (a) nothing in this Clause shall be deemed to be a bar to the appointment of the member of National Dalit Commission as Chairperson of National Dalit Commission, and when member is so appointed as the Chairperson of National Dalit Commission, his or her term of office shall be so computed as to include his or her term as member.
- (b) 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.

#### **254. Functions, duties and powers of National Dalit Commission:**

(1) The functions, duties and powers of National Dalit Commission shall be as follows:

- (a) To identify and recommend different issues to be studied and researched related to Dalits,
- (b) To prepare national policy and program to for ending the discrimination on the basis of caste, creed, suppression and for the development of Dalit community,
- (c) To study and analyze the legal provisions on Dalit empowerment and other Dalits-related laws and recommend the concerned authorities for improvement and monitor the improvement,
- (d) To monitor the work of Government of Nepal regarding the reports to be sent by Nepal according to the requirements of international treaties and protocols to which Nepal is a party,
- (e) To recommend filing of cases to concerned authorities regarding violence against Dalits, victimizations of social traditions, barring from Dalit rights against any person or organization,
- (f) Other works according to the law.

(2) National Dalit Commission can delegate its certain power to its Chairperson, member, committees, sub-committees or personnel of officer level or officer of Government of Nepal as necessary.

## **PART 28**

### **National Inclusive Commission**

**253. National Inclusive Commission :**(1) There shall be a National Inclusive Commission of Nepal, consisting of a Chairperson and a maximum of five members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and other members.

(3) The term of office of the Chairperson and other members shall be six years from the date of appointment.

(4) The office of the Chairperson and other members shall be deemed vacant in any of the following circumstances:

- (c) if he or she tenders resignation in writing to the President;
- (d) if he or she is sixty five years old,
- (b) if a motion of impeachment is passed against him or her
- (c) if he or she dies.

(5) No person shall be eligible to be appointed as the Chairperson or member of National Women Commission unless he or she possesses the following qualification:



- (e) Has contributed at least ten years in areas of social inclusion, strengthening of marginalized and endangered communities, rights of disabled, rights of people in backward region or human rights, advocacy or law,
- (f) Holds at least Bachelor's Degree from a university recognized by the Government of Nepal for the position of Chairperson,
- (b) Is not a member of any political party immediately before the appointment;
- (c) Has attained the age of forty five years; and
- (d) Possess a moral character

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

(7) A person once appointed as the Chairperson or member of National Dalit Commission shall not be eligible for appointment in other government service.

Provided that-

(a) nothing in this Clause shall be deemed to be a bar to the appointment of the member of National Dalit Commission as Chairperson of National Inclusive Commission, and when member is so appointed as the Chairperson of National Inclusive Commission, his or her term of office shall be so computed as to include his or her term as member.

(b) 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.

#### **254. Functions, duties and powers of National Inclusive Commission:**

(1) The functions, duties and powers of National Inclusive Commission shall be as follows:

- (a) To identify and recommend different issues to be studied and researched related to protection, empowerment or advancement of economically poor, socially or culturally backward women, *Dalits, Adibasi, Adibasi Janajati, Khas Arya, Madhesi, Tharu*, farmers, laborers, suppressed classes, *Muslim*, backward class, minorities, marginalized, endangered communities, youth, children, the aged, gender-based and sexually oriented minorities and the disabled or those who are physically or mentally incapacitated or citizens of backward regions.
- (g) To study and analyze the legal provisions and laws related to the communities mentioned in clause (a) and recommend the concerned authorities for improvement and monitor the improvement,

- (h) To monitor the work of Government of Nepal regarding the reports to be sent by Nepal according to the requirements of international treaties and protocols to which Nepal is a party related to issues mentioned in clause (a),
- (i) To recommend filing of cases to concerned authorities regarding violence against any communities or people mentioned in clause (a) against any person or organization,
- (j) Other works according to the law.

(2) National Inclusive Commission can delegate its certain power to its Chairperson, member, committees, sub-committees or personnel of officer level or officer of Government of Nepal as necessary.

## **PART 29**

### **ATTORNEY GENERAL**

#### **257. Attorney General:**

1. There shall be an Attorney General in Nepal.
2. The Attorney General shall be appointed by the President on the recommendation of the Prime Minister. The Attorney General shall hold the office during the pleasure of the Prime Minister.
3. The person having the qualifications to be appointed as a judge of the Supreme Court shall be eligible to be appointed as the Attorney General.
4. The Office of the Attorney General shall be deemed vacant under the following circumstances:
  - (a) If he/she submits a resignation in writing to the President through the Prime Minister,
  - (b) If the President, on the recommendation of the Prime Minister, releases him/her from the office, or
  - (c) If he/she dies.
5. The remuneration and other facilities of the Attorney General shall be at par with that of a judge of the Supreme Court. The other conditions of service of the Attorney General shall be as determined by law.

#### **258. Functions, Duties and Rights of the Attorney General:**

1. The Attorney General shall be the Chief Legal Advisor to the Government of Nepal. It shall be the duty of the Attorney General to give opinions and advice on the constitutional and legal matters to the Government of Nepal and to such other authorities as the Government of Nepal may specify.
2. The Attorney General or the Officers subordinate to him/her shall represent the Government of Nepal in suits wherein the rights, interests or concerns of the Government of Nepal are involved. Unless this Constitution otherwise requires, the Attorney General shall have the right to make the final decision to initiate proceedings in any case on behalf of the Government of Nepal in any court or judicial authority. The Attorney General may determine a prosecutor as necessary for the prosecution work.
3. The opinion of the Attorney General shall be sought in withdrawing the plaintiff registered on behalf of the Government of Nepal.
4. In case the Federal Parliament or any of its committee considers necessary and invites, the Attorney General shall appear in any such meeting and express opinion on any legal question.
5. In the course of discharging his/her official duties, the Attorney General shall have the right to appear in any court, office or authority of Nepal.
6. In addition to the Clause (2), while discharging duties, the Attorney General shall have the authority to work as follows:-
  - (a) to defend on behalf of the Government of Nepal either as plaintiff or defendant in any litigation,
  - (b) to monitor or cause to monitor the interpretation of law or implementation of the legal principles propounded by the Supreme Court in the course of litigation,
  - (c) to investigate on the complaints or the information received by any means that there was not humanlike treatment, under this constitution, to any person in custody or any such person was not allowed to meet his/her relatives directly in person or through legal practitioners, and give necessary directions to the concerned authorities to prevent from such situation.
7. The Attorney General may delegate his functions, duties and power under this Article to his/her subordinates, to be expressed and complied with, subject to the specified conditions.
8. In addition to the functions, duties and rights as expressed in this Article, the other functions, duties and rights of the Attorney General shall be in accordance with this constitution and other laws.

### **136. Annual Report:**

1. The Attorney General shall, every year, prepare an annual report on the works he/she has performed in accordance with this constitution and other laws, and submit it to the President and the President, through the Prime Minister, shall make arrangements to present the same to the Federal Parliament.
2. The report as per the Clause (1) in addition to other subject matters shall include the number with brief description of constitutional and legal advice given in the year by the Attorney General, a summary of the litigations with the government as plaintiff, summary of the cases both with government as the plaintiff and the defendant, a summary of crime and improvements to be made in the future in cases where the government is the defendant.

### **260. Chief Government Attorney**

1. There shall be a Chief Government Attorney in each state/province under the Attorney General.
2. The Chief Government Attorney shall be appointed by the Governor on the recommendation of the concerned Chief Minister. The Chief Government Attorney shall hold the office during the pleasure of the Chief Minister.
3. The person having the qualifications to be appointed as a judge of the High Court shall be eligible to be appointed as the Attorney General.
4. The Office of the Chief Government Attorney shall be deemed vacant under the following circumstances:
  - (a) If he/she submits a resignation in writing to the Governor through the Chief Minister,
  - (b) If the Governor, on the recommendation of the Chief Minister, releases him/her from the office, or
  - (c) If he/she dies.
5. The Chief Government Attorney shall be the Chief Legal Advisor to the Provincial/State Government, and it shall be the duty of the Chief Government Attorney to give opinions and advice on the constitutional and legal matters to the Provincial/State Government or to such other authorities as the Provincial/State Government may specify.
6. The staff under the Office of the Chief Government Attorney shall be managed by the Office of the Attorney General.

7. The remuneration and other facilities of the Chief Government Attorney shall be at par with that of a judge of the High Court. The other conditions of service of the Chief Government Attorney shall be as determined by law.

8. The functions, duties and rights of the Chief Government Attorney shall be in accordance with the laws.

## **PART 30**

### **NATIONAL DEFENCE COUNCIL**

**261. National Defense Council:** (1) There shall be a National Defense Council in order to recommend the Government of Nepal, the Council of Ministers for formulation of the policies on holistic national interest, security and defense of Nepal and for mobilization, control and management of the Nepal Army Consisting with the following Chairperson and Members:-

- |                                                 |   |          |
|-------------------------------------------------|---|----------|
| (a) Prime Minister                              | - | Chairman |
| (b) Defense Minister of the Government of Nepal | - | Member   |
| (c) Home Minister of the Government of Nepal    | - | Member   |
| (d) Foreign Minister of the Government of Nepal | - | Member   |
| (e) Finance Minister of the Government of Nepal | - | Member   |

(2) The Secretary of the Defense Ministry shall act as the Secretary of the National Defense Council.

(3) The National Defense Council shall submit its annual report to the President and the President shall, through the Government of Nepal, the Council of Ministers, make arrangements to present the same to the Federal Parliament.

(4) Other provisions relating to the National Defense Council shall be in accordance with the federal laws.

### **262. Provisions relating to the Nepal Army:**

(1) There shall be an organization of the inclusive Nepal Army committed to the democratic principles for the protection of the sovereignty, integrity, independence and national unity of the country.

(2) Entry of women, Dalit, indigenous and ethnic nationalities, Khas Arya, Madhesi, Tharu, Muslim, citizens from backward class and backward region into the service of the Nepal Army shall be ensured based on the principle of equality and inclusivity in accordance with laws.

(3) The Government of Nepal may mobilize the Nepal Army in accordance with the laws in the other works including development and disaster management works.

(4) The President shall appoint and remove the Commander-in-Chief of the Nepal Army in accordance with the laws.

(5) Except in the case of mobilization of Nepal Army for the reason of disaster management, the decision made by the Government of Nepal for the mobilization of the army in accordance with the recommendation of the National Defense Council shall have to be presented to the Special Defense Committee of the Federal Parliament within a month of the decision, and be approved accordingly.

(6) The other provisions relating to the Nepal Army shall be in accordance with the laws.

### **263. Provisions relating to Nepal Police, Paramilitary Force and Intelligence Organization:**

(1) There shall be the organizations of Nepal Police, Armed Police and National Intelligence and Investigation.

(2) There shall be a separate police organization in each province/state.

(3) The other provisions relating to Nepal Police, Armed Police and National Intelligence and Investigation Organization shall be in accordance with the Federal Laws.

## **PART 31**

### **Provisions related to Political Parties**

#### **264. Formation, registration and operation of Political Parties:**

(1) Persons committed to common political ideologies, philosophy and program shall be entitled to form and operate political parties in accordance with the laws formulated under clause (c) of sub-article (2) of Article 22 and promote or advertise the ideology, philosophy and program of the party to gain support of the common people by conducting any other necessary activities.

(2) The political parties formed according to sub-article (1) shall have to fulfill procedures according to law and get registered in Election Commission.

(3) In submitting application for registration according to sub-article (2), related documents like constitution of the party, annual audit report and other papers according to the law.

(4) Political parties must fulfill the following conditions while applying for registration according to sub-article (2):

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

(b) The party constitution should provide for election of the federal and state level office bearers once in at least five years,

(c) There must be an inclusive provision to make the executive committees at various levels representative of the diversity of Nepal;

(5) Any political party which bears the name, objective, insignia or flag of which is of such a nature as to jeopardize the religious and communal unity of the country or to fragment the country shall not be registered.

(6) Political parties can be established and operated in states as well according to the laws.

#### **265. Prohibition on imposition of restrictions on political parties:**

(1) Persons who are committed to common political ideology, philosophy and program shall, subject to laws made under Article 264, be entitled to form and operate political parties of their choice and to generate, or cause to be generated, publicity in order to secure support and cooperation from the general public for their ideology, philosophy and program or to carry out any other activity for this purpose. Any law, arrangement or decision which restricts any of such activities shall be deemed to be inconsistent with this Constitution and shall, *ipso facto*, be void.

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

**266. Registration required for securing recognition for the purpose of contesting elections as political party:** (1) Every political party wishing to secure recognition from the Election Commission for the purposes of elections shall be required to, register it with the Election Commission according to Article 264 in fulfillment of the procedures as determined by the Election Commission.

(2) In submitting application for registration according to sub-article (1), details mentioned in sub-article (3) of Article 264 and fulfill conditions stated in sub-article (4) of the same Article.

267. Other provisions related to political parties: Other matters including establishment, registration, operation and facilities of political parties shall be as provided by the law.

### **PART 33** **Amendment of Constitution**

**269. Amendment to Constitution:** (1) This Constitution cannot be amended contrary to Nepal's independence, sovereignty, geographical integrity and sovereignty inherent in people.

(2) Taking sub-article (1) and other articles of this Constitution into consideration, bill to amend or repeal any Article of this Constitution may be introduced in any House of the Federal Parliament.

Provided that sub-article (1) shall not be amended.

(3) The bill tabled at respective House according to sub-article (2) should be published for the information of the general public within thirty days.

(4) If the bill tabled according to sub-article (2) is related to change of demarcation of any state or matters stated in Schedule-5, the Speaker or Chairperson of the respective House must send the bill for consent to the state assembly within thirty days of presentation at the Federal Assembly.

(5) The bill sent to the respective state assembly according to sub-article (4) should be accepted or rejected by majority the then total number of members of the state assembly and it should be informed to the Federal Parliament.

Provided that the bill should be sent to the Federal Parliament within three months of first meeting of election of any state assembly in case the respective state assembly is not in incumbency.

(6) If the Federal Assembly is informed that the majority of the state assembly rejected such bill according to sub-article (5), such bill shall be dissolved.

(7) In bills not requiring consent of the state assembly or bills accepted by state assembly according to sub-article (5), should be passed by two-thirds majority of both Houses of the federal Assembly.

(8) The bill approved according to (7) shall be presented to the President for assent.

(9) President shall provide assent to the bill received according to sub-article (8) within fifteen days and the constitution shall be amended from the day of assent.



**PART 35**  
**Transitional Provisions**

**286. Constituent Assembly to transform into Legislature Parliament:**

- (1) The Constituent Assembly existing at the time of this Constitution shall automatically be transformed into Legislature-Parliament and the tenure of such Legislature-Parliament shall remain until the tenure of Constituent Assembly shall not expire according to Interim Constitution, 2007.

Provided that the election of House of Representatives, if, takes place before such tenure expires, it shall remain up until the day before filing candidacy for such election.

- (2) The bills being considered at the time of the promulgation of this Constitution shall automatically be handed over to the Legislature-Parliament.
- (3) After the commencement of this Constitution, the right of state assembly to make laws shall remain in Legislature-Parliament according to sub-article (1) until the state assembly is not formed. The law hence formulated shall be void after one year of the formation of the state assembly.
- (4) The functions to be performed by the Federal Parliament according to this Constitution shall be performed by Legislature-Parliament according to sub-article (1), until the election of House of Representatives is not held.
- (5) The Secretariat, its Secretary General, secretary and the personnel maintained at the time of commencement of this Constitution shall continue to work for the Secretariat of Federal Parliament under the same conditions of services.
- (6) If Legislature-Parliament is not in session at the time of commencement of this Constitution, the President shall summon the session of Legislature-Parliament within seven days of promulgation of this Constitution.

287. Provision related to President and Vice-President: (1) President and Vice-President incumbent at the time of commencement of this Constitution shall remain in office until another President and Vice-President are newly elected.

- (2) After the commencement of this Constitution, the election of President and Vice-President shall be done according to sub-article (1) of Article 286.

(3) According to sub-article (6) of Article 286, the President and Vice-President shall be elected by majority of the then total number of members within one month.

(4) If the office of President or Vice-President elected according to sub-article (3) becomes vacant by any reason, the election shall be done from Legislature-Parliament according to sub-article (1) of Article 286.

(5) The provisions of relieving from office, moving and passing impeachment motion against the President and Vice-President elected according to this article shall be according to the Interim Constitution, 2007.

(6) President and Vice-President elected according to this article shall remain in office until President and Vice-President assume office from new election from the Electoral College constituted according to Article 66.

**288. Provisions related to formation of Council of Ministers:**

(1) The Council of Ministers incumbent at the time of commencement of this Constitution shall continue to function until new Council of Ministers is formed according to sub-article (2).

(2) Council of Ministers shall be formed within seven days of starting of the session of Legislature-Parliament according to sub-article (6) of Article 286 by conducting election of new Prime Minister.

(3) The provisions of election, formation of Council of Ministers, vote of confidence relieving from office, motion of no-confidence against the Prime Minister elected according to this article shall be according to the Interim Constitution, 2007.

(4) Until council of ministers is formed in the states according to this constitution, the state authority is used by Government of Nepal.

**289. Provisions related to Speaker and Deputy Speaker:**

(1) Speaker and Deputy Speaker incumbent at the time of commencement of this Constitution shall continue to function until new Speaker and Deputy Speaker are elected.

(2) Speaker and Deputy Speaker shall be elected within twenty days of starting of the session of Legislature-Parliament according to sub-article (6) of Article 286.

(3) The provisions of election, tabling and approving motion of non-compliance with good morality against the Speaker and Deputy Speaker elected according to this article shall be according to the Interim Constitution, 2007.

**290. Provisions related to Judiciary:** (1) The incumbent Supreme Court, Constituent Assembly Court, Appellate Court and District Court shall remain until the new structure of judiciary is

formed according to this Constitution. Nothing shall be considered to prevent the cases filed before and after the promulgation of this Constitution to be finalized in the respective courts.

(2) ..... (Yet to be finalized on continuity or reappointment of judges working at all levels)

(3) The cases being considered by Constituent Assembly Court shall be transferred to Constitutional Court according to this Constitution.

(4) The cases being considered by Appellate Court shall be transferred to High Court of similar jurisdiction according to this Constitution.

(5) The Military Special Court constituted according to law shall remain until new Army Special Court shall be formed according to this Constitution and the cases being considered shall be transferred to the new Army Special Court after its formation according to this Constitution.

(6) Criminal cases resulting in more than six months sentence being considered in other judicial agencies shall be transferred to the District Court according to this Constitution.

**291. Provision related to the officials of Constitutional bodies:**

(1) Among the Constitutional Bodies and official's incumbent at the time of commencement of this Constitution, the Constitutional Bodies and Officials not mentioned in this Constitution shall not continue in office.

(2) The Constitutional Bodies prevalent during the commencement of this Constitution shall be considered to have been established according to this Constitution and this Constitution shall not prevent them to continue the matters being considered.

(3) ..... (Yet to be finalized on continuity or reappointment of officials working in various Constitutional Bodies)

**292. Provisions related to local bodies:**

The local bodies shall continue to function until the number and area of the local units are not determined according to this Constitution. Election shall take place in such local bodies.

**293. Existing laws to remain in force:**

(1) The Nepal law prevalent at the commencement of this Constitution shall remain in force unless repealed or amended.

Provided that the law inconsistent with this Constitution shall be automatically void to the extent of inconsistency after one year of from the first meeting of Federal Parliament according to this Constitution.

- (2) The acts related to peace process performed according to the Interim Constitution, 2007 shall be considered to have performed according to this Constitution.

**294. Right to clear obstacles:** President shall have the right to issue order, on the recommendation of Government of Nepal, Council of Ministers to clear any obstacles, if arisen in course of implementing this Constitution when the transformed Legislature-Parliament is not in session or the session of Federal Parliament has not started after election according to this Constitution. Such order must be presented to the meeting of Legislature-Parliament or Federal Parliament for approval.

## **PART 36**

### **Definitions and Explanations**

**295. Definitions:**

(1) Unless the subject or context otherwise requires, in this Constitution:-

- a. "Minority" means percentage of population of religious, linguistic and ethnic groups, lesser than as defined by laws, and the word itself means for those having their own ethnicity, religion and language, who want to save them, under discrimination and oppressed groups.
- b. "Article" means an Article of this Constitution;
- c. "Citizen" means a citizen of Nepal;
- d. "State" means as defined by this constitution as a federal unit or federal area of Nepal and structure
- e. "Remuneration" shall include salary, allowances, pension and any other forms of emoluments and facilities.
- f. "State power" shall be understood as right of executive, judiciary and legislative and it also means the residual rights.
- g. "Bill" means a draft of an Act which has been introduced in Parliament;
- h. "Organization" means highest level on the hierarchy of federal architecture and also refers to aggregate of structure of various states and local level of democratic republic Nepal
- i. "Constitutional body" means various bodies established through this constitution
- j. "Marginality" shall be understood as community those are politically, economically, socially excluded, discriminated and oppressed as well as in accessibility to services and facilities due to geographically remoteness, or communities living below the human development communities.

k. “Local Level” shall be understood as village, municipality and district assembly as established under this constitution.

(2) Unless the subject or the context otherwise requires, the prevailing legal provisions on the interpretation of law shall, subject to the provisions of this Constitution, apply to the interpretation of this Constitution in the same manner as that law applies to the interpretation of the laws of Nepal.

## **PART 37**

### **Short Title, Commencement and Repeal**

**296. Short title and commencement:** (1) This Constitution may be called Constitution of Nepal, 2072.

(2) This Constitution shall come into force on ....day, the ..... day of the month of ... of the year 2072 Bikram Sambat (... ..... 2015).

**297. Repeal:** The Interim Constitution, 2063 (2007) is, hereby, repealed.

**Schedule- 1**  
**(Related with clause (2) of Article 8)**

**Method of Making the National Flag of Nepal**

**(A) Method of Making the shape inside the Border**

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

**(B) Method of making the Moon**

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

- (18) Eight equal and similar triangles of the moon are to be made in the space lying inside the semi-circle of No (16) and outside the arc of No (17) of his Schedule.

**(C) Method of Making the Sun**

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

**(D) Method of Making the Border**

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

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

**Schedule – 2**  
**(Related to clause (1), Article 9)**

**National Anthem of Nepal**

*Sayaú thúgā phūlkā hāmī, euṭai mālā nepālī*  
*Sārwabhaum bhai phailiekā, Mechi-Mahākālī*  
*Prakritikā kotī-kotī sampadāko āchala,*  
*bīrharūkā ragata le, swatantra ra aṭala*  
*Gyānabhūmi, śhāntibhūmi Tarāī, pahād, himāla*  
*Akhaṇḍa yo pyāro hāmro mātṛibhūmi Nepāla*  
*Bahul jāti, bhāṣhā, dharma, sānskṛti chan biśhāla*  
*Aragāmī rāṣhṭra hāmro, jaya jaya Nepāla*



**Schedule – 3**  
**(Related to clause (2), Article 9)**

**Coat of Arms of Nepal**



**Schedule 4**  
**(Related with Article...)**

**List of Federal Powers/Jurisdiction**

Serial Number	Subjects
1.	Related to defense and army
	a) Protection of national unity and territorial integrity
	b) Related to national security
2.	Central police, armed police force, national intelligence and investigation department, law and order
3.	Central planning, central bank, financial policy, currency and banking, monetary policy, foreign grants, aids and loan.
4.	Monitoring and regulation of telecommunication, central telecom, radio frequency distribution, television and postal service
5	Customs, excise-duty, value added tax (VAT), corporate income tax, individual income tax, passport fee, visa fee, tourism fee, service charge, penalties and fines
6.	Royalty received on natural resources
7.	Federal civil service, judicial service and other government services
8.	Central statistics (national and international standards and qualities)
9.	Mega projects for electricity, irrigation and other government and donor-funded projects.
10.	Central university, university standard and regulation, central library
11.	Central health policy (setting standard, quality and monitoring of the health services, national/special service provider hospitals, traditional treatment

	services, control of communicable
12.	Federal legislature, federal executive, local level affairs
13.	International trades, exchange, ports and quarantines
14.	International and inter-province aviation, international airports
15.	Foreign and diplomatic affairs, international relations and related to United Nations
16.	International treaties and agreements, extradition, mutual legal assistance and international border management
17.	National train service and national highways management
18.	Laws related to Supreme Court, Constitutional Court, High Courts, District Courts and Judicial Administration
19.	Citizenship, passport, visa, and immigration
20.	Nuclear energy, atmosphere and space related
21.	Intellectual property (including patent, design, copy right)
22.	War and defense
23.	Factory and production of arms and ammunitions
24.	Standards and metrology
25.	Mining, exploration
26.	National and international ecology management
27.	Insurance policy
28.	Formulating criminal and civil laws
29.	Casino and carbon services
30.	Constitutional bodies and commission of central importance

31.	Issues not listed in the federation, province and local level power or concurrent level power, along with issues not mentioned in this constitution and law.
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## Schedule 5

(Related with Article ...)

### List of Provincial Powers/Jurisdiction

Serial Number	Subjects
1.	Provincial police administration as well as law and order
2.	Bank and financial institution, cooperatives, and foreign grants and aids with consent from the center
3.	Radio, FM, television
4.	Tax on remuneration, land and house registration fee, vehicle tax, excise duty, entertainment tax, advertisement tax, tax on tourism and agricultural income, service charge and penalties and fines
5.	Royalty received on natural resources
6.	Provincial civil service, judicial service and other government services
7.	Provincial statistics
8.	Provincial level electricity, irrigation projects and other projects
9.	Provincial level university, higher education, libraries and museums
10.	Health service
11.	Related to provincial assembly, provincial cabinet and special structures
12.	Business within the province
13.	Provincial aviation service
14.	Provincial railway and provincial highways

15.	Provincial investigation bureau
16.	Provincial electricity and irrigation projects
17.	Infrastructure management and other necessary matters of the courts and judicial bodies of the province, except Constitutional Court and Supreme Court
18.	Management of citizenship and passport
19.	Provincial public service commission
20	Land management, record-keeping of the land and land revenue collection
21.	Exploration and management of mines
22.	Insurance management and operation
23.	Protection and use of language, culture, script and religion
24.	Management of forest, water resources and ecology within the province
25	Agriculture and livestock development, factories, industrialization, business, transportation, production and sales of alcohol and beverages
26.	Books and press
27.	Guthi (community trust/endowment) management

**Schedule 6**  
**(Related with Article.....)**

**List of Concurrent (federal and provincial) Powers/Jurisdiction**

<b>Serial Number</b>	<b>Subjects</b>
1.	Criminal and civil work procedures and evidences and oath of office (legal recognition, public act and records and judicial process)
2.	Supply, distribution, price control, standard and monitoring of essential goods and services
3.	Preventive detention, jail and custody management on the matters of national security and management of law and orders
4.	Shifting of accused as well as persons in custody and jail from one province to other.
5.	Laws related to family affairs (marriage, property transfer, divorce, endangered, orphan, adopted child, successors and joint family).
6.	Receiving property, acquisition and creation of rights
7.	Matters related to contracts, cooperatives, collaborations and agencies
8.	Matters related to bankruptcy and insolvency
9.	Medicine and pesticides
10.	Planning, family planning and population control
11.	Acts related to social security and employment, trade union, industrial dispute, labor rights and disputes
12.	Medical, legal and other professions
13.	Vital registrations (birth, death)
14.	Water transportation, environment conservation and bio-diversity

15.	Related to mediums of mass communication
16.	Preservation of archeological materials, historical monuments and museums
17.	Industries and minerals and infrastructures
18.	Casino, lottery, vehicles licensing
19.	Natural and man-made disaster preparedness, rescue, relief and rehabilitation
20.	Tourism, drinking water and sanitation
21.	Movies, cinema halls and sports
22.	Insurance
23.	Poverty alleviation and industrialization
24.	Scientific research, science and technology and human resource development
25.	Inter-provincial forest, wildlife, birds, mountains, national parks and water uses
26.	Land policy and related legal provisions

**Schedule 7**  
**(Related with Article....)**

**List of Powers/Jurisdiction for Local Level**

<b>Serial number</b>	<b>Subjects</b>
1.	Municipal police, community police
2.	Cooperatives
3	FM operation
4	Local tax (property tax, house rent tax, fee on registration of houses and land, vehicle tax), service fee, advertisement tax, business tax, land tax (land revenue), fines, entertainment tax
5.	Royalty received on natural resources
6.	Management of local services
7.	Local statistics and record keeping
8.	Local development projects and programs
9.	Primary and secondary education
10.	Basic health and sanitation
11.	Management of local environment conservation and biological diversity
12.	Local roads, rural roads, agriculture roads, irrigation
13.	Management of local court, reconciliation and mediation
14.	Distribution of citizenship and passport and management of local records
15.	Distribution of land, building ownership certificates
16.	Farming and livestock



17.	Management of senior citizens, people with physical disability and disabled
18.	Collection of statistics of unemployed people
19.	Management, operation and control of agriculture publicity
20	Registration of individual incidents—birth, marriage and death