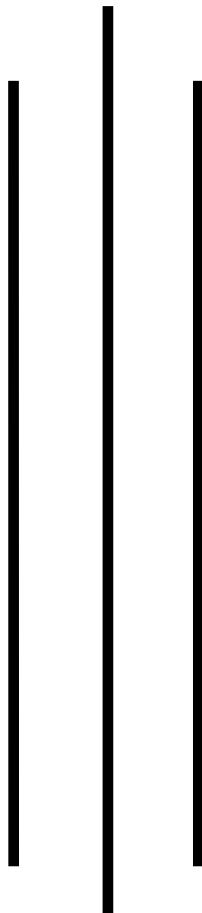


Constitution of the People's Federal Republic of Nepal, 2067
(Proposed Integrated Draft)



Unified Communist Party of Nepal (Maoist)
2067 Jestha 15

Preamble

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Constitution of the People's Federal Republic Nepal, 2067

Preamble

We, the sovereign people of Nepal,

By maintaining the independence, sovereignty, geographical integrity, national unity, freedom and dignity of the country,

Focusing on the long, glorious armed conflict and peaceful movements staged by the people of Nepal against the monarchical, feudalistic unitary system for a radical change and revolutionary transformation of Nepali society, especially the objective of establishing people's federal republic based on the foundation laid by the armed people's war, which started under the leadership of CPN (Maoist) from 13 February 1996 (*2052 Falgun, 1*) and the 12-point accord reached between Maoists and the seven party alliance, as well as the aspirations with which the historic people's movement began,

Remembering and expressing respect to all the martyrs and missing warriors of the people's and national liberation movements along with all the historical struggles, revolutions, and the sacrifices, especially the great people's war, historical popular movement and the *Madhes* movement staged for the establishment of (autonomous and prosperous) people's federal republic of Nepal,

Keeping in mind the historical responsibility of establishing a socialism oriented people's federal democratic republican state system to move forward and build a prosperous classless society by ending the semi- colonialism and semi-feudal system prevalent in Nepali society and the State, Realizing the need for progressive restructuring of the state and society in order address the problems of oppressed class, caste/ethnic groups, neglected regions, gender and communities who comprise majority of the country's population by ending all kinds of discriminations and persecutions created by the feudalistic, autocratic, centralized, unitary and male dominated state system,

Internalizing the fact that laborers, peasants and all working class people are the driving force behind the present Nepali society, and expressing commitment to ensure leadership role of the working class in state structures,

Admitting the need for federal restructuring of the state based on the policy of right to self determination of the oppressed caste/ethnic groups and neglected regions, along with the program regarding autonomy by maintaining the geographical integrity of the country and internalizing the multi-caste, multi-lingual, multi-religious, multi-cultural and regional diversity of the country,

Committing to build the basis of socialism by adopting democratic norms and values including people's democracy, multi-party competitive politics, proportionally inclusive and people's participatory governance system, civic freedom, fundamental rights, fundamental rights with economic rights, adult franchise, periodic elections, freedom of press, an independent, efficient and impartial judiciary, and the concept of rule of law, and

Expressing resolution to build an equitable society on the basis of special rights of oppressed communities including women, dalits and Muslims for economic equality, prosperity and social justice by ending untouchability and all kinds of discriminations including discrepancies on the ground of class, caste/ethnicity, region, lingual, religious, gender and descent,

(We) would like to declare the proclamation of this Constitution through the constituent Assembly in order to build the basis of socialism by fulfilling the aspirations of lasting peace, prosperity and development with progression through the medium of people's federal republican governance system, and ending all forms of feudalism and foreign interference.

PART 1 PRELIMINARY

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

(2) It shall be the duty of every person to uphold this Constitution and fulfill the responsibilities according to the Constitution.

2. Sovereignty: (1). The sovereignty and the state authority of Nepal shall be vested in the Nepali people.

(2). Nepali people shall exercise the sovereignty and the state authority of Nepal as provided in this Constitution.

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

4. State of Nepal: (1) Nepal is an independent, indivisible, sovereign, secular, *untouchability*-free, all-inclusive, pro-socialism, republican, multinationals state, which shall be called briefly as 'Nepal'

(2) There shall be federal units in the Nepal as mentioned in the Schedule 1.

(3) The territory of Nepal shall comprise

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

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

5. Language of the Nation: (1) All the languages spoken as the mother tongues in Nepal are the national languages of Nepal.

(2) It shall be the duty of the State to equally protect, promote and develop the national languages.

(3) Every community with their respective mother-tongue languages shall have the right to enjoy with dignity their own lingual identity and relationship with the language.

(4) The visually impaired and hearing impaired people shall have the right to use brail script and sign language.

(5) It shall be the duty of the State to provide necessary information from any layer of governmental or nongovernmental office to a person who wishes to acquire or give so in his/her own mother language.

6. National Flag: (1) The national flag of Nepal shall be developed by reflecting the federal structure with multiethnic, multilingual, multi-religious, multicultural and regionally diverse characteristics.

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

7. National Anthem and Coat of Arms

(1) The national anthem of Nepal shall be as set out in Schedule 3.

(2) The Coat-of-Arms of Nepal shall be as set out in Schedule 4.

Part 2

Citizenship

8. Citizenship

(1) **Provision of a single federal citizenship:** - There shall be a provision of federal government issuing a single citizenship with provincial identity in Nepal.

(2) **Conditions to be deemed a citizen of Nepal:** According to the constitution, the following persons who have their domicile in Nepal shall be deemed to be citizens of Nepal-

- (a) a person who has acquired citizenship of Nepal before the commencement of this constitution,
- (b) a person who has acquired citizenship of Nepal after the commencement of this constitution,
- (c) a person who is qualified to acquire the citizenship according to this constitution.

9. Citizenship by Descent: (1) The following individuals that live permanently in Nepal will be provided Nepali citizenship by descent-

- (a) an individual whose any one of the parent was a Nepali citizen during his/her birth,
- (b) an individual who was born in Nepal of a Nepali citizen, married to a foreign national, and living permanently in Nepal and one of whose parents has obtained Nepali citizenship before he/she obtains the certificate of Nepali citizenship

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

(10) Provision regarding naturalized citizenship: (1) If any foreign national, married to a Nepali citizen after the commencement of this constitution desires to acquire a citizenship, he/she may, as provided for by law, obtain it (naturalized citizenship) provided he/she has been living in the country legally for 15 years and has terminated the citizenship of the foreign country.

However, if foreign women, who have got married to Nepali citizens before the commencement of this constitution desires to acquire the Nepali citizenship, they may obtain naturalized citizenship after they have taken action with regard to terminating their foreign citizenship.

(2) A person born to Nepali citizen and living in Nepal and whose father has not been traced may obtain the naturalized citizenship as provided for by the existing law.

(3) In the case of a person born to Nepali citizen married to a foreign national, if such a person is born in Nepal and has been permanently residing in Nepal and has not acquired citizenship of the foreign country by virtue of the citizenship of his or her mother or father, he or she may acquire naturalized citizenship of Nepal according to the existing law.

(4) The federal government after the commencement of this Constitution may provide, in accordance with the existing laws, the naturalized citizenship of Nepal to a foreign national who has made special contributions in economic and social development of Nepal and has fulfilled the following terms and conditions besides others :-

(a) who can speak and write Nepali or any other language prevalent in Nepal,

(b) who is involved in any profession in Nepal,

(c) who has denounced the citizenship of another country,

(d) who has lived legally in Nepal for at least fifteen years,

(e) who holds the citizenship of a country that has legal provision or custom to provide naturalized citizenship to Nepali citizens,

(f) who bears good moral behavior

(5) The details of naturalized citizenship provided in accordance with Clause (4) shall have to be presented before the federal legislature and approved by it.

11. Citizenship after Annexing a Region: An individual living in a region that is received by Nepal for annexation will be a citizen of Nepal in accordance with the existing laws.

12. Citizenship by virtue of Descent and with Gender Identity: Every citizen will be provided with Nepali citizenship on the basis of his/her mother's or father's heredity along with his/her gender identity.

13. Re-obtaining Citizenship: An individual who has denounced his/her Nepali citizenship and obtained foreign citizenship may be provided with the same kind of citizenship as provided before if he/she returns to Nepal, lives here for five years and denounces foreign citizenship.

However, this provision shall not apply in the case of naturalized citizenship provided in accordance with Clause (4) of Article 10.

14. Honorary Citizenship: The federal government may confer honorary citizenship upon internationally reputed individuals.

15. Preventing Obtaining of Fake Citizenship or Frequent Obtaining of Citizenship: Nobody should obtain or provide citizenship by producing fake details or provide the same for more than once or from more than one place. Such an activity shall be culpable in accordance with laws.

However, this Article shall not be considered as prohibitory to correcting common written or typographical mistakes on the certificate of citizenship as well as to obtaining and providing a copy of certificate of citizenship on the basis of the evidences.

Explanation: Common written or typographical errors on the citizenship documents regarding name, surname, address, etc shall not be deemed as fake details for the purpose of this Article.

16. Investing into the Certificate of Citizenship: Notwithstanding what is written elsewhere in this Part, the federal government may probe into the certificate of Nepali citizenship and nullify the certificate of Nepali citizenship obtained by a non-Nepali and may dismiss such individual from the Nepali citizenship.

17. Not Retaining (Termination) of Citizenship: (1)The Nepali citizenship of any individual shall not be retained in the following conditions:

- a. If he/she voluntarily denounces Nepali citizenship,
- b. If he/she obtains foreign citizenship,
- c. In circumstances other than mentioned in this Part, if a non-Nepali is evidenced as obtaining Nepali citizenship.

(2) If a person eligible to acquire the Nepali citizenship is also eligible to acquire of the citizenship of another country, he or she shall not remain a Nepali citizen if such a person does not choose the Nepali citizenship within two years of his or her eligibility or if a minor does not choose the Nepali citizenship within two years of his or her attaining adulthood.

18. Updating the Details: The details of the children born of a foreign national married to a Nepali citizen and of such couple shall be updated in accordance with law.

19. Provision for the Citizenship of the Authorities: (1) A person should be a Nepali citizen by descent for being eligible to be elected or appointed as the President and the Vice president, chief of federal or state level legislature, executive and judiciary, and the chief of constitutional bodies and security forces.

(2) In accordance with this Constitution, a person eligible to be appointed for a constitutional post and having obtained naturalized Nepali citizenship or Nepali citizenship by birth must have lived in Nepal for at least ten years, and a person having denounced the Nepali citizenship and

re-obtained Nepali citizenship by virtue of descent must have lived in Nepal for at least five years.

20. Providing Nonresident Nepali with Identity Card (ID): A nonresident Nepali identity card) may be provided to a Nepali citizen who has denounced the Nepali citizenship and obtained the foreign citizenship, allowing him or her to use economic, social and cultural rights in accordance with the law. Such an ID card holder shall be entitled to exercise all kinds of rights other than the political rights.

21. To be in Accordance with the Laws: Other provisions regarding the citizenship will be made in accordance with the laws.

PART -3

Fundamental Rights and Duties

(a) Fundamental Rights

22. Right to Live with Dignity: (1) Every individual shall have the right to live with dignity.

(2) Every Individual shall have right against torture, forced disappearance or any kind of killings or capital punishment. No law which provides for capital punishment shall be made.

23. Right to Freedom (1) Except as provided for by law, no person shall be deprived of his/her personal liberty.

(2) Every citizen shall have the following freedoms:

- a. Freedom of opinion and expression,
- b. Freedom to assemble peacefully and without any arms,
- c. Freedom to form unions and organizations,
- d. Freedom to form political parties,
- e. Freedom to move and reside in any part of Nepal,
- f. Freedom to engage in any occupation or be engaged in employment, industry and trade,
- g. Freedom to revolt as the last resort against extreme injustice, excesses, and exploitation against an individual.

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 the harmonious relations subsisting among the federal units, or which may jeopardize the harmonious relations subsisting among the people of various castes, tribes, religions or communities, or on any act of defamation, contempt of court or incitement to an offence, or on any act which may be contrary to decent public behaviour or morality and that serves the interest of feudalism and imperialism.

- (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 sovereignty, integrity or jeopardize harmonious relations subsisting among the federal units or law and order situation in Nepal.
- (3) Nothing in sub-clause (c) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of Nepal, or which may spy against the nation, jeopardize the harmonious relations subsisting among the people of various castes, tribes, religions or communities, or which may instigate violence, or which may be contrary to decent public behaviour or morality.
- (4) Nothing in sub-clause (d) shall be deemed to prevent the making of laws which are in the interest of the general public, or which are made to impose reasonable restrictions on any act- which may undermine nationality, sovereignty and integrity of Nepal, or of spying against the country, or revealing national secrecy, or assisting a foreign country or organization or agent(committing treason) in a way that jeopardizes the external security of Nepal, or which undermines harmonious relations subsisting among the federal units, or spreads racial or communal hatred, or undermines harmonious relations subsisting among different castes, tribes, religions and ethnic communities, or act of prohibiting citizens from taking membership of any political party merely on racial, linguistic, religious, communal or gender grounds, or act of forming political parties in a way that makes discrimination among the citizens or act which contributes to eruption of violence, or on any activity which may be contrary to decent public behaviour or morality. And neither shall it be deemed to prevent making of laws to impose reasonable restrictions on such political parties that engage in subversive acts against the nation, work as an agent of foreign powers, hatch conspiracies against the nation or carry out regressive acts, or create any kind of structures or mechanisms to carry out these acts.
- (5) Nothing in sub-clause (e) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the interest of general public or harmonious relations subsisting among federal units or among different castes, tribes, religions or communities, or on any violent activity or offence, and on act of incitement to such activities.
- (6) Nothing in sub-clause (f) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine harmonious relations subsisting among federal units or be contrary to public health, decent behaviour, or morality or to confer on the State the exclusive right to undertake specific industries, businesses or services, or impose any condition or qualification for engaging in any industry, trade, profession or occupation.

24. Right to Equality:

(1) All citizens shall be equal before the law. No person shall be denied the equal protection of the laws.

(2) The State shall not discriminate against any citizen in the application of general laws on grounds of religion, colour, caste, tribe, gender, sexual orientation, biological condition, disability, health condition, marital status, pregnancy, economic condition, origin, language or region, ideological conviction or other similar grounds. Provided that, nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of women, *dalits*, indigenous ethnic tribes (*adiwasis janjatis*), Madhesis or farmers, workers, oppressed region, Muslims, backward class, minority, marginalized and endangered communities or destitute people, youths, children, senior citizens, gender or sexual minorities, disabled or those who are physically or mentally incapacitated and helpless people, who are economically, socially or culturally backward.

Explanation: For the purpose of this Part and Part 4 (Directive Principles, Policies and Responsibilities of the State), the term 'destitute' refers to those citizens living below the line of average poverty.

(3) The State shall not discriminate among citizens on grounds of religion, color, race, caste, tribe, gender, sexual orientation, biological condition, disability, health condition, marital status, pregnancy, economic condition, origin, language or region, ideological conviction or other similar grounds.

(4) There shall be no discrimination with regard to remuneration and social security on the basis of gender for the same work.

(5) All the children shall have equal right to ancestral property without any gender discrimination. However, except for parents will, children shall be entitled to have their rights on such properties only after the demise of their parents.

25. Rights Regarding Mass Communications: (1) There shall be no prior censorship of publication, transmission (broadcasting) or information flow or printing of any news item, editorial, article, feature or any other reading, audio, audiovisual materials by any other means including electronic publication, transmission (broadcasting) and the press.

Provided that, nothing shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine nationality, sovereignty or integrity or which may jeopardize the harmonious relations subsisting among federal units or the harmonious relations subsisting among the peoples of different castes, tribes or communities, an act of treason, any act that may harm the social prestige of an individual through publication or transmission of false (fake) materials, or that leads to a contempt of court, or to discourage crimes or an act that may be contrary to public health, decent behaviour, or morality and to discourage untouchability and racial and gender discrimination.

(2) There shall be no closure, seizure or cancellation of registration of radio, television, online or any other types of digital or electronic, print or other media or equipment of communications on account of publication and transmission (broadcasting) or printing of any materials through the medium of audio, audiovisual or electronic equipment.

(3) There shall be no closure, seizure or cancellation of registration of any newspaper, magazine (periodicals) or press on account of printing or publishing any news item, article, editorial, feature, information or any other materials. Such act will be culpable in accordance with law and the victim of such act shall have a right to receive proper compensation.

(4) Except in accordance with law, no press, electronic transmission and telephone and other means of communications shall be obstructed.

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

(2) The person who is arrested shall have the right to consult a legal practitioner of his/her choice at the time of arrest. The consultation made by such a person with the legal practitioner and the advice given thereon shall remain confidential, and such a person shall not be denied the right to be defended by his/her legal practitioner.

Provided that, this Clause shall not be applicable to the non-resident Nepali (NRN) under preventive detention or to the citizen of an enemy country.

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

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

Provided that nothing in this Clause shall apply to an individual held under preventive detention and a citizen of an enemy state.

(4) No person shall be punished for an act which was not punishable by law when the act was committed, and no person shall be subjected to a punishment greater than that prescribed by the law in force at the time of the offence.

(5) No person accused of any offence shall be assumed to be an offender until proven guilty.

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

(7) No person accused of any offence shall be compelled to be a witness against himself or herself.

(8) Every person undergoing trial shall have the right to be informed about the proceedings of the trial.

(9) Every person shall be entitled to a fair trial by a fair, free (independent) and competent court or judicial authority.

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

27. Rights of the Victims of Crime: (1) The victims of crime shall have the right to information about the investigation, probe and action taken in the case in which he/she is victimized.

(2) The victims of crime shall have the right to social rehabilitation and compensation in accordance with law.

28. Right Against Torture: (1) No person who is detained during investigation, probe or enquiry or trial or for any other reason, shall be subjected to physical or mental torture, or be treated in a cruel, inhuman or degrading manner.

(2) Any such an act pursuant to clause (1) shall be punishable by law, and any person victimized by such a treatment shall have a right to proper compensation.

29. Right Against Preventive Detention: (1) No person shall be held under preventive detention unless there is sufficient ground to believe in the existence of an immediate threat to the sovereignty and integrity of, or the law and order situation in Nepal.

(2) Except in the case of the individual that undermines sovereignty or integrity of the State of Nepal, seriously jeopardizes the public peace and law and order by spreading communal riots, and in the case of the citizens of an enemy state, the family members of other individuals held under preventive detention shall be informed of their conditions.

(3) If an authority detains a person under preventive detention contrary to law or in bad faith, the person detained is entitled to compensation under the law.

30. Right Against Untouchability and Racial Discrimination: (1) No person shall, on the ground of caste, tribe, descent (origin), community, occupation or physical condition, be subject to discrimination and untouchability in any form.

(2) No person belonging to any particular caste or tribe shall, in relation to the production or making available of any goods, services or conveniences, be prevented from purchasing or acquiring such goods, services or conveniences; and no such goods, services or conveniences shall be sold or distributed only to members of a particular caste or tribe.

(3) No one shall be allowed to purport to demonstrate superiority or inferiority of any person or a group of persons belonging to any caste, tribe or origin; or to justify social discrimination on the basis of caste and tribe or untouchability; or to disseminate ideas based on untouchability or

caste superiority or hatred justifying social discrimination; or to encourage caste discrimination in any form.

(4) No person shall be subjected to any form of discrimination by engaging him or her in an act or work contrary to his or her will, by practicing or not practicing untouchability on the basis of caste.

(5) All forms of untouchability and discriminatory acts shall be punishable in accordance with law and an individual victimized by such act shall have right to proper compensation.

31. Right Regarding Property: (1) Every citizen shall, subject to the existing laws, have the right to acquire, own, sell and otherwise dispose of property.

(2) The State may levy progressive taxes on individual property as deemed necessary in accordance with progressive taxes.

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

Provided that this Clause shall not be applicable to unproductive property or property acquired by any individual through illegal means.

(4) **The state shall not be compelled to provide compensation**, for any property requisitioned, acquired or encumbered by the State in distributing land to landless farmers and squatters for implementing revolutionary scientific land reform programmes or in the public interest in accordance with Clause (3). The amount and basis of compensation, and relevant procedure shall be as prescribed by law.

(5) The State, by making laws, may regulate and manage land in order to enhance the production and productivity of the land, and to effect modernization and professionalization of agriculture, protection (conservation) of environment, systematic housing and urban development.

32. Right to Religious Freedom: (1) Every person shall have the freedom to profess, practice and preserve his or her own religion in accordance with his or her faith, or to refrain from any religion.

Provided that no person shall be entitled to act contrary to public health, decent behaviour and morality, to indulge in activities of jeopardizing public peace or to convert a person from one religion to another and no person shall act or behave in a manner which may infringe upon religion of others.

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

33. Right to Information: (1) Every citizen shall have the right to demand or obtain information on any matters of concern to him or her or to the public.

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

34. Right to Privacy: Except in circumstances provided by law, privacy in relation to the person, and to his or her residence, documents, records, statistics and correspondence, and his or her reputation are inviolable.

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

(2) No person shall be exploited in the name of religion, custom, tradition and practice, or in any other way.

(3) No person shall be subjected to human trafficking, slavery or bonded labour. Such an act shall be punishable in accordance with the law and the victim shall have the right to receive proper compensation from the victimizer.

(4) No person shall be subjected to forced labour.

Provided that nothing in this Clause shall prevent the enactment of a law requiring citizens to be engaged in mandatory service for public purposes.

5. The state shall enact laws within six months of the promulgation of this constitution to create separate benches in all levels of courts to effectively implement the rights against exploitation and harassment.

36. Right Regarding Environment: (1) Every person shall have the right to live in a healthy, clean and sustainable environment.

(2) Every person shall have the right to adaptation in order to safeguard himself or herself from the ill effects of climate change.

3. The victim of environmental pollution or degradation shall have the right to compensation in accordance with law.

37. Rights Regarding Education: (1) Every citizen shall have the right to access over basic education.

(2) Primary education shall be compulsory and free of cost. Every citizen shall have the right to obtain free education up to higher secondary level.

(3) The citizens of destitute class shall have the right to free higher education as prescribed in the law.

(4) Every Nepali community inhabiting Nepal shall have the right to run and operate schools and academic institutions in order to provide education in mother tongue.

38. Rights Regarding Language and Culture: (1) Every person and community shall have the right to use their own language.

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

(3) Every Nepali community inhabiting Nepal shall have the right to protect and promote their language, script, culture, cultural civilization and heritage.

(4) Every individual shall have the right to create arts and literature, develop them, and protect, in accordance with law, their intellectual property, and reap gains thereof.

39. Rights Regarding Employment: (1) Every citizen shall have the right to employment. The terms and conditions of the employment shall be as prescribed by the law.

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

(3) Every unemployed citizen shall have the right to receive allowance in accordance with law.

40. Rights Regarding Labour: (1) Every worker shall have the right to proper work practices and the right to training and education on necessary labor related technology.

(2) Every worker shall have the right to proper wages, facilities and social security for living a dignified life.

(3) Every worker shall have the right to form trade unions, participate in them and engage in collective bargaining and strikes in accordance with law.

(4) Labor courts shall be established in all level of the courts within six months of the promulgation of the constitution.

41. Rights Regarding Health: (1) Every citizen shall have the right to free basic health services and no person shall be deprived of emergency health services.

(2) Every person shall have the right to reproductive health.

(3) Every person shall have the right to informed health services.

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

(5) Every citizen shall have the right to an access to clean (pure) drinking water and sanitation (cleanliness)

42. Rights Regarding Food: (1) Every person shall have the right to food.

(2) Every citizen shall have the right to protect himself or herself from the vulnerable condition of life owing to the scarcity of food.

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

43. Rights Regarding Accommodation: (1) Every citizen shall have the right to an access to proper accommodation.

(2) Except in accordance with law or ordered by the court, no person shall be evacuated from his or her habitation (residence) or no encroachment shall be made on the same.

44. Rights Regarding Women: (1) Every woman shall have equal ancestral right without any gender discrimination.

(2) There shall be no gender discrimination against women, in any form.

(3) Every woman shall have the decisive right regarding reproduction.

(4) No physical, mental, sexual, psychological or other form of violence or exploitation shall be inflicted on any woman on the basis of religious, social, cultural tradition, custom or any other grounds, and such an act shall be punishable by law and the victim woman shall have the right to receive proper compensation.

(5) Every woman shall have the right to participate/represent in all organs, bodies and sectors of the state mechanism with compensation based on the proportionality and inclusiveness.

(6) Every woman shall have the right to special opportunity in education, health, employment and social security on the basis of positive discrimination.

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

(2) Every child shall have the right to education, health, be nurtured, to proper care, sports, entertainment and personality development from his or her family and state.

(3) Every child shall have the right to early childhood development along with proper care.

(4) Every child shall have the right to receive education in his or her mother tongue.

(5) No child shall be employed in factories, mines or in any other hazardous work.

(6) No child shall be subjected to child marriage, illegal trafficking and abduction or hostage.

(7) No child shall be recruited or used in army, police or armed conflict or group, or be subjected to maltreatment, negligence through any medium or in any form in the name of cultural or religious practice, or to physical, mental, sexual or other types of exploitation or inappropriate use.

(8) No child shall be tortured at home, school or any other place and in any condition, either physically, mentally or in any other forms.

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

(10) Helpless, orphaned or mentally retarded, disabled children, children who are victims of conflict or displaced and children at risk shall have the right to receive special protection and privileges from the State to ensure their secure future.

(11) The acts pursuant to Clauses (5), (6), (7) and (8) shall be punishable in accordance with law and children who are victims of such acts shall have the right to receive proper compensation from the victimizer.

46. Rights Regarding *Dalit* Community: *Dalit* community shall have the following prerogatives in economic, political, cultural, educational and social fields:

(1) No untouchability and discrimination, humiliation, intolerant behavior or discrimination shall be inflicted against any person in any place on the ground of caste, community, lineage and profession. Such an act shall be regarded as a serious crime against humanity and punishable in accordance with law. The person who is victim of such act shall have the right to receive proper compensation as prescribed by law..

(2) Employment shall be guaranteed proportionally in governmental, quasi- governmental and industrial establishments.

(3) The traditional *Dalit* related professions shall be modernized and *Dalits* shall be given preferences in such professions while vision relating thereto shall be made and resources provided in line with the same.

(4) State shall provide land to landless *Dalits*.

(5) State shall provide shelter to homeless *Dalits*.

(6) Free education including scholarship from primary to higher level shall be provided to *Dalits* students. Special provisions shall be made by laws in order to give *Dalit* students access to technical higher education.

(7) For the social progress of *Dalits* Special provisions in education, health, and employment shall be made. Similarly knowledge and resources shall be provided for income generation.

(8) Provisions shall be made for the proportional representation of Dalits in federal, provincial, local level and special regions on the basis of population.

(9) Special provisions shall be made by laws in the field of employment including civil service, army, police for Dalit empowerment, representation and participation on the basis of inclusion and proportion.

(10) Dalits shall get political preferential right in the local level with dominant Dalit population. Such political preferential right shall be revoked automatically after two terms.

(11) Hill Dalits, Madhesi Dalits and Dalit women shall be proportionally represented in all rights Dalit community gets.

47. Rights Regarding Family: (1) No one shall be allowed to have more than one spouse.

(2) Every person shall have the freedom to marry and divorce in accordance with law.

(3) No marriage shall be held against the wishes of the wedding parties or their full and independent consent.

(4) The couple shall have the right to property and in family affairs.

(5) It shall be the common right and responsibility of the parents for the nurturing, care and all round development of the children whereas it shall be the common right and responsibility of every child to respect and nurture their parents and guardians.

(6) The acts contrary to Clause (1) and Clause (3) shall be punishable in accordance with law.

(7) For the effective implementation of the rights provided in this Article, separate family benches or courts shall be established at all levels.

48. Rights Regarding Social Justice: (1) Women, *dalits*, Madhesis, indigenous tribes (*adiwasis janjatis*), minorities and marginalized, Muslims, gender and sexual minority community, disabled people, youths, backward class, farmers and workers and oppressed groups, who are socially backward, shall have the right to participate in state structures on the basis of the principles of proportionate inclusion.

(2) The economically destitute citizens shall be given priority while making provisions pursuant to Clause (1).

(3) Destitute class, disabled people and citizens of endangered communities shall have the right to get special privileges in education, health, accommodation, employment, food and social security for their protection, uplifting, empowerment and development, and for reaping professional gains thereof in accordance with law.

(4) Every farmer shall have the right to land for farming activity, to selection and protection of local seeds and saplings and agricultural species which are used and adopted in a traditional manner, to access to proper pricing and market of agricultural materials and produce, and to special privileges for their empowerment and development, and to benefits thereof.

(5) The *adiwasi, janjatis* shall have the right to their identity, to protection, promotion and development of their language and culture, and to special privileges with priority for their empowerment and development, and to benefits thereof. The *adiwasi, janjati* communities shall have the right to self rule and autonomy with theoretical consent of Right to Self Determination and right to free, full and informed consent.

(6) The minority communities shall have the right to special privileges for maintaining their identity and for enjoying their social and cultural rights, and to benefits thereof.

(7) The Madheshi communities shall have the right to self rule and autonomy with theoretical consent of Right to Self Determination and right to equal distribution of economic, social and cultural opportunities and benefits, and to special privileges for protection, uplifting, empowerment and development of the destitute and backward classes and women of the same communities, and to benefits thereof.

(8) The citizens of the oppressed regions shall have the right to special privileges for their protection, uplifting, empowerment, development and fulfillment of basic needs, and to benefits thereof.

(9) The disabled people shall have the right to live with dignity and self-esteem with recognition of their distinct identity and to public services and facilities.

(10) For intellectual, moral and physical empowerment and development, every youth shall have the right to special privileges in sectors like education, health, employment, to personality development, and to proper opportunities for contributing towards the all-round development of the State.

(11) The martyr families, the families of the disappeared, and disabled and injured people of past all people's movements, people's war and Madhesh movement shall have the right to participation in all the state structures, to special facilities in government and public services, education, health, employment, accommodation, social security, relief and pension.

(12) The *adiwasi, janjatis* and local communities shall have preferential rights over land and natural resources.

49. Right Regarding Social Security: Destitute class, incapacitated and helpless people, single and helpless women, disabled people, children, senior citizens, people who cannot take care of themselves and citizens of endangered tribes shall have the right to social security as prescribed by the law.

50. Rights Regarding Consumers: (1) Every consumer shall have the right to quality goods and services.

(2) The person who incurs loss from substandard goods and services shall have the right to receive proper compensation.

51. Right Against Exile: (1) No citizen shall be exiled.

52. Rights Regarding Implementation of Fundamental Rights and Constitutional Remedy:

(1) Every citizen shall have the right to effective implementation and get remedy of the rights provisioned in this Part.

(2) Necessary laws shall be made or amended and judicial structure shall be established within six months to effectively implement the rights provisioned in this Part.

(3) For effective implementation of the special rights and preferential rights, the relevant appraisals and reviews shall be made in every five years on the basis of human development index and additional plan of action shall be made accordingly.

(4) Any laws made to impose prohibitions on the fundamental rights mentioned in this Part shall be *ipso facto* unconstitutional on any other grounds except for the grounds that they are made to safeguard Nepal's sovereignty, national independence, territorial integrity, national security, rights, social dignity and esteem of individuals, public system or health or morality.

(a) Fundamental Duties

53. Responsibilities of a citizen: (1) Every citizen shall have following duties (responsibilities)

(a) To safeguard the nationality, sovereignty and integrity of Nepal by displaying loyalty and allegiance towards the nation and,

(b) To maintain national secrecy (privacy) about sensitive issues,

(c) To abide by constitution and law in favor of peoples' democracy, human rights, peace, progressive(forward-looking) change and development,

(d) To enroll for mandatory service when required by the nation, and for that healthy citizens who have attained 18 years of age to undergo mandatory military training for the protection of nation,

(e) To protect and promote public and national property,

(f) To pay tax in accordance with law,

- (g) To use one's freedom and rights without encroaching upon the rights of nation, society and other individuals,
- (h) To respect labour,
- (i) To raise (take care) and show honour and respect towards parents, children, senior citizens, women, incapacitated and helpless people, disabled people as well as human community according to the need and situations they live in,

PART-4

Directive Principles and Policies and Responsibilities of the State

54. Directive Principles and policies of the state: State, being based on the integrated, holistic, all-round and balanced policies and principles, shall have following directive principles and policies:

- (1) It shall be the political objective and principle of the State to establish the participatory people's federal republican polity based on the all-inclusive, proportional and direct democracy with right to self-determination, autonomy and self rule in order to build a prosperous and socialism-oriented society which is against feudalism and imperialism, and is based on multi-party competition.
- (2) It shall be economic policy and principle of the state to build a national economy oriented towards socialism by eliminating the quasi-feudal and semi-colonial economic exploitation and oppression; ensuring equal access to all people on means and resources available within the nation and availability of the international aid as well as all-inclusive and proportional distribution of achievements resulting thereof; prioritizing and promoting the domestic private, cooperative, community and public entrepreneurs; making the national economy independent, self-reliant and progressive and by regulating, controlling and eliminating the capital of foreign brokers and bureaucrats.
- (3) It shall be social policy and principle of the state to establish a society based on the equality, highly decent public morality (behavior), and equal justice by eliminating all kinds of caste hypocrisy, patriarchal attitude, caste system based on *Manubadi* viewpoints and all forms of discrimination, hatred and intolerance prevailing in the society.
- (4) For sustainable and balanced development of the land and agricultural sectors, it shall be land and agriculture policy and principle of the state to ensure scientific production system based on private and community ownership and control of the farmers and other working class on the natural resources available in the country by eliminating the existing feudal production system.

- (5) It shall be industrial policy and principle of the state to take the country to mechanization and automation gradually in all sectors of production, exchange(trade), distribution and consumption by ensuring sustainable and balanced development of local, regional and national self-reliant industries and tourism service industries, the ecological protection and promotion of the *himalayan* ranges that have proved to be a unique grandeur of agriculture, forest, water and nature and the effective adaptation of the adverse effects of global climate change.
- (6) It shall be policy and principle of the state pertaining to capital and investment to acknowledge the external(foreign) capital, investment and technology based on people's national need and priority as also being supportive while giving high priority to the domestic (in-country) labour, resources, knowledge, technology and market for the development of socialism-oriented production system and relation based on international law, policy and principles about human rights, labour and environment.
- (7) It shall be revolutionary land reform policy and principle of the state to bring into force the system of giving land ownership to tillers (*jasko jot usko pot*) by eliminating all kinds of feudal production relations and their remnants that exist in the agriculture sector.
- (8) It shall be water resources and energy policy and principle of Nepal to give equal access to development, distribution of water resources, hydropower and other clean energy available in the country as a result of domestic and foreign competitive investment; and to give access of the same at affordable price; and make collaboration on water resources with coastal countries ensuring Nepal's prime rights for present and future utilization as well as the right to use of national and international rivers flowing within and across it ; and give first priority to domestic market in development, distribution and use of water resources and hydro power.
- (9) The State shall adopt the policy to establish people's fundamental rights over education, health, employment, food sovereignty and housing, and subsequently guarantee these rights in practice.
- (10) It shall be social security policy of the state to ensure social security of the disabled (people with disability), helpless, elderly, extremely marginalized and endangered ethnicities, and others.
- (11) Regarding the foreign investment in the area of water resources, hydro power, communication, transportation, industry, and agriculture sector, it shall be the foreign investment policy and principle of the state to manage the foreign investment on the basis of majority share investment along with prime rights of the people at the centre, province and the local areas.
- (12) Nepal, by keeping intact the sovereignty, freedom, integrity, independence and national security of the country, shall pursue a foreign policy based on non-alignment, neutrality and world peace free from any kind of infringement and interference and on mutual respect and benefit as a fundamental policy and principle of the state in order to regulate and guide Nepal's foreign relations.

- (13) It shall be commerce and transit policy of the state to allow unhindered access to (use of) commercial and transit services on the basis of international laws.
- (14) It shall be national heritage policy of the state to ensure protection and promotion of the national heritage and the world heritage that are in Nepal and modernize them rapidly.
- (15) It shall be labour policy of the state to ensure proper representation of the workers in the management bodies of the industrial organizations as fundamental rights the trade unions.
- (16) It shall be policy of the state that every natural resources and means available in the country shall remain under the ownership of the state.
- (17) It shall be policy of the state that ownership of all resources and means including man-made products, exchange, distribution and consumption shall remain with the state, group, cooperatives, and individuals.
- (18) It shall be policy of the state to reformulate the present education policy of the state in such a way that the various levels of skilled technical and expert human resources required for Nepal could be developed in order to take the country towards mechanization and atomization.
- (19) It shall be youth policy of the state to formulate and implement the required policies and plans in order to mobilize the youths in campaigns of safeguarding national independence, building of a prosperous and just society, and for rapid socio-economic transformation.

55. Responsibilities of the state

- (1) It shall be responsibility of the state to ensure the quick and efficient observance of the fundamental rights, directive principles and policies of the state and other provisions mentioned in this constitution.
- (2) It shall be responsibility of the state to take various legal, administrative and judicial steps at national and international level in order to control and end all kinds of discrimination, exploitation and suppression that take place against people in all sectors and bodies at home and abroad.
- (3) It shall be responsibility of the state to constitute the truth and reconciliation commission and implement provisions relating thereto in order to provide proper relief and compensation, health treatment and rehabilitation to the victims and the families of those who attained martyrdom, who became victims of torture or enforced disappearance, extra-judicial killing; who have been injured, made disabled and incapacitated in different ways during the course of people's various struggles, people's movement and people's war that took place so far and to ensure severe action and punishment against all those found guilty therein.

- (4) It shall be responsibility of the state to take legislative, executive, and judicial and other appropriate steps required for the effective observance and implementation of human rights and labour related treaties and agreements that Nepal is a party to, at national level and allocate budget for the same purpose.
- (5) It shall be responsibility of the state to timely review, amend and repeal other international treaties, agreements that Nepal is a party to and has signed with various international financial institutions and multi-national companies as well as hold new treaties, agreements and contracts as per need in a transparent way keeping in view the best interest of the country and the people; and ratify the treaties and agreements of extensive, serious and long-term scope through referendum while the other treaties by two-third majority of the legislature.
- 56. Submission of report:** Head of the state shall every year submit a report about the initiatives taken towards the effective implementation of the directive principles, policies and responsibilities of the state mentioned under this Part and the achievements made thereof to the federal legislature for its endorsement.
- 57. Provision regarding monitoring:** Monitoring committees shall be constituted as provided for by law under federal and provincial legislature in order to periodically monitor the progressive implementation of the directive principles, policies and responsibilities of the state.
- 58. Questions can be raised in court :** (1) Every citizen, organization, stakeholder community or province, level and region shall have right to raise a question in court as to whether or not the directive principles, policies and responsibilities of the state have been effectively complied with or breached.
- (2) The final right to verdict and interpretation as to whether or not the directive principles, policies and responsibilities of the state have been complied with or breached shall rest with the Supreme Court

Part - 5

Structure and tiers of the State and Distribution of State Power

59. Definition

Unless the subject or context otherwise requires, in this part of this Constitution:

- (a) 'Federal' means the federal level that remains at the highest level of federal structure with two or more states/provinces together. This word also denotes the complete structure of the different states, the local level and special structures of federal Nepal.
- (b) 'State' means the area and structure of the federal unit of Nepal divided into federal units.

- (c) 'Local Level' means village-body and municipality to be established under the federal state.
- (d) 'Special Structure' means autonomous region, special region and protected areas to be established within the state.
- (e) 'Autonomous Region' means an area having domination or concentration of a particular ethnic/community or language to be established within the state.
- (f) 'Protected Area' means an area to be established for the preservation and promotion of smallest minority, endangered and highly marginalized ethnic group, community and cultural area within the state.
- (g) 'Special Area' means a geographical unit established for the development of an area, which is not covered by the autonomous and protected areas and which is economically and socially backward or a thematic area.
- (h) 'State Power' means the authority related to the Executive, Legislative and Judiciary of the state.
- (i) 'List' means a list that specifies the rights provided as per this Constitution to be used by the autonomous regions established under federation, state, local unit and special structure. And this word shall also denote the common list stated in the constitution.

60. Structure and tier of the State and Form (structure) of State Power

- (1) Nepal's state power shall be exercised by federation, states, local units and special structures as mentioned in the Constitution.
- (2) The federation, states, local units and special structures shall protect Nepal's national unity, integrity, sovereignty and country's long-term interest, overall development, multi-party competitive democratic system and the rights of proportionate and inclusive representation.
- (3) The identity, self-rule and autonomy of the indigenous nationalities living in autonomous regions under states, local units and special structures shall be guaranteed.

61. Tier Structure of federal Nepal

- (1) The main structure of federal Nepal shall be of three tiers that included federation, state and local.
- (2) There shall be Legislative, Judiciary and Executive in federation and state established in accordance with Clause (1).
- (3) There shall be an elected council in the local unit formed in accordance with Clause (1) with legislative, executive and judicial authority to be exercised under the regional laws as per the Appendix 8 of the Constitution.
- (4) Apart from the main structure in accordance with Clause (1), there shall be autonomous areas, special areas and protected areas within the state as special structures in accordance with the provision in Article 71 of the Constitution.

- (5) There shall be an elected council in the autonomous region formed in accordance with Clause (4) with legislative, executive and judicial authority to be exercised under the regional laws as per the Appendix 7 of the Constitution.

62. Creation of State

- (1) People's Federal Republic Nepal shall be divided into 12 autonomous states based on caste, language and region by restructuring the existing unitary state structure.
- (2) The Names and areas of the states created in accordance with Clause (1) shall be as specified in the Appendix 1 of the Constitution.
- (3) The amendment of the names of the state in accordance with Clause (2) shall be taken by a two-third majority of the respective state legislative. The decision shall be recommended to the federal parliament by the concerned state government which shall need the approval of the approval of the federal parliament by a two-third majority.
- (4) If the amendment proposal under Clause (3) concerning the amendment of names of states could not receive two-third majority of the federal legislature, the concerned provincial legislature, if felt necessary, may conduct referendum of the people within the state on the subject.
- (5) If states in accordance with the Constitution have to be merged and created as a new state or changes have to be done merging boundary of states, the concerned provincial legislature shall decide by a two-third majority. This requires endorsement of federal legislature by a two-third majority on the recommendation of the provincial government.
- (6) A referendum can be conducted in the concerned states if the procedures in accordance with Clause (5) fail to get endorsement of federal legislature in the lack of a two-third majority.
- (7) The federal legislature shall amend the constitution in accordance with the verdict of the referendum conducted under Clause (5) and (6).
- (8) The provision concerning the endorsement by a two-third majority of the federal legislature under Clause (3), (4) and (5), and other provisions, including concerning referendum under Clause (4) and (6) shall in accordance with the laws and procedures decided by the federal legislature.
- (9) Capitals of states shall be as per the provision in the Appendix 1. In case of necessity to change a capital of a state, the place shall be as per the decision made by the concerned provincial legislature. Procedures and processes to change a capital of a state shall be as per the decision of the concerned provincial legislature.

63. Capital of the Federation

- (1) The capital of the Federation shall be a location determined by the Federal Government.
- (2) The location determined as per Clause (1) can be changed by a two-third majority of the Federal Legislature.

64. Formation of the local level and area demarcation

- (1) Gaunpalika (Village Council) and Municipality shall be provided as the local level of government under the provinces constituted as per this Constitution.
- (2) The Federal Government shall assign fixed criteria to the Provincial Government to determine number and area of the local level constituted in accordance with Clause (1). While assigning the criteria, the Federal Government shall consider homogenous population, geographical and administrative accessibility, density of population, transportation facilities, availability of natural resources, and the cultural and community aspect of the people living in the area concerned relatively.
- (3) On the basis of the criteria assigned by the Federal Government as per Clause (2), the Provincial Government shall table the Bill to Provincial Legislature in order to determine the name, number and area of the local level. The tabled Bill shall be approved by the 2/3 majority of the Provincial Legislature. If required, the Provincial Government could formulate a Bill to restructure the local level through the Commission.
- (4) The number, border and area of the local level to be formed as per Clause (1) should be determined within one year of the formation of the Provincial Government as per this Constitution.
- (5) The existing local level shall continue until the local body as per clause (1) is formed.
- (6) Other provisions related to the formation and structure of the local level shall be as determined by the Provincial laws.

65. Provisions related to Special Structures

- (1) Apart from the main structure as per Article 68 of the Constitution, an area with majority of Adivasi Janajati or linguistic community or with dense population within a Province shall be maintained as an autonomous region.
- (2) Apart from Clause (1), any region shall be maintained as protected areas in order to protect and promote the ethnicity/community that are in the extreme minority, cultural area, declining and marginalized ethnic groups. Any areas could be maintained as protected areas in order to protect and promote the ethnicity/community that are in the extreme minority, cultural area, declining and marginalized ethnic groups inside the Province.
- (3) To develop the backward and areas, which have been kept behind in socio-economic terms within the province and not covered by the area as per Clause (1) and (2) or any subjective area, any specific geographical area shall be maintained as a special zone.
- (4) A high level Commission shall be constituted in order to recommend for the formation of the autonomous regions. The formation of the autonomous regions for the first time should be completed within one year of formation of the Provincial Government.
- (5) If the name and number of the autonomous regions as per Clause (4) needs to be changed, and needs to be adjusted then a recommendation of the concerned Provincial Legislature for the same needs to be approved by two-third majority of the Federal Legislature.

- (6) If protected areas and special zones as per Clause (2) and (3) have to be formed, they can be formed by 2/3 majority decision of the concerned Provincial Legislature.
- (7) Other provisions related to autonomous region, special zone and protected area shall be as determined by the Provincial law.

66. Sharing of Power among the Federation, Local Level and Special Structures

- (1) The Federation shall have the right over the subjects mentioned in Schedule (5) of this Constitution. The Federal Legislature shall formulate laws in subjects provided for in Schedule (5) of this Constitution.
- (2) The power of the province shall rest on the subjects mentioned in Schedule (6) of this Constitution. The Provincial Legislature can formulate laws on subjects outlined in Schedule 6 of this Constitution, and to be effective within its province.
- (3) No matter whatsoever is written in this Constitution, on areas of common list as mentioned in Schedule 7, the Provincial Legislature can formulate necessary laws on the basis of the fundamental principle, standards and framework of legislation determined by the Federal Legislature.
- (4) Along with the legislative powers outlined in Clause (1) and (2), the Federation and province shall have executive and judicial powers in pursuant to this Constitution.
- (5) The powers of the local level shall be as provided in Schedule (8) of the Constitution. The local level can formulate necessary laws on subjects outlined in Schedule 8. If laws formulated as such contradict with the provincial laws, then they will automatically be annulled to the extent of contradiction.
- (6) Along with the legislative powers of Clause (5) the elected council at the local level shall have executive and judicial powers.
- (7) The powers of the autonomous region under the special structures shall be as mentioned in Schedule (9) of the Constitution. The autonomous region can formulate laws to be effective in the region, in areas mentioned in Schedule (9). If laws formulated as such contradict with the provincial law, they can be automatically annulled to the extent of contradiction.
- (8) Along with the legislative powers of Clause (7), the elected council under the autonomous region shall have executive and judicial powers.
- (9) Mandatory representation of autonomous region or Adivasi Janajati not having the numerical proportion shall be ensured at the policy making and implementation level of federation and province by making the law.
- (10) The powers of special areas and protected areas under the special structure, constituted in accordance with this Constitution, shall be as determined provincial laws.
- (11) The statements in Clause (5) and (7) shall not be regarded as obstructing the Provincial Government from granting additional powers by the law to the local level and special structures, in areas under its list.
- (12) The Federal Legislative shall have the power to formulate laws in areas not mentioned in the list or the common list of the Federation, province, local level and autonomous regions

under the special structures, and on areas not determined in this Constitution and legislations under the Constitution.

67. Interrelation among Federal Units

- (1) The relations among the Federation, local level and special structures shall be based on the Principle of cooperativeness, coexistence and coordination.
- (2) In order to manage the mutual relations between the provinces, the Federation shall carry out necessary management role.
- (3) If two or more province makes a request before the Federation Legislature to draft laws on areas mentioned in Schedule (6), the Federal Legislature shall draft necessary laws.
- (4) On matters of national importance and on areas to coordinate among the provinces, the Federation can, pursuant to the Constitution and law, issue necessary directives to all the provinces and its shall be the duty of the province concerned to adhere to the directive. But the Federation shall not issue any directives or executive orders which interfere with powers of a province.
- (5) If any province carries out an act that would hurt national sovereignty, integrity and the law and order of the country, the Head of State, on recommendation of the Federal Council of Ministers, can alert the province, dismiss or dissolve the Provincial Government and Legislature, as required.
- (6) If the Government or Legislature of any province is dismissed or dissolved as per Clause (5), it has to be approved by a two-third majority of the Federal Legislature within 35 days of such a dismissal. But if it is not approved by the Federal Legislature, such order will be regarded as automatically inactive.
- (7) The election to provincial parliament will be held within six months in such state if approved by the federal legislature pursuant to Clause (6).
- (8) Federal rule will remain in place in such state until the elections are held pursuant to Clause (7).
- (9) One state is required to assist another state in the implementation of legal provision or judicial and administrative decision or order.
- (10) One state may exchange information with another state on the topics of common concern and interest, consult and coordinate on its functions and regulations and can extend mutual cooperation.
- (11) One state has to provide the citizens of another state with equal security and facility according to own laws.
- (12) The Federation may assist and direct the local level and special structure through the related state pursuant to the constitution and existing laws.

68. Provision concerning resolution of dispute between federal units

- (1) An interstate council will be set up to avert any dispute between federation and the state and among states and to resolve the prevailing dispute or to recommend the unresolved matters to the federal legislature. The council shall have following members:
 - (a) Executive Chief - Chairperson
 - (b) Federal Home Minister - Member
 - (c) Federal Finance Minister - Member
 - (d) Chief of states - Member
- (2) The council, pursuant to Clause (1), may summon federal minister and state minister and specialist concerned at the meeting of the council as per need.
- (3) Other arrangements regarding the work procedure of the council, pursuant to Clause (1), will be determined by laws.
- (4) The matters referred from the Inter State Council and deemed necessary by the federal legislature may be resolved through discussion at the federal legislature meeting.
- (5) The process of resolving the dispute pursuant to Clause (4) will be as determined by federal legislature by making laws.
- (6) If failed to be resolved by the federal legislature pursuant to Clause (4) or the federal legislature deemed it to be necessary, the dispute can be recommended to the federal government for referendum.
- (7) Referendum can be organized at the state level for resolving the matter within a state or among states and at national level for an entirely national issue.
- (8) Other provisions concerning the referendum will be as determined through laws by the federal legislature.
- (9) If any dispute rose among state and local level or state and special compositions or local levels or local level and special compositions or areas under the special composition, legislature of concerned state shall resolve it through discussion.
- (10) The process and procedure of resolving the dispute according to Clause (9) shall be as determined in laws by the state legislature.
- (11) If any dispute rose among federation and state, state and state, state and local level, state and special composition and local level and areas of special composition over the enlisted rights of constitution or in the topic of interpretation of constitution, Federal Legislature shall settle such dispute.
- (12) If any dispute rose among local level and areas, local levels of special composition, Provincial Legislature shall settle such dispute.

69. Right to self-determination

- (1) The oppressed groups including *Adivasi Janajati* and Madhesi shall have the political right to self-determination to take steps against oppression. In addition to this, there shall be right to self-determination in the form of culture, religion, language, education, information, communication, health, settlement, employment, social security, financial

activities, commerce, and land, mobilization of means and resources and environment. These issues will be fixed by making laws.

- (2) No impacts shall be made on sovereignty, freedom, unity and regional integrity while enjoying the rights of self-determination pursuant to Clause (1).

70. Provisions regarding political preferential right

- (1) In case of states constructed based on oppressed ethnic/community, political parties should give preference to the member of oppressed ethnic/community in majority at the time of election and during formation of state government at the concerned state at the main leading position. But, such rights of political preference will be ineffective automatically after two tenures or ten years.
- (2) The oppressed ethnic/community in majority at the autonomous area constructed under the special composition will have political preference at the top leading level of such autonomous area. But such rights regarding the political preference will be ineffective automatically after two tenures or ten years.

Part 6

The Executive

71. Exercise of the Federal Executive Powers

- (1) The federal executive power shall, pursuant to the Constitution and other laws, be vested in the President.
- (2) The President shall, pursuant to this Constitution and other laws, direct, control and operate the system of governance of Nepal in general in consent with the council of ministers.
- (3) The Federal executive functions of Nepal shall be carried out in the name of Government of Nepal.
- (4) Subject to this Constitution, the federal executive powers of Nepal shall be confined to the matters referred to in the federal list referred to in Schedule (5) and concurrent list referred to in Schedule (7).
- (5) The decision or order to be made in the name of the Government of Nepal pursuant to Clause (3) and the letter of authority relating thereto shall be authenticated as provided for in laws.

72. The President

- (1) There shall be a President in Nepal.
- (2) The President shall be the Head of the State and Head of the Government in Nepal.
- (3) The President shall be the Supreme Commander-in-chief of the Nepali Army.
- (4) The President shall be the Symbol of Nepal's nationality and unity of the Nepali People.
- (5) The President shall, for the best interest and progress of Nepal and the Nepali people, protect and observe this Constitution.
- (6) The President shall, in the course of performance of his/her duties, be accountable to the Nepali people, federal legislature and his/her party.

73. Election of the President

- (1) Election of the President shall be held through the direct voting on the basis of adult franchise for a period of five years.

Provided that the same person shall not be the President for more than two terms.

- (2) In the election of the President, the whole country shall be regarded as one constituency and the candidate securing complete majority of the total valid vote cast throughout the country shall be elected.
- (3) In case any candidate fails to secure the complete majority in the first voting, the second round of voting shall be conducted amongst the two candidates securing highest number of votes.

Provided that in case any candidate securing highest number of votes withdraws his/her candidacy from the voting of second round, the competition shall be held between the remaining two candidates securing highest number of votes.

- (4) The second round voting shall be conducted within 15 days of completion of the first counting of votes.
- (5) In case any person holding a political post to be filled in by an election, nomination or appointment is elected to the office of the President, his/her such post shall *ipso facto* be vacant.
- (6) Except as referred to in this Constitution, other provisions relating to election of the President shall be as provided for in an Act.

74. Powers and Functions of the President

- (1) The President shall carry out the following functions as in the capacity of the Head of the State:
 - (a) To approve Bills;
 - (b) To grant a pardon, suspension, respite or remit punishment or fine imposed according to decisions of various judicial, quasi-judicial, administrative bodies or authorities.
 - (c) To confer honors, decoration, medals and prizes to be conferred on behalf of the state;
 - (d) To accept the credential from the foreign ambassadors and diplomatic representatives.
- (2) While carrying out the following functions, the President shall cause them to be done through the Council of Ministers:
 - (a) Conducting daily administration of the country;
 - (b) To allocate portfolio of ministers and to frame Performance of Business Rules and directives;
 - (c) To maintain peace, securing and order relating to day to day administration;
 - (d) To appoint and nominate officials for conducting daily administration;
 - (e) To mobilize army, declare war and peace, declare the state of emergency;
 - (f) To introduce policies, plans, programs and budget in the legislature;
 - (g) To issue ordinance;
 - (h) To manage problems that may arise in operation of government.
- (3) While carrying out the following functions, the President shall cause them to be done through the legislature:
 - (a) Appointment of officials and members to exercise executive powers of each body of the state;
 - (b) Appointment of ambassadors, special representative, chief justice and justices, and Governor;

- (c) To extend foreign relation and entering into treaty and agreements on behalf of the County;
- (d) To approve annual policies, plans, programs and budget;
- (e) To require contingency program and budget.

75. Election of Vice President

- (1) The candidate of President shall at the time of filing his/her candidacy have to propose a person of separate caste, community, region or sex as a candidate for Vice President.
- (2) The person proposed by the candidate of the President who wins the election shall be declared as the Vice President.

76. Qualifications of the President and Vice President

Any person having met the following qualifications may be eligible a candidate of the President or Vice President:

- (a) A Nepali Citizen by descent,
- (b) Having completed the age of 35 years,
- (c) Having met the qualifications to become a member of federal legislature,
- (d) Not ineligible under any other law.

77. Circumstances in which the President to be relieved from office

- (1) The President shall be relieved of the office in the following circumstances:
 - (a) In case one dies, or
 - (b) In case the term of office expires, or
 - (c) In case one tenders resignation, or
 - (d) In case one is recalled, or
 - (e) In case a motion of impeachment put forwarded by one fourth of the total number of members of legislature stating that due to misconduct or grave violation of the Constitution, the President is not competent to perform his/her responsibility of the office, is passed by the two third majority of the total number of members of the legislature.
- (2) In case the President is relieved from the office pursuant to Clause (1) prior to expiry of the term of three years and six months, the Vice President shall specify the date of election for the next President within six months.
- (3) In case the President is relieved from the office pursuant to Clause (1) upon completion of the term of three years and six months, the Vice President shall perform the functions as in the capacity of the President for the remaining term of the office.

78. Provisions concerning Recall

- (1) At least ten percent of the voters from each province having their names updated in the latest voter list prepared by the Election Commission may submit a motion with their signature to the Election Commission as provided for in the law stating that it is necessary to recall the President.
- (2) The Election Commission shall complete an inquiry as to the motion submitted pursuant to Clause (1) within two months and if the commission is satisfied with the motion, it shall forward the motion to the Legislature within seven days of the date of completion of the inquiry.
- (3) In case the motion submitted pursuant to Clause (1) is introduced and it is approved by a two third majority of the members then comprising of the legislature, the President shall be deemed to be relieved from the office.

79. Circumstances in which the Vice-President to be relieved from Office

- (1) The vice President shall be relieved from the office in the following circumstances:
 - (a) In case one dies, or
 - (b) In case the term of office expires, or
 - (c) In case one tenders written resignation, or
 - (d) In case a motion of impeachment put forwarded by one fourth of the total number of members of legislature stating that due to misconduct or grave violation of the Constitution, the President is not competent to perform his/her responsibility of the office, is passed by the two third majority of the total number of members of the legislature.

80. Oath of Office

- (1) The President shall take an oath of office and secrecy before the chairperson of the Legislature in the format referred to in Schedule
- (2) The Vice President shall take an oath of Office and secrecy before the President in the format referred to in Schedule
- (3) In case the President or Vice President does not take the oath of office and secrecy within thirty days of the election, the office of the President or Vice President shall *ipso facto* be deemed to be inactive.

81. Remuneration and other benefits

The remuneration and other benefits of the President and Vice President shall be as specified by an Act. Until such an Act is enacted, it shall be as specified by Government of Nepal.

82. Formation of the Council of Ministers

- (1) The President shall form the Council of Ministers in his/her chairpersonship from amongst members of the legislature on the ratio of the number of seats secured by parties representing to the legislature on the basis of principle of proportional inclusion.

Provided that the President shall not be compelled to appoint a minister from a party securing less than five percent of the total number of members of the federal legislature.

- (2) The President shall, while appointing ministers pursuant to Clause (1) consult and take recommendation with the parliamentary leader of the concerned Party.

83. Number of Members of the Council of Ministers

The President may appoint ministers in the Council of Ministers in such a number not exceeding ten percent of total members of the legislature.

84. Circumstances in which a Minister to be relieved from Office

- (1) In any of the following circumstances any minister may be relieved from the office:

- (a) In case he/she dies, or

- (b) In case he/she tenders written resignation to the President, or

- (c) In case he/she is no longer a member of federal legislature, or

- (d) In case the concerned party recalls, or

- (e) In case a motion submitted by the President that a minister be relieved from the Office is approved by majority of legislature; or

- (f) In case a no-confidence motion moved by one fourth of the total members of the Federal Legislature is passed by the two third majority of the total number of members; or

- (g) In case the President relieves him/her from the office with the consent of the party on the recommendation of which he/she was appointed as a minister.

Explanation: For the purpose of this Article, "Minister" means state minister or an Assistant Minister as well.

85. Decision-making process of the Council of Ministers

On the matters submitted for decision to the Council of Ministers, the decision shall be made on consensus.

Provided that in case no consensus could be reached, decision may be held on the basis of majority.

86. Accountability of a Minister

The ministers shall be accountable to the President in the matters relating to departmental functions individually and to the President and the legislature collectively.

87. State and Assistant Ministers

The President may appoint State Ministers and Assistant Ministers not exceeding the maximum number referred to in Article 87.

88. Remuneration and other facilities

The remuneration and other benefits of Ministers, State Ministers and Assistant Ministers shall be specified by an Act. Until such an act is enacted, it shall be specified by Government of Nepal.

89. Oath of Office

Ministers, State and Assistant Ministers shall, prior to assume their offices, have to take an oath of office and secrecy before the President.

90. Conduct of Business of Government of Nepal

- (1) The allocation of the business and performance of works of Government of Nepal shall be according to the rules approved by Government of Nepal.
- (2) Nothing shall be deemed to prevent to raise questions in Supreme Court with regard to whether or not the Rules referred to in Clause (1) are complied with.

The Provincial Executive

91. Use of Provincial executive powers

- (1) Subject to this Constitution and the laws, the executive powers of each province shall be vested in the Provincial Council of Ministers.

Provided that during the time of emergency or while the central rule has been applied, and the Provincial executive is no more in the office, the Provincial Chief shall exercise the executive powers.

- (2) Subject to this Constitution and the laws, the responsibility to direct, control and operate the system of governance of the Province shall lie in the Provincial Council of Ministers.
- (3) The executive functions of the Province shall be carried out in the name of the Provincial Government.
- (4) Subject to this Constitution, the Provincial executive powers shall be confined to the matters referred to in the Provincial list and concurrent list referred to in Schedule

Provided that while exercising the powers on the matters referred to in the concurrent list, it shall be exercised having coordination with the federal government.

- (5) The decision or order to be made in the name of the Provincial Government pursuant to Clause (3) and the letter of authority relating thereto shall be authenticated as provided for in the Constitution.

92. Provision relating to Provincial Chief

- (1) There shall be a Provincial Chief in each Province as a representative of the central government.
- (2) The President shall appoint the Provincial Chief of the Province with consent of Chief Minister of the concerned Province.

Provided that such consultation shall not be required while appointing such Provincial Chief for the first time after promulgation of this Constitution.

- (3) The term of the Provincial Chief shall be of five years.
Provided that the President may relieve him/her before expiry of the said term if he/she deems necessary.
- (4) No person shall be appointed as Provincial Chief for more than two consecutive terms.

93. Qualifications of a Provincial Chief

Any person having met the following qualifications may be appointed as the Provincial Chief:

- (a) Having attained the age of 35 years,
- (b) Qualified to become a member of the Federal Legislature.

94. Circumstances in which the Provincial Chief to be relieved from Office

- (1) A Provincial Chief shall be relieved from the office in any of the following circumstances:
 - (a) In case he/she dies;
 - (b) In case the written resignation tendered by him is approved by the President;
 - (c) In case the President relieves him/her from the office before the expiry of the term.
- (2) In cases where the office of the Provincial Chief of a Province falls vacant, the President may designate a Provincial Chief of another Province to act as the Provincial Chief of that Province as well until the next Provincial Chief is appointed.

95. Functions, duties and powers of the Provincial Chief

- (1) The functions, duties and powers of the Provincial Chief shall be as follows:
 - (a) To summon and prorogate the sessions of the Provincial Legislature;
 - (b) To approve the Bills passed by the Provincial Legislature:

- (c) To appoint various officials required to be appointed in concerned provinces as per the Constitution and the laws;
 - (d) To confer awards, decoration, medals of the Province level;
 - (e) To grant pardon, suspension or respites in the punishment or sentence imposed by the Provincial level courts or subordinate courts under the Provincial laws.
- (2) Generally, the Provincial Chief shall, while exercising powers under this Constitution and the laws in force, exercise the powers on the advice and consent of the Provincial Council of Ministers.
- (3) Notwithstanding anything contained in Clause (2), the advice or consent of the Provincial Council of Ministers shall not be required while exercising powers on the recommendation of any other body or authority.

96. Oath of office of Provincial Chief

Provincial Chief shall take the oath of office and designation before the President as prescribed in Schedule

97. Formation of Provincial Council of Ministers

- (1) The Chief Minister shall be appointed pursuant to Article 104 of the Constitution and the provincial Council of Ministers shall be formed under his chairmanship.
- (2) There shall be Deputy Chief Minister, other Ministers and State Ministers as per necessity.
- (3) Notwithstanding anything contained in sub- Article (2) in addition to the Chief Minister, number of ministers to be appointed in the Council of Ministers shall not exceed 20% of the total number of provincial legislature of concerned Province.
- (4) While appointing the ministers, the Chief Minister has to appoint them from among the member of provincial legislature on the proportional inclusive basis.
- (5) The Chief Minister and the other ministers shall be accountable collectively to the Provincial Legislature and the ministers shall be accountable to Chief Minister and Provincial Legislature individually for their Ministry.
- (6) The Chief Minister shall be removed from his/her post in the following circumstances:
- (a) If he/she dies,
 - (b) If he/she resigns in written to Chief of the province,
 - (c) If he/she ceases to be a member of provincial legislature,
 - (d) If a resolution of vote of no confidence is passed by majority of total members of provincial legislature introduced by the $\frac{1}{4}$ member of total number of provincial legislature.
- (7) Deputy Ministers, Ministers and State Ministers shall be removed from the post in the following circumstances;
- (a) If he/she dies, or

- (b) If he/she resigns in writing to Chief Minister, or
 - (c) If the Chief Minister is relinquished from his/her post as provided in Clause (6), or
 - (d) If Chief Minister has terminated him/her from the post.
- (8) Even if the Chief Minister is removed from his/ her post as provided in sub- Article (6), the same council of ministers shall continue to function until the next council of Ministers is formed,

Provided that, in case of the death of Chief Minister, Deputy Chief Minister or Senior most Ministers shall work as Chief Minister unless the new Chief Minister is appointed.

98. Provision on the appointment of Chief Minister

- (1) The Provincial Chief of the concerned province shall appoint the Chief Minister, the person elected from the provincial legislature as follows:
- (a) Member of legislature unanimously proposed from the parties having representation in provincial legislature,
 - (b) Leader of the party having 2/3 majority in provincial legislature if there is no unanimous vote according to Clause (a).
- (2) If no one from the legislature is elected as a Chief Minister, the Provincial Chief shall appoint the leader of a largest party in the provincial legislature as a Chief Minister of the province.

Provided that, the Chief Minister so appointed should have to obtain vote of confidence of legislature within 30 days.

99. Minister of State and Assistant Minister

The Chief Minister may appoint State Ministers and Assistant Ministers as per the necessity from among the members of the Provincial Legislature in recommendation of the leaders of the respective party.

100. Remunerations and other facilities

The remuneration and other facilities of provincial chief, Chief Minister, Deputy Chief Minister, Ministers, State Ministers and Assistant Ministers shall be as determined by the law. Unless the remuneration and other facilities are determined by the law, they will be as prescribed by the Government of Nepal.

101. Oath of office

The Chief Minister shall take oath of office before the Provincial Chief, and the Deputy Chief Minister, Ministers, State Ministers and Assistant Ministers shall take oath of office before the Chief Minister.

102. Functioning of Provincial Government

- (1) The work division and performance of Provincial Government shall be according to Regulations approved by provincial Government.
- (2) Question shall be raised in no courts whether the Regulation pursuant to Clause (1) is observed or not.

103. The Executive of Special Autonomous Regions

- (1) The formation of the executive, division of work and administration of special autonomous regions shall be in accordance to the Provincial Executive, which will be administered by the Act and regulation approved by the Federal Legislature.

Local Level Executive

104. Exercise of Local Executive Power

- (1) Subject to this Constitution and other laws, the executive power of each local government shall be vested on concerned executives of Local Governments.
- (2) Subject to this Constitution and other laws, the executive of Local Government shall have the obligation to direct, control and conduct of local level governance in general.
- (3) Local executive functions shall be done on the name of Local Government.
- (4) Subject to this Constitution, local executive power shall be limited to the subject matter described in local list in Schedule 8.

Provided that while exercising the power on the subject matter described in common list coordination with Federal and Provincial government should be made.

- (5) The decision or order to be made on the name of local government pursuant to Clause (3) and the letter of authority relating thereto shall be authenticated as provided for in laws.

105. Provisions relating to The Executive Chief and the Deputy Executive Chief of local government

- (1) A Chairperson shall be there in each local government as the executive chief.
- (2) A vice chairperson shall be there to assist the chairperson or to work in his absence.
- (3) The tenure of the Chairperson and the Vice Chairperson shall be for five year.
- (4) A person who has become the Chairperson for two consecutive terms in a local government shall not be eligible to be a candidate for third term.

106. Provision relating to the election of the Chairperson and the Vice Chairperson

- (1) The election of the Chairperson and the Vice Chairperson shall be organized based on first past the post system by the voters of relevant constituency on the basis of adult franchise, as mentioned in the law.
- (2) Any political party which gives candidates for both of the post of the Chairperson and the Vice Chairperson has to give candidate from separate sex, caste or region.

107. Condition of relinquishing from the post of the Chairperson and the Vice Chairperson

- (1) The Chairperson and the Vice Chairperson shall be removed from the post in following circumstances:
 - (a) If he/she dies, or
 - (b) If he/she resigns in written, or
 - (c) If the term is over, or
 - (d) If a motion of impeachment introduced by the 1/3 member of the legislative organ of local level, is passed by 2/3 majority of the members present at the time.Provided that no motion of impeachment shall be introduced within one year of commencement of work or in final year to complete the tenure or within one year of failure of a motion of impeachment.
- (2) If the term of office of the Chairperson is over pursuant to Clause (1), election of the Chairperson shall be conducted within six months.
- (3) The Vice Chairperson shall carry on the office of the Chairperson for the period when the position of the Chairperson falls vacant pursuant to Clause (1) but election is not held or for the period when the position of chairperson is vacant only after completing 4 years of term.

108. Formation of Executive body of local government

- (1) In the executive body of each local government, the members, including the Chairperson and the Vice-Chairperson, will be in the number of 5 to 11 in Metropolitan city, 5 to 9 in Sub-Metropolitan City and Municipality or 5 to 7 in village level.
- (2) The Chairperson shall nominate members from the political parties having representation at local level legislative body according to their seats on the basis of proportional inclusive principle according to the recommendation of concerned political parties, and shall make the work division among members.
- (3) The Chairperson may reshuffle and make changes in the executive body with the consensus of political parties participating in local government as needed.

109. Conduct of work of local government

Division of work and conduct of work shall be made according to the regulation approved by the executive body of local government.

110. Other provisions relating to the executive of local government

Except the provisions mentioned in this part, other provisions relating to the executive of local government shall be according to the provisions in Acts, made by the Federal legislature and provincial legislature subject to this constitution.

Interrelation between the Governments of Different Level

111. Mechanism for settlement of disputes between Federal and Provincial government

- (1) If any dispute on exercise of executive power between Federal government and one or more provincial governments and two or more Provincial or special autonomous regions raised, the President / Prime minister shall for the settlement of such dispute form a committee as follows:
 - (a) President or Vice President or member of councils of ministers nominated by President
- Chairperson
 - (b) Two among the Federal Council of Ministers nominated by President
- Member
 - (c) Chief Ministers of concerned Provision relating to disputes - Member
 - (d) Chief Minister of Special Autonomous Region/Chairperson of concerned Provision relating to disputes
- Member
 - (d) Attorney General - Member
- (2) The committee formed according to Clause (1) shall settle the dispute on consensus basis.
- (3) If the dispute could not be settled as mentioned in Clause (2) the President within the 30 days of last decision of the committee shall formed to the competent court for final decision.
- (4) The committee formed under this Article shall determine its procedure itself.

111 - 2. Mechanism for settlement of disputes between Federal, Provincial and Local government

- (1) If any dispute on the exercise of executive power under this constitution and law is raised between two or more local governments, one or more than one local government, one or more than one provincial government and federal government, the President shall form the committee as follows in order to resolve such disputes:
 - (a) President or Vice President or member of councils of ministers nominated by President
- Chairperson
 - (b) Two among the Federal Council of Ministers nominated by President

- | | |
|--|----------|
| | - Member |
| (c) Chief Minister of concerned disputing Province | - Member |
| (d) Chairperson of disputing Local Government | - Member |
| (e) Attorney General | - Member |

PART 7
Legislature

112. Constitution of the Legislature

- (1) There shall be a unicameral Legislature as the supreme body of the Nepal state based on federal republic of the people, to be called the Federal House of Peoples' Representatives.
- (2) There shall be three tiers of the House of Peoples' Representatives, consisting of the Federal House of Peoples' Representatives in the centre, the Provincial House of Peoples' Representatives in the province and Municipal/Village Peoples' Council in the local level.

113. The Federal House of Peoples' Representatives

- (1) The sovereignty, vested to the people, shall be exercised by itself or through the elected representatives as delegated.
- (2) The Federal House of Peoples' Representatives shall be the supreme Legislative body of the state.
- (3) The Federal House of Peoples' Representatives shall constitute, direct, control and monitor all of the organs of the state itself or through the mechanism subordinate to it.
- (4) The Federal House of Peoples' Representatives shall be constituted by direct elections, insuring all inclusive and fully proportional representation under the multimember electoral system. Procedures, regarding the delimitation of the constituencies and representation, shall be as determined by law.
- (5) Proper representation of oppressed the communities such as poor peasant, Dalits, Muslims, who have been residing in a scatter way but having a huge population of workers, shall be guaranteed in the Federal House of Peoples' Representatives.
- (6) In the case of cast/ethnicity and communities, who do not have required minimum population for the constitution of the Federal House of Peoples' Representatives, and in the case of the specialists and professional groups there shall be nomination as determined by the Schedule in a specified number.
- (7) The total numbers of the representatives in the Federal House of Peoples' Representatives shall be 245.
- (8) The sessions of the Federal House of Peoples' Representatives shall be convened twice a year. The President shall summon the sessions. The session summoned in the beginning of the new fiscal year shall be called the Budget Session, and the session after shall be called the Bill Session. The interval between two consecutive sessions shall not be more than six months.
- (9) If one-fourth of its members make a representation that it is appropriate to convene a session, special session of the Federal House of Peoples' Representatives should be summoned any time within 10 days.

- (10) Summon and prorogation of the session shall be conducted by the Head of the State. The chair of the Federal House of Peoples' Representatives shall inform regarding it during the meetings.
- (11) The Federal House of Peoples' Representatives shall, for conducting the business of the House of Peoples' Representatives, elect a Speaker/Chairperson and a Deputy Speaker/Chairperson among its members.
- (12) The Federal House of Peoples' Representatives itself shall frame and proclaim the Federal House of Peoples' Representatives regulation to regulate and manage its all business.
- (13) The Federal House of Peoples' Representatives shall, on the basis of proportional representation representing at least one representative from one province, constitute a Standing Committee among its members of maximum 15 members, to conduct necessary legislative business while the meetings are not in place. The Chairperson and Deputy Chairperson of this committee shall be the ex-officio the Chief and Deputy Chief of the committee respectively. The other 13 members shall be elected on the basis of single transfer voting system.
- (14) The power, functions and duties of this committee shall be as determined by the House of Peoples' Representatives.
- (15) The minimum age for the election of the members of the House of Peoples' Representatives shall be 25 years. The other provisions regarding the qualifications shall be as determined by law.
- (16) The term of the House of Peoples' Representatives shall be five years.
- (17) The Federal House of Peoples' Representatives is the supreme organ of the state. The main power, functions and duties of it shall be making law for the country, forming the council of ministers, appointing the chief and members of the constitutional bodies under the state, passing the impeachment and no confidence motions, to control, supervise and direct the different bodies of the state, approving tax, debt, bail, managing and approving the annual income, expenditure and revenue, ratifying treaties and agreements etc.
- (18) A Federal Advisory Council in the state, consisting heads of all of the states, under chairpersonship of the President shall be constituted. Main functions and duties of this council shall be make relations cordial between Federal and provincial and among the provinces and provide necessary advices.
- (19) There shall be various thematic committees in the Federal Legislature.

114. The Provincial House of Peoples' Representatives

- (1) The Provincial House of Peoples' Representatives with 15 to 45 members, on the basis of caste, languages, availability of natural resources, considering the geography and density of population shall be constituted.
- (2) Formation of the Provincial House of Peoples' Representatives shall be held on the basis of fully proportional multimember constituency system. Area of representation and number of the members of the Provincial Peoples' House of Representatives and election process shall be as determined by law.

- (3) There shall be presentation of workers, poor peasant, and Dalits in the Provincial House of Peoples' Representatives as determined by law.
- (4) Minimum age of the members of the Provincial House of Peoples' Representatives shall be 23 years. The term of the Provincial Assembly shall be four years.
- (5) The Provincial House of Peoples' Representatives shall, subject to the constitution and law, except the issues of federal and international relations get autonomy to make law and policy and regulations in all subjects and decide.
- (6) The President may, on the recommendation with sufficient grounds by the Federal House of Peoples' Representatives, dissolve the Provincial House of Peoples' Representatives.
- (7) The Provincial House of Peoples' Representatives shall, among its (members), elect a Chief Minister as the head of provincial government. The Chief Minister in each province formed on the basis of oppressed ethnicity, for maximum consecutive two terms, shall be elected on the basis of the majority of indigenous people. The Chief Minister shall be responsible and accountable mainly to the Provincial House of Peoples House of Representatives and federal government.
- (8) The assembly shall, for conducting the business of the Provincial House of Peoples' Representatives, elect a Chairperson and a Deputy Chairperson among its members. The Provincial Assembly itself shall, for the election of the Chairperson and Deputy Chairperson, frame its regulation to regulate and manage the business and procedure.
- (9) The federal government shall, to coordinate the business of the provincial government and federal government, appoint the head of the province. Such provincial appointment shall be done on the consent of the federal government.

115. Municipal and Village Peoples' Representatives Council

- (1) There shall be, as the local autonomous units, Municipal Peoples' Representatives Council in the municipality and Village Peoples' Representatives Council in the Gaunpalika, formation of which shall be as determined by law.
- (2) Local Peoples' Representatives Council shall be formed through direct election based on multimember proportional system with applying inclusive proportional policy. Other procedure and process in this regard shall be as determined by law.
- (3) There shall be, not exceeding 10 percent of the elected members in the Local Peoples' Representatives Council, nomination of the excluded class, groups or specialists.
- (5) The term of the Local Peoples' Representatives Council shall be four years.

116. Certification and Ordinance

- (1) The President shall certify the bill passed by the Federal House of People's Representatives. The Governor shall certify the bill passed by the Provincial House of People's Representatives.
- (2) In any time, except when Federal House of People's Representatives is in session, the Government may promulgate any Ordinance on the matters that cannot be incorporated by

the existing laws. That Ordinance shall have the same force and effect as an Act is Government.

- (3) Such Ordinance shall not be promulgated on all other matters except than to maintain development and construction services and privileges, national security and communal harmony.
- (4) Provided that every such Ordinance shall be presented before the Standing Committee of the Federal House of People's Representatives. Such Ordinance may come into force upon the Standing Committee approves the government to enforce it for the certain period of time.
- (5) Such Ordinance, unless passed as per rule by the session of the House, shall *ipso facto* cease to have effect.

117. Qualification, Disqualification, Vacation, Fulfillment and Oath

The decision regarding qualification or disqualification, vacation, fulfillment and oath of any position shall be made in accordance with the election act and regulation of the concerned body

118. Privileges

- (1) No member of the House of People's Representatives at any level shall need to bear any legal responsibility against anything expressed or any vote cast in the meeting of the House.
- (2) No member of the House shall be arrested during the session of the House for any charge except under any law of a criminal charge. If any member is so arrested under a criminal charge, the official making such arrest shall immediately inform the person chairing the House with reason/s for the arrest by 24 hours of arrest.

119. Provision related to Recall

- (1) In case, any elected people's representative of any level does not conduct his/her behavior according to the position and seriously alleged with violation of the Constitution, if the majority of voters of the latest voters' list wish to recall the member from his/her position, may submit a necessary proposal to the Election Commission.
- (2) The Election Commission shall conduct an examination within two months period in response to the proposal submitted under Clause 1 and, if the Commission is satisfied with the proposal, the Commission after seven days of accomplishment of such examination may declare the decision related to recall and, if deemed necessary, shall fix the date for new election.

Part 8 Legislature Procedure

120. Procedure for Introducing Bill:

- (1) All Bills shall be introduced before the People's House of Representatives.
- (2) The Finance Bill, a Bill concerning the Nepali Army or the Armed Police Force 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 federal taxes;
 - (b) the preservation of the Federal Consolidated Fund or any other 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 the Federal Government or any matter pertaining to amendment of the laws concerning the financial liabilities undertaken or to be undertaken by Nepal Government;
 - (d) the custody and investment of all revenues received by any Federal Government's Fund, moneys acquired through the repayment of loans, and grant moneys; or audits of the accounts of Nepal Government; or
 - (e) matters directly related to the above subjects.
- (4) If any question arises whether a Bill is a Finance Bill or not, the decision of the Standing Committee shall be final.

121. Procedure for Passage of Bills:

- (1) A Bill passed by the House shall be presented to the President for assent.
- (2) 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 in case the House of Peoples' Representatives is dissolved after completing its term, such Bill shall be deemed to have lapsed.

122. Withdrawal of the Bill:

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

123. Certification of the Bill:

- (1) A Bill which is to be presented to the President for assent pursuant to Article 126 shall so presented by the Chairperson after it has been duly certified by the Chairperson.

Provided that in the case of a Financial Bill, the Chairperson shall so certify.

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

(3) Except for a Finance Bill, if the Head of State is of the opinion that any Bill needs further deliberations, he/she may send back the Bill with his/her message to the House of origin of the Bill within one month from the date of presentation of the Bill to him/her.

(4) If any Bill is sent back with a message from the President, it shall be reconsidered by the House and if the Bill so reconsidered is again passed as it was or with amendments, and it is again presented to him/her, the head of the State shall give assent to that Bill within fifteen days of such presentation.

(5) A Bill shall become an Act after the President grants his/her assent to it in accordance with this Article.

124. Ordinances:

(1) If at any time, except when Federal House of Peoples' Representatives is in session, the President is satisfied that circumstances exist which render it necessary for him/her to take immediate action, he/she may, without prejudicing the provisions set forth in this Constitution, the President on the consent of the Council of Ministers may promulgate any Ordinance it 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 the Houses, and if not passed by the Houses, it shall *ipso-facto* cease to be effective;

(b) may be repealed at any time by the President; and

(c) shall, unless rendered ineffective or repealed 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 the House.

Autonomous Province Management Procedure

125. Procedure for Introducing a Bill:

(1) A Bill may be introduced in the Autonomous Province House of Peoples' Representatives.

(2) A Finance Bill 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 Provincial taxes;

(b) the preservation of the Province Consolidated Fund or any other 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 the Provincial Government or any matter pertaining to amendment of the laws concerning the financial liabilities undertaken or to be undertaken by Provincial Government;

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

(e) matters directly related to the above subjects.

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

126. Procedure for Passage of Bills:

A Bill passed by the Provincial House of Peoples' Representatives shall be presented as soon as possible to the Chief of the Province for assent.

(2) If a session of the House prorogates while a Bill is under consideration, deliberations on the Bill may continue at the succeeding session.

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

127. Withdrawal of the Bill:

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

128. Certification of the Bill:

(1) A Bill which is to be presented to the Chief or the Province for assent pursuant to Article 131 shall so presented by the Chairperson after it has been duly certified by the Chairperson.

(2) Upon the Chief of the Province's assent to any Bill that has been presented to him/her pursuant to this Article, the Assembly shall be informed as soon as possible.

(3) Except for a Finance Bill, if the Chief of the Province is of the opinion that any Bill needs further deliberations, he/she may send back the Bill with his message to the Assembly within one month.

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

(5) A Bill shall become an Act after the Chief of the Province grants his assent to it in accordance with this Article

129. Ordinances:

(1) If at any time, except when the Provincial Assembly is in session, the Chief of the Province is satisfied that circumstances exist which render it necessary for him/her to take immediate action, he/she through the decision of the Council of Ministers may, without prejudicing the provisions set forth in this Constitution, promulgate any Ordinance it 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 the Provincial House of Peoples' Representatives, and if not passed by the Assembly, it shall *ipso-facto* cease to be effective;

(b) may be repealed at any time by the Chief of the Province; and

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

Part 9
Financial Procedure

130. 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 or guarantee be given by the Federal Government except in accordance with law.

131. Federal Consolidated Fund:

All revenues received by the Federal Government, all loans raised on the security of revenues and all moneys received in repayment of any loan made under the authority of any Act shall, unless otherwise provided by an Act, be credited to a Government Fund to be known as the Federal Consolidated Fund.

132. Expenditures from the Federal Consolidated Fund or a Government Fund:

No expenditure shall be incurred out of the Federal Consolidated Fund or any other Government Fund except the following:

(a) amount charged on the Federal Consolidated Fund;

(b) amount required to meet the expenditure under an Appropriation Act;

(c) advance amount authorised by an Act required to meet expenditure, 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 shall be governed in accordance with the provisions of Article

133. Expenditure Chargeable on the Consolidated Fund:

The expenditures related to the following matters shall be charged on the Consolidated Fund and no approval of the House for these expenditures shall be required:

(1) the amount provided by the Act relating to expenditures on the Head of the State ;

(2) the amount required as remuneration, privileges and pension payable to the Chief Justice of Nepal and other Justices of the Supreme Court;

(3) the amount required as remuneration and privileges payable to the following officials:

(a) the Chairperson and Deputy Chairperson of the House of Peoples' Representatives;

- (b) the Chief and members of the Constitutional Bodies.
- (4) the administrative expenses of the Supreme Court and the Constitutional Bodies;
- (5) all charges relating to debts for which the Federal Government is liable;
- (6) any sum required to satisfy any judgment or decree of a court against the Federal Government; and
- (7) any sum declared by law to chargeable on the Consolidated Fund.

134. Estimates of Revenues and Expenditures:

(1) The Head of the State shall, in respect of every fiscal year, cause to be laid before a joint sitting of Parliament an annual estimate including the following matters:

- (a) an estimate of revenues;
- (b) the moneys required to meet the charges on the Federal 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 presented pursuant to clause (1) shall be accompanied by a statement of expenses allocated to each Ministry in the previous fiscal year and particulars of whether the objectives of the expenses have been achieved.

135. 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.

136. Supplementary Estimates:

(1) The Head of the State shall, in respect of any fiscal year, cause to be laid before the House of Peoples' Representatives a supplementary estimate if it is found -

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

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

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

137. Votes on Account:

(1) Notwithstanding anything contained in this Part, a portion of the expenditure estimated for the fiscal year may, when an Appropriation Bill is under consideration, be incurred in advance

by an Act.

(2) A Vote on Account Bill shall not be submitted until the estimates of revenues and expenditures have been presented in accordance with the provisions of Article 139 and the amounts involved in the Vote on Account shall not exceed one-third of the estimate of expenditures for the fiscal year.

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

138. Votes of Credit:

Notwithstanding anything contained in this Part, if owing a local or national emergency due to either natural cause, a threat of external aggression or internal disturbances, or other reasons, the Head of the State is of the opinion that it is impractical or inexpedient in view of the security or interest of the Province to specify the details required under Article 35, He may cause to be laid before the House of Representatives a Vote of Credit Bill giving only a description of the proposed expenditures.

139. Contingency Fund:

An Act may create a Contingency Fund into which shall be paid from time to time such moneys as may be determined by law. Such Fund shall be under the control of the Federal Government. The Federal Government may spend this fund for any unforeseen expenditures. The amount of the expenditures so met shall be reimbursed as soon as possible by an Act.

140. Act Relating to Financial Procedure:

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

Financial Procedure of Province

141. No Tax to be Levied or Loan to be Raised in Except in Accordance with Law:

(1) No tax to be levied or loan to be raised in except in accordance with Law.

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

142. Province Consolidated Fund:

All revenues received by the Provincial Government, all loans raised on the security of revenues and all moneys received in repayment of any loan made under the authority of any Act shall, unless otherwise provided by an Act, be credited to a Government Fund to be known as the Province Consolidated Fund.

143. Expenditures from the Provincial Consolidated Fund or a Government Fund:

No expenditure shall be incurred out of the Province Consolidated Fund or any other Government Fund except the following:

- (a) moneys charged on the Province Consolidated Fund;
- (b) moneys required to meet the expenditure under an Appropriation Act;
- (c) advance moneys authorised by an Act required to meet expenditure, 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 shall be governed in accordance with the provisions of Article....

144. Expenditure Chargeable on the Province Consolidated Fund:

The expenditures related to the following matters shall be charged on the Consolidated Fund and no approval of the Provincial House of Peoples' Representatives for these expenditures shall be required.

- (1) the amount provided by the Act relating to expenditures on the Chief of the Province;
- (2) the amount required as remuneration, privileges and pension payable to the Judges of the Provincial High Court;
- (3) the amount required as remuneration and privileges payable to the Chairperson and Deputy Chairperson of the Provincial Assembly;
- (4) all charges relating to debts for which the Provincial Government is liable;
- (5) any sum required to satisfy any judgment or decree of a court against the Provincial Government; and
- (6) any sum declared by law to be chargeable on the Province Consolidated Fund.

145. Estimates of Revenues and Expenditures:

(1) The Chief of the Province shall, in respect of every fiscal year, cause to be laid before a meeting of the Provincial House of Peoples' Representatives an annual estimate including the following matters: -

- (a) an estimate of revenues;
- (b) the moneys required to meet the charges on the Province 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 presented pursuant to clause (1) shall be accompanied by a statement of expenses allocated to each Ministry in the previous fiscal year and particulars of

whether the objectives of the expenses have been achieved.

146. 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.

147. Supplementary Estimates:

(1) The Chief of the Province shall, in respect of any fiscal year, cause to be laid before the Provincial Assembly a supplementary estimate if it is found –

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

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

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

148. Votes of Credit:

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

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

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

149. Votes of Credit:

Notwithstanding anything contained in this Part, if owing a local or provincial emergency due to either natural cause, a threat of external aggression or internal disturbances, or other reasons, the Chief of the Province is of the opinion that it is impractical or inexpedient in view of the security or interest of the Province to specify the details required under Article ..., He/she may cause to be laid before the Provincial House of Peoples' Representatives a Vote of Credit Bill giving only a description of the proposed expenditures.

150. Contingency Fund:

An Act may create a Contingency Fund into which shall be paid from time to time such moneys as may be determined by law. Such Fund shall be under the control of the Provincial Government. The Provincial Government may spend this fund for any unforeseen expenditures.

The amount of the expenditures so met shall be reimbursed as soon as possible by an Act.

151. Act Relating to Financial Procedure:

Matters relating to transfer of moneys appropriated from one head to another and other financial procedures shall be regulated by an Act.

Part 10 Judiciary

152. Right Regarding Justice:

(1) Power relating to justice in the Peoples' Federal Democratic Republic of Nepal shall be exercised by courts and other judicial institutions in accordance with the provisions of this Constitution, the laws and the recognized principles of justices.

(2) All shall abide by the orders and decisions made in the course of the hearing of a suit by courts.

153. Hierarchy of Courts:

(1) There shall be the following courts in Nepal:-

(a) Federal Supreme Court,

(b) Provincial High Court, and

(c) Local Court

(2) Except the provisions set forth in sub-article (1), in order to provide accessible justice to all citizens and so as to hear prescribed cases at the local level, as determined by provincial law, a court at Village level, Municipality level or Unit level may be constituted or an institution may be constituted to resolve the dispute through alternative dispute resolution.

(3) While constituting the courts pursuant to clauses (1) and (2), a separate bench in the Local Court or a separate court or bench under it may be constituted, in accordance with provincial law, in order to settle family disputes, disputes related to domestic violence against women, child right disputes, disputes regarding untouchability of Dalits, and customary practices, religious, and cultural based disputes of indigenous people, *Muslim, Janajatis* (ethnicity) and other minorities.

(4) Except the courts referred in clause (2), specialized courts or tribunals, for the purpose of hearing special types of cases may be established by the law. Provided that no specialized court or tribunal shall be constituted for the purpose of hearing a particular case, and no law shall be enacted conferring jurisdiction on any other institution other than the courts for the criminal cases that may award punishment more than six months.

(5) There shall be a Military court to hear cases related to army matters in which the imprisonment is less than six months. Provided that a Special Military Court shall be constituted in the chairpersonship of the justice of the Federal Supreme Court for the purpose of hearing appeal against the decision of Military Court or first hearing and the final decision on the cases which have imprisonment more than six months.

The Federal Supreme court shall hear an appeal against the first hearing and final decision of this court. The Federal Supreme Court shall hear appeal against the decision of this court.

(6) Provisions regarding jurisdiction and procedure relating to the court, special court, bench and judicial bodies constituted under this article, shall be as determined by law.

154. The Federal Supreme Court

(1) There shall be one Federal Supreme Court in Nepal.

(2) The Federal Supreme Court, on the matters related to judicial administration and management, may inspect, supervise and give necessary directives to its subordinate courts and other judicial institutions under its jurisdiction. Provided that the Federal Supreme Court shall not interfere under this clause in the judicial proceedings of these courts.

(3) The Federal Supreme Court shall be a Court of Record. The interpretation of the Constitution and law or precedent produced in course of interpretation of law shall be binding to the Government of Nepal, Provincial Governments and other courts and judicial institutions. It may initiate proceedings and impose penalties in accordance with law in the obstruction of judicial proceeding and not abiding orders of it.

(4) Except the position and rights concerning to the National Importance, and on the matters directly related to the politics and inconsistency between the Constitution and laws, the Federal Supreme Court shall have power to interpret the federal laws and provincial laws.

Clarification: For the purpose of this clause, the Position of National Importance shall be the Head of the State or Chief/Head of the Executive or any position elected by the Legislature.

(5) The Federal Supreme Court, in addition to the Chief Justice, shall consist of up to maximum 11 other judges, except added by the Federal Legislature by law.

155. Appointment and Qualifications of the Chief Justice and other judges of the Federal Supreme Court:

(1) The President shall appoint to the post of Chief Justice or justice of the Federal Supreme Court, individuals who have been recommended by the Special Judicial Committee under the Federal Legislature, and endorsed by the majority of the total existing members of the Federal Legislature.

(2) The tenure of office of the Chief Justice shall be four years from the date of appointment, subject to sub-clause (b) of clause (1) of Article 162.

Provided that the Federal Legislature Special Judicial Committee shall, while recommending the Chief Justice, recommend to a person who can bear office for at least two years.

(3) Any Nepali citizen who has a Bachelor's Degree in law and has worked as the Chief Judge or a judge of a State/High Court for at least seven years; or has a Bachelor's Degree in law and has practiced as an senior advocate or advocate for at least fifteen years continuously; or has worked for at least fifteen years in the field of law; or has worked at least 12 years as a gazetted first

class officer or above than gazetted first class officer in the Judicial Service shall be deemed eligible for appointment as Chief Justice and other judges at the Federal Supreme Court.

Clarification: For the purpose of this clause, the tenure of the judges of the Appellate Court before the promulgation of this Constitution shall be counted as worked as a judge of a State/High Court.

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

156. Conditions of Service and facilities:

Except as otherwise provided for in this Constitution, the remuneration and other conditions of service of the Chief Justice and other judges of the Federal Supreme Court shall be regulated by law.

157. Conditions for Removal:

(1) The Chief Justice or other Judges of the Federal Supreme Court shall be deemed to have ceased to hold office in the following situations:

a) if the Chief Justice or a judge submits his/her resignation to the Head of the State via Federal Legislature Special Judicial Committee,

b) if he/she attains the age of sixty-five years,

c) if the Federal Legislature passes a resolution of impeachment,

d) if he/she dies.

(2) A motion for impeachment may be presented before the Federal Legislature against the Chief Justice and any other Judge on the ground that he/she is unable to perform their duties for reasons of incompetence, misbehavior, failure to discharge the duties of their office in good faith, punished in a moral turpitude crime, physical or mental condition, and if a two-thirds majority of its members for the time being passes the resolution, he/she shall *ipso facto* cease to hold office.

(3) The Chief Justice or the Judge, against whom impeachment proceeding have been initiated pursuant to clause (2), shall not perform the duties of his /her office until the proceedings are completed.

(4) The Chief Justice or a judge, who has ceased to hold the office pursuant to clause (2), found conducted anything contrary to judicial disciplines and reputation shall be subject to punishment in accordance with the prevailing laws.

(5) Procedure regarding the impeachment proceeding shall be determined by law.

158. Jurisdiction of the Federal Supreme Court:

(1) The Federal Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal rights 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 the dispute. For these purposes, the Federal Supreme Court may, with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders and writs including the writs of *habeas corpus*, *mandamus*, *certiorari*, prohibition and *quo warranto*.

Provided that, except on the ground of absence of jurisdiction, the Federal Supreme Court shall not, under this clause, interfere with the proceedings and decisions of the Federal as well as Provincial Legislature concerning violation of its privileges and any penalties imposed therefore.

(2) Except otherwise provided for in this Constitution, the Federal Supreme Court shall have the jurisdiction to hear original cases as follows:

(a) Disputes between the center and provinces,

(b) Disputes between the provinces,

(c) Disputes between the Constitutional Bodies

(d) Disputes related to national security, currency, and foreign affairs. first hearing and the final decision

(3) The Federal Supreme court shall hear appeal on the suits that have been heard by the Provincial High Court under their original jurisdiction and the public interest litigation related to the interpretation of the constitution and law, or a suit as referred by the Provincial High Court with its opinion that it is necessary to hear by the Federal Supreme Court.

(4) The Federal Supreme Court shall have, subject to this Constitution and the laws enacted by the Federal Legislature, power to review its own judgment or final orders.

(5) The Federal Supreme Court shall have jurisdiction to hear appeals and to examine decisions referred for confirmation (*Sadhak Janchne*) as determined by law.

159. Responsibility of the Chief Justice:

Under the jurisdiction of the Federal Supreme Court and other subordinated judicial institution, the Chief Justice shall have the ultimate responsibility to make the administration of justice effective

160. Annual Report:

(1) Each year, the Federal Supreme Court shall submit its annual report to the Head of the State, and the Head of the State shall present the report to the Federal.

(2) Recommendations may be given, to the Federal Supreme Court, through the Federal Ministry of Law and Justice, if the Federal Legislature deems necessary to give some recommendations in course of the discussion on the annual report submitted pursuant to clause (1).

(3) Other provisions in regard to the annual report pursuant to clause (1) shall be as determined by law.

161. Provincial High Court:

(1) In each Province of Nepal, the High Court shall be the highest court at the provincial judicial hierarchy.

(2) All the courts and judicial institutions of the provinces shall be under the Provincial High Court. The Provincial High Court may inspect, supervise and give necessary directives to its subordinate courts and other judicial institutions.

(3) The Provincial High Court shall be a Court of Record. It may initiate proceedings and impose penalties in accordance with law on obstruction of the judicial proceedings and disobeying of the decision of itself or its subordinate courts or judicial institution.

(4) The Provincial High Court shall, in addition to the Chief Judge, consists of a number of judges as determined by provincial law.

162. Appointment and Qualification:

(1) The Head of Province shall appoint to the post of Chief Judge or judge of the Provincial High Court, individuals who have been recommended by the Special Judicial Committee under the Provincial Legislature, and endorsed by the majority of the total existing members of the Provincial Legislature.

(2) The tenure of office of the Chief Justice shall be four years from the date of appointment, subject to sub-clause (b) of clause (1) of Article 169.

Provided that the Provincial Legislator Special Judicial Committee shall, while recommending the Chief Justice, recommend to a person who can bear office for at least two years.

(3) Any Nepali citizen who has a Bachelor's Degree in law and has worked as a judge of Local Court for at least seven years; or has a Bachelor's Degree in law and has practiced as a senior advocate or advocate for at least ten years continuously; or for at least 10 years, has either taught law or conducted research thereon or worked in any other field of law or justice, or has worked at least seven years as a gazetted first class officer in the Judicial Service, shall be deemed eligible for appointment as Chief Judge and other judges at the Provincial High Court.

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

163. Conditions of service and privileges:

(1) Except otherwise provided for in this Constitution and other conditions of service of the Chief Judge and other Judges of Provincial High Courts shall be as determined by law.

164. Conditions for Removal:

(1) The Chief Judge or other Judges of the Provincial High Court shall be deemed to have ceased to hold office in the following situations:

a) if the Chief Judge or a judge submits his/her resignation to the Head of the Province via Special Judicial Committee of the Provincial Legislature,

b) if he/she attains the age of sixty-five years,

c) if the Provincial Legislature passes a resolution of impeachment,

d) if he/she dies.

(2) A motion for impeachment may be presented before the Provincial Legislature against the Chief Judge and any other Judge on the ground that he/she is unable to perform their duties for reasons of incompetence, misbehavior, failure to discharge the duties of their office in good faith, punished in a moral turpitude crime, physical or mental condition, and if a two-thirds majority of its members for the time being passes the resolution, he/she shall *ipso facto* cease to hold office.

(3) The Chief Judge or the Judge, against whom impeachment proceeding have been initiated pursuant to clause (2), shall not perform the duties of his /her office until the proceedings are completed.

(4) The Chief Judge or a judge who has ceased to hold the office pursuant to clause (2), has conducted anything contrary to judicial disciplines and reputation, shall be subject to punishment in accordance with the prevailing laws.

165. Jurisdiction of the Provincial High Court:

(1) The Provincial High Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal rights 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 the dispute. For these purposes, the Provincial High/Supreme Court may, with a view to imparting full justice and providing the appropriate

remedy, issue appropriate orders and writs including the writs of *habeas corpus*, *mandamus*, *certiorari*, *prohibition* and *quo warranto*. Such decree or decision shall be the final.

Provided that, except on the ground of absence of jurisdiction, the Provincial High Court shall not, under this clause, interfere with the proceedings and decisions of the Federal as well as Provincial Legislature concerning violation of its privileges and any penalties imposed therefore.

(2) The Provincial High Court shall have jurisdiction to hear original and appellate cases, to examine decisions referred for confirmation [*Sadhak janchne*], review cases and hear petitions as defined by law.

(3) The Provincial High Court may review its own judgments or final orders subject to the conditions and in the circumstances prescribed by this Constitution, Federal and Provincial law.

(4) Other powers and procedures of the Provincial High Court shall be as prescribed by Procedural Law.

166. Responsibility of the Chief Judge:

The Chief Judge of the Provincial High/Supreme Court shall have an ultimatum responsibility to make the judicial administration efficient in the Province. For this purpose, the Chief Judge may give necessary orders and directives to its subordinate courts or judicial institution subject to this Constitution and other existing laws.

167. Annual Report:

(1) Each year, the Provincial Supreme Court shall submit its annual report to the Head of the Province, and the Head of the Province shall present the report to the Provincial Legislature through the Executive Head of the Province.

(2) The Provincial Legislature may give recommendations, through the Provincial Ministry of Law and Justice, to the Provincial High Court, if it deems necessary to give some recommendations in course of the discussion on the annual report submitted pursuant to clause (1).

(3) Other provisions in regard to the annual report pursuant to clause (1) shall be as determined by provincial law.

168. Local Court:

(1) There shall be a Local Court in every Local Unit.

(2) The judicial institutions established by the Provincial law or the courts at village, municipal and local unit level shall be under the Local Court. The Local Court may inspect, supervise and give necessary directives to its subordinate courts and other judicial institution at village, municipal and local unit level.

169. Appointment, Qualifications, Conditions of service:

(1) The Head of the Local House of Representative shall appoint the Judges of the Local

Court on the recommendation of the Special Judicial Committee of the Local House of Representative to which the majority of the total members of the Local House of Representatives for the time being have approved.

(2) Any Nepali citizen who has a Bachelor's Degree in law and has worked as a gazetted second class officer for at least three years in the Judicial Service; or has a Bachelor's Degree in law and has practiced as an advocate for at least five years continuously; or for at least five years, has either taught law or conducted research thereon or worked in any other field of law or justice, shall be deemed qualified for appointment as Chief Judge and other judges at the Local Court.

(3) The remuneration and conditions of service of the judges of the Local Court shall be as determined by law.

(4) A Judge of Local shall be deemed to have ceased to hold office in the following situations:

a) if the Judge submits his/her resignation to the Head of the Local House of Representatives via the Special Judicial Committee of the Local House of Representatives,

b) if he/she attains the age of sixty-five years,

c) if the Local House of Representatives presents a motion for impeachment before the Local House of Representatives on the ground that he/she is unable to perform duties for reasons of incompetence, misbehavior, failure to discharge the duties of their office in good faith, punished in a moral turpitude crime, physical or mental condition, breach of the code of conducts, and if a two third majority of members of the Local House of Representatives for the time being passes the resolution, he/she shall *ipso facto* cease to hold office.

For the purpose of this clause, the judge against whom the impeachment proceeding is carrying out shall get reasonable time to defend himself. To accomplish this, a subcommittee may be constituted under the Special Judicial Committee of the Local House of Representatives which shall submit its opinion after collecting evidence, and taking description with him/her. The procedure of the sub-committee shall be determined by law.

d) if he/she dies.

(5). The Judge, against whom impeachment proceeding have been initiated pursuant to sub-clause (c) of clause (4) shall not perform the duties of his /her office until the proceedings are completed.

(6) The judge who has ceased to hold the office pursuant to sub-clause (c) of clause (4), and has conducted anything contrary to judicial disciplines and reputation, shall be subject to punishment in accordance with the prevailing laws.

170. Jurisdiction:

(1) Except otherwise provided for in the prevailing laws, the Local Court shall have an original jurisdiction to hear all the cases and give final verdict of its territory, to issue an order of *habeas*

corpus, to hear appeal against the decision made by quasi-judicial bodies, to hear appeal against the court of village, local unit, and municipality level as constituted by provincial laws, and shall have power to initiate proceedings and impose penalties in accordance with law on the disobeying of decisions and making hindrances in the judicial proceeding of itself and its subordinate courts or judicial institutions .

(2) Other matters related to jurisdiction and procedure of Local Court shall be as determined by Law.

171. Hearing Arrangement and Procedure of the Case:

(1) The time limitation for court of all levels to decide ordinary cases shall be of maximum two years. Provided that the case, in which imprisonment is up to six months and fine is up to NRs. 5000.00 or both, shall be decided within three months in accordance with existing Short Procedure Act.

(2) If the cases are not decided within specified timeframe, except in special circumstance with reasonable justification, concerned Court shall compensate the person or community concerned from its own fund for the financial loss and delay caused. Such compensation shall be as determined by law.

(3) Representation of the plaintiff of a case shall be made by the concerned lawyer. For this purpose, there shall be a written agreement between plaintiff of the case and the lawyer.

(4) Except for the purpose of examination of witness and evidence the plaintiff of a case shall not be required to attend the court or stay on a due date.

(5) Date of the hearing shall not be postponed for more than two times. Otherwise, the case shall be decided unilaterally and no appeal of such decision shall be permitted.

(6) The written pleading notes shall be exchanged at least two weeks prior to the date of the hearing through concerned case section (*Mudda Fant*). On the day of the hearing, except with permission of the bench, the pleading shall not go beyond the matters and evidences included in the pleading note.

(7) The losing party in a case shall bear 50 per cent expense of the winning party as per the bill for the case expense.

(8) The written decision of constitutional cases or public interest litigations shall be made within one month of the completion of pleading. Decision of other cases shall be made generally on the same day of completion of pleading. If, due to some reason, decision is not made, information of such reason shall be rendered to Chief Justice of Federal Supreme Court in case of Federal Supreme Court and to the Chief Judge in case of Provincial and Local Court, which shall be documented and shall be an integral part of performance evaluation.

(9) The decision of the court shall be uploaded in an electronic system (internet) immediately. Before uploading in to the electronic system, lawyer of the both the parties shall be given two days to point out and correct the lingual and technical mistakes in the decision.

(10) Regarding the service charge of the layers for the case, a tax paying system, on the basis of VAT system determining necessary standard in accordance of law, shall be introduced.

172. Special Judicial Committee:

(1) Federal Legislature Special Judicial Committee: There shall be a Special Judicial Committee in the Federal Legislature to make recommendations and give advice in accordance with this Constitution concerning the appointment of, transfer of, disciplinary action against, and dismissal of the Chief Justice and other Judges of the Federal Supreme Court, and other matters relating to judicial administration, which shall consist of as follows:-

- (a) The Vice-Chairperson of the Federal Legislature – Chairperson
- (b) The Federal Minister of Law and Justice – Member
- (c) Not exceeding nine members, as elected by the Federal Legislature amongst its members, based on the number of population represented in the Legislature, proportionally and on the basis of the principle of inclusiveness – Members

(2) Power, Rights and Duties of Federal Legislature Special Judicial Council:

The power, rights and duties of the Federal Legislature Special Judicial Council shall be as follows:

- (a) Subject to this Constitution, the Special Judicial Committee under the Federal Legislature shall have the power to interpret the Constitution and the federal law on matters relating to the position of National Importance and rights, and matters directly concerning political issues, and in the case of the law contradicting with the Constitution.

Clarification: For the purpose of this clause, the Position of National Importance shall include the Head of the State, or the Executive Head or any position that is elected by the Legislature.

- (b) Shall prepare a required list of the candidates for the Chief Justice and other Judges of the Federal Supreme Court, on the basis of the principle of inclusiveness and proportional representation, and submit to the Federal Legislature for approval. The Head of the State shall appoint the Chief Justice or any other Judge of the Federal Supreme Court to a person amongst the list approved by the Federal Legislature.

- (c) Shall recommend to the Head of the State to remove or dismiss from the post, in the case if a complaint against the Chief Justice or any other Judge is lodged on the ground that he/she is unable to perform their duties for reasons of incompetence, misbehavior (including breach with a basis) or if it is established by a research on public information or action taken or behaviors. Such recommendation shall be approved by the Head of the State.

Provided that, while dismissing from service on the offense of corruption, a case shall be filed at the Special Court constituted by the Special Judicial Committee under the Federal Legislature, and will be as decided by the Court. Provision relating to such Special Court shall be determined by the Federal Law.

(d) The Special Judicial Committee of the Federal Legislature may constitute subcommittees as per necessity. The power, rights duties and procedure of the Special Judicial Committee of the Federal Legislature and other subcommittees shall be as determined by law.

(e) The functions carried out and the decision taken by the Special Judicial Committee of the Federal Legislature and the decisions of the Special Court constituted pursuant to clause (c) shall be final. No appeal, complaint or writ can be lodged at any court against this.

(3) Proportional method and principle of inclusiveness to be followed in the appointment of Judges:

The proportional method and the principle of inclusiveness on the basis of population shall be followed while appointing the judges of all levels. Women, indigenous and ethnics, Madhesis, Dalits, Muslims etc., shall also be included while appointing judges following the proportional method and principle of inclusiveness.

(4) Other power, rights and duties of the Special Judicial Committee of the Federal Legislature shall be as determined by Federal Law.

(5) Provincial Legislature Special Juridical Committee:

There shall be a Special Judicial Committee in the Provincial Legislature to make recommendations and give advice in accordance with this Constitution concerning the appointment of, transfer of, disciplinary action against, and dismissal of the Chief Judge and other Judges of the State High Court, and on other matters relating to judicial administration, which shall consist of as follows:-

(a) The Vice-Chair of the Provincial Legislature – Chairperson

(b) The Provincial Minister for Law and Justice – Member

(c) Not exceeding nine members as elected by the Provincial Legislature amongst its members, based on the number of population represented in the Legislature, proportionally and on the basis of the principle of inclusiveness – Members

(6) Power, Rights and Duties of Special Judicial Committee of the Provincial Legislature:

The power, rights and duties of the Provincial Legislature Special Judicial Council shall be as follows:

(a) Shall prepare a required list of the candidates, on the basis of the principle of inclusiveness and proportional representation, for the Chief Judge and other Judges of the Provincial Supreme Court and submit to the Provincial Legislature for an approval. The Head of the Province shall appoint the Chief Judge or any other Judge to a person amongst the list approved by the Provincial Legislature.

(b) Shall recommend to the Head of the Province to remove or dismiss from the post, in the case if a complaint against the Chief Judge or any other Judge is lodged on the ground that he/she is unable to perform their duties for reasons of incompetence, misbehavior (including breach with a

basis) or if it is established by a research on public information or action taken or behaviors. Such recommendation shall be approved by the Head of the Province.

Provided that, while dismissing from service on the offense of corruption, a case shall be filed at the Special Court constituted by the Special Judicial Committee under the Federal Legislature, and will be as decided by the Court. Provision relating to such Special Court shall be determined by the Provincial Law.

(c) The Special Judicial Committee of the Provincial Legislature may constitute subcommittees as per necessity. The power, rights duties and procedure of the Special Judicial Committee of the Provincial Legislature and other subcommittees shall be as determined by law.

(d) The functions carried out and the decision taken by the Special Judicial Committee of Provincial Legislature and the decisions of the Special Court constituted pursuant to clause (b) shall be final. No appeal, complaint or writ can be lodged at any court against this.

(7) Other power, rights and duties of the Special Judicial Committee of the Provincial Legislature shall be as determined by Provincial Law.

(8) Local House of Representatives Special Juridical Committee:

There shall be a Special Judicial Committee in the Local House of Representatives to make recommendations and give advice in accordance with this Constitution concerning the appointment of, transfer of, disciplinary action against, and dismissal of the Judges of Local Courts, and on other matters relating to judicial administration, which shall consist of as follows:-

(a) The Vice-Chair of the Local House of Representatives – Chairperson.

(b) Not exceeding eight members as elected by the Local House of Representatives amongst its members, based on the number of population represented in the Legislature, proportionally and on the basis of the principle of inclusiveness – Members

(9) Power, Rights and Duties of the Local House of Representatives Special Judicial Committee:

The power, rights and duties of the Local House of Representatives Special Judicial Committee shall be as follows:

(a) Shall prepare a required list of the candidates, on the basis of the principle of inclusiveness and proportional representation, for judges Local Court and submit to the Local House of Representatives for an approval. The Head of the Local House of Representatives shall appoint Judges of Local Court to a person amongst the list approved by the Local House of Representatives.

(b) Shall recommend to the Head of the Local House of Representatives to remove or dismiss from the post, in the case if a complaint against the Chief Judge or any other Judge is lodged on the ground that he/she is unable to perform their duties for reasons of incompetence, misbehavior

(including breach with a basis) or if it is established by a research on public information or action taken or behaviors. Such recommendation shall be approved by the Head of the Local House of Representatives.

(c) The Special Judicial Committee of the Local House of Representatives may constitute sub-committees as per necessity. The power, rights duties and procedure of the Special Committee of the Local House of Representatives and other subcommittees shall be as determined by provincial law.

(d) The functions carried out and the decision taken by the Local House of Representatives Special Judicial Committee shall be final. No appeal, complaint or writ can be lodged at any court against this.

(10) Other power, rights and duties of the Special Judicial Committee of the Local House of Representatives shall be as determined by Provincial Law.

(11) While constituting the Special Judicial Committees pursuant to clause (1), (5) and (8) it shall be done on the basis of ethnicity, gender, class, and region ensuring proportional representation of province/state and political parties.

173. Federal Judicial Service Commission:

(1) In appointing, transferring or promoting gazetted officers of the Judicial Service or in 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, for the purpose of permanent recruitment to gazetted posts of the Judicial Service from persons who are not already in the Government Service or from persons being promoted from non-gazetted to gazetted posts within the Judicial Service, the Government of Nepal shall act on the recommendation of the Federal Public Service Commission.

Clarification: For the purpose of this Article, the Federal Public Service Commission shall take open or internal examinations for the appointment to gazetted posts of the Federal Judicial Service.

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

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

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

174. Provincial Judicial Service Commission:

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

Provided that, for the purpose of permanent recruitment to gazetted posts of the Judicial Service from persons who are not already in the Government Service or from persons being promoted from non-gazetted to gazetted posts within the Judicial Service, the Provincial Government shall act on the recommendation of the Provincial Public Service Commission.

Clarification: For the purpose of this Article, the Provincial Public Service Commission shall take open or internal examinations for the appointment of gazetted posts of the Provincial Judicial Service.

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

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

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

175. Attorney General:

(1) There shall be an Attorney General in the Peoples' Federal Democratic Republic of Nepal.

(2) The Head of the State shall, on the recommendation of the Minister of Law and Justice, appoint the Attorney General. The Attorney General shall hold office during the pleasure of the Executive Head.

(3) The person who is qualified to be a Judge of the Federal 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 Head of the State,
 - (b) if the Head of the State removes him on the recommendation of the Minister of Law and Justice,
 - (c) if he/she dies.
- (4) The remuneration and other facilities of the Attorney General shall be at par with that of a judge of the Federal Supreme Court. The other conditions of service of the Attorney General shall be as determined by law.

176. Functions, duties and powers 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 constitutional and legal matters to the Head of the State, the Government of Nepal and to such other authorities as the Government of Nepal may specify.
- (2) The Attorney General or officers subordinate to him/her shall represent the Government of Nepal in suits in which the rights, interests or concerns of the Government of Nepal are involved. 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.
- (3) Opinions of the Attorney General may be taken while withdrawing the suits prosecuted by the Government of Nepal.
- (4) The Attorney General shall have the power to appear and express his/her opinion on any legal question in the Federal Legislature, or any committee meetings.

Provided that he/she shall not have the right to vote.

- (5) In the course of discharging his/her official duties, the Attorney General shall have the right to appear before any court, office or authority of Nepal.
- (6) While discharging duties under clause (2), the Attorney General shall have authority as follows –
- (a) to appear on behalf of the Government of Nepal when the latter is bringing or defending litigation,
 - (b) to monitor or cause to be monitored the interpretation of law and implementation of the legal principles propounded by the Supreme Court in the course of litigation,
 - (c) on the basis of complaints or information received by him/her by any means, to investigate allegations of inhumane treatment of any person in custody, or that any such person was not allowed to meet his/her relatives directly in person or through legal practitioners, and give

necessary directions under this Constitution to the relevant authorities to prevent the recurrence of such a situation.

(7) In addition to the functions, duties and rights as set out in this Article, the other functions, duties and rights of the Attorney General shall be as determined by this Constitution and other laws.

(8) The Attorney General may delegate his functions, duties and power under this Article to his/her subordinates, to be exercised in compliance with the conditions specified.

177. Prosecutor General:

(1) There shall be a Prosecutor General, as determined by law, under the general control and direction of the Attorney General.

(2) The appointment, qualification, conditions of service, and functions, duties and right of the Prosecutor General shall be as specified by law.

178. 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 Head of the State, and the Head of the State shall present the same to the Federal Legislature.

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

179. Provincial Attorney General:

1) There shall be a Provincial Attorney General in each province.

(2) The Head of the Province shall, on the recommendation of the Provincial Executive Head, appoint the Provincial Attorney General. The Provincial Attorney General shall hold office during the pleasure of the Provincial Executive Head.

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

(4) The office of the Provincial Attorney General shall be deemed vacant under the following circumstances -

(a) if he/she submits a resignation in writing to the Head of the Province through the Provincial Executive Head,

(b) if the Head of the Province removes him/her on the recommendation of the Provincial Executive Head,

(c) if he/she dies.

(5) The remuneration and other facilities of the Provincial Attorney General shall be at par with that of a judge of the Provincial High Court. The other conditions of service, functions, duties and rights of the Provincial Attorney General shall be as determined by provincial law.

180. Functions, duties and powers of the Provincial Attorney General:

(1) The Provincial Attorney General shall be the Chief Legal Advisor to the Provincial Government. It shall be the duty of the Provincial Attorney General to give opinions and advice on constitutional and legal matters to the Head of the Province, to the Provincial Government and to such other authorities as the Provincial Government may specify.

(2) The Provincial Attorney General or officers subordinate to him/her shall represent the Provincial Government in suits in which the rights, interests or concerns of the Provincial Government are involved. The Provincial Attorney General shall have the right to make the final decision to initiate proceedings in any case on behalf of the Provincial Government in any court or judicial authority.

(3) Opinions of the Provincial Attorney General may be taken while withdrawing the suits prosecuted by the Provincial Government.

(4) The Provincial Attorney General shall have the power to appear and express his/her opinion on any legal question in the Provincial Legislature, or any committee meetings.

Provided that he/she shall not have the right to vote.

(5) In the course of discharging his/her official duties, the Provincial Attorney General shall have the right to appear before any court, office or authority of Province.

(6) While discharging duties, under clause (2), the Provincial Attorney General shall have authority as follows –

(a) to appear on behalf of the Provincial Government when the latter is bringing or defending litigation,

(b) to monitor or cause to be monitored the interpretation of law and implementation of the legal principles propounded by the Provincial High Court in the course of litigation,

(c) on the basis of complaints or information received by him by any means, to investigate allegations of inhumane treatment of any person in custody, or that any such person was not allowed to meet his/her relatives directly in person or through legal practitioners, and give necessary directions under this Constitution to the relevant authorities to prevent the recurrence of such a situation.

(7) In addition to the functions, duties and rights as set out in this Article, the other functions, duties and rights of the Provincial Attorney General shall be as determined by this Constitution and other laws.

(8) The Provincial Attorney General may delegate his/her functions, duties and power under this Article to his/her subordinates, to be exercised in compliance with the conditions specified.

181. Provincial Prosecutor General:

(1) The provision of a Provincial Prosecutor General may be established as per the need and as provided in the provincial law to be working under the general control and direction of the Provincial Attorney General.

(2) The appointment, qualification, conditions of service, and functions, duties and right of the Provincial Prosecutor General shall be as specified by provincial laws.

182. Annual Report:

(1) The Provincial 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 Head of the Province, and the Head of the Province shall present the same to the Provincial Legislature via the Executive Head.

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

183. Local Prosecutor:

(1) There shall be a Local Prosecutor in every Local unit.

(2) The appointment, qualification, conditions of service, and functions, duties and right of the Local Prosecutor shall be as specified by provincial laws.

**Part 11
Constitutional Bodies**

I. Commission for the Investigation of Abuse of Authority

184. Commission for the Investigation of Abuse of Authority

(1) There shall be a Commission for the Investigation of Abuse of Authority in Nepal consisting of a Chief Commissioner and two other Commissioners on the basis of proportionate representation and inclusiveness, and ensuring women's representation. In case, additional Commissioners are appointed apart from the Chief Commissioner, the Chief Commissioner shall act as Chairperson of the Commission for the Investigation of Abuse of Authority.

- (2) The President shall, on the recommendation of the Standing Committee, 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.

Provided that,

- (a) If, before the expiry of his/her term, the Chief Commissioner or a Commissioner attains the age of sixty-five years, he/she shall retire.
 - (b) The Chief Commissioner and Commissioners may be removed from his/her office on the same ground and in the same manner as has been set out for removal of a Justice of the Supreme Court.
- (4) The office of the Chief Commissioner or a Commissioner shall be deemed vacant under the following circumstances:-
 - (a) If he/she tenders his/her resignation before the President,
 - (b) If pursuant to Clause (3), his/ her term expires,
 - (c) If he/she dies.
 - (5) A person shall be eligible to be appointed as the Chief Commissioner or a Commissioner with the following qualifications:-
 - (a) holds a Bachelor's degree from a University recognized by the Government of Nepal,
 - (b) has at least fifteen years' of working experience in the field of accounting, revenue, engineering, law, development or research and is well-known person,
 - (c) has attained forty years of age, and
 - (d) possesses a high moral character and social reputation.
 - (6) The remuneration and other conditions of service of the Chief Commissioner and the Commissioners shall be as determined by law.
 - (7) A person once appointed as the Chief Commissioner or Commissioner shall not be eligible for appointment in other Government Service.

Provided that,

- (a) Nothing in this clause shall be deemed to be a bar to 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/her term of office shall be computed as to include his/her tenure as Commissioner as well.
- (b) Nothing in this clause shall be deemed to be a bar to appointment to any position of political nature, or to any position which carries the responsibility of 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.

185. Functions, duties and powers of the Commission for the Investigation of Abuse of Authority

- (1) The Commission for the Investigation of Abuse of Authority may, in accordance with law, conduct or caused to be conducted enquires into, and investigation of, improper conduct or corruption by a person holding any public office.

Provided that this Clause shall not be applicable to any office-bearer in relation to whom there is a special provision in this Constitution or about whom there is special provision in other law.

- (2) An inquiry and investigation may be conducted, or caused to be conducted, in accordance with law, against any official of a Constitutional body who is to removed from office following an impeachment on the grounds of misbehaviour, or against any judge to be removed by the Judicial Council on similar charges and against any person who is to face action under the Army Act, after he/she is removed from office.
- (3) If the Commission for the Investigation of Abuse of Authority finds, upon inquiry or investigation carried out pursuant to Clause (1), that any person holding any public office has abused his/her authority by committing an act which is defined by law as improper conduct, it may warn such person, or forward a recommendation in writing to the authority concerned for a departmental action or any other necessary action as prescribed by the law.
- (4) If the Commission for the Investigation of Abuse of Authority finds, upon inquiry or investigation carried out pursuant to Clause (1), that a person holding any public office committed an act which is defined by law as corrupt, it may lodge or caused to be lodged a case against such person or any other person involved therein in a court of law which has jurisdiction as per the law, after consulting the Attorney General.
- (5) If the Commission for the Investigation of Abuse of Authority finds, upon inquiry or investigation carried out pursuant to Clause (1), that the nature of work to be carried out by the person holding any public office falls under the jurisdiction of another authority or body, it may forward a recommendation in writing to the authority or body concerned for necessary action.
- (6) Subject to this Constitution, other functions, duties, powers and procedures of the Commission for the Investigation of Abuse of Authority shall be as determined by law.
- (7) The Commission for the Investigation of Abuse of Authority may delegate any of its functions, duties and power relating to the inquiry, investigation or lodging of case, to the Chief Commissioner, Commissioner or any employee of the Government of Nepal to be exercised in compliance with the terms and conditions thus specified.

186. Provincial provision

There shall be a Commission for Investigation of Abuse of Authority in every Province/State.

187. Annual Report

- (1) The Commission for the Investigation of Abuse of Authority shall submit an annual report to the President on the work it has performed in accordance with this Constitution, and the President shall make arrangement to present such report before the People's House of Representatives.
- (2) The annual report to be submitted pursuant to Clause (1) shall contain *inter alia* the total number of complaints lodged during the year at the Commission; the number of cases filed in court with jurisdiction following investigation and the number of cases pending, the cases in which warnings have been issued, or forwarded with recommendations in writing for departmental or any other necessary action; the achievements made in preventing corruption and the details of improvements to be made in the future.

II. Audit Commission

188. Audit Commission

- (1) There shall be a Federal Audit Commission in Nepal comprising a Chairperson and two other members on the basis of proportionate representation and inclusiveness, and ensuring women's representation.
- (2) The Chairperson and members of the Federal Audit Commission shall be appointed by the President on the recommendation of the Standing Committee.
- (3) The term of the office of the Chairperson and members of the Federal Audit Commission shall be six years from the date of appointment. They can be reappointed for additional one term.

Provided that,

- (a) If, before the expiry of his/her term, the Chairperson and members of the Federal Audit Commission attains the age of sixty-five, he/she shall retire.
 - (b) The Chairperson and members of the Federal Audit Commission may be removed from his/her office on the same grounds and in the same manner as has been set out for removal of a Justice of the Supreme Court.
- (4) The office of the Chairperson or other members of the Federal Audit Commission shall be deemed to have been vacant in the following circumstances:-
- (a) if he/she submits a written resignation to the President,
 - (b) if pursuant to Clause (3) his/her term expires,

- (c) if he/she dies.
- (5) A person shall be eligible to be appointed as Chairperson and member of the Federal Audit Commission if he/she possess the following qualifications:-
- (a) holds a Master's Degree in management, commerce or accounts from a university recognized by the Government of Nepal, or has worked as employee of special class of the Government of Nepal after successfully completing the Chartered Accountants examination, or has at least fifteen years of experience in the field of auditing.
 - (b) has attained the age forty years, and
 - (c) posses high moral character, and is socially reputed.
- (6) The remuneration and other condition of service the Chairperson and other members of the Federal Audit Commission shall be as determined by law.
- (7) A person once appointed to the office of the Chairperson and member of the Federal Audit Commission shall not be eligible for appointment in other government services.

Provided that,

- (a) This Clause shall not be deemed to be a bar to the appointment of a member of the Federal Audit Commission as Chairperson thereof, and when a member is so appointed as the Chairperson, his/her term of office shall be computed so as to include his/her tenure as member as well.
- (b) Nothing in this Clause shall be deemed to be a bar to appointment to any position of political nature, or to any position which has the responsibility of conducting investigation, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or making recommendations after carrying out studies or research on any subject.

189. Functions, duties and the powers of the Federal Audit Commission

- (1). The accounts of the Supreme Court, Legislature-Parliament, Constituent Assembly, Commission for the Investigation of Abuse of Authority, Public Service Commission, Election Commission, National Human Rights Commission, Office of the Attorney General and other offices of constitutional bodies and the Nepal Army and Armed Police Force, Nepal Police, National Investigation Department as well as of all other government offices, courts, local bodies, government academic institutions and public corporations shall be audited by the Federal Audit Commission in the manner determined by law, with due consideration given to the regularity, austerity, efficiency, effectiveness and the propriety thereof.
- (2). The auditing of the Federal Audit Commission shall be done by an auditor appointed by the Public Account Committee of the Legislature-Parliament.
- (3). The Federal Audit Commission shall, at all times, have access to documents

concerning the accounts for the purpose of conducting the functions specified in Clause (1). Accordingly, 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 President and members or the employees of the Federal Audit Commission.

(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 Federal Audit Commission.

(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 Federal Audit Commission.

190. Provincial Provision

There shall be a separate Audit Commission in every province/state.

191. Annual Report

(1) The Federal Audit Commission shall submit to the President an annual report on the work the office has performed, and the President shall make arrangements to submit such reports to the People's House of Representatives.

(2). The annual report to be submitted pursuant to Clause (1) above shall state, inter alia, the offices in respect of which the National Audit Commission has carried out audits in that year, any arrears revealed by the audit, the achievements in resolving irregularities and the results obtained, and the details of recommendations for reform in future in regard to audit.

III. Public Service Commission

192. Public Service Commission

1. There shall be a Federal Public Service Commission in Nepal consisting of a Chairperson and other members as deemed necessary on the basis of proportionate representation and inclusiveness, and ensuring women's representation.

2. The President shall, on the recommendation of the Standing Committee, appoint the Chairperson and other members of the Public Service Commission.

3. At least fifty percent of the total number of the members of the Public Service Commission shall be appointed from among the persons who have worked for at least fifteen years or more in any government service, and the rest of members shall be appointed from among the persons who have been involved in research, investigation, teaching, or any other significant work in the field such as science, education, health, business, technology, art, literature, law, public administration, sociology or any other walks of national life, and who hold a high reputation.

4. The term of office of the Chairperson and other members of the Public Service Commission

shall be six years from the date of appointment, and they can be reappointed for an additional term of office.

Provided that,

(a). If, before the expiry of his/her term, the Chairperson or a member of the Public Service Commission attains the age of sixty-five, he/she shall retire.

(b). The Chairperson or a member of the Public Service Commission may be removed from office on the same grounds and in the same manner as has been set out for the removal of a Justice of the Supreme Court.

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

a. if he/she tenders a written resignation to the President.

b. if, his/her term expires pursuant to the Clause (4).

c. if he/she dies.

6. A person shall be eligible to be appointed as Chairperson or a member of the Public Service Commission if he/she possesses the following qualifications:

a. A Master's (Post-graduate) degree from a university recognized by the Government of Nepal,

b. Has attained the age of forty years, and

c. Possesses high moral character and social stature.

7. The remuneration and other conditions of service of the Chairperson or the members of the Public Service Commission shall be as determined by law.

8. A person once appointed to the office of the Chairperson and the member of the Public Service Commission shall not be eligible for appointment to other position of Government service.

Provided that,

a. Nothing in this Clause shall be deemed a bar to the appointment of a member of the Public Service Commission to the Chairperson of the Commission, and when a member is appointed to the position, his/her term of office shall be counted with his/her tenure as the member of the Commission as well.

b. Nothing in this Clause shall be deemed a bar to the appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or making recommendations after conducting studies or research on any subject.

193. Functions, duties and powers of the Public Service Commission

- (1) It is the duty of the Public Service Commission to conduct examinations for the selection of suitable candidates to be appointed to Civil Service posts.

Explanation: For the purpose of this Article, all services and positions in the Government of Nepal shall be deemed included within the Civil Service, except Army officers or soldiers and the service and positions of Armed Police or Police personnel, and such other services and positions as are excluded from the Civil Service or positions by the Act.

- (2) In addition to the civil service, the recruitment, appointment and promotion related provisions of government school teachers, police, armed police, military service, and other government services may be designated by the law to be carried out by the Commission.
- (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 Public Service Commission. The procedures shall be as determined by the law.

194. Provincial Provision

Provincial provision shall be as determined by the law.

195. Annual Report

- (1) Each year, the Public Service Commission shall submit to the President an annual report on the work it has performed, and the President shall make arrangement to present the report before the Federal House of Representatives.
- (2) The annual report to be submitted pursuant to clause (1), shall contain, *inter alia*, description of the examination conducted by the Public Service Commission throughout the year for selecting candidates, candidates who succeeded in such examination, advice provided to various agencies, advice given with regard to departmental action against and punishment of civil servants and the follow-up thereto, consultation provided, if any, on the application of the general principles to be followed in the course of appointment to, promotion to, and departmental action concerning the Government Service, and the matters relating to reform of the Civil Service in the future.

IV. Election Commission

196. Election Commission

There shall be a Federal Election Commission in Nepal consisting of a Chief Election Commissioner and up to two other Election Commissioners appointed on the grounds of proportionate representation and inclusiveness, and ensuring women's representation. The Chief Election Commissioner shall work as the Chairperson of the Election Commission if other election commissioners are also appointed along with the Chief Election Commissioner.

2. The President shall, on the recommendation of the Standing Committee, appoint the Chief Election Commissioner and other Election Commissioners.

3. The term of office of the Chief Election Commissioner and the Election Commissioners shall be six years from the date of appointment. They may be reappointed for an additional term of office.

Provided that,

c. If, before the expiry of their term, the Chief Election Commissioner and the Election Commissioners attain the age of sixty-five, they shall retire.

d. The Chief Election Commissioner and the Election Commissioners may be removed from office on the same grounds and in the same manner as has been set out for the removal of a Judge of the Supreme Court.

4. The office of the Chief Election Commissioner and the Election Commissioners shall be deemed vacant in the following circumstances:

a. if they tender a written resignation to the President.

b. if, pursuant to the Clause (4), their term expires,

c. if they die.

5. A person shall be eligible to be appointed as Chief Election Commissioner and an Election Commissioner only if he/she possesses the following qualifications:

a. holds a Bachelor's degree from a university recognized by the Government of Nepal, and has at least 15 years of experience of research, teaching and other any important task in the field of law, public administration, science, art, literature or other sector of national life.

b. has attained the age of forty years, and

c. possesses high moral character and social reputation.

6. The remuneration and other conditions of service of the Chief Election Commissioner or an Election Commissioner shall be as determined by law.

7. A person once appointed to the office of the Chief Election Commissioner and the Election Commissioners shall not be eligible to be appointed to other positions of Government service.

Provided that,

a. Nothing in this Clause shall be deemed to be a bar to the appointment of a Commissioner of the Election Commission as Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his/her tenure as Commissioner shall also be counted to the term of the new office.

b. Nothing in this Clause shall be deemed a bar to any political appointment, or to any position investigations, conducting inquiries on any subject, or to any position which has the responsibility of submitting suggestions, opinions or making recommendations after conducting studies or research on any subject.

197. Functions, duties and powers of the Election Commission

The Election Commission shall, subject to this Constitution and other laws, conduct, supervise, direct and control all kinds of elections including the elections of the President, Vice President, referendum, People's House of Representatives (Centre and State/Province) and the local (government) body.

2. In order to perform the duty pursuant to Clause (1), the Election Commission shall have the following powers:

a. to fix the dates of elections after delineation the constituencies under the federal structure,
b. assist in registering the political parties for the purpose of elections, solving the controversies arising among the parties and the institutional development,

c. to give advice to the Government regarding elections and their policies, concerned laws and other related matters,

d. to make decisions regarding the disqualification of the candidates when the elections are yet to be completed,

e. to collect and update voters' list.

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

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

198. Provincial Provision

The Election Commission may have a branch in every province/state.

199. The Government of Nepal should provide necessary staff to the Election Commission
The Government of Nepal shall provide necessary staff and other support to the Election Commission to perform its duties as per this Constitution.

V. Human Rights Commission

200. Human Rights Commission

(1) There shall be a Federal Human Rights Commission in Nepal consisting of the following

Chairperson and members appointed on the basis of proportionate representation and inclusion, and ensuring women's representation :

- a. a person from among the retired Chief Justices or Judges of the Supreme Court who has made an outstanding contribution to the protection and promotion of human rights, or a person who holds a high reputation and has rendered outstanding contribution being actively involved in the field of protection and promotion of human rights or social work. - Chairperson
- b. four persons from among those who have made outstanding contribution, by being actively involved in the field of protection and promotion of human rights or social work - Members

2. The President shall, on the recommendation of the Standing Committee, appoint the Chairperson and the Members of the National Human Rights Commission.

3. The term of office of the Chairperson and the Members of the Federal Human Rights Commission shall be six years from the date of appointment. They can be reappointed for an additional term of office.

Provided that, the Chairperson and the Members of the Federal Human Rights Commission may be removed from their office on the same ground and in the same manner as has been determined for the removal of a Judge of the Supreme Court.

4. The office of the Chairperson and the Members of the Federal Human Rights Commission shall be deemed vacant in the following circumstances:

- a. if s/he tenders a written resignation to the President.
- b. if his/her term expires pursuant to the Clause (4),
- c. if s/he dies.

5. A person shall be eligible to be appointed as the Chairperson and the Member of the Federal Human Rights Commission if he/she possesses the following qualifications:

- a. holds a Bachelor's degree from a university recognized by the Government of Nepal,
- b. has attained the age of forty years, and
- c. possesses high moral character and social reputation.

6. The remuneration and other conditions of service of the Chairperson and the Members of the Federal Human Rights Commission shall be as determined by law.

7. A person once appointed to the office of the Chairperson and the Members of the Federal Human Rights Commission shall not be eligible to be appointed to any position(s) of Government services.

Provided that,

- a. Nothing in this Clause shall be deemed to be a bar to the appointment of a Member of the Human Rights Commission the Chairperson, and, when a Member is so appointed as the Chairperson, his tenure as a member shall also be counted to the term of the new office.
- b. Nothing in this Clause shall be deemed a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, conducting inquiries or to any position which has the responsibility of submitting suggestions, opinions or making recommendations after conducting studies or research on any subject.

201. Functions, Duties and Powers of the Human Rights Commission

1. It shall be the duty of the Federal Human Rights Commission to ensure respect for, protection and promotion of human rights and their effective implementation.
2. In order to perform the duty according to Clause (1), the Commission shall perform the following functions
 - a. conduct inquiries into, investigations of, and recommendation for action against the perpetrator of, instances of violation or abetment of violation of the human rights of any person or a group of persons, upon a petition or complaint made to the Commission by the victim himself/herself, or any person on his/her behalf or upon information received from any source, or on its own initiative,
 - b. forward a recommendation to the authority concerned to take departmental action against any office-bearer that has the duty or responsibility of preventing violation of human rights, if he/she has failed to perform such a duty or responsibility, or showed recklessness or lack of interest in fulfilling it.
 - c. make recommendation, if necessary, to lodge a petition in the court, in accordance with law, against a person or institution who has violated human rights,
 - d. work jointly and in a coordinated manner with civil society to enhance awareness of human rights.
 - e. forward a recommendation to the relevant authority for taking departmental action against, or imposing punishment on the violators of human rights, giving clear reasons and basis for it.
 - f. periodically review existing laws relating to human rights and recommend to the Government of Nepal for necessary reforms and amendments to it.
 - g. recommend with reasons to the Government of Nepal that it become a party to any international treaties or agreements on human rights, and review the implementation of the treaties or agreements that Nepal has already become a party to, and if found not implemented forward recommendations to the Government of Nepal for effective implementation of such treaties or agreements,
 - h. publicize the names of any official, person or bodies that are not following or

implementing the recommendations and directions of the Federal Human Rights Commission regarding the violations of human rights (in accordance with law), and document them as human rights violators.

3. The Federal Human Rights Commission may exercise the following powers while performing its functions and duties:

a. exercise the same powers as the court in requiring any person to appear before the Commission for recording their statement and information or examining them, receiving and examining evidence, and ordering the production of any physical proof,

b. in case the Commission has received the information from any source that a serious incident of violation of human rights has occurred, or is likely to occur, it may enter a person's residence or office, conduct a search and seize any documents and evidence relating to human rights violations therein,

c. enter any government premises or other places, without prior notice, in case the Commission has received information that violation of human rights of a person is occurring thereon and immediate action is required for rescue,

d. order compensation for the victims of human rights violations in accordance with law,

e. exercise or cause to be exercised other powers, and conduct its duties as prescribed by law.

203. Provincial provision

There shall be a Human Rights Commission in every autonomous state/province.

204. Annual Report

1. The Federal Human Rights Commission shall, in accordance with this Constitution, submit to the President an annual report on the work it has performed, and the President shall make arrangements to submit such reports to the People's House of Representatives.

2. The annual report to be submitted according to Clause (1), shall contain *inter alia* the complaints received by the National Human Rights Commission throughout the year and description of inquiries and investigations thereon, recommendations shall be made to the Government of Nepal on various issues, the number of cases lodged in the court, if any, against human rights violators, and the particulars of recommendations to improve matters regarding the protection and promotion of human rights in future.

IV. Federal Women's Commission

205. Women's Commission

1. There shall be a Federal Women's Commission in Nepal consisting of a Chairperson and four other members on the basis of proportionate representation and inclusiveness.

2. The President shall, on recommendation of the Standing Committee, appoint the Chairperson and members of Federal Women's Commission.

3. A person shall be eligible to be appointed as the Chairperson or a member of the Federal Women's Commission if she has the following qualifications:

a. is a woman who has contributed significantly in the field of women's rights, interests or gender justice or women development or human rights for at least ten years,

b. in case of the Chairperson, one who holds a Bachelor's degree from any university recognized by the Government of Nepal,

c. has attained at least forty years of age,

d. is not a member of any political party immediately before the appointment,

e. possesses a high moral character and social reputation.

4. The tenure of the Chairperson and members of the Federal Women's Commission shall be six years from the date of their appointment. They can be reappointed for an additional term of office.

Provided that,

(a). If, before the expiry of their term, the Chairperson and members of the Federal Women's Commission attain the age of sixty-five, they shall retire.

(b). The Chairperson and members of the Federal Women's Commission may be removed from their office on the same ground and in the same manner as has been determined for the removal of a Judge of the Supreme Court.

5. The office of the Chairperson or member of the Federal Women's Commission shall be deemed vacant in the following circumstances:

a. If she tenders her resignation before the President,

b. If her tenure expires in according to clause (4),

c. If she dies.

6. The remuneration and other conditions of service of the Chairperson or member of the Federal Women's Commission shall be as determined by law.

7. A person once appointed as the Chairperson or member of the Federal Women's Commission shall not be eligible to be appointed to any position of Government services.

Provided that,

(a). Nothing in this Clause shall be deemed to be a bar to appointment of a member of the Women's Commission as its Chairperson, and when a member is so appointed as the Chairperson, her tenure as a member of the Commission shall also be computed to the term of the new office.

(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 conducting studies or research on any subject.

206. Functions, duties and powers of the Federal Women's Commission

The functions, duties and powers of the Federal Women's Commission, in accordance with this Constitution, shall be as follows.

- a. draft federal policies and programmes pertaining to women's rights and interests, and present the same to the Government of Nepal for implementation.
- b. monitor the implementation of the existing laws pertaining to women's rights and interests, or the implementation of the responsibility of any international treaties of which Nepal is a party and recommend to the Government of Nepal for the implementation of the same.
- c. review, monitor and assess the proportionate participation of women in all the organs of the state so as to accommodate them in the mainstream of national development as well as review, monitor and assess the policies and programmes implemented thereof, and recommend to the Government of Nepal for their effective implementation.
- d. study and investigate into gender equality, women empowerment and existing legal provisions relating to women, and recommend concerned authorities for necessary reform in such laws, and monitor the same.
- e. monitor the dispatch of reports from the Government of Nepal as required of Nepal and provisioned in international treaties and agreements relating women's rights to which Nepal is a party.
- f. make recommendations as deemed necessary, for lodging a case in the court, in accordance with law, against any person or organization preventing victims from exercising their right against violation or social malpractices or women rights in general.
- g. perform other functions as determined by law.

207. Delegation of Powers

The Federal Women's Commission may delegate some of its powers to the Chairperson, members, committees, sub-committees or the officials of the Commission or the officials of the Government of Nepal.

208. Provincial Provision

Provincial provision shall be as determined by the law.

209. Annual Report

Every year, the Federal Women's Commission shall prepare an annual report about the works it has performed, and submit the same to the President, and the President shall make arrangements to forward the report to the People's House of Representatives.

VII. Dalit Commission

210. Dalit Commission

1. There shall be a Federal Dalit Commission in Nepal comprising a Chairperson and two other members on the basis of proportionate representation and inclusiveness, and ensuring women's representation.
2. The President, on the recommendation of the Standing Committee, shall appoint from among the persons possessing qualifications pursuant to Clauses (3) and (5) the Chairperson and the members of the Federal Dalit Commission for a term of six years. They may be reappointed for an additional term of office.

Provided that,

- (a) If, before the expiry of their term, the Chairperson and members of the Federal Dalit Commission attain the age of sixty-five, they shall retire.
- (b) The Chairperson and members of the Federal Dalit Commission may be removed from their office on the same grounds and in the same manner as has been determined for the removal of Judge of the Supreme Court.

3. A person shall be eligible to be appointed as the Chairperson and a member of the Federal Dalit Commission if he/she has made significant contributions in the field of Dalit rights and interests or development or human rights for at least ten years.

4. The office of the Chairperson or a member of the Dalit Commission shall be deemed vacant in the following circumstances:

- a. if he/she tenders a written resignation to the President,
- b. if, pursuant to Clause (2), his/her term expires,
- c. if he/she dies.

5. A person shall be eligible to be appointed as the Chairperson and a member of the Federal Dalit Commission if he/she possesses the following qualifications:

- a. in case of the Chairperson, someone who 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 forty years of age; and
- d. possesses a high moral character and social reputation.

6. The remuneration and other conditions of service of the Chairperson and members of the Commission shall be as determined by law.

7. A person once appointed as the Chairperson and a member of the Federal Dalit Commission shall not be eligible to be appointed in other Government services.

Provided that,

(a). This Clause shall not be deemed a bar for the appointment of a member of the Federal Dalit Commission as Chairperson thereof, and if a member is, in accordance with the Clause, appointed as the Chairperson, his/her tenure as the member shall also be computed to his/her term of office.

d. 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 suggestions, opinions or make recommendations after carrying out studies or research on any subject.

211. Functions, Duties and Powers of the Dalit Commission

1. Conduct a study on Nepal's Dalit issues, identify the measures that need to be taken, and make recommendations to the Government of Nepal.
2. End racial oppression and discrimination, formulate national policies and programmes that uphold Dalit interests for the upliftment and development of the community, and present that to the Government for their implementation.
3. Monitor whether or not the special provision regarding the upliftment of Dalits and promotion of Dalit interests and the existing laws relating to Dalit interests are implemented or adhered to, and make recommendations to the Government of Nepal for their implementation and adherence.
4. Monitor the report which the Government of Nepal is required to send according to the provisions in the international treaties and agreements (relating Dalit rights) to which Nepal is a party.
5. Review, monitor and assess the proportionate participation of Dalits in all the state organs so as to accommodate them in the mainstream of national development as well as review, monitor and assess the policies and programmes implemented thereof, and make recommendations to the Government of Nepal for their effective implementation.
6. Perform other functions as determined by law.

212. Delegation of Powers

The Commission may delegate any of its functions, duties and powers to any of its member, or committee of members, or the officials of the Federal or Provincial Government subject to be used and followed according to the conditions set thereof.

213. Provincial Provision

Provincial provisions shall as determined by law.

214. Annual Report

Every year, the Federal Dalit Commission shall submit an annual report to the President about the work the office has performed, and the President shall make arrangements to submit such report to the People's House of Representatives.

VIII. Indigenous Nationalities' Commission

215. Indigenous Nationalities' Commission

1. There shall be a Federal Indigenous Nationalities' Commission in Nepal consisting of a Chairperson and two other members appointed on the basis of proportionate representation and inclusiveness, and ensuring women's representation.

2. The President, on the recommendation of the Standing Committee, shall appoint the Chairperson and the members of the Indigenous Nationalities' Commission from among the persons who meets the qualifications according to Clauses (3) and (5) for a term of six years. They may be reappointed for an additional term

Provided that,

(a). If, before the expiry of their term, the Chairperson and members of the Commission attain the age of sixty-five, they shall not remain in office.

(b). The Chairperson and members of the Commission may be removed from their office on the same grounds and in the same manner as has been determined for the removal of a Judge of the Supreme Court.

3. A person shall be eligible to be appointed as the Chairperson and a member of the Commission if he/she has made significant contributions in the field of the rights and interests of the indigenous nationalities community or their development or human rights for at least ten years.

4. The office of the Chairperson or a member of the Commission shall be deemed vacant in the following circumstances:

a. if he/she tenders a written resignation to the President,

b. if, his/her term expires according to Clause (2),

c. if he/she dies.

5. A person shall be eligible to be appointed as the Chairperson and a member of the

Commission if he/she possesses the following qualifications:

- a. For the Chairperson -one who holds a Bachelor's Degree from a university recognized by the Government of Nepal,
- b. has attained forty years of age; and
- c. has a high moral character and possesses social prestige.

6. The remuneration and other conditions of service of the Chairperson and members of the Commission shall be as determined by law.

7. A person once appointed as the Chairperson and a member of the Commission shall not be eligible for appointment in other Government services.

Provided that,

(a). This Clause shall not be deemed as a bar to the appointment of a member of the Commission as Chairperson thereof, and if a member is, in accordance with the Clause, appointed as the Chairperson, his/her term of office shall be computed so as to include his/her tenure as the member as well.

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

216. Functions, Duties and Powers of the Indigenous Nationalities' Commission

1. Study and investigate or conduct study on the issues relating to Nepali's indigenous nationalities, identify the measures that need to be taken, and make recommendations to the Government of Nepal.

2. Draft national policies and programmes concerning the protection of the language and culture of the indigenous nationalities and for their advancement and development, and present that to the Government of Nepal for implementation.

3. Monitor the implementation of the special provision regarding the advancement and promotion of the interests of the indigenous nationalities and concerned existing laws in this regard, and make recommendations to the investigation into the condition of the entire indigenous nationalities communities, and to present advice, suggestions and make recommendations for a clear provision in this regard.

4. Monitor the dispatch of reports from the Government of Nepal as required of Nepal and provisioned in international treaties and agreements relating the rights of the indigenous nationalities to which Nepal is a party.

5. Review, monitor and assess the proportionate participation of indigenous nationalities in all the organs of the state so as to accommodate them in the mainstream of national development as well as review, monitor and assess the policies and programmes implemented thereof, and make recommendations to the Government of Nepal for their effective implementation.

6. Perform other functions as determined by law.

217. Delegation of Powers

The Commission may delegate any of its functions, duties and powers to any of its members, or committee of members, or the officials of the Federal or Provincial Government subject to be used or abide by according to the conditions set thereof.

218. Provincial Provision

Provincial provisions shall be made as determined by law.

219. Annual Report

Every year, the Federal Commission for the Indigenous Nationalities shall submit to the President an annual report about the work the office has performed and the President shall make arrangements to submit the report to the House of Representatives.

IX. Commission for the Protection of the Rights of People with Disabilities, Minority and Marginalized Communities and People of Backward Regions

220.

1. There shall be a Federal Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of backward Regions in Nepal consisting of a Chairperson and members as required on the basis of proportionate representation and inclusiveness, and ensuring women's representation.

2. The President shall, on recommendation of the Standing Committee, appoint the Chairperson and members of Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of backward Regions from among the individuals holding qualification as per Sub-article (3) and (5) for a term of six years. They may be reappointed for an additional term of office.

Provided that,

a. If, before the expiry of their term, the Chairperson and members of the Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of backward Regions attain the age of sixty-five, they cease to be in office.

b. The Chairperson and members of the Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of backward Regions may be removed from their office on the same ground and in the same manner as has been determined for the removal of the Judge of the Supreme Court.

3. A person shall be eligible to be appointed as the Chairperson or a member of the Commission for the of the Interests of the Disabled, Minority and Marginalized Communities and people of backward Regions if he/she has made significant contributions in the field of the rights and interests of the Disabled, Minority and Marginalized Communities and people of backward Regions, or the development or human rights for at least ten years.

4. The office of the Chairperson or member of the Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of backward Regions shall be deemed vacant in the following circumstances:

- a. If he/she tenders his/her resignation before the President,
 - b. If his/her tenure expires according to clause (2),
 - c. If he/she dies.
5. A person shall be eligible to be appointed as the Chairperson or a member of the Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of backward Regions, if he/she has the following qualifications:
- a. From the Chairperson - one who holds a Bachelor's Degree from any university recognized by the Government of Nepal,
 - b. has attained forty years of age,
 - c. possesses high moral character and social prestige.
6. The remuneration and other conditions of service of the Chairperson or member of the Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of Backward Regions shall be as determined by the law.
7. A person once appointed as the Chairperson or member of the Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of Backward Regions shall not be eligible to be appointed to a position of Government service.

Provided that,

- a. Nothing in this Clause shall be deemed a bar to appointment of a member of the Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of Backward Regions as its Chairperson, and when a member is so appointed as the Chairperson, his/her tenure as member shall also be count to the tenure of new office.
- b. Nothing in this Clause shall be deemed 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 conducting studies or research on any subject.

221. Functions, Duties and Powers of the Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and People of Backward Regions

1. Conduct study and investigate into the issues regarding the protection of the interests of the Disabled, Minority and Marginalized Communities and people of Backward Regions of Nepal, identify proper measures that need to be taken, and make recommendations to the Government of Nepal.
2. Draft national policies and programmes concerning the advancement and development, and the promotion of the interests of the Disabled, Minority and Marginalized Communities and people of Backward Regions, and present that to the Government of Nepal for implementation.
3. Monitor execution or the implementation of special provision regarding the advancement and the promotion of interests of the Disabled, Minority and Marginalized Communities and people

of Backward Regions and existing laws relating to their interests, and make recommendations to the Government of Nepal for implementation.

4. Monitor the dispatch of reports from the Government of Nepal as required of Nepal and provisioned in international treaties and agreements relating to the rights of the Disabled, Minority and Marginalized Communities and people of Backward Regions to which Nepal is a party.

5. Review, monitor and assess the proportionate participation of the Disabled, Minority and Marginalized Communities and people of Backward Regions in all the organs of the state so as to accommodate them in the mainstream of national development as well as review, monitor and assess the policies and programmes implemented thereof, and make recommendations to the Government of Nepal for their effective implementation.

6. Perform other functions as determined by law.

222. Delegation of Powers

The Commission may delegate any of its functions, duties and powers to any of its members, or committee of members, or the officials of the Federal or Provincial Government subject to be used or abide by according to the conditions set thereof.

223. Provincial Provision

Provincial provision shall be as determined by the law.

224. Annual Report

Every year, the Commission for the Protection of the Interests of the Disabled, Minority and Marginalized Communities and people of backward Regions shall prepare an annual report of the works it has performed, and submit the same to the President, and the President shall make arrangements to forward the report to the Legislature-Parliament.

X. Madhesi Commission

225. Madhesi Commission

1. There shall be a Federal Madhesi Commission in Nepal comprising a Chairperson and two other members on the basis of proportionate representation and inclusion, and ensuring women's representation.

2. The President, on the recommendation of the Standing Committee, shall appoint the Chairperson and the members of the Madhesi Commission for a term of six years from among the persons who meets the qualifications according to Clauses (3) and (5). They may be reappointed for an additional term of office.

Provided that

a. If, before the expiry of their term, the Chairperson and members of the Madhesi Commission attain the age of sixty-five, they cease to be in office.

b. The Chairperson and members of the Madhesi Commission may be removed from their office on the same ground and in the same manner as has been determined for the removal of a Judge of the Supreme Court.

3. A person shall be eligible to be appointed as a member of the Madhesi Commission if he/she has made significant contributions in the field of Madhesi rights and interests, or advancement of the Madhesi community, or human rights for at least ten years.

4. The office of the Chairperson or a member of the Madhesi Commission shall be deemed vacant in the following circumstances:

- a. if he/she tenders a written resignation to the President,
- b. if his/her term expires according to Clause (2),
- c. if he/she dies.

5. A person shall be eligible to be appointed as the Chairperson and a member of the Madhesi Commission if he/she possesses the following qualifications:

- a. in case of the Chairperson - one who holds a Bachelor's Degree from a university recognized by the Government of Nepal,
- b. has attained forty years of age; and
- c. has a high moral character and possesses social prestige.

6. The remuneration and other conditions of service of the Chairperson and members of the Madhesi Commission shall be as determined by law.

7. A person once appointed as the Chairperson and a member of the Madhesi Commission shall not be eligible to be appointed to any position of the Government service.

Provided that,

a. This Clause shall not be deemed as a bar to the appointment of a member of the Madhesi Commission as Chairperson thereof, and if a member is, in accordance with the Clause, appointed as the Chairperson, his/her tenure as the member shall also be count to the tenure of the new office.

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

226. Functions, Duties and Powers of the Madhesi Commission

1. Conduct study and examine (Nepal's) Madhesi issues, identify proper measures in this regard, and make recommendations to the Government of Nepal.

2. Draft national policies and programmes relating to the protection of the language and culture

of the Madhesi community and their advancement and development as well as the interests of Madhesi people, and submit that to the Government of Nepal for implementation.

3. Monitor the execution or implementation of the special provision regarding the advancement and promotion of Madhesi interests and the existing laws concerning their interests, and make recommendations to the Government of Nepal for their implementation.

4. Review, monitor and assess the proportionate participation of the Madhesis in all the organs of the state so as to include them in the mainstream of national development; review, monitor and assess the policies and programmes implemented thereof, and make recommendations to the Government of Nepal for their effective implementation.

5. Perform other functions as determined by law.

227. Delegation of Powers

The Commission may delegate any of its functions, duties and powers to any of its members or committee of members or the officials of the Federal or Provincial Government subject to use and follow up of the conditions set thereof.

228. Provincial Provision

Provincial provisions shall be made as determined by law.

229. Annual Report

Every year, the Federal Madhesi Commission shall submit an annual report to the President about the work the office has performed, and the President shall make arrangements to submit the report to the People's House of Representatives.

Muslim Commission

230. Muslim Commission

1. There shall be a Federal Muslim Commission in Nepal consisting of a Chairperson and two other members on the basis of proportionate representation and inclusiveness, and ensuring women's representation.

2. The President, on the recommendation of the Standing Committee, shall appoint the Chairperson and the members of the Muslim Commission for a term of six years from among the persons who possess qualifications according to Clauses (3) and (5). They may be reappointed for an additional term of office.

Provided that,

a. The Chairperson and members of the Muslim Commission shall cease to be in office if they attain the age of sixty-five before the expiry of their term.

b. The Chairperson and members of the Muslim Commission may be removed from office on the same grounds and in the same manner as has been determined for the removal of the Judge of the Supreme Court.

(3. A person shall be eligible to be appointed as the Chairperson and a member of the Muslim Commission if he/she has made significant contributions in the field of the rights and interests of the Muslim community, or their development, or human rights for at least ten years.

4. The office of the Chairperson or a member of the Muslim Commission shall be deemed vacant in the following circumstances:

- a. if he/she tenders a written resignation to the President,
- b. if his/her term expires according to Clause (2),
- c. if he/she dies.

5. A person shall be eligible to be appointed as the Chairperson and a member of the Muslim Commission if he/she possesses the following qualifications:

- a. in case of the Chairperson - one who holds a Bachelor's Degree from a university recognized by the Government of Nepal,
- b. has attained forty years of age; and
- c. has a high moral character and possesses social prestige.

6. The remuneration and other conditions of service of the Chairperson and members of the Muslim Commission shall be as determined by law.

7. A person once appointed as the Chairperson and a member of the Muslim Commission shall not be eligible for appointment in other Government services.

Provided that,

- a. This Clause shall not be deemed a bar to the appointment of a member of the Muslim Commission as Chairperson thereof, and if a member is, in accordance with the Clause, appointed as the Chairperson, his/her tenure as the member shall also be count to the term of the new office.
- b. Nothing in this Clause shall be a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or making recommendations after conducting studies or research on any subject.

231. Functions, Duties and Powers of the Muslim Commission

1. Study and investigate into Muslim issues of Nepal, identify proper measures in this regard, and make recommendations to the Government of Nepal.
2. Draft national policies and programmes concerning the protection of the language and culture of the Muslims and their advancement and development, and submit that to the Government of Nepal for implementation.
3. Monitor the execution or implementation of the special provision regarding the advancement

and interests of the Muslims and related existing laws concerning the interests of the Muslims, and make recommendations to the Government of Nepal for their implementation.

4. Monitor the dispatch of reports relating the rights of the Muslims from the Government of Nepal as required of Nepal and provisioned in international treaties and agreements to which Nepal is a party.

5. Review, monitor and assess the proportionate participation of Muslims in all the organs of the state so as to accommodate them in the mainstream of national development, and also review, monitor and assess the policies and programmes implemented thereof, and make recommendations to the Government of Nepal for their effective implementation.

6. Perform other functions as determined by law.

232. Delegation of Powers

The Commission may delegate any of its functions, duties and powers to any of its members or committee of members or the officials of the Federal or Provincial Government subject to use and follow up of the conditions set thereof.

233. Provincial Provision

Provincial provisions shall be made as determined by law.

234. Annual Report

Every year, the Federal Muslim Commission shall submit an annual report to the President on the work the office has performed, and the President shall make arrangements to submit such reports to the People's House of Representatives.

XII. Workers' and Peasants' Commission

235. Workers' and Peasants' Commission:

(1) There shall be a Workers' and Peasants' Commission in Nepal consisting of one chairperson and four other members appointed on the basis of proportionate representation and inclusion, and ensuring women's representation.

(2) The President shall, on the recommendation of the Standing Committee, appoint persons with qualifications pursuant to Clauses (3) and (5) as the Chairperson and members of the Commission for the tenure of six years. They can be appointed for an additional term.

Provided that,

(a) If the Chairperson or a member of the Workers' and Peasants' Commission attains the age of 65 years before expiry of his/her term, s/he shall cease to remain in office.

(b) The Chairperson or a member of the Workers' and Peasants' Commission can be removed from his/her office on the same grounds and in the same manner as has been set out for removal of a judge of the Supreme Court.

(3) The person to be appointed as the Chairperson or a member of the Workers' and Peasants' Commission should have made an outstanding contribution to the rights and interests of workers and peasants or their advancement or in the field of rights for at least ten years.

(4) The office of the Chairperson or a member of the Workers' and Peasants' Commission shall be deemed vacant in the following circumstance:

- (a) If s/he submits a written resignation to the President,
- (b) If pursuant to clause (2) his/her term expires,
- (c) if s/he dies.

(5) A person shall be eligible to be appointed as the Chairperson or a member of the Peasants' and Workers' Commission if s/he holds the following qualifications:

- (a) holds a Bachelor's Degree from a university recognized by the Government of Nepal in the case of the Chairperson,
- (b) has attained 40 years of age,
- (c) possesses high moral character.

(6) A person who has served as the Chairperson or a member of the Workers' and Peasants' Commission 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 member of the Workers' and Peasants' Commission as the Chairperson thereof, and when a member is so appointed as the Chairperson, his/her term of office shall be computed so as to include his/her tenure as a member as well.

(b) Nothing in the clause shall be deemed to be a bar to the appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

236. Functions, duties and powers of the Peasants' and Workers' Commission

(1) Conduct study and research on issues regarding workers and peasants in Nepal and make recommendations to the Government of Nepal by identifying the appropriate measures,

(2) Formulate national policies and programs concerning the interests of workers and peasants for the upliftment and development of peasants and worker by addressing their existing condition and problems; and submit them to the Government of Nepal for implementation,

(3) Monitor the execution or implementation of the special provision regarding the advancement and interests of the workers and peasants and related existing laws concerning the interests of the community, and make recommendations to the Government of Nepal for their implementation.

(5) Review, monitor and evaluate policies and programs being implemented for mainstreaming the workers and peasants in the national development and proportionate participation in all organs of the state ending all types of oppression against the workers and peasants group, and recommend the Government of Nepal for effective execution of the same,

6. Perform other functions as determined by law.

237. Delegation of Power

The Commission may delegate any of its functions, duties and powers to any of its members or a committee of members or any employee of the federal or a provincial government to be exercised or complied in compliance with the conditions specified.

238. Provincial provision

Provisions regarding autonomous state shall be as determined by law.

239. Annual report:

The Federal Peasants' and Workers' Commission shall submit an annual report to the President on the work it has performed every year and the President shall make arrangements to submit such report before the People's House of Representative.

Part-12

Protection of national interest and international relations

240. Protection of national interest and international relations

(1). Building a discrimination-free, equitable society based on preservation of the sovereignty, independence and territorial integrity of the country, freedom and identity of the nation, and consensus and collaboration among diverse ethnicities and regions and maintaining national unity, social and cultural solidarity, inclusive, proportionate and participatory people's federal republican political system, economic wellbeing and prosperity and social justice and equality among various ethnicities, class, gender and groups shall be the fundamental issues of national interests of Nepal.

2) Acts carried out against the interests of the nation by jeopardizing the country's sovereignty and integrity, or the good relations subsisting among various ethnicities, religions and communities, leaking the country's secret information to unauthorized people or institution shall be punishable by law.

(3) The diplomatic conduct and acts carried out against the Nepali national interests and dignity shall be punishable by law.

241. Nepal's international borders: The primary responsibility of security, management and demarcation of Nepal's international border shall rest with the Federal government.

242. International relations/foreign policy: Friendly relations shall be maintained with all the countries in the world including the neighbours on the basis of the UN Charter, the *Panchasheel*, Non-Alignment principles, equality, national interest and mutual benefit. Any international relations against this shall be prohibited and punishable as per the law.

243. Power/Right to conclude treaties

(1) Power to conclude treaties or agreements with any foreign nation or institutions shall rest with the Federal government.

(2) The Federation shall take consent of the concerned autonomous state while concluding treaties or agreements that directly affect them or on the subjects falling under the jurisdiction of the states.

244. Treaties or agreements that cannot be reached : No treaty or agreement shall be reached on the following matters:-

- (1) Matters relating to narrowing Nepal's territorial boundaries or matters detrimental to the provincial integrity of the state.
- (2) Matters jeopardizing Nepal's sovereignty, freedom and national unity.
- (3) Matters inconsistent with the Constitution
- (4) Matters pertaining to the uses of Nepal's natural resources, resulting in comparatively lesser benefits to Nepal.

245. The ratification of, accession to, acceptance of or approval of treaties or

Agreements : (1) The ratification of, accession to, acceptance of or approval of treaty or agreement to which the state of Nepal or government of Nepal is to become a party shall be as determined by the law.

(2) The laws to be made pursuant to clause(1), *inter alia*, require that the ratification of, accession to, acceptance of or approval of treaty or agreements on the following subjects be done by a two-thirds majority of the total number of members of the Federal People's House of Representatives existing:-

- (a) Peace and friendship;
- (b) Security and strategic alliance;
- (c) The boundaries of Nepal; and
- (d) Natural resources and distribution of their uses.

(3) Notwithstanding anything contained in clause(2), the ratification of, accession to, acceptance of or approval of the treaty or agreements on the following subjects may be done at a meeting of the federal House of Representatives by a simple majority of the members present:-

- (a) Treaty or agreement on the subjects referred to in Clause 2(a) and (d), which is of ordinary nature and does not affect the nation extensively, seriously or in the long-term;
- (b) Even if the nature of Treaty-agreement does not require ratification of, accession to, acceptance of or approval of as per Clause (2) ratification, accession, approval or support of in accordance with the provision of the treaty itself is needed;
- (c) Establishment of an inter-governmental organization or acquisition of membership of such organization;

(4) In case of treaty or agreement on subjects concerning the autonomous states, in addition to the Federal House of Representatives ratification of, accession to, acceptance or approval of the concerned autonomous state's People's House of Representatives should be done following the same procedure.

246. All treaties and agreements reached in the past shall be reviewed and those against the national interest repealed within one year of the commencement of this Constitution and the State shall work to conclude new treaties and agreement conducive to national interest.

Part -13
National Security and Army

247. Basis of national security: (1). Nepal's national security shall rest on the Nepali people. The Nepali people shall guarantee Nepal's national defense through the security mechanism and procedures as provided through their elected representatives.

(2) All national security agencies of Nepal shall fall under the unconditional authority of the elected people's representatives body and the executive formed under it.

(3) Considering national security and interest, all healthy citizens above 18 years of age shall be provided with military education and training.

(4) Nepal shall be a country free from every kind of nuclear weapons.

248. National Security Council : There shall be a National Defence Council in order to formulate policies about Nepal's overall national interests, security, and defence and make recommendations to the Council of Ministers and the President on mobilization and management of the Nepal Army. The Council shall be comprise the following Chairperson and members:-

(a) President- Chairperson

(b) Defence Minister-Member

(c) Home Minister- Member

(d) Foreign Minister- Member

(e) Finance Minister- Member

(f) Two persons nominated by the President– Member

(2) The National Defence Council, as per its need, may invite others to the meeting of the Council.

(3) The Secretary of the National Defence Council shall be a distinguished class officer of the Federal Administration Service and as designated by the Federal Government.

(4) Various sub-committees may be constituted under the Council Secretariat for effective functioning of the National Defence Council.

(5) Other provisions regarding the National Defence Council shall be as determined by the law.

249. Provisions regarding Nepal's National Army: (1) There shall be an institution of Nepal National Army for safeguarding the sovereignty, integrity, independence and national unity and for national development and construction works.

(2) The Nepali National Army with a national character based on the principles of inclusion, proportionate representation and democratic norms shall be constituted following democratization of the Nepali Army and integration of People's Liberation Army, in accordance with the Comprehensive Peace Agreement.

(3) The President shall be the Supreme Commander of the Nepali National Army.

(4) The President shall, on the recommendation of the Council of Ministers, appoint the Commander-in-Chief of the Nepali National Army.

(5) The Council of Ministers may, as provided for in the law, relieve the Commander-in-Chief from his/her post.

(6) The President shall, on the recommendation of the Council of Ministers, control, mobilize, run and manage the Nepali National Army in accordance with the law.

(7) Except in the event of mobilization of the Nepali National Army during a natural disaster, the decision regarding mobilization of the Nepali National Army made by the Council of Ministers, on the recommendation of the National Defence Council, should be presented before and endorsed by the Special Security Committee of the Federal House of Representatives within a month from the date of having made the decision thereof.

(8) Other matters pertaining to the Nepali National Army shall be as provided for in the law.

250. Provisions regarding other security mechanism : (1) Formation, operation and control of police, paramilitary force and intelligence agency, and their terms of reference shall be as determined by the law.

(2) The border security force, industrial security force, forest security force, highway security force, rural security force system shall be specialized as per the need in the country, and shall be as determined by the law.

(3) The military force shall become a federal affair as per the concept and norms of a federal system of governance, while the autonomous states shall constitute and operate their own respective police force, paramilitary force or people's militia.

251. Formation of the Military Service Commission: A Military Service Commission shall be constituted, as provided for in the law, in order to oversee the issues of appointment and promotion of Nepal's National Army (personnel).

252. Others: The accounts of the Nepali National Army shall be audited by the Federal Audit Commission.

PART 14

POLITICAL PARTY

253. Provisions Related to Political Parties:

(1) Political parties can be formed and its activities can be operated by ensuring people's federal republic and multiparty competition. Political parties formed as per this Article shall be inclusive proportional as well as be accountable towards the people, transparent and decorated with internal democracy.

(2) Other matters relating to political parties shall be as determined by the law.

PART 15

EMERGENCY PROVISIONS

254. Proclamation of Emergency:

(1) If a grave emergency arises with regard to the sovereignty or integrity of Nepal or the security of any part thereof, whether by war, external aggression, armed rebellion, extreme economic disarray, natural calamity or epidemics, the Head of the State may, on the recommendation of the Council of Ministers of the Government of Nepal, by Proclamation or Order, declare a State of Emergency to be enforced in the whole Nepal or any specified part thereof.

(2) The Proclamation or the Order issued according to Clause (1) shall be laid before the Federal Legislature for approval within a month from the date of issuance.

(3) If a Proclamation or Order laid for approval according to Clause (2) is approved by at least a two-thirds majority of the total number of existing members in the Federal Legislature, such Proclamation or Order shall continue in force for a period of three months from the date it was issued.

(4) If the Proclamation or the Order laid in the Federal Legislature pursuant to Clause (2) is not approved according to Clause (3) such Proclamation or the Order shall be deemed, *ipso facto*, to cease to operate.

(5) Before the expiration of the period referred to in Clause (3), if a meeting of the Federal Legislature, by a majority of at least two-thirds of the total number of members present, passes a resolution to the effect that circumstances referred to in Clause (1) continue to exist, it may extend the period of the Proclamation or Order of the State of Emergency for another one period, not exceeding three months as specified in such resolution.

(6) After a State of Emergency has been declared according to Clause (1), the Head of the State may, on the recommendation of the Council of Ministers of the Government of Nepal, issue such orders as deemed necessary to meet the exigencies. Orders so issued shall be operative with the same force and effect as law so long as the State of Emergency is in operation.

(7) At the time of making the Proclamation or Order of the State of Emergency by the Head of the State on the recommendation of the Council of Ministers of the Government of Nepal, according to Clause (1), the fundamental rights provided in Article ... from among the ones provided in Part 3 may be suspended so long as the Proclamation or Order is in effect.

Provided that the right to constitutional remedy pursuant to Article ... and the right to Habeas Corpus shall not be suspended.

(8) In the circumstances where any Article of this Constitution is suspended according to Clause (7) above, no petition may be made in any court of law, nor any question be raised for the enforcement of the fundamental rights conferred by such Article.

(9) If, during the continuance of a Proclamation or Order according to Clause (1), any damage is inflicted upon any person by an action of any official done in bad (ill) faith, and if the affected person files a petition, within three months from the date of termination of the Proclamation or Order for compensation for the said damage, the court shall cause the compensation to be paid and punish the persecutor as per law.

(10) The Head of the State on the recommendation of the Council of Ministers of the Government of Nepal may, at any time during its continuance, revoke the Proclamation or Order relating to the State of Emergency pursuant to Clause (1).

PART 16

AMENDMENT OF THE CONSTITUTION

255. Amendment of the Constitution

(1) This Constitution shall not be subject to amendment against the national independence, sovereignty vested in people, Republicanism and adversely affecting these provisions.

(2) A Bill regarding amendment or repeal of any Article of this Constitution may be presented, under the Clause (1), in Federal House of People's Representatives. Such Bill may be presented by the Government of Nepal, a minimum number of members as specified or a Legislature of any autonomous state.

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

(3) Notwithstanding anything contained in Clause (2), people's opinions can be collected through the referendum regarding amendment or repeal of any Article of this Constitution, pursuant to Clause (1) wherein the agenda is deemed appropriate to be resolved through the referendum provided that a proposal of that effect is presented by the minimum number of members specified and is passed by a majority vote in the Federal House of People's Representatives.

(4) In case any matter regarding the amendment or repeal of any Article of the Constitution through the referendum pursuant to Clause (3) is approved by the majority of total valid votes, it shall be deemed *ipso facto* amended.

(5) The Bill presented in the House pursuant to Clause (2) shall be publicized within thirty days thereupon for dissemination to common people.

(6) In case the Bill, presented in pursuance to Clause (2), is related to change of the boundary of any autonomous state and the sole right of the autonomous state mentioned in Article ... it should be forwarded to the House of People's Representatives of the autonomous state for approval within thirty days of its being presented in the Federal House of People's Representatives.

Provided that the Bill, presented in pursuance to Clause (2), is related only with a particular autonomous state, the approval of the related House of People's Representatives of autonomous state shall be sufficient.

(7) The majority of the House of People's Representatives of autonomous state shall accept or reject the Bill presented for their approval in pursuance to Clause (6) within three months thereof through a majority vote of the total number of existing members, and send an information thereof to the Federal Legislature.

Provided that if the House of People's Representatives of the autonomous state is dissolved, it shall accept or reject and send back the Bill, within three months of convening its first meeting.

(8) In case the Bill presented in pursuance to Clause (2), and not requiring the approval of the House of People's Representatives of the autonomous state or the Bill, in pursuance to Clause (7), approved by the House of People's Representatives of the autonomous state is passed by a majority vote of at least two-third members of the total number of existing members in Federal House of People's Representatives, such Bill shall be presented to the Head of the State for approval.

(9) The Head of the State shall approve the Bill presented in pursuance to Clause (8) within fifteen days thereof.

PART 17

TRANSITIONAL PROVISIONS

256. Provisions Regarding the President and Vice President: the Federal People's House of Representatives shall elect the President and the Vice President within the period of one month of the promulgation of this Constitution,. The President so elected shall be holding the office until the new President elected as per this Constitution hold the office.

257. Provisions Regarding the Council of Ministers: (1) The House of People's Representatives shall constitute a new council of ministers within the period of one month of the promulgation of this Constitution. Such government shall continue to work until another government shall be constituted as per this Constitution.

258. Provisions Regarding the Judiciary:

(1) The existing Supreme Court, at the time of the commencement of this Constitution, shall be deemed to have been the Federal Supreme Court under this Constitution, and all

the cases undergoing in the Supreme Court shall be transferred to the Federal Supreme Court. The Federal Supreme Court shall finalize these cases pursuant to the prevailing laws.

(2) The existing Appellate Courts of Nepal constituted pursuant to the Interim Constitution of Nepal 2007 shall be continuing until the Provincial High Courts are constituted pursuant to Article 161, and after the Constitution of the Provincial High Courts, all the cases of under consideration of the Appellate Courts shall be transferred to the Provincial High Courts according to the jurisdiction. The Provincial High Courts shall finalize these cases pursuant to the prevailing laws.

(3) The existing Districts Courts of Nepal shall be continuing until the Local Courts are constituted pursuant to Article 168, and after the Constitution of the Local Courts, all the cases of under consideration of the District Courts shall be transferred to the Local Courts according to the jurisdiction. The Local Courts shall finalize these cases pursuant to the prevailing laws.

(4) The Martial Court and the Martial Special Court constituted pursuant to the existing laws shall be continuing until the Martial Court and the Martial Special Court are constituted pursuant to this Constitution, and all the cases of under consideration of the previous Martial Court and the Martial Special Court shall be transferred to the new Courts constituted pursuant to this Constitution. The Courts shall finalize these cases pursuant to the prevailing laws.

(5) The Chief Justice and other Judges serving the Supreme Court shall cease to hold the office, if they are not reappointed within three months of the commencement of this Constitution.

(6) The Chief Judge and other Judges serving the existing Appellate and the District Courts shall cease to hold the office, if they are not reappointed within three months of the formation of provincial mechanisms, after the commencement of this Constitution.

259. Provisions Regarding the Legislative Rights:

(1) The present Constituent Assembly shall exercise the legislative rights of Nepal in the capacity of the Legislature-Parliament until the first session of the Federal House of People's Representatives convene under this Constitution.

(2) The Legislature-Parliament Secretariat and Officials and the staff serving the Secretariat at the time of the commencement of this Constitution shall be deemed to be the Secretariat of the Parliament and the Officials and the staff of the Secretariat shall be deemed to have been appointed under this Constitution.

260. Provisions Regarding Constitutional Bodies and Officials:

- (1) The Legislature Parliament shall manage for reappointing the Constitutional Bodies and the Officials within the period of three months of the promulgation of this Constitution.
- (2) The Constitutional Bodies subsisting at the time of the commencement of this Constitution shall be deemed to have been constituted under this Constitution, and this Constitution shall not hinder such bodies in dealing with the matters under consideration according to the existing laws.

261. Existing Laws to Remain in Operation:

- (1) Decisions made and works performed by the Constituent Assembly that are not inconsistent with this Constitution shall be deemed to have been made and performed in accordance with this Constitution.
- (2) All the laws in force at the time of commencement of this Constitution shall remain in operation until repealed or amended.

Provided that laws inconsistent with this Constitution shall, to the extent of inconsistency, *ipso facto*, cease to operate a year after the first Session of the House of People's Representatives under this Constitution convened.

262. Provisions Regarding the Local Bodies:

- (1) The Legislature Parliament shall constitute the local bodies with federal structure as per this Constitution within the period of three months of the promulgation of this Constitution.
- (2) The existing local bodies shall remain in status quo until the local bodies are formed under this Constitution.

263. Power to Remove Difficulties: If any difficulty arises in connection with the implementation of this Constitution, until the Legislature meets following the elections to the Legislature as per this Constitution convene, the President may, on the recommendation of the Council of Ministers, issue necessary Orders to remove such difficulties, and such Orders must be endorsed by the Federal Legislature within one month.

PART 18
MISCELLANEOUS

264. Electoral Constituency Delimitation Commission:

(1) The President on recommendation of the Council of Ministers may constitute an Electoral Constituency Delimitation Commission for the purpose of holding the periodic election of Federal and Provincial Legislatures. The structure, services, privileges, procedure, functions, duties and powers of the Commission shall be as determined by the law.

265. Nepali Representative and Special Representative: The President may appoint Nepali Representative and Special Representative for specified purpose. Such appointments of Nepali Representative and Special Representative shall be approved by the Federal Legislature

266. Pardon: The President on the recommendation of the Federal Council of Ministers may grant pardons, and suspend, commute or reduce any sentence imposed by any court, special court, military court or by any other judicial or quasi-judicial, or administrative authority or institution.

267. Titles, Honours, and Decorations:

(1) Titles, honors or decorations to be conferred on behalf of the State shall be conferred by the President.

(2) The citizen of Nepal shall not receive any title, honor or decoration from the government of any foreign country without seeking approval of the Government of Nepal.

268. Decision to Be Made by Referendum:

(1) Except otherwise provided elsewhere in this Constitution, if the two-third majority members of the total number of existing members of the Federal House of People's Representatives decide that it is necessary to make a decision on any matter of national importance, a decision may be reached on such matter through referendum. .

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

269. Provision of Citizen's Watchdog (*Lokpal*):

The provision regarding the citizen's watchdog (*Lokpal*) at different levels shall be made as prescribed by the law in order to ensure the citizen's monitoring, supervision and intervention on all institutions of the state.

270. Relating to the Bases of Inclusion:

(1) The provision shall be made according to the law for proportional inclusive representation of oppressed caste/ethnicity, region, gender, and community as well as of social-economic class and ages in all elected institutions of the state.

(2) Arrangements shall be made for voting by migrant Nepali citizens from abroad.

271. Power to Remove Difficulties: If any difficulty arises in connection with the implementation of this Constitution, the President may issue necessary Orders to remove such difficulties, and such Orders must be endorsed by the Federal House of Representatives within one month.

PART 19

DEFINITIONS, SHORT TITLE, COMMENCEMENT AND ABROGATION

272. Definitions:

(1) Unless the subject or context otherwise requires, in this Constitution:-

(a). “Article” means an Article of this Constitution;

(b). “Citizen” means citizen of Nepal;

(c). “Bill” means a draft of a Constitution or an Act which has been introduced in the Federal or Regional Legislature.

(d). “Remuneration” means and includes salary, allowances, pension and any other forms of emoluments.

(e). “Comprehensive Peace Agreement” means the agreement made between the then Government of Nepal and UCPN (Maoist) on November 21, 2006.

(2) Unless the subject or context otherwise requires, the prevailing law of Nepal relating to interpretation 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.

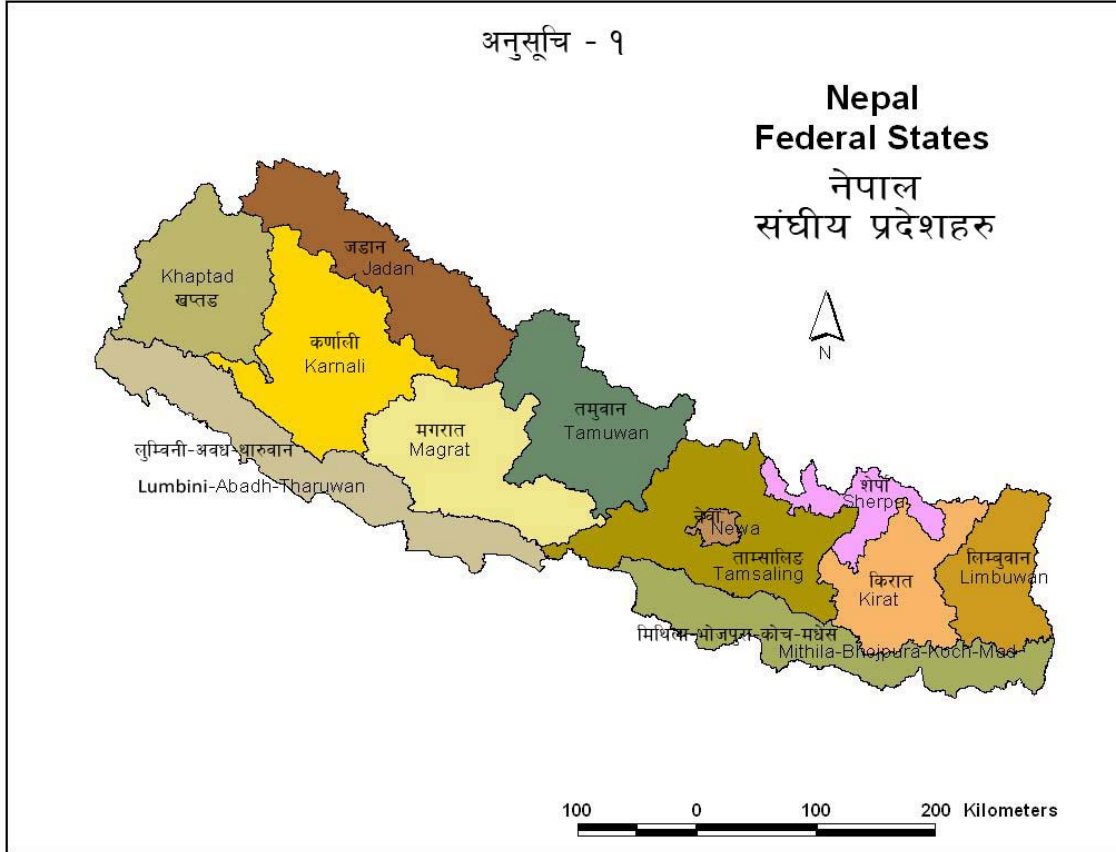
273. Short Title and Commencement:

(1) This Constitution shall be called, “The Constitution of the People’s Federal Republic of Nepal, 2067 (B.S)”.

(2) Other provisions than Part ..., Article ... of this Constitution shall come into force from ... of the year Two Thousand Sixty Seven (...2010). Part ... and Article ... shall come into force from ... (...).

274. Abrogation: The Interim Constitution of Nepal, 2007 (2063) is hereby abrogated.

Schedule - 1
(Relating to Clause (2) of Article 4)
Constituent Units Within the State of Nepal



Schedule - 2
(Relating to Clause (2) of Article 6)
National Flag

Schedule - 3
(Relating to Clause (1) of Article 7)
National Anthem of Nepal

Of hundreds of flowers made are we one garland Nepali
Sovereign are we spread from the Mechi to Mahakali
Teeming with tens of millions in heritage natural
With the blood spilled by the brave; independent and unshakable

Land of knowledge, land of peace, Terai, hill and mountains
Indivisible this; our dear motherland Nepal
Multi-ethnic and vast in religions, cultures, tongues galore
Progressive nation ours, long live! Long live Nepal.

Schedule - 4
(Relating to Clause (2) of Article 7)
Coat of Arms of Nepal



Schedule - 5
(Relating to Clause (1) of Article 72)
Jurisdiction of the Centre

S.No	Subjects/Issues
1.	Regarding Defense and Army
2.	Central Police Force
3.	Central Bank, Fiscal Policy, Monetary Policy, Foreign Grant, Assistance and Debt
4.	Central Telecommunication, Distribution of Radio Frequency, Television and General Post Office
5.	Custom Duty, Excise Duty, Value Added Tax, Corporate Income Tax, Passport, Visa, Post Office, Tourism Royalty, Service Fees and Charges
6.	Royalty Collected from Natural Resources
7.	Central Civil Service Management, Central Statistics
8.	Central Statistics
9.	Mega Hydro, Irrigation and Other Projects of the Central Level
10.	Central Universities, Central Libraries
11.	Central Health Policy
12.	Federal Legislature and Federal Executive Affairs
13.	International Trade, Exchange, Ports, Quarantine
14.	International and Interstate Civil Aviation
15.	Foreign and Diplomatic Affairs and the United Nations
16.	International Treaties, Extradition and International Border Management
17.	Management of National Railway and National Highway
18.	National Intelligence
19.	Supreme Court/Constitutional Court
20.	Law Regarding Citizenship, Passport, Visa, Immigration
21.	Regarding Atomic Energy and Space
22.	Election Commission, National Human Rights Commission, Commission for the Investigation of Abuse of Authority, Public Service Commission, National Women's Commission, Commission for Proportionate Inclusion, Dalit Commission, National Planning Commission, Commission for Indigenous People, MADHESI Commission, Commission for the Promotion of Extremely Minority, Marginalized and Backward Region, and Commission for Muslim
23.	War and Defense
24.	Regarding Arms and Ammunition Factory and Production
25.	Standard and Metrology
26.	Mining
27.	Insurance Policy
28.	Formulation of the Criminal Law
29.	Intellectual Property (Including Patent, Design, Copy Right etc.)
30.	Issues which are not listed in the jurisdiction of the Central, Provincial and Local Level

	and the issues not specified in this Constitution and in the Law under this Constitution
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Schedule - 6
(Relating to Clause (2) of Article 72)
Jurisdiction of the Province

S. No	Subjects/Issues
1.	Provincial Main Law
2.	Police, Administration and Law and Order
3.	Bank and Financial Institutions, Cooperatives, Foreign Grants and Assistance on the Consent of the Centre
4.	Radio, FM, Television
5.	Personal Income Tax, Property Tax, Professional Tax/ Tax on Profession, Land Revenue, Tax on Remunerations, Home Land Registration Fee, Tax on Vehicle, Entertainment Tax, Advertisement Tax, Tax on Tourism and Income from Agriculture, Service Fees and Charges
6.	Royalty Collected from Natural Resources
7.	Management of the Provincial Civil Service
8.	Provincial Statistics
9.	Provincial Level Electricity, Irrigation and Other Projects
10.	Universities, Higher Education, Libraries, Museums
11.	Health Service
12.	Regarding Provincial Legislature, Local Government and Special Structure
13.	Inter Provincial Trade
14.	Provincial Aviation
15.	Provincial Railways and Provincial Highways
16.	Provincial Investigation Bureau
17.	Hydropower Projects, Irrigation Projects
18.	Provincial Court, Family Court, Juvenile Court
19.	Citizenship and Passport Management
20.	Provincial Level Commissions
21.	Land Management, Records of the Land and Determination of Land Revenue
22.	Exploration and Management of Mine
23.	Insurance Management and Operation
24.	Preservation and Use of the Language, Culture, Script and Religion
25.	Utilization of the Forest, Water within the Province
26.	Agricultural and Livestock Development, Industry, Industrialization, Trade and Business, Transportation, Production, Distribution and Sales of Alcoholic materials
27.	Books and Press
28.	Endowment Management

Schedule - 7
(Relating to Clause (3) of Article 72)

Concurrent List

S. No	Subjects/Issues
1.	Criminal and Civil Procedure and Evidence and Oath of Office (Legal Recognition, Public Functions and Records and Legal Procedure)
2.	Supply, Distribution, Price Control, Quality and Monitoring of the Necessary Goods
3.	Preventive Detention, Jails and Custody Management and Law and Order
4.	Transfer of Accused, Detainee and Prisoner from One Province to Another
5.	Laws relating to Family Affairs (Marriage, Property Handover, Divorce, endangered, orphans, adoption, inheritance, joint family)
6.	Enforcement of Property Attainment and Acquisition and Rights
7.	Regarding Contract, Partnership and Agencies
8.	Bankruptcy and insolvency
9.	Medicine and Toxic substance
10.	Economic and Social Planning, Family Planning and Population Control
11.	Social Security and Employment, Trade Union, Rights and Disputes regarding Industrial scope and Workers
12.	Medicine, Legal and Other Professions
13.	Vital Statistics, Registration of Birth, Death
14.	Water Ways
15.	Regarding Mass Media
16.	Archeology, Ancient Monuments and museums
17.	Industry and Mine and Infrastructure Development
18.	Casino, Lottery, Vehicle Permission
19.	Control of Fire and Natural Disaster and Relief and Reconstruction
20.	Tourism, Drinking Water and Sanitation
21.	Regarding Cinema and Cinema Theater
22.	Insurance
23.	Poverty Alleviation and Industrialization
24.	Scientific Research, Science and Technology and Human Resource Development
25.	Use of Forest, Wild Animals, Birds, Mountains, National Parks and Water Extended through Interprovincial Range
26.	National and Interprovincial Ecology Management
27.	Land Policy

Schedule - 8
(Relating to Clause (5) of Article 72)
Jurisdiction of the Local Level

S. No	Subjects/Issues
1.	Metro Police, Community Police
2.	Cooperatives
3.	FM Operation
4.	Local tax (Property Tax, Rent, Tax on Vehicles etc.) Service Charges and Fees, Advertisement Tax, Land Revenue Tax
5.	Royalty Collected from Natural Resources
6.	Management of Local Services
7.	Statistics and Documentation of Local level
8.	Development Projects and Other Projects of the Local Level
9.	Primary and Secondary Education
10.	Basic Health and Sanitation
11.	Local Market Management
12.	Local Roads/Village Roads/Agriculture Roads
13.	Local Court, Mediation and Reconciliation
14.	Citizenship, Passport Distribution and Record Keeping Management
15.	Distribution of the Land Ownership Certificate
16.	Agriculture and Animal Husbandry
17.	Management of Elderly People, Disabled, Women, Single Women, and Helpless People
18.	Data Collection of Unemployed People
19.	Management, Operation and Control of Agricultural Expansion
20.	Vital Registration Including Birth and Death

Schedule - 9
(Relating to Clause (7) of Article 72)

Jurisdiction of the Autonomous Areas Under Special Structure

S. No	Subjects/Issues
1.	Police
2.	Cooperatives
3.	Managemant, Operation of FM Radio and Telavision
4.	Primary, Secondary Education, Libraries and Archeology
5.	Health Services
6.	Autonomous Elected Council
7.	Property Tax, Tax on Profession, Home Land Registration Tax, Tax on Vehicle, Entertainment Tax, Tourism Service Fees, Land Revenue, Tax on Remuneration and Agriculture
8.	Royalty Collected from Natural Resources
9.	Roads
10.	Hydro Power, Irigation and Other Projects
11.	Citizenship/Passport Managemant
12.	Record Keeping of the Land/Home Land Ownership Certification
13.	Exploration and Management of Mine
14.	Protection of the Language, Culture and Religion
15.	Natural Resources and their Uses
16.	Agriculture, Livestock Development. Trade and Entrepreneurship
17.	Service Management
18.	Data Collection and Documentation
19.	Court
20.	Other Jurisdictions as Specified by the Provincial Government