

Constituent Assembly  
Committee on Determination of Forms of Governance of the State

The Preliminary Draft of the Constitution and the Explanatory Note

Translation from Nepali to English by International IDEA in collaboration with the Nepal Law Society

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(Concept that secured 18 votes)

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**FEDERAL EXECUTIVE**

S. No.	Subject matter	The text proposed in the constitution	Part of the constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the constitution
1.	Exercise of the Federal Executive Powers	<p>(1) Subject to this Constitution and other laws, the federal executive powers shall be vested in the President.</p> <p>(2) Subject to this Constitution and other laws, the President, shall in assistance with the council of ministers, direct control and operate the system of governance of Nepal</p> <p>(3) The Federal executive functions of Nepal shall be carried out in the name of Government of Nepal.</p> <p>(4) Subject to this Constitution, the federal executive powers of Nepal shall be confined to the matters referred to in the federal list and concurrent list referred to in schedule....</p> <p>(5) The decision or order to be made in the name of the Government of Nepal pursuant to sub-Article (3) and the letter of authority relating thereto shall be authenticated as provided for in the Constitution.</p>	Part relating to Federal Executive	<p>Since the President is directly elected from people, the constitutional provision of vesting the executive powers in President has been made. Despite of this, having regard to the possibility of the President being arbitrary, the responsibilities of the President have been divided as that of the Head of the State and that of the Head of the Government on the one hand and constitutional provision of following collective leadership system has been made on the other hand. The provision has been made that the President shall direct, control and operate the system of governance of Nepal in assistance with the council of ministers. The federal executive functions of Nepal shall be carried out in the name of the Government of Nepal. The executive powers have been divided having them confined in the federal list and concurrent list.</p>
2.	President	<p>(1) There shall be a President in Nepal.</p> <p>(2) The President shall be the Head of the State and Head of the Government in Nepal.</p> <p>(3) The President shall be the Supreme Commander-in-chief of the Nepali Army.</p> <p>(4) The President shall be the Symbol of Nepal's nationality</p>	Part relating to Federal Executive	<p>As the country is heading towards the system of federal democratic people's Republic, it is necessary to have the President as a Head of the State and Head of the Government and accordingly, such provision has been made. As an institute is necessary as a symbol of nationality</p>

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		<p>and unity of the Nepalese People.</p> <p>(5) The President shall, for the best interest and progress of Nepal and the Nepalese people, protect and observe this Constitution.</p> <p>(6) The President shall, in the course of performance of his/her duties, be accountable to the Nepalese people, federal legislature and his/her party.</p>		<p>and unity of Nepali people, the provision of President has been made. Similarly, as the President is also the Supreme Commander in-chief of the Nepali Army and the highest office in the country, it is thought appropriate to entrust him/her with the responsibility of protection of the Constitution and duties to observe it for the best interest of Nepal and Nepali people. Since there is the possibility that the President may be arbitrary if he/she is not made accountable to any one for the functions he/she has carried out, thus, provision has been made to make him/her accountable towards Nepali people, federal legislature and his/her party.</p>
3.	Election of President	<p>(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 twice.</p> <p>(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.</p> <p>(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.</p> <p>(4) The second round voting shall be conducted within 15 days of completion of the first counting of votes.</p>	Part relating to Federal Executive	<p>If the person enjoying the highest executive post of the country is elected from direct election by people, he/she would be accountable towards people. Thus, the provision of election on the basis of adult suffrage has been made. In case any candidate could not secure complete majority in such an election, second phase of election shall be held among the two candidates securing highest number of votes within fifteen days of the first election having used a two-phase election system.</p> <p>If the first past the post election system is applied for the election of the President, the candidate elected on the basis of percentage of secured vote may have fewer votes than other candidates and it may invite an evil that the person having secured minority of votes enjoys the highest executive post. Thus, though it is some more expensive system, we have thought the two-phase election system as the appropriate alternate. As it</p>

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		<p>(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 <i>ipso facto</i> be vacant.</p> <p>(6) Except as referred to in this Constitution, other provisions relating to election of the President shall be as provided for in an Act.</p>		<p>would not be appropriate to provide for all provisions relating to election of the President in the Constitution, other provisions relating to it would be made in an Act.</p> <p>Similarly, having examined the practice of various countries, the term of office of the President is from four to seven years. Such term of office must not be too short and too long. Hence, we have proposed such term as five years.</p>
4.	Powers and Functions of the President	<p>(1) The President shall carry out the following functions as in the capacity of the Head of the State:-</p> <p>(a) To approve Bills;</p> <p>(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.</p> <p>(c) To confer honors, decoration, medals and prizes to be conferred on behalf of the state;</p> <p>(d) To accept the credential from the foreign ambassadors and diplomatic representatives.</p> <p>(2) While carrying out the following functions, the President shall cause them to be done through the Council of Ministers:-</p> <p>(a) Conducting daily administration of the country</p> <p>(b) To allocate portfolio of ministers and to frame Performance of Business Rules and directives;</p> <p>(c) To maintain peace, securing and order relating to day to day administration;</p> <p>(d) To appoint and nominate officials for conducting daily administration;</p> <p>(e) Mobilization of army, declaration of war and peace, declaration of the state of emergency;</p> <p>(f) To introduce policies, plans, programs and budget in the legislature;</p>	Part relating to Federal Executive	<p>The functions of President have been divided into three categories. The President may carryout as in the capacity of the Head of the State, the functions to be carried out through decisions of the council of ministers and functions to be approved by the legislature.</p> <p>According to it, the functions of approving the Bills, granting a pardon, suspension, respite or remit punishment or fine imposed according to decisions of various judicial, quasi-judicial, administrative bodies or authorities; conferring honors, decoration, medals and prizes to be conferred on behalf of the state; accepting the credential from the foreign ambassadors and diplomatic representatives have been categorized in the first category. Similarly the functions requiring decision of council of ministers include conducting daily administration of the country, allocating portfolio of ministers, framing conduct of business rules and directives, monitoring peace and order and conducting daily administration; appointing and nominating officials, mobilizing army, declaring war and peace, declaring the state of emergency, introducing policies, plans, programs and budget to legislature, issuing</p>



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		(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.		ordinance, and managing and coping with the problems to be faced in conducting business of the government. The functions requiring approval of legislature include appointment of officials and members to use executive powers of each body of the state; appointment of ambassadors, special representative, chief justice and justices, and Governor; extending foreign relation and entering into treaty and Agreements on behalf of the County; approving annual policies, plans, programs and budget; and requiring emergency program and budget.
5.	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 nationality, region and 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.	Part relating to Federal Executive	The provision has been made because if the person proposed by the President is declared the Vice President instead of voting separately for Vice President by the voters, there may be better coordination between the two high officials.
6.	Qualifications of the President and Vice President	<u>Qualifications of President and Vice President:</u> 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.	Part relating to Federal Executive	Since it would be appropriate to mention in the Constitution qualifications of the persons assuming the high offices of President and Vice President, the provisions have been made relating thereto.
7.	Circumstances in which the President to be relieved from	(1) The President shall be relieved of the office in the following circumstances:- (a) In case one dies, (b) In case the term of office expires,	Part relating to Federal Executive	To relieve the President from the Office in case the term expires, he/she tenders resignation and he/she dies are general provision. In addition, the voters who have elected or amongst the total

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	Office	<p>(c) In case one tenders resignation,  (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.</p> <p>(2) In case the President is relieved from the office pursuant to sub-Article (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.</p> <p>(3) In case the President is relieved from the Office pursuant to sub-Article (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.</p>		<p>voters at least ten percent of the voters of each province may propose to recall the President and accordingly, the provision of recall has been made in the Constitution. Since party discipline is also equally important in a party system, the provision of recall has been made enabling the party from which the President has been elected to recall him/her. This makes the representative of people directly responsible and to contain them in the party discipline. Similarly, relieving the President from office through the process of impeachment from legislature on the charge of incompetence owing to misconduct or gross violation of the Constitution is one of the international practices and requires to be made in the Constitution, thus, such provision has been made.</p> <p>In case the President is relieved from the office, the provision is made that the election for the next President is to be held or the Vice President has to carry out the functions of the President for the remaining period. According to this provision, in case the office of the President falls vacant prior to expiry of the term of three years and six months, the Vice President has to declare the date of election for the new President and in case the office of the President falls vacant after expiry of the said period, the Vice President has to assume the office of the President for the remaining period.</p>
8.	Provisions concerning Recall	(1) At least two third majority of the central executive body of the political party from which the President has been elected may introduce a motion to the Legislature having decided to recall him/her from the office.	Part relating to Federal Executive	The provision as to recall is the more democratic system in order to make an elected official accountable towards the voters that elect him/her with recognition of the concept that

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		<p>(2) 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.</p> <p>(3) The Election Commission shall complete an inquiry as to the motion submitted pursuant to sub-Article (2) 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.</p> <p>(4) In case the motion submitted pursuant to sub-Articles (1) and (3) 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.</p>		<p>who elect must have power to recall. If ten percent of the total voters feel the need of recalling the President, they collect the signatures and initiate this process. Moreover, provision has been made that the party from which he/she has been elated may also take initiatives to recall him/her. However, the power to take final decision as to the recall is conferred on the legislature, a representative body of the people.</p>
9.	Circumstances in which the Vice President to be relieved from Office	<p>(1) The vice President shall be relieved from the office in the following circumstances:-</p> <p>(a) In case one dies,</p> <p>(b) In case the term of office expires,</p> <p>(c) In case one tenders written resignation,</p> <p>(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.</p> <p>(e) In case a resolution introduced to the Legislature by at least two third majority of the central executive body of the political party from which the Vice President has been elected having decided to recall him/her from the office is passed</p>	Part relating to Federal Executive	<p>This provision has been made as it is necessary to provide for the circumstances in which the office of the Vice President falls vacant. As there is no provision of direct voting for the Vice President by the voters, the provision of recall by people is not made with regard to the Vice President. Except this, other provisions are similarly to that of the President.</p>

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		by the two third majority of the total number of members of the legislature.		
10.	Oath of Office	<p>(1) The President shall take an oath of office and secrecy before the chairperson of the Legislature in the format referred to in schedule.....</p> <p>(2) The Vice President shall take an oath of Office and secrecy before the President in the format referred to in schedule.....</p> <p>(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 <i>ipso facto</i> be deemed to be inactive.</p>	Part relating to Federal Executive	As an elected President and Vice President has to taken an oath of office and secrecy prior to assume their respective offices, such provision of oath taking has been made. In case an elected President or Vice President does not take the oath of office, there may appear constitutional crisis. Thus, provision has been made in the Constitution that if the oath is not taken within specific time duration, the office shall be inactive and the new election has to be held.
11.	Remuneration and other benefits	The remuneration and other benefits of the President and Vice President shall be as specified by an Act, and until such an Act is enacted, it shall be as specified by Government of Nepal.	Part relating to Federal Executive	This provision has been made as it seems appropriate to determine the remuneration and other benefits of the President and Vice President by an Act.
12.	Formation of the Council of Ministers	<p>(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 then five percent of the total number of members of the federal legislature.</p> <p>(2) The President shall, while appointing ministers pursuant to sub-Article (1), consult with the parliamentary leader of the concerned Party.</p>	Part relating to Federal Executive	The system that only those whoever with the election has access to power based on the principle of “winner takes all” has possibility of creating an atmosphere of competitive politics rather than politics of consensus. Except the person and parties on government, all other power centers try to render it unsuccessful. This practice results in unhealthy competition in politics and the country all the time remains in the state of confrontation and the country does not move forward towards progress. Therefore, having regard to the present condition of the country, observance of the system of governance on consensus is through to be necessary and it is also necessary for this to form the Council of Ministers having proportional representation of the political parties having representation in the legislature.

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13.	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.	Part relating to Federal Executive	Since a country like ours could not bear very large size of executive, it is thought to be appropriate to specify in the Constitution the maximum number of members in the Council of Ministers.
14.	Circumstances in which a Minister to be relieved from Office	<p>(1) In any of the following circumstances any minister may be relieved from the office:-</p> <p>(a) In case he/she dies,</p> <p>(b) In case he/she tenders written resignation to the President,</p> <p>(c) In case he/she is no longer a member of federal legislature,</p> <p>(d) In case the concerned party recalls</p> <p>(e) In case a motion submitted by the President that a minister be relieved from the Office is approved by majority of legislature;</p> <p>(f) In case a no-confidence motion moved by one fourth of the total members of the legislature is passed by the two third majority of the total number of members; or</p> <p>(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.</p> <p><u>Explanation:</u> For the purpose of this Article, "Minister" means state minister or an Assistant Minister as well.</p>	Part relating to Federal Executive	The provision of minister's relieving of office requires to be made in the constitution. Normally, except the office of a minister falling vacant on the death and resignation, provision has been made that the members of Legislative may remove a minister from office by passing a no-confidence motion. Similarly, in case the President deems it necessary to remove a minister, he/she may do so with the consent of the concerned party; if the party from which he/she has become the minister wants to recall him/her or in case the President wants any minister to be removed and makes a proposal to legislature and the legislature pass a resolution to that effect by majority, the minister is relieved from the office. This helps to make a minister accountable to the President, legislature and the concerned party as well. Similarly, a provision has been made that a person who is not a member of legislature could not become a minister and with this, if a minister is no longer a member of legislature, he/she <i>ipso facto</i> ceases to become a minister.
15.	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.	Part relating to Federal Executive	As the Council of Ministers has to be formed on the basis of consensus, this provision has been made so that President or the largest party may not have hegemony in the decision-making in the Council of Ministers. However, in cases where no consensus could be reached, provision has been made that the decision be taken on majority

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				basis.
16.	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.	Part relating to Federal Executive	In a democratic system, the question of accountability is raised significantly and it is necessary to make the ministers accountable to any official or body for acts performed in connection with discharge of their duties. Otherwise, he/she begins to act on his/her own discretion. Therefore, the provision has been made that the ministers should be accountable to the President and legislature for their departmental functions.
17.	Assistant Minister	The President may appoint Assistant ministers not exceeding the maximum number referred to in Article 13.	Part relating to Federal Executive	It is thought necessary to make provision of assistant minister as may be necessary in the Council of Ministers.
18.	Remuneration and other benefits	The remuneration and other benefits of ministers and assistant ministers shall be as specified by an Act, and until such an Act is enacted, it shall be as specified by Government of Nepal.	Part relating to Federal Executive	This provision has been made as it seems appropriate to determine the remuneration and other benefits of the ministers and assistant ministers by an Act.
19.	Oath of Office	Ministers and Assistant Ministers shall, prior to assume their offices, have to take an oath of office and secrecy before the President.	Part relating to Federal Executive	This provision has been made as it is widely recognized that a person appointed to a public office shall, prior to holding such an office, have to take an oath of office and secrecy.
20.	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) No question may be raised in any court with regard to whether or not the Rules referred to in sub-Article (1) are complied with.	Part relating to Federal Executive	It would be appropriate to confer powers on government to frame the rules concerning allocation or governmental business and conducting the business of the executive because such Rules are of executive nature and such matters of executive competence and prudence must not be made a matter of adjudication by judiciary. Thus, provision has been made that no question could be raised at court on such matters.

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**FEDERAL EXECUTIVE**

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1.	President	(1) There shall be a President in Nepal (2) The President shall be the Head of the State of the country and s/he shall carry out his/her functions in the same capacity in accordance with this Constitution and the prevailing laws. (3) The President shall be the supreme commander in chief of Nepali Army. (4) The President shall be the symbol of nationality of Nepal and unity of the Nepali People. To protect and observe the Constitution for the best interest and progress of Nepal and Nepali people shall be the main duty of the President.	Part relating to Federal Executive	Provision of a constitutional President has been made as the Head of the State of Nepal. The President is proposed to be the supreme commander in chief of the Nepali Army and a symbol of nationality of Nepal and unity of Nepali people. The duty of the President is to play the role of protector and observer of the Constitution for best interests and progress of Nepal and Nepali people.
2.	Election of President	(1) The election of the President shall be held from the electorate college comprising of all members of both Houses of the Federal legislature and provincial legislature on the basis of one person one vote as provided in the law. (2) The person securing majority of the total member at the time of election shall be elected to the office of the President. (3) In case any candidate could not secure the complete majority as referred to in sub-Article (1), the election of second phase shall be held between the two candidates having secured highest number of votes. (4) In the election of second phase, the candidate having secured more than 50 percent of the total valid votes shall be deemed to have been elected to the office of the President. Provided that in case there is an equal division of votes between the two candidates, the winning candidate shall be declared having drawn a lot. (5) Other procedures as to the election of the President shall	Part relating to Federal Executive	It would not be appropriate to hold a direct election of a constitutional President. Provision has been made that an electorate college comprising of the members of federal and provincial legislatures has to elect the President. For this election, majority election system shall be used and in case complete majority could not be acquired, provision of the second phase election has been made between the two candidates securing highest number of votes. In case of securing equal number of votes, the winning candidate shall be declared on the basis of drawing a lot. Since it is not relevant to stipulate all procedures relating to election of the President in the Constitution, it is provided that an Act has to be framed

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		be determined by an Act.		for this purpose.
3.	Term of the President	(1) The term of office of the President shall be of five years. Provided that no person has been elected to the office the President twice shall be eligible to become a candidate for the third time. (2) In case any person engaged in any political office to be fulfilled by election, nomination or appointment is elected to the office of the President; such office shall be <i>ipso facto</i> fallen vacant.	Part relating to Federal Executive	The provision has been made that the term of office of the President to be of five years and the person having been elected to the office of the President twice would not be eligible for being candidate of the same for third time. Such provision has been made taking in attention of the fact that the same influential person could not be elected to high office of the President of the country continuously. Similarly, the provision of falling vacant of the then office has been made once the person is elected to the office of the President taking into consideration of the fact that if the person assuming the highest office of President is allowed to be engaged in such other office subsequently, the dignity and decorum of the office of President could not be maintained.
4.	Qualifications of the President	Any person shall meet the following qualification in order to become the President:- (a) Qualified to become a member of the Federal Legislature (b) Having attained at least the age of 35 years.	Part relating to Federal Executive	It is thought necessary to mention in the Constitution the qualification of the President hence, this provision has been made.
5.	Circumstances in which the President to be relieved from Office	The President shall be relieved from the office in any of the following circumstances:- (a) If he/she tenders resignation to the Vice President; (b) If the motion of impeachment introduced by at least one third of the total members of the both houses of the Federal Legislature and of the Provincial legislatures on the charge that the President has committed a gross violation of the Constitution, is approved by the two third majority, (c) If he/she dies, or	Part relating to Federal Executive	It is thought to be appropriate to provide for in the Constitution about the circumstances in which the President is relieved from the office. According to this, the President is relieved from the office if he/she tenders resignation, dies, the term expires or a motion of impeachment is passed.



S. No.	Subject matter	The text proposed in the constitution	Part of the constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the constitution
		(d) If his/her term of the office expires.		
6.	Functions, duties and powers of the President	<p>(1) The functions, duties and powers of the President shall be as follows:-</p> <p>(a) To call and end a session of the federal legislature;</p> <p>(b) To grant approval to the Bills passed by the Federal Legislature;</p> <p>(c) To appoint to various officials as per the Constitution and laws;</p> <p>(d) To accept credentials from foreign ambassadors and diplomatic representatives;</p> <p>(e) To confer awards, decorations and medal on behalf of the country;</p> <p>(f) To grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence imposed by any judicial and quasi judicial or administrative bodies or officials of Nepal as per laws;</p> <p>(2) While exercising the powers vested in him in accordance with this Constitution and the laws in force, the President shall, normally, exercise the powers according to the advice and consent of the Council of Ministers. Such advice and consent shall be submitted through the Prime Minister.</p> <p>(3) Notwithstanding anything contained in sub-Article (2), no advice and consent of the Council of Ministers shall be required while carrying out the functions on the recommendation of any other body or official.</p> <p>(4) The decision or order to be made in the name of the President pursuant to sub-Article (1) and authentication of the letter of authority relating thereto shall be as provided for in the laws.</p>	Part relating to Federal Executive	Since the President of Nepal is proposed to be a constitutional President, he/shall carry out certain executive functions. However, except the functions to be carried out on the recommendation of any other official or body and an discretion of the President, which have been stated in the Constitution and the law, all other functions shall be carried out only on the advice and consent of the Council of Ministers which shall be submitted to President by the Prime Minister
7.	Oath of Office of President	<p>(1) The President shall take an oath of office and secrecy before the Chief Justice in the format referred to in schedule.....</p> <p>(2) In case the President does not take the oath of office and secrecy within thirty days of the election, the office of the President shall <i>ipso facto</i> be deemed to be inactive.</p>	Part relating to Federal Executive	The provision of taking an oath of office and secrecy prior to assuming the office by the President has been made as per the prevailing norms. In case an elected President does not take the oath of office, there may appear constitutional

S. No.	Subject matter	The text proposed in the constitution	Part of the constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the constitution
				crisis. Thus, provision has been made in the Constitution that if the oath is not taken within specific time duration, the office shall be inactive and the new election has to be held.
8.	Vice President	<p>(1) There shall be a Vice President in Nepal.</p> <p>(2) The Vice President shall, in absence of the President or until another President has been elected and assumed office following the President is relieved from the office in any manner other than expiry of the term of the office, carry out the functions of the President.</p> <p>(3) No election shall be held in a manner that the person belonging to the same sex shall be elected to the offices of the President and of the Vice President.</p> <p>(4) In case any person engaged in any political office to be fulfilled by election, nomination or appointment is elected to the office of the vice President; such office shall <i>ipso facto</i> fall vacant.</p>	Part relating to Federal Executive	The Office of the Vice President necessary to carry out the functions of the President in his/her absence or while the President is relieved from the office in any manner other than the term is expired and the next President has not commenced to work upon being elected to the office of the President. However, gender balance is tried to be made by providing that disallowing the person belonging to the same sex to become the President or Vice President. As in the case of President, in case of the Vice President also, the person elected to the office of the Vice President could not be eligible for any other office.
9.	Circumstances in which the Vice President to be relieved from Office	<p>The Vice President shall be relieved from the office in any of the following circumstances:-</p> <p>(a) If he/she tenders resignation to the President;</p> <p>(b) If the motion of impeachment introduced by at least one third of the total members of the both houses of the Federal Legislature and of the Provincial legislatures on the charge that the Vice President has committed a gross violation of the Constitution, is approved by the two third majority,</p> <p>(c) If he/she dies,</p>		Provision has been made that the Vice President shall be relieved from the Office on the same grounds as that of the President.
10.	Other provisions relating to VP	The provisions as to qualification, election process and the term of office of the Vice President shall be same as that of the President.	Part relating to Federal Executive	The provisions as to qualification, election process and the term of office of the Vice President have been proposed to be as the same as that of the President.

S. No.	Subject matter	The text proposed in the constitution	Part of the constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the constitution
11.	Oath of Office of Vice President	(1) The Vice President shall take an oath of office and secrecy before the President in the format referred to in schedule..... (2) In case the Vice President does not take the oath of office and secrecy within thirty days of the election, the office of the Vice President shall <i>ipso facto</i> be deemed to be inactive.	Part relating to Federal Executive	The provision of taking an oath of office and secrecy prior to assuming the office by the Vice President has been made as per the prevailing norms. In case an elected Vice President does not take the oath of office, there may appear constitutional crisis. Thus, provision has been made in the Constitution that if the oath is not taken within specific time duration, the office shall be inactive and the new election has to be held.
12.	Remuneration and other benefits of President and Vice President	The remuneration and other benefits of the President and Vice President shall be as specified by an Act, and until such an Act is enacted, it shall be as specified by Government of Nepal.	Part relating to Federal Executive	This provision has been made as it seems appropriate to determine the remuneration and other benefits of the President and Vice President by an Act.
13.	Office of President and Vice President	(1) There shall be established separate offices for assisting to the President and Vice President in their functioning. (2) Government of Nepal shall make provisions about employees and other management and functioning of the offices referred to in sub-Article (1).	Part relating to Federal Executive	The provision has been made that there will be established separate offices for the President and Vice President for assisting them in their functioning and that Government of Nepal has to make provisions about employees and other management and functioning of those offices.
14.	Executive Powers	(1) The executive powers of Nepal shall be vested in the President and Council of Ministers as per this Constitution and other laws. (2) Subject to this Constitution and other laws, the responsibility to issue general directives, control and operate the general administration of Nepal shall lie in the Council of Ministers. (3) Except the function to be carried out in the name of the President under this Constitution and other laws, all other federal executive functions shall be carried out in the name of Government of Nepal. (4) Subject to this Constitution, the federal executive powers	Part relating to Federal Executive	Since the President has been placed as a constitutional Head of the State, provisions have been made that federal executive powers of Nepal shall be vested in the President and Council of Ministers. Provisions have been made that except the functions to be carried out in the name of the President, all other functions have to be carried out in the name of Government of Nepal and responsibility of general directives, control and conduct the system of

S. No.	Subject matter	The text proposed in the constitution	Part of the constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the constitution
		<p>of Nepal shall be confined to the matters referred to in the federal list and concurrent list referred to in schedule....</p> <p>(5) The decision or order to be made in the name of the Government of Nepal pursuant to sub-Article (3) and the letter of authority relating thereto shall be authenticated as provided for in the Constitution.</p>		<p>governance of the country will be vested in the Council of Ministers. The federal powers have been divided confining them as matters contained in federal list and concurrent list.</p>
15.	Formation of Council of Ministers	<p>(1) The President shall appoint the leader of the parliamentary party having secured majority in the lower House of the legislature to the Office of the Prime Minister and form the Council of Ministers in the chairpersonship of the Prime Minister.</p> <p>(2) There shall be Deputy Prime Minister and other ministers in the Council of Ministers as may be necessary.</p> <p><u>Explanation:</u> For the purpose of this Article, "Minister" means also the state Minister having separate portfolio.</p> <p>(3) The President shall, on the recommendation of the Prime Minister, appoint Deputy Prime Minister and other ministers from amongst the members of the legislature as per the principle of proportional inclusion.</p> <p>(4) The Prime Minister and other ministers shall be collectively accountable to the legislature and the ministers shall be personally accountable to the Prime Minister and legislature on matters relating to functions of their respective ministries.</p> <p>(5) The Prime Minister shall be relieved of the Office in any of the following circumstances:</p> <p>(a) in case he/she submits written resignation to the President;</p> <p>(b) In case a no-confidence motion is passed against him/her pursuant to Article..</p> <p>(c) in case he/she ceases to become a member of the lower House of the legislature; or</p> <p>(d) In case he/she dies.</p> <p>(6) Deputy Prime Minister or other Minister shall be relieved of his/her office in any of the following circumstances: -</p> <p>(a) In case he/she submits written resignation to the</p>	Part relating to Federal Executive	<p>Since the Constitution mainly follows the Parliamentary system of governance, the provision to appoint the Prime Minister the leader of the Parliamentary Party having secured majority in the lower house of Legislature has been made. Similarly, the provision of appointing Deputy Prime Minister and ministers from amongst the members of the Legislature and the Prime Minister and ministers to be accountable to the Legislature has been made.</p> <p>In the same manner, the provision has been made that the Prime Minister continues to remain in the office so long as there is support of the legislature and that the Prime Minister and Ministers would remain in the Office so long as the Prime Minister desires them to be there. Provision has also been made that if the Prime Minister is relieved from office, the Council of Ministers will be dissolved and until the next Council of Ministers is formed, the same Council of Ministers will continue functioning but if the Prime Minister dies, the Deputy Prime Minister or the senior most Minister has to bear the responsibilities the Prime Minister until the next Council of Ministers is formed.</p>

S. No.	Subject matter	The text proposed in the constitution	Part of the constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the constitution
		<p>Prime Minister;</p> <p>(b) In case the Prime Minister removes him/her from office</p> <p>(c) In case the Prime Minister is relieved of the Office pursuant to sub-Article (5)</p> <p>(d) In case the he/she dies.</p> <p>(7) Though the Prime Minister is relieved of the Office pursuant to sub-Article (5) the same Council of Ministers shall continue to function until the next Council of Ministers is formed.</p> <p>Provided that in case the Prime Minister dies, the Deputy Prime Minister or a senior most Minister shall act as the Prime Minister until a new Prime Minister is elected.</p>		
16.	State and Assistant Ministers	<p>(1) The Prime Minister may appoint the state Ministers from amongst the members of the legislature as per the principle of proportional inclusion.</p> <p>(2) The Prime Minister may appoint the Assistant Ministers from amongst the members of the legislature as per the principle of proportional inclusion in order to assist the Minister to carry out functions under his/her portfolio.</p> <p>(3) The number of the State ministers and Assistant Ministers to be appointed pursuant to sub-Article (1) or (2) shall not exceed to the number referred to in Article 18.</p>	Part relating to Federal Executive	The provision has been made that the Prime Minister may appoint the state ministers and Assistant ministers as may be necessary on the basis of the principle of proportional inclusion.
17.	Person may become Minister without being a member of legislature	<p>(1) Notwithstanding anything contained in Articles 13 and 16, the Prime Minister may appoint any person not being a member of the legislature as a Minister, a state Minister or an Assistant Minister.</p> <p>Provided that such Minister, State Minister or Assistant Minister shall, within six months from the date of administering the oath of office, obtain a membership of the legislature. In case such person could not obtain membership of the legislature, he/she shall not be eligible to be re-appointed to the office of Minister for the term of the lower House of the legislature.</p> <p>(2) No person who defeated in the latest election to the Federal Legislature shall be appointed to the office of</p>	Part relating to Federal Executive	Normally, in a parliamentary system, the Prime Minister appoints ministers from amongst the members of parliament. However, if it is felt necessary to appoint as a Minister a person not being a member of the legislature, the power to appoint such person has been given to the Prime Minister. However, such minister shall, within six months from the date of administering the oath of office, become a member of the legislature. In case such person could not obtain membership of the legislature,

S. No.	Subject matter	The text proposed in the constitution	Part of the constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the constitution
		Minister, State Minister or Assistant Minister.		he/she shall not be delegable to be appointed to the office of administer for the duration of the lower House of the legislature.
18.	Maximum number of members of Council of Ministers	Notwithstanding anything contained elsewhere in this constitution, the Prime Minister shall appoint ministers in the number not exceeding 25 persons in the Council of Ministers.	Part relating to Federal Executive	Since a country like ours could not bear very large size of executive, it is thought to be appropriate to specify in the Constitution the maximum number of members in the Council of Ministers.
19.	Remuneration and other benefits	The remuneration and other benefits of the Prime Minister, Deputy Prime Minister, ministers and assistant ministers shall be as specified by an Act. ?? until such an Act is enacted, it shall be as specified by Government of Nepal.	Part relating to Federal Executive	This provision has been made as it seems appropriate to determine the remuneration and other benefits of the Prime Minister, Deputy Prime Minister, ministers and assistant ministers by an Act made by legislature.
20.	Oath of Office	The Prime Minister shall have to take an oath of office and secrecy before the President; and the Deputy Prime Minister, Ministers and Assistant Ministers shall, have to take an oath of office and secrecy before the Prime Minister.		This provision has been made as it is widely recognized that a person appointed to a public office shall, prior to holding such an office, have to take an oath of office and secrecy.
21.	Conduct of Business of Government of Nepal	(1) The allocation of the business and conduct of business of Government of Nepal shall be according to the rules approved by Government of Nepal. (2) No question shall be raised in any court with regard to whether or not the Rules referred to in sub-Article (1) are complied with.	Part relating to Federal Executive	It would be appropriate to confer powers on government to frame the rules concerning allocation of governmental business and conducting the business of the executive because such Rules are of executive nature and such matters of executive competence and prudence must not be made a matter of adjudication by judiciary. Thus, provision has been made that no question could be raised at court on such matters.
22.	Provision relating to No confidence motion	(1) In case a no-confidence motion moved by one fourth of the total members of the lower house of the legislature stating that they have no confidence in the Prime Minister is passed by the majority of the total number of members of		Having regard to experience we have had about instability in the government in the past while practicing the parliamentary system of governance, a

S. No.	Subject matter	The text proposed in the constitution	Part of the constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the constitution
		<p>the house, the Prime Minister shall be relieved from the office.</p> <p>(2) Such motion of no confidence shall not be introduced until completion of one year of the appointment of the Prime Minister, and the no confidence motion once defeated shall not be introduced again within one year of such defeat.</p> <p>(3) The no confidence motion which is introduced under this Article shall include the name of Prime Minister who is proposed to chair the Council of Minister after passing of such motion.</p>		<p>distinct provision has been made with regard to the no confidence motion. Though a Prime Minister may remain in the office so long as there is support from the house, however, the frequent introduction of the no confidence motion may invite a risk of instability in the system of governance. In order to avoid such risks, the provision has been made that a motion of no confidence shall not be introduced until completion of one year after the appointment of the Prime Minister and the no confidence motion once defeated shall not be introduced again within one year.</p> <p>Similarly, provision has also been made that the name of the Prime Minister going to be appointed to chair the Council of Ministers to be formed later on in case the Prime Minister is relieved from the office following the passing of the no confidence motion introduced under this Article shall have to be proposed. It is expected that this provision would motivate the member of legislature to play constructive roles of opposition rather than being engaged in the game of changing the government time and again.</p>
23.	Special provisions as to appointment of Prime Minister	<p>(1) In case any party could not secure complete majority in the lower house of the federal legislature, the President shall appoint the member who acquires confidence of majority of the members of the lower house of the federal legislature from the support of two or more parties.</p> <p>(2) In case no member could acquire confidence of majority of</p>		<p>Since it is necessary to mention about the various options for formation of government in the event where no party could have secured majority in the lower house of the federal legislature, this provision has been made. In case no</p>

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		<p>the members of the lower house of the federal legislature from the support of two or more parties pursuant to sub-Article (1) , the President shall appoint the leader of the parliamentary board of the party having secured highest number of seats in the house.</p> <p>(3) The Prime Minister appointed pursuant to sub-Article (1) or (2) shall have to win the vote of confidence from the lower house of the federal legislature within thirty days of his/her appointment.</p> <p>(4) In case the Prime Minister appointed pursuant to sub-Article (2) fails to win the vote of confidence as referred to in sub-Article (3), the President shall dissolve the lower house of the federal legislature and declare the date for a fresh election to be held within six months.</p>		<p>party could secure majority in the house, government by a coalition of two or more parties may be formed and in case such government also could not be formed, the leader of the parliamentary party of the party having secured highest number of seats in the house has to be appointed as the Prime Minister. However, the Prime Minister to be appointed in such a manner has to win the vote of confidence of the house. Since it is useless to continue a house that fails to form a government even in such manner, it is provided that in that event that the President has to dissolve the lower house of the federal legislature and declare the date for a fresh election to be held within six months.</p>
24.	Information to be furnished to President and President may give suggestions	<p>(1) The Prime Minister shall furnish information to the President on the following matters:-</p> <p>(a) Decisions of the Council of Ministers as to the general administration of Nepal;</p> <p>(b) The Bills to be introduced in the legislature;</p> <p>(c) Other matter on which the President has asked for replies relating to the matters referred to in clauses (a) and (b);</p> <p>(d) The contemporary situation of the country, and matters relating to peace and security, and the matters relating to political, financial, social, administrative and foreign affairs;</p> <p>(2) The President may give advice and encouragement on the matters of national importance.</p>		<p>The provision has been made that the Prime Minister has to furnish information to the constitutional President on the matters relating to system of governance including the decisions of the Council of Ministers, the Bills to be introduced in the legislature; and the contemporary situation of the country, and matters relating to peace and security, and the matters relating to political, financial, social, administrative and foreign affairs. It is expected that it would be instrumental in maintaining coordination between the head of the government and the head of the state. Provision has also been made that the President may give suggestions and encouragement on</p>



S. No.	Subject matter	The text proposed in the constitution	Part of the constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the constitution
				the matters of national importance as may be necessary.

**The preliminary draft of the Constitution and the explanatory note**

**The preliminary draft of the Constitution prepared based on the concept securing three votes in a meeting of the committee**

Under this formulation, as the major differences with the first draft are concerning the election of the president, the executive powers and formation of the council of ministers and separate provisions have to be made on those subjects only, therefore, the subjects for which separate provisions have to be made are stated in this part.

**FEDERAL EXECUTIVE**

S. No.	Subject matter	The text proposed in the Constitution	Part of the Constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the Constitution
1.	President	(1) There shall be a President in Nepal. The President shall be both the Head of the State and Head of the Government. (2) The President shall be the supreme commander in Chief of Nepali Army. (3) The President shall be the symbol of nationality of Nepal and unity of the Nepali People. (4) The President shall protect and observe the Constitution for the best interest and progress of Nepal and Nepali people.	Part relating to Federal Executive	It would be appropriate to make the President the Head of the State and Head of the Government of Nepal. By this, there would be no possibility of existence of dual power centers. The President is the supreme commander in Chief of the Nepali Army and a symbol of nationality of Nepal and unity of Nepali people. The President will play the role of protector and observer of the Constitution for best interests and progress of Nepal and Nepali people.
2.	The powers and functions of the President	Subject to this Constitution and the laws, the President shall carry out the following functions as in the capacity of the Head of the State and Head of the Government: (a) To grant approval on Bill or to return the Bills to the Legislature for review; (b) To summon and prorogate sessions of both houses of Legislature; (c) To appoint various officials as per the Constitution and laws; (d) To declare national referendum as per the Constitution and laws; (e) To accept credentials of the foreign ambassadors and diplomatic representatives; (f) To appoint Nepali ambassadors and diplomatic representatives;	Part relating to Federal Executive	As it is felt necessary to state in the Constitution the functions to be carried out by the President as the Head of the State and Head of the Government, thus, there functions have been stated in the Constitution.

S. No.	Subject matter	The text proposed in the Constitution	Part of the Constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the Constitution
		<p>(g) To grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence imposed by any judicial and quasi judicial or administrative bodies or officials of Nepal as per laws; and</p> <p>(h) To confer awards, decorations and medal on behalf of the country;</p>		
3.	Election of the President	<p>(1) After every election or in the case where the office of the President falls vacant, two third majority of the total members of the lower house of the federal legislature shall elect the President within 30 days of the date of the general election or the date of the office falling vacant.</p> <p>(2) In case any candidate fails to secure two third majority, the second phase of the election shall be held between the two candidates having secured highest numbers of votes.</p> <p>(3) In case any candidate fails to secure the two third majority in the second phase of the voting, the candidate securing highest number of votes shall be deemed to be elected as the President.</p> <p>(4) The President getting elected to the office pursuant to sub-Article (3) shall form Council of Ministers in proportion to the seats won by the parties in the lower house of legislature and shall declare the date of general election to be held within six months. 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 lower house of the legislature.</p> <p>(5) The person elected as President twice shall not be eligible to be a candidate of the President for the next term.</p> <p>(6) 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 <i>ipso facto</i> be vacant and he/she shall not be a member of any political party anymore.</p> <p>(7) Other procedures concerning the election of the President shall be as specified by the House.</p>	Part relating to Federal Executive	The provision has been made as it is appropriate to hold the election of the President, who is both the Head of the State and Head of the Government, from the lower house of the legislature. As the President is an executive President, the provision has been made that he/she must secure a two third majority of the lower house of the legislature. In case any candidate fails to secure two third majority, the candidate securing the highest number of votes will be the President and such President shall form Council of Ministers in proportion to the seats won by the parties in the lower house of legislature and shall declare the date of general election to be held within six months. The provision has been made that the person elected as President twice shall not be eligible to be a candidate of the President for the next term. The concerned house will set other procedures as to the election of the President.

S. No.	Subject matter	The text proposed in the Constitution	Part of the Constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the Constitution
4.	Executive Powers	<p>(1) Subject to this Constitution and other laws, the executive powers shall be vested in the President.</p> <p>(2) Subject to this Constitution and other laws, the President shall, in assistance with the council of ministers, direct control and operate the governance of Nepal</p> <p>(3) The Federal executive functions of Nepal shall be carried out in the name of Government of Nepal.</p> <p>(4) Subject to this Constitution, the federal executive powers of Nepal shall be confined to the matters referred to in the federal list and concurrent list referred to in schedule....</p> <p>(5) The decision or order to be made in the name of the Government of Nepal pursuant to sub-Article (3) and the letter of authority relating thereto shall be authenticated as provided for in the Constitution.</p>	Part relating to Federal Executive	Since the President is both the Head of the State and the Head of the Government, the executive power of the federal Nepal is vested in the President. The provision has been made that the President shall direct, control and operate the system of governance of Nepal in assistance with the council of ministers. The federal executive functions of Nepal shall be carried out in the name of the Government of Nepal. The executive powers have been divided having them confined in the federal list and concurrent list.
5.	Formation of Council of Ministers	<p>(1) The Council of Ministers shall comprise of the President, Vice President, and other ministers. The President shall chair the Council of Ministers.</p> <p>(2) The President shall appoint the Vice President and other ministers from amongst the members of the legislature and allocate the portfolio as well. Provided that the number of the members in the Council of Ministers shall not be more than 15 percent of the total members of the federal legislature.</p> <p>(3) The Vice President and ministers shall remain in the office until the duration as wished by the President.</p> <p>(4) In case the lower house of the legislature passes any motion of no confidence against any minister pursuant to Article....., the President shall remove such minister from the office.</p>	Part relating to Federal Executive	The provision has been made that the Council of Ministers shall comprise of the President, Vice President, and other ministers and that the President shall chair the Council of Ministers. The President has the power to appoint the Vice president and other ministers from amongst the members of the legislature and allocate the portfolio as well. The Vice President and ministers shall remain in the office until the duration as wished by the President. The President has to remove the minister against whom the lower house of the legislature passes a motion of no confidence.
6.	Circumstances in which the President to be relieved from Office	<p>The President shall be relieved from the office in any of the following circumstances:-</p> <p>(a) If he/she tenders written resignation;</p> <p>(b) If he/she dies, or</p> <p>(c) If the motion of impeachment on the charge that the President has committed a gross violation of the Constitution, is approved by the two third majority of the</p>	Part relating to Federal Executive	The provision has been made that the President may be removed from the office having passed a motion of impeachment on the grounds of gross violation of the Constitution, misconduct and incompetence to discharge the functions of the President. In addition he/she shall be relieved of the office

S. No.	Subject matter	The text proposed in the Constitution	Part of the Constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the Constitution
		lower house of the legislature.		in case of resignation from the office or death.
7.	Motion of no confidence	<p>(1) In case the majority of the total members of the lower house of the legislature pass a no confidence motion against the Council of Ministers or any particular member thereof, the President shall reshuffle the Council of Ministers.</p> <p>(2) In case the majority of the total members of the lower house of the legislature pass a no confidence motion against the President, the President, Vice President and ministers shall have to tender resignation from their respective office. Provided that a motion of no confidence shall not be introduced against the Council of Ministers or the President within one year of the failure of such no confidence motion.</p>	Part relating to Federal Executive	The provision has been made that in case the majority of the total members of the lower house of the legislature pass a no confidence motion against the Council of Ministers or any particular member thereof, the President has to reshuffle the Council of Ministers. This helps to maintain the President as it is and to make the Council of Ministers of the President accountable to the legislature. But if the President loses confidence of the house, a no confidence motion may be passed against him/her as well and in such event, all members of his/her Council of Ministers have to tender resignation.
<b>The Provincial Executive</b>				
1.	Use of Provincial executive powers	<p>(1) Subject to this Constitution and the laws, the executive powers of each provinces 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.</p> <p>(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.</p> <p>(3) The executive functions of the Province shall be carried out in the name of the Provincial Government.</p> <p>(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</p>	Part relating to Provincial Executive	In a situation where the country has moved towards federalism, the executive powers also need to be divided accordingly. Thus, exercising the Provincial executive powers on the matters provided in the lists determined by the Constitution has been entrusted to the Provincial Council of Ministers. However, in some exceptional situations, emergency may be declared or the central rule may be imposed in a Province and the Provincial government may also be dissolved in such situation, the provision has been made that in such situation, the Provincial Chief has to exercise the executive powers of the Province. Similarly, while exercising the powers on the matters referred to in the concurrent list, it shall be exercised having

S. No.	Subject matter	The text proposed in the Constitution	Part of the Constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the Constitution
		<p>referred to in the concurrent list, it shall be exercised having coordination with the federal government.</p> <p>(5) The decision or order to be made in the name of the Provincial Government pursuant to sub-Article (3) and the letter of authority relating thereto shall be authenticated as provided for in the Constitution.</p>		<p>coordination with the federal government. It has also been provided that the decision or order to be made in the name of the Provincial Government and it shall be responsible to direct control and operate the system of governance of the Province.</p>
2.	Provision relating to Provincial Chief	<p>(1) There shall be a Provincial Chief in each Province as a representative of the central government.</p> <p>(2) The President shall appoint the Provincial Chief of the Province having consultation with the 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.</p> <p>(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 fit.</p> <p>(4) No person shall be appointed as Provincial Chief for more than two consecutive terms.</p>	Part relating to Provincial Executive	<p>When the country enters into a federal setup, the Provincial executive exercises the executive powers of the Province. However, in order to have coordination with the federal government and to act as the representative of the federal government at the time of emergency as there would be no Provincial government in place, the provision of Provincial Chief has been made. Provision has also been made that the President has to consult with the Chief Minister of the concerned Province while appointing the Provincial Chief so that there could be better understanding and functional easiness to the Chief Minister. But this requirement shall not be necessary for the first time as there would be no Chief Minister elected at the time when the Provincial Chief is appointed for the first time after promulgation of this constitution. Provision has been made that the term of the office of the Provincial Chief will be of five years but the President may relive him/her earlier if he/she so deems. In such manner, the Provincial Chief has been made as a real representative of the federal executive. No person shall be appointed as Provincial Chief for more than two consecutive times.</p>
3.	Qualifications of a	Any person having met the following qualifications may be appointed as the Provincial Chief:-	Part relating to Provincial	It is thought necessary to mention in the Constitution the qualification of the Provincial

S. No.	Subject matter	The text proposed in the Constitution	Part of the Constitution where it has to be provided with	Reasons or explanatory note for the proposed provision to be made in the Constitution
	Provincial Chief	(a) Having attained the age of 35 years. (b) Qualified to become a member of the Federal Legislature	Executive	Chief, hence, this provision has been made.
4.	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.	Part relating to Provincial Executive	The provision has been made that Provincial Chief shall be relieved from the office in cases he/she tenders resignation and is approved by the President or the President removes him/her or he/she dies. It is also provided that 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.
5.	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 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 sub-Article (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.	Part relating to Provincial Executive	Generally, the Provincial Chief does not exercise the executive powers. However, in some situations, provisions have been made that some executive functions may be carried out in his/her name. It is provided that while exercising powers under this Constitution and the laws in force, the Provincial Chief has to exercise the powers on the advice and consent of the Provincial Council of Ministers and such consent or advice shall be submitted through the Chief Minister. Moreover, it is also provided that the advice or consent of the Provincial Council of Ministers shall not be required while exercising powers by the Provincial Chief on the recommendation of any other body or authority.

6.	Oath of office	Provincial Chief shall take the oath of office and designation before	In the part	As there is a custom of taking oath of office by
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	of Provincial Chief	the President as prescribed in Schedule.....	relating to Provincial Executive	the officials, the provincial chief has to take oath before the President.
7.	Formation of Provincial Council of Ministers	<p>(1) Chief Minister shall be appointed pursuant to Article 8 of the Constitution and provincial Council of Minister shall be formed under his chairmanship.</p> <p>(2) There shall be Deputy Chief Minister and other Ministers as per necessity.</p> <p><i>Explanation:</i> for the purpose of this Article, "Minister" means person including the state minister bearing the responsibility of the Ministry separately.</p> <p>(3) Notwithstanding any thing 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.</p> <p>(4) The Chief Minister has to appoint the ministers among the member of provincial legislature on the proportional inclusive basis.</p> <p>(5) The Chief Minister and the other minister shall be accountable collectively to the Provincial Legislature and the minister shall be accountable to Chief Minister and Provincial Legislature individually for their Ministry.</p> <p>(6) The Chief Minister shall be removed from his/her post in the following circumstances;</p> <p>(a) If he/ she dies,</p> <p>(b) If he/she resigns in written to Chief of the province,</p> <p>(c) If he/she ceases to be a member of provincial legislature,</p> <p>(d) If a resolution of vote of no confidence is passed by majority of total members of provincial legislature introduced by the ¼ member of total number of provincial legislature.</p> <p>(7) Deputy Ministers, Ministers and State Ministers shall be removed from the post in the following circumstances;</p> <p>(a) If he/she dies,</p> <p>(b) If he/she resigns in writing to Prime Minister,</p> <p>(c) If the Chief Minister is relinquished from his/her post as provided in sub-Article (6).</p> <p>(d) If Chief Minister has terminated him/her fro the post.</p>	In the part relating to Provincial Executive	<p>The provisions have been made to chair the council of Minster by the Chief Minister and the ministers have to be appointed on proportional and inclusive basis as to the necessity. Only the person who is the member of legislature to be Deputy Chief Minister and Minister and Chief Minister and Minister to be accountable to the legislature. Similarly maximum number has been determined to discourage the monopoly appointment of the ministers.</p> <p>The Chief Minister shall remain in his post unless vote of no confidence is passed. Deputy Chief Minister and Ministers shall be remaining in their post according to the will of the Prime Minister. In case the Chief Minister is relinquished, the Council of Ministers shall be dissolved and existing Council of Minister shall function unless the new cabinet is formed. In case of death of the Chief Minister, Deputy Chief Minister or senior most Minister shall take the office unless the new Chief Minister is appointed. Beside this, The Chief Minister, Ministers shall be relinquished from their post if they no more remain the member of legislature or they resign or they die.</p>



		(8) In case 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, Article 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.		
8.	Provision on the appointment of Chief Minister	(1) The Provincial Chief 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 majority in provincial legislature if there is no unanimous vote. (c) In case no party has obtained the majority in the provincial legislature, the member of provincial legislature elected with the support of two or more than two political parties. (2) If no one from the legislature is elected as a Chief Minister, the Provincial Chief shall appoint the leader of a largest party as a Chief Minister. Provided that, the Chief Minister so appointed should have to obtain vote of confidence of legislature within 30 days.	In the part relating to the Provincial Executive	It is necessary to have provisions on appointment of the Chief Minister. For this, consensus among all political parties shall be made. If it's not possible, Leader of a majority party in the legislature shall be appointed as a Chief Minister. In case Chief Minister could not be appointed as mentioned above any member who obtains the support from two or more parties in the legislature and if so becomes impossible the leader of the largest party in the legislature shall be elected as Chief Minister. But the Chief Minister so appointed has to obtain vote of confidence within 30 days.
9.	Minister of State and Assistant Minister	The Chief Minister may appoint State Ministers and Assistant Ministers as to the necessity not in contrary to the spirit of Article (3) and (4) of Article 7.	In the part relating to the Provincial Executive	The provision has been made that, the Chief Minister may appoint the state Ministers and Deputy Ministers as per the necessity among the members of Provincial legislature not exceeding the number prescribed in Article 7.
10.	Remunerations and other facilities	The remuneration of provincial chief, Chief Minister, Deputy Chief Minister, Minister, State Minister and Assistant Ministers shall be as determined by the law. Unless the remuneration is determined by the law, it will be as prescribed by the Government of Nepal.	In the part relating to the Provincial Executive	The provision has been made because the remuneration of the provincial chief, Chief Minister, Deputy Chief Minister, Minister, State Minister and Assistant Ministers is appropriate to be prescribed by an Act enacted by the legislature.
11.	Oath of office	The Chief Minister shall take oath of office before Provincial Chief, and Deputy Chief Minister, Ministers, State Ministers and Assistant Ministers shall take oath of office before the Chief Minister.	In the part relating to the Provincial Executive	This provision has been made because there is a practice to take oath of office by the Chief Minister, Deputy Chief Minister, Ministers, State Ministers and Assistant Ministers before taking responsibility.
12.	Functioning	(1) The work division and performance of Provincial Government	In the part	It's appropriate to rest the authority on council

	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 sub Article (1) is observed or not.	relating to the Provincial Executive	of Ministers to make the regulation on work division and performance and such regulations being the subject matter complete jurisdiction of executive is not appropriate to make it the subject matter of adjudication.
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#### LOCAL LEVEL EXECUTIVE

S.N.	Subject Matter	Proposed Provisions to be mentioned in the Constitution	Relevant Part of the Constitution	Rational behind the provisions and explanatory notes
1.	Exercise of Local Executive Power	(1) The executive power of each local government shall be vested on concerned executives of Local Governments under this constitution and other relevant Laws. (2) The executive of Local Government shall have the obligation to direct, control and conduct of local level governance according to this constitution and other laws. (3) Local executive functions shall be done on the name of Local Government. (4) Local executive power shall be limited to the subject matter described in local list in schedule ..... under this constitution. 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 certification of authority of decision made on the name of local government according to sub Article (3) shall be as Provided by law.	In the part relating to Local level Executive	As the country has been entering into federal structure it is appropriate to have allocation in the executive power accordingly, and executive power on the subject matter prescribed by the schedule of the constitution shall be vested on executive of local government. Similarly while exercising the executive power on the subject matter described in the common schedule the local government has to exercise the power in coordination of federal and provincial government .Local government generally has the obligation to control, direct or conduct local level governance, and such executive functions are performed on the name of Local Government. Therefore this provision has been made.
2.	Provision on executive chief and Deputy executive chief of local government	(1) A Chairperson shall be there in each local government as the executive chief. (2) A vice chair person shall be there to assist chairperson or to work in his absence. (3) The tenure of chair person and vice chair person shall be for five year. (4) A person who has become the chair person for two consecutive term shall not be eligible to be a candidate for third term.	Part relating to local executive	There is a provision to be executive chief and Deputy executive chief at local government, they will be at the Post until 5 years, the person who has been the chair person for two consecutive term shall not be eligible for third term.
3.	Provision relating to the election	(1) The election of chair person and vice person shall be based on first past the post system on the basis of adult practice by the .....of relevant constituency, as mentioned in the law.	Part relating to local executive	As the direct election o chair person supposed to be appropriate provisions an the election system has been made. According to which

S.N.	Subject Matter	Proposed Provisions to be mentioned in the Constitution	Relevant Part of the Constitution	Rational behind the provisions and explanatory notes
	of chairperson and vice chairperson	(2) Any political party which gives candidates for both of the post chair person and vice chair person has to give candidate from separate sex, caste or region.		there is a provision for the election of chair person by first past the post system from the voters of relevant constituency. Any political party or group if given candidate for both of the post it has to maintain caste, ethnicity, region and gender balance.
4.	Condition of relinquishing from the post of chairperson and vice chairperson	<p>(1) The chair person and vice chair person shall be removed from the post in following circumstances;</p> <p>(a) If he dies, or</p> <p>(b) If he resigns in written, or</p> <p>(c) If the term is over, or</p> <p>(d) If a motion of impeachment introduced by the 1/3 member of 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 indtroduced within one year of commencement of wok or in final year to complete the tenure or not posing one year of failure of motion of impeachment.</p> <p>(2) If the term of office of chair person is over pursuant to Sub-article (1), election of the chair person shall be conducted with in six months.</p> <p>(3) The vice chair person shall carry on the office of the chair person for the period when the position of chairperson falls vacant pursuant to Sub-Article (1) but election is not held or for the period when the position of chairperson is vacant only after completing 4 years of term.</p>		Except the case death and completion of tenure the provision is made that if the resolution of impeachment put by the 1/3 majority of local level legislative body at the time, passed by 2/3 majority chair person or vice chairperson shall be relinquished from the post. But such resolution of impeachment may not be initiated in first year election or one year before of termination of tenure similarly if resolution of impeachment is failed time and again the resolution may not be initiated these provision shall discourage the attitude making the government instable. Incase, the post of chairperson remain vacant, the provision either to held the next election or vice chairperson has to take office of the chairperson is made.
5.	Formation of executive body of local government	<p>(1) In each executive body of local government, the members including Chairperson and Vice-Chairperson will be in th number of 5 to11 in Metropolitan city, 5 to 9 in sub-Metropolitan city and Municipality or 5 to7 in village level. (2) The chairperson shall nominate the members from the political parties having representation at local level legislative body according to their seats on the basis of proportional inclusive principle and shall made the work division among members. Provided that, consultation shall be made with the leader in local level legislature body while making nomination of</p>	Part relating to local executive	The provision to have 5-11 members including chairperson and vice chairperson at the executive of local government has been made the provision is made that the chairperson has to nominate the members in ratio of the seats of political parties having representation in the legislative body of local level, according to the proportional inclusive principle. But while nominating members from other political parties consultation should be made with leader of that party of legislative body at

S.N.	Subject Matter	Proposed Provisions to be mentioned in the Constitution	Relevant Part of the Constitution	Rational behind the provisions and explanatory notes
		<p>member from other political parties.</p> <p>(3) The chairperson may reshuffle and reconstruct of executive body with the consensus of political parties participating in local government.</p>		<p>local level. Similarly the chairperson with consensus of other political parties participating in local government may reshuffle and reconstruct the executive organ in such way the chairperson has to work in coordination of other political parties.</p>
6.	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	Part relating to local executive	The provision for resting authority to make regulation for work division and performance at the government of concerned level. Promulgation of such regulation as the subject matter of Jurisdiction of executive of concerned level, this provision is made.
7.	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 Act made by the Federal legislature under this constitution.	Part relating to local executive	Except the provisions mentioned in this constitution, there will be an Act ..... for other necessary provisions and it will be appropriate to have provisions according that particular Act.

#### INTERRELATION BETWEEN THE GOVERNMENTS OF DIFFERENT LEVEL

1.	Mechanism for settlement of disputes between Federal and Provincial government	<p>(1) If Any dispute on exercise of executive power between Federal government and one or more provincial governments raised the President / Prime minister shall for the settlement of such dispute form a committee as follows:</p> <p>(a) Vice President / Deputy Prime minister or member of councils of ministers nominated by President/ Prime minister - Chair Person</p> <p>(b) Two among the Federal Council of ministers nominated by President / Prime ministers - Member</p> <p>(c) Chief ministers of concerned Provision relating to disputes Member</p> <p>(d) Attorney General - Member</p> <p>(2) The committee formed ..... to sub Article (1) shall settle the dispute an consensus basis.</p> <p>(3) If the dispute could not be settled as mentioned in sub Article</p>	Part relating Federal Executive	It's supposed to be appropriate to have the provision in the constitution to constitute a dispute settling mechanism by the President/ Prime Minister chaired by himself or Vice President / Deputy Prime minister or member of councils of ministers nominated by President / Prime minister comprising two among ministers of Federal Council of ministers nominated by President / Prime ministers and Chief ministers of concerned disputing Province and Attorney General if any dispute on exercise of executive power under this constitution between Federal government and one or more provincial governments is raised. Such committee as formed has to
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2.	Mechanism for settlement of disputes between Federal, Provincial and Local government	<p>(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/ Prime Minister shall form the committee as follows in order to resolve the such disputes.</p> <p>(a) Vice President / Deputy Prime minister or member of councils of ministers nominated by President / Prime minister - Chairperson</p> <p>(b) Two among the Federal Council of ministers nominated by President / Prime ministers - Member</p> <p>(c) Chief Ministers of concerned disputing Province - Member</p> <p>(d) Chairperson of disputing Local Government - Member</p> <p>(e) Attorney General - Member</p> <p>(2) The committee formed pursuant to sub Article (1) shall settle the dispute on consensual basis.</p> <p>(3) If the dispute could not be resolved as mentioned in sub Article (2) the President / Prime minister with in the 30 days of last decision of the committee shall forward dispute to the competent court for final decision.</p> <p>(4) The committee formed under this Article shall determine the procedure itself.</p>	Part relating Federal executive	<p>It's supposed to be appropriate to have the provision in the constitution to constitute a dispute settling mechanism by the President/ Prime Minister chaired by himself or Vice President / Deputy Prime minister or member of councils of ministers nominated by President / Prime minister comprising two among ministers of Federal Council of ministers nominated by President / Prime ministers and Chief ministers of concerned disputing Province, Chair person of disputing local government and Attorney General, if any dispute on exercise of executive power under this constitution between Federal government and one or more provincial governments is raised. Such committee as formed has to settle the dispute on consensus basis. If the dispute could not be settled by the consensus the President / Prime minister has to forward the dispute to the competent court for the final decision of the dispute.</p>
3.	Formation of various coordinating institutions	<p>Necessary institutions could be formed by an Act to coordinate between governments of various levels in the context of exercising executive powers.</p>	Part relating Federal Executive	<p>Provisions have been made to establish various institutions to coordinate between the governments of various levels in the context of exercising of executive powers.</p>

**RELATING TO GOOD GOVERNANCE AND THE GOVERNMENT SERVICE**

1.	Good Governance	Ensuring the good governance through, rule of law, fair and competent judiciary, accountability, transparency, participation, adult franchise, periodic election, political interference free administration, monitoring units, planning evaluation, various commissions, control of corruption, popular sovereignty, proportional inclusion and public hearing	Preamble	Preamble as a mirror of any constitution and an Act completely shows the subject matters included within it and regarded as important part. Good governance as a well established principle fulfilling the interest and ambitions of sovereign people. Therefore, it has been included in the preamble for the reflection of its spirit, objectives and implementation.
2.	Good Governance	Maintaining good governance by following the universally recognized principles of human rights, Multiparty democratic system, popular sovereignty and civilian supremacy, check and balance, rule of law, social justice, equality, proportional inclusive representation, fair and competent judiciary, periodic election, right to information, free press, transparency, accountability, responsibility, political interference free administration, planning evaluation mechanism, public hearing, citizen's charter, fairness, formation of various commissions, free and competent administrative mechanism having freedom to determine good governance and eliminating the corruption and impunity.	Article on obligation of the state	Good Governance as a foundation stone of development of the country covers ideals of society and governance by representing popular will and ambitions. It recognizes the social, administrative aspect as superior. Administration as a service provider is more relevant to this. Therefore this provision supposed to be appropriate to include in this part as the government having not been able to achieve success at once and as to the necessity of the state it 's to be achieved gradually with achievements of resources.
3.	Public Administration	(1) <b>Basic Guiding principles of Public Administration:</b> Basic Guiding Principles of Public Administration are as follows; (a) To show high professional morality (b) To mobilize the resources in a transparent, subsidized and effective manner for public interest (c) To conduct development oriented administration (d) To provide service fairly, independently, equally and with out bias and political interference. (e) To conduct accountable and responsible administration (f) Participation of common people in decision making process. (g) Easy access of people in administrative mechanism and services (h) Appropriate management of the resources and opportunity for continue ..... development. (i) Appointment of staffs on the basis of basic qualification and efficiency. To provide for compensation to women,	Part relating to composition of Government Services	Constitutions of various countries consist of various provisions about the public administration. Basic guiding principles of he public administration which facilitate unfold, analyze and interpret the subject of public administration are needed to mention in the constitution. While analyzing the existing trade union in the government service, it has been realized that dignified labour practices through authorized trade union should be made. Studying the trade unions in other countries it will be appropriate to have a only authorized trade union.

		<p>Dalits, indigenous/ caste, Madhesi and Muslims, based on human development index.</p> <p>(j) To guarantee the political interference free administration and security based work performance.</p> <p>(k) To provide opportunity of dignified labour practices through authorized trade union in the government services.</p>		
4.	Formation and operation of the government service	<p><b>Formation of Government Service:</b></p> <p>(1) In order to conduct public services of the country, the Government of Nepal shall form and operate public services as follows;</p> <ul style="list-style-type: none"> <li>o Civil service</li> <li>o Judicial Service</li> <li>o Parliamentary Service</li> <li>o Health Service</li> <li>o Education service</li> <li>o Nepal Army</li> <li>o Armed and Nepal Police Service</li> <li>o Corporation Service</li> </ul> <p>Explanation: Public Service means, All mechanism established by Government of Nepal in order to provide all services effectively including the law and order.</p> <p>(2) Federal, Provincial and Local Governments may form and operate the various government services to conduct the administration of state as to the necessity.</p> <p>(3) The conditions of the services pursuant to sub Article (1) shall be determined by the separate laws according to nature of the services.</p> <p>(4) Government Services shall be in three tiers central provincial and local.</p> <p>(5) Government service Commissions shall be established in central and provincial level and Provincial level Commission shall work even for the local level.</p> <p>(6) Any provincial level service commission may work for more than one province as prescribed by the law.</p>	<p>Part relating to the formation of Government service</p> <p>Part relating to Public Service Commission</p>	<p>In the present context civil service has to be named as civil service?, various service, groups are scattered with in the civil administration and it's supposed to be appropriate to unite all groups and sub groups such as civil service, judicial service, parliamentary service, health service, education service, Nepal Army, Armed and police service and corporation and intelligence service and bring them under one umbrella. Therefore all government services are to named as public service and separate laws for the each service according to it's nature need to be enacted.</p> <p>It's to be appropriate to decentralize and implement the public service in three tiers centre, province and local according to the federal structure and Government service commission to be remain in the centre and the province and provincial commission has to carry out the function at local level, To have provision to carry out the function for more than the one province by provincial level service commission on the basis of administrative and geographical accessibility, to have provision to appoint the local inhabitants as the service staffs to create ownership and effective service.</p>
5.	Commission on the Delineation	<p><b>Commission on Delimitation of Constituency:</b></p> <p>(1) The Head of the State on recommendation of council of</p>	Miscellaneous part	It's necessary to establish a constitutional commission for the delimitation of the

	of Election Constituency	<p>Ministers may constitute a Commission on Delineation of Election Constituency for the objectives of holding the periodic election of federal and provincial legislature, which will consists the chair person and members as follows;</p> <ul style="list-style-type: none"> <li>(a) Retired judge of the Supreme Court Chair</li> <li>(b) GeographerMember</li> <li>(c) Sociologist/Anthropologist -Member</li> <li>(d) Administration Expert -Member</li> <li>(e) Special class officer of Government of Nepal- Secretary</li> </ul> <p>(2) The appointment of the Chair person and members of the Commission shall be made by the Government of Nepal</p> <p>(3) The procedure of the Commission on the Delimitation of Election Constituency shall be as it is prescribed at the time it constituted.</p> <p>(4) Being not contrary to the sub Article (1) the person having no qualification as follows shall not be appointed as the member of the Commission on the Delimitation of Election Constituency:</p> <ul style="list-style-type: none"> <li>(a) Person having acquired at least Master's Degree from the University recognized by Government of Nepal</li> <li>(b) Person having attained minimumage of 35 years</li> <li>(c) Person having high moral character</li> </ul> <p>(5) The post of the Chair Person and the members of Commission on the Delineation of Election Constituency shall be deemed vacant in the following circumstances;</p> <ul style="list-style-type: none"> <li>(a) If he resigns in written to the Head of the State</li> <li>(b) If he dies</li> <li>(c) If the report is submitted</li> </ul> <p>(6) The Commission on Delineation of Election Constituency under this Article, shall determine the constituency on the basis of equal ratio between the population and the number of the members.</p> <p>(7) While delimiting the Election Constituency pursuant to Article (6) density, geographical specialties, transportation and Administrative accessibility, community and cultural aspect of that region, shall be taken into consideration.</p> <p>(8) No question shall be raised in any court regarding the determination and review of election constituency by the Commission on Delineationof Election Constituency.</p>		<p>election constituency freely from the political influence as it is necessary to held the election at federal provincial and local level with implementation of state restructuring and federal system.</p> <p>Committee for the determination of Forms of governance in it's concept paper and preliminary draft mentions one representative to be elected from each constituency while determining the number of legislative parliament and election system and delimitation of constituency not decided yet. In this context, the number of the members to be elected from each province in needs to be finalized in the constitution, it will be appropriate that commission on the delimitation of the constituency, on this basis has to determine the constituency and the same Article of the constitution would be appropriate to be mentioned here.</p>
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		<p>(9) The Commission on Delineation of the Election Constituency shall submit its report to the Head of the State.</p> <p>(10) The head of the state shall forward the report pursuant to sub Article (9) to the Council of Ministers, and the Council of Ministers shall forward the report to Election Commission and other relevant institutions for implementation.</p> <p>(11) Commission on the Delineation of Election Constituency itself shall determine its procedure.</p> <p>(12) The remuneration and privileges of chair person and the members shall be equal to the remuneration and privileges of Chief Election Commissioner and Election Commissioners.</p> <p>(13) Government of Nepal shall provide the necessary staffs to the Commission on Delineation of Election Constituency.</p>		
6.	Review of election constituency	<p>(1) The Commission constituted under Article ..... shall determine the election constituency for the purpose of the election of federal and provincial legislature.</p> <p>(2) The Commission shall make the periodic review of each election Constituency in every 20 years.</p>	Miscellaneous part	As the Ups and downs may occur in the population, transportation and administrative accessibility, geographic specialties, may affect the election constituency it will be appropriate to review the constituency in every two years, this provision has been made.
7.	Election of local legislature	<p>Election of Local legislature:</p> <p>(1) seventy percent of the members shall directly be elected by Delineating the bodies in various areas and ensuring proportional, inclusive representation based on the multi member election system, as determined by the law.</p> <p>(2) to ensure the representation of the class and the community who is not represented through direct election, thirty percent of the members shall be elected through proportional representation race by voting to the political parties considering whole local area as a single constituency as determined by law.</p>	Part relating to the election of local legislature	
8.	Election of provincial legislature	<p><b>Election system obtaining 18 votes in the Committee Meeting.</b></p> <p>Election of provincial legislature: (1) 90 percent of the members in provincial legislature shall be elected from Multimember Direct Proportional representation system as determined by the law.</p> <p>(2) Pursuant to sub Article (1) more than one member may be elected from the same constituency.</p> <p>(3) Candidacy should be given on the basis of proportional inclusive for the members pursuant to sub Article (1).</p>		

	<p>(4) The number of the members pursuant to sub Article (1) shall be determined on the basis of population, geography and social- economic specialties.</p> <p>(5) The voters shall caste their votes on the basis of the number of candidates.</p> <p>(6) The provincial Chief on recommendation of political parties shall nominate 10 percent of the members from the marginalized, minorities and declining communities and the persons having specific contribution in the various sector of national life.</p>		
	<p><b>Election system obtaining 16 votes in committee meeting</b>  <b>Election of Provincial Legislature:</b> (1) The members of provincial legislature shall be elected through mixed member proportional representation system as determined by the law.</p> <p>(2) Fifty percent of the members pursuant to sub Article (1) shall be elected according to first past the post system by ensuring the candidacy on the basis of the principle of proportional inclusive of women, Adivasi Janajati, Dalit, Madhesi and other class and groups.</p> <p>(3) Fifty percent of the members pursuant to sub Article (1) shall be elected through proportional representation on the basis of list incorporating Women, Adivasi Janajati, Dalit, Madhesi and other communities of , considering the whole province as a single constituency on the basis of the votes received to the political parties.  Provided that the political party elected from proportional representation, has to obtain minimum 3 percent of the vote casted.</p> <p>(4) Members pursuant to sub Article (3) shall be elected to compensate the inappropriate ratio caused from the result of the election pursuant to sub Article (2).</p>		
	<p><b>Election system obtaining 3 votes in committee meeting:</b>  <b>Election of the lower house of provincial legislature:</b>  The members of lower house of provincial legislature shall be elected through first past the post system, from women, Indigenous/caste, Dalits, Madhesi and other communities by ensuring candidacy on the basis of the principle of proportional</p>		<p>It is necessary to ensure the candidacy on the basis of proportional inclusion from Women, Dalit, Indigenous/caste, Madhesi and other class and community by adopting the majority system for the members of lower house of provincial legislature.</p>

		<p>inclusive, as determined by the law.</p> <p><b>Election of upper house of provincial legislature:</b></p> <p>(1) The members of upper house of provincial legislature shall be elected through proportional representation race, as determined by the law.          Provided that, the political party elected through the proportional representation system should have to obtain 3 percent of total vote caste as prescribed by the law..</p> <p>(2) The members pursuant to sub Article (1) shall be elected on the basis of total vote caste in the election of lower house obtained by the political party as prescribed by the law.</p>		<p>It is appropriate to have provisions for the election of upper house making it simple and less expensive, by accepting the votes obtained in the election of lower house as the authorized votes.</p>
9.	Election of Federal/ Central Legislature	<p><b>Election System that obtained 18 votes in the Committee Meeting:</b></p> <p><b>Election of Federal Legislature:</b> (1) The members of federal legislature shall be elected by Multimember proportional direct election, as prescribed by the law.</p> <p>(2) Members pursuant to sub Article (1), one or more than one members may be elected from a single constituency,</p> <p>(3) Candidacy should be given for the members pursuant to sub Article (1) on the basis of proportional inclusion.</p> <p>(4) The number of seats for the members pursuant to sub Article (1) should be determined on the basis of the population, geography and social economic specialties.</p> <p>(5) Voters have to caste their votes on the basis of numbers of the candidates.</p>	Part relating to election of Federal legislature	<p>It is appropriate to ensure maximum representation in the federal legislature and to adopt a Multimember Direct Proportional Representation system based on the principle of being competent representation from direct election.</p>
		<p><b>Election System that obtained 16 votes in the Committee Meeting:</b></p> <p><b>Election of lower house of Federal Legislature:</b> (1) The members of the lower house of federal legislature shall be elected on the basis of Mixed member proportional representation system as prescribed by the law.</p> <p>(2) fifty percent of the members pursuant to sub Article (1) shall be elected through first past the post system ensuring the candidacy on the basis of the principle of proportional inclusion from Women, Indigenous/caste, Dalits, Madhesi and other groups and community. .</p> <p>(3) Fifty percent of the members pursuant to sub Article (1) shall be elected through proportional representation race on the basis of list incorporating women Dalits, Madhesi, Indigenous</p>		<p>It is appropriate to have the election system to ensure the proportional inclusive representation by providing compensation and ensuring the representation from women, Dalit, Madhesi, Indigenous and other groups and communities in the election of lower house of federal legislature and to recognize the political parties obtaining certain percent of the votes and having provision not to change the name of the candidate included in the list according to the Mixed member proportional representation system.</p>

		<p>and other class and community, on the basis of the votes obtained by the political parties considering the whole country as a single constituency.          Provided that the political party elected through the proportional representation system has to obtain minimum 3 percent of total vote casted.</p> <p>(4) Members pursuant to sub Article (3) shall be elected to compensate inappropriate ratio caused from the result of election pursuant to sub Article (2).</p> <p><b>Election of Upper House of Federal Legislature:</b> Sixty five members of the upper house of federal legislature shall be elected according to the election system as follows, as prescribed by the law.</p> <ol style="list-style-type: none"> <li>a. Forty five members from each provincial legislature representing in equal number.</li> <li>b. Fifteen members elected from the electoral college comprising the chief of local governments as one from each provinces.</li> <li>c. Through the election pursuant to sub Article (a) and (b), Proportional inclusive representation of Women, Dalit, Madhesi, Indigenous and other groups and communities shall be ensured. .</li> <li>d. Five members nominated by the President on recommendation of the Prime Minister from the experts, minorities, marginalized, and declining community contributing in the various sector of social life.</li> </ol> <p><b>Election system obtaining 3 votes in committee meeting.</b></p> <p><b>Election of the lower house of Federal legislature:</b>          The members of lower house of Federal legislature shall be elected through first past the post system, by ensuring candidacy on the basis of the principle of proportional inclusive from women, Indigenous/caste, Dalits, Madhesi and other groups communities, as determined by the law.</p> <p><b>Election of upper house of Federal legislature:</b></p> <p>(1) The members of upper house of federal legislature shall be elected through proportional representation, as determined by the law.          Provided that, the political party elected through the</p>		<p>It is appropriate to adopt the election system for election of the members of the upper house of federal legislature, ensuring representation from women, Dalit, Madhesi, Indigenous/caste, geographical region, experts and other groups and communities and marginalized and minority having no representation in the election.</p> <p>It is appropriate to ensure the candidacy for the members of the lower house of federal legislature on the basis of the principle of proportional inclusion from women, dalit, madhesi, indigenous and other groups and communities based on majority system.</p> <p>As the proportional representation system have more representation than direct election, it is appropriate to adopt the bi-cameral legislature system by adopting the election system electing members on the basis of votes obtained by the parties in the direct election and to ensure the</p>
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		<p>proportional representation system should have to obtain minimum 3 percent of total votes casted as prescribed by the law.</p> <p>(2) The members pursuant to sub Article (1) shall be elected on the basis of total votes casted in the election of lower house obtained by the political party, as prescribed by the law.</p>		<p>representation of all.</p>
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