

UNOFFICIAL TRANSLATION BY  
THE INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE



# Constitution of Nepal 2015

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Preliminary Draft



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## **PREAMBLE**

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

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

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

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

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

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

NOW THEREFORE, in order to fulfill the aspirations for sustainable peace, good governance, development and prosperity through the medium of federal democratic republican governance system, hereby promulgate this constitution through the Constituent Assembly.

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

(2) It shall be the duty of every person to uphold this constitution.

**2. Sovereignty and state authority:** The sovereignty and state authority of Nepal are vested in Nepali people. The use of which shall be as provided for in this constitution.

**3. Nation:** Having multi-ethnic, multi-lingual, multi-religious, multi-cultural characteristics with common aspirations of people living in diverse geographical regions, and being committed to and

united by a bond of allegiance to national independence, integrity, national interest and prosperity of Nepal, all the Nepali people collectively constitute the nation.

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

(2) the territory of Nepal shall comprise:

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

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

**5. National interest:** Sovereignty, national integrity, independence, freedom, unity, protection of the rights and dignity of Nepali people, protection of territory, and economic progress and prosperity, shall be the basic elements of Nepal's national interest.

**6. Language of the nation:** All the mother tongues spoken in Nepal shall be the national language.

**7. Language of official transaction:** (1) The Nepali language written in *Devnagiri* script shall be the language of official business in Nepal.

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

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

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

**9. National anthem, etc.:** (1) the national anthem of Nepal shall be as set out in Schedule 2.

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

(3) The rhododendron *Arboreum* is the national flower, Crimson is the national color, the cow is the national animal and the *Lophophorus* is the national bird of Nepal.

## **PART 2**

### **CITIZENSHIP**

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

(2) There shall be a provision of single federal citizenship in Nepal with the name of the province the citizen belongs to.

**11. Criteria for the acquisition of Nepali citizenship:**

The following persons who have their permanent domicile in Nepal shall be deemed to be citizens of Nepal according to this Constitution:

- (a) A person who has acquired the citizenship of Nepal before the commencement of this constitution.
- (b) A person who acquires citizenship of Nepal after the commencement of this constitution.
- (c) A person who is eligible to acquire the citizenship of Nepal according to Article 12.

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

- (a) any person whose father and mother was a citizen of Nepal at the birth of such a person.
- (b) a person whose mother or father was a citizen of Nepal at the time of his/her birth and both the parents of such a person are Nepali citizens at the time of acquisition of his/her citizenship.

(2) A person who is a Nepali citizen by descent according to sub-clause (1), and, the child of a citizen who has acquired Nepali citizenship by descent before the commencement of this Constitution, shall acquire citizenship of Nepal by descent in the name of the mother or father after attaining adulthood.

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

(4) A person born to a Nepali citizen mother and who has domicile in Nepal but whose father is not known, shall be granted Nepali citizenship by descent.

However, the citizenship of such a person shall be turned into naturalized citizenship as provided for by law if the father of the person is proved to be a foreign citizen.

**13. Provisions regarding naturalized citizenship:** (1) If a male foreign citizen who is married to Nepali citizen after the commencement of this Constitution, wishes to acquire matrimonial naturalized citizenship, shall acquire naturalized citizenship of Nepal as provided for in law if he

has lived in the country for 15 years, and has initiated the process of relinquishing his foreign citizenship.

(2) If a foreign woman who is married to a Nepali citizen, wishes to acquire naturalized citizenship of Nepal, may acquire naturalized citizenship of the country as provided for in law if she initiates the process of relinquishing her foreign citizenship.

(3) A person born in Nepal to a Nepali citizen married to a foreign citizen, and has permanent domicile in the country and has voluntarily declared about not acquiring foreign citizenship, shall acquire naturalized citizenship of Nepal as provided for by law.

(4) The Government of Nepal may grant naturalized citizenship to a foreigner after the commencement of this Constitution in accordance with the existing law, if the foreigner has made a special contribution to economic and social progress of the country, and if she/he fulfills, among other things, the following terms and conditions:

- (a) knows to read and write any national language of the country,
- (b) runs business in the country,
- (c) has relinquished foreign citizenship,
- (d) has legally lived in Nepal for at least 15 years,
- (e) is a citizen of the country which has the practice or legal provisions to offer  
Naturalized citizenship to Nepali citizens,
- (f) has good moral character,

(5) The matters pertaining to providing naturalized citizenship according to sub-clause (4) shall have to be presented before the federal parliament.

**14. Citizenship by way of merger of land:** Whenever any territory is acquired by way of merger into Nepal, every person having his domicile within such territory, shall acquire the citizenship of Nepal as provided for by law.

**15. Citizenship based on lineage and gender identity:** Each citizen shall be provided with Nepali citizenship certificate based on lineage of the mother or father along with gender identity.

**16. Re-acquisition of citizenship:** If a person who has relinquished Nepali citizenship and has acquired foreign citizenship returns to Nepal and lives in the country for five years by relinquishing foreign citizenship, may be provided with the same kind of citizenship that had been granted earlier.

Provided that, this provision shall not be applicable to naturalized citizens as provided for by sub-clause (4) of Article 13.

**17. Honorary citizenship:** The Government of Nepal may grant honorary citizenship of Nepal to a person with international fame who is a well-wisher of Nepal.

**18. Termination of citizenship:** (1) The Nepali citizenship of any person shall be terminated in the following circumstances:

(a) if such a person voluntarily relinquishes Nepali citizenship,

(b) If such a person acquires the citizenship of another country.

(c) If it is proved that a non-Nepali has acquired Nepali citizenship by means other than as provided for elsewhere in this Part.

(2) Provided that a person who is eligible to acquire the citizenship of Nepal and any other country does not wish to acquire Nepali citizenship within two years from the date of his/her eligibility to acquire citizenship certificate, and, in the case of a minor Nepali citizen within five years from the time of attaining adulthood, such a person shall stop being a Nepali citizen.

**19. Citizenship for non-resident Nepalis:** Non-resident Nepali citizenship may be provided to persons of Nepali origin who have acquired foreign citizenship and reside in countries other than SAARC (Association of South Asian Regional Cooperation) countries, with the provision of exercising economic, social and cultural rights as provided for by law.

**20. Other provisions regarding Nepali citizenship:** (1) It shall be a punishable act by law if a person submits false information, or gives false statement, or acquires, or is recommended for, or granted more than one citizenship certificate.

(2) The archiving of identity of each Nepali citizen and other provisions regarding Nepali citizenship shall be as provided for by law.

### **PART 3**

#### **FUNDAMENTAL RIGHTS AND DUTIES**

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

(2) No law shall be made for capital punishment.

**22. Right to Freedom:** (1) Except as provided for by law no person shall be deprived of her/his personal freedom.

(2) Every citizen shall have the following freedom:

- (a) freedom of opinion and expression,
- (b) freedom to assemble peacefully and without arms,
- (c) freedom to form political party,
- (d) freedom to form unions and associations,
- (e) freedom to move and reside in any part of Nepal; and
- (f) freedom to engage in any occupation or be engaged in employment, industry and trade.

Provided that,

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

subsisting among different caste groups, ethnicity, religious groups and communities, or an incitement of violence, or an act which is contrary to public morality.

(5) Nothing in sub-clause (e) shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the interest of the general public, or the good relations between federal units, or the harmonious relations subsisting among various caste groups, ethnicity, religious groups or communities, or an act of committing crime or violence, or inciting such acts.

(6) Nothing in sub-clause (f) shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the good relations between federal units, or restricting an act which may have negative impact on public health, decent behavior and morality, or the particular industries, trade or services which only the state may engage in, or setting conditions or eligibility to engage in industries, trade, profession, livelihoods or occupation.

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

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

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

Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of the poor, women lagging behind socially and culturally, Dalits, *Adibasi* (indigenous groups), ethnic groups, *Khas Arya*, Madhesi, Tharus, peasants, labourers, excluded groups, Muslims, backward classes, minority groups, marginalized groups, communities on the verge of extinction, youth, children, the elderly, gender and sexual minorities, people with physical impairment, physically incapacitated and the helpless, and the citizens of backward regions.

**Explanation:** With reference to this Part and Part 4, \*the poor means citizens living below the poverty line.

(4) There shall not be any gender discriminations regarding remuneration for the same work and social security.

(5) There shall be no gender discrimination regarding the right to parental property with regard to all family members.

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

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

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

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

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

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

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

Provided that,

This sub-clause shall not apply to a person in preventive detention or to a citizen of an enemy state.

**Explanation:** for the use of this sub-clause “legal practitioner” shall mean a person who has the legal right to represent any person in any court.

(3) Every person who is arrested shall be produced before a judicial authority within a period of twenty-four hours after such arrest, excluding the time necessary for the journey from the time and

place of arrest to such authority, and the arrested person shall not be detained in custody beyond the said period except on the order of such authority.

Provided that,

This sub-clause shall not apply to a person in preventive detention or to a citizen of an enemy state.

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

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

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

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

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

(9) Every person shall be entitled to a fair hearing from an impartial, independent and competent court or judicial authority.

(10) An indigent person shall have the right to free legal aid as provided for by law.

**26. Right of victim of crime:** (1) The victim of crime shall have the right to be informed about the investigation and proceedings of the case regarding his/her victimization.

(2) The victim of crime shall have the right to social rehabilitation and compensation as provided for by law.

**27. Right against torture:** (1) No person in detention shall be subjected to physical or mental torture, or be treated in a cruel, inhuman or degrading manner.

(2) Any such act pursuant to sub-clause (1) shall be punishable by law and a victim of such an act shall have the right to compensation as provided for by law.

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

(2) The family member or close relative of the person in preventive detention pursuant to sub-clause (1) shall have to be informed about his/her condition as provided for by law.

Provided that,

This sub-clause shall not be applicable to a citizen of an enemy state.

(3) If an authority detains a person under preventive detention contrary to law, or in bad faith, such a person shall have the right to compensation as provided for by law.

**29. Rights against untouchability and discrimination:** {1} No person shall be treated with any kind of untouchability or discrimination in any private or public place on grounds of caste, ethnicity, origin, community, occupation, or physical condition.

(2) No person belonging to a particular caste or ethnicity shall be prevented from buying an object or getting services or facilities in the process of production of such objects or in the distribution or delivery of services, or no such objects shall be sold to, or facilities or services distributed or delivered to persons belonging to a particular caste or ethnicity only.

(3) Racial discriminations shall not be encouraged in any way, or there shall not be any behavioral attitude to exhibit high or low status on grounds of a particular caste, ethnicity or community, or physical condition of a person, or there shall not be any behavioral attitude that justifies social discrimination based on caste, ethnicity, or untouchability, or encouragement for the propagation of attitudes based on caste superiority and untouchability, or hatred.

(4) There shall not be any racial discrimination in the workplace by indulging or not indulging in untouchability.

(5) All forms of untouchability or discrimination contrary to this provision shall be punishable by law as a serious social crime, and the victim of such an act shall have the right to compensation as provided for by law.

**30. Right to property:** (1) Every citizen shall, subject to laws, have the right to acquire, own, have professional gains, sell and otherwise utilize, or dispose of property.

(2) The State may impose tax on a person's property, as required, on the basis of the norms of progressive taxation.

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

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

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

(5) Provided that it shall not be deemed to obstruct land reform, management and regulation by the State for increasing produce and productivity of land, modernization and professionalization of agriculture, environmental protection, and for an organized settlement and urban development as provided for by sub-clause 93) and (4).

**31. Right to religious freedom:** (1) Each person shall be free to profess, practice, and preserve his/her religion according to his/her faith, and distance himself/herself from any other religion.

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

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

**32. Right to information:** Each citizen shall have the right to demand or obtain information on any matters of concern to herself/himself or the public.

Provided that nothing shall be deemed to compel any person to provide information about which confidentiality is to be maintained according to law as provided for by this Article.

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

**34. Rights against exploitation:** (1) Each person shall have the right against exploitation.

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

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

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

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

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

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

(2) The victim of environmental pollution and degradation shall have the right to be compensated by the pollutant as provided for by law.

(3) Provided that this Article shall not be deemed to obstruct the making of required legal provisions to strike a balance between environment and development for the use of national development works.

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

(2) Each citizen shall have the right to compulsory and free basic education, and free education up to the secondary level.

(3) The physically impaired and citizens who are economically very poor shall have the right to free higher education as provided for in law.

(4) The visually impaired shall have the right to free education with the medium of brail script. Citizens with hearing impairment and speech impairment shall have the right to free education with the use of sign language.

(5) Every Nepali community living in Nepal shall have the right to acquire education in its mother tongue up to the secondary level, and the right to open and run schools and educational institutions as provided for by law.

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

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

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

**38. Rights regarding employment:** (1) Every citizen shall have the right to employment. The term and conditions of employment shall be as determined by law.

Provided that, an unemployed citizen shall have right to unemployment allowance until she/he is employed as provided for by law.

(2) Every citizen shall have the right to be selected for employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Each woman shall have the right to safe motherhood and reproductive health, and foeticide on the basis of identity of gender shall be punishable by law.

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

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

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

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

**44. Rights of children:** (1) Each child shall have the right to his/her identity with the family name, and birth registration.

(2) Every child shall have the right to education, health care nurturing, appropriate upbringing, sports, recreation and personality development from family and the State.

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

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

(5) No child shall be subjected to child marriage, illegal trafficking, kidnapping, or being held hostage.

(6) No child shall be subjected to recruitment or any kind of use in the army, police or armed groups, neglected, or used immorally, or abused physically, mentally, or sexually, or exploited through any other means, in the name of religious or cultural practices.

(7) No child shall be subjected to physical, mental, or any other forms of torture at home, in school, or in any other places or situations.

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

(9) Children who are helpless, orphaned, physically impaired, victims of conflict and vulnerable, shall have the right to special protection and facilities from the State.

(10) Any act contrary to Clause (4), (5), (6) and (7) shall be punishable by law, and children who have suffered from such an act shall have the right to be compensated by the perpetrator as provided for in law.

**45. Rights of Dalits:** (1) A person from the Dalit community shall have the right to employment in the Government service, the army, the police, and in all the bodies of the State and other areas on the basis of the principle of inclusion . There shall be special legal provision of empowerment, representation, and participation of Dalit community for employment in other area also including the public service.

(2) Provisions of free education with scholarships shall be made for Dalit students from the primary to higher level of education as provided for in law. Special provision shall be made in law for Dalits to pursue higher education in technical and professional subjects.

(3) In order to provide health care and social security to Dalit community, special arrangements shall be made in accordance with law.

(4) Dalit community shall have the right to use, preserve and develop their traditional occupation, knowledge, skill and technology. The State shall give priority to modern profession of Dalits in relation to their traditional occupation, by providing them with necessary skill and resources.

(5) The State shall have to make legal provision to provide land to landless Dalits for one time.

(6) The State shall enact law to make housing arrangements for Dalits who do not have housing of their own.

(7) The facilities provided to the Dalit community according to this Article, shall have to be justly distributed to Dalit women and men and all the Dalit communities living in different parts of the country, ensuring that all Dalits receive the facilities proportionally.

**46. Rights of senior citizens:** Senior citizens shall have the right to special protection and social security from the State as provided for in law.

**47. Right to social justice:** (1) Socially backward women, Dalits, Adibasi, Janjati, Khas Arya, Madhesi, Tharu, minority groups, marginalized groups, Muslim, backward classes, gender and sexually minority groups, youths, peasants, labourers, the oppressed and the citizens of backward regions, shall have the right to employment in state structures and public service on the basis of the principle of inclusion.

(2) Citizens who are economically very poor and communities on the verge of extinction, shall have the right to special opportunity and facilities in the areas of education, health, housing, employment, food and social security, for their protection, progress, empowerment and development.

(3) People with physical impairment shall have the right to a dignified way of life and equal access to social services and facilities, along with their diversity identity.

(4) Each peasant shall have the right to access to land as provided for in law for agricultural purposes, along with the right to choose and preserve traditionally adopted and used endemic seeds and agricultural species.

(5) The families of martyrs who sacrificed their lives in the people's movements, armed conflicts and revolutions for a democratic progressive change in Nepal, the families of those who were disappeared, persons who fought for democracy, victims of conflict and the displaced, persons who were physically maimed, the wounded and the victims, shall have the right with priority, as provided for by law, to education, health, employment, housing and social security, with justice and appropriate respect.

**48. Right to social security:** Economically very poor, physically incapacitated and helpless single women, persons with physical impairment, children, persons who cannot look after themselves and the citizens who belong to communities that are on the verge of extinction, shall have the right to social security as provided for by law.

**49. Rights of consumers:** (1) Each consumer shall have the right to quality foodstuffs and services.

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

**50. Right against exile:**

No citizen shall be exiled

**51. Rights to constitutional remedy and the implementation of fundamental rights:** (1) The right to proceed in the manner set out in Article (37) and (148), the right to remedy conferred in this Part is guaranteed.

(2) for the enforcement of the rights conferred in this Part, the State shall make legal provisions, as required, within three years of the commencement of this constitution.

**52. Duties of citizens:**

Each person shall the following duties:

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

**PART 4**

**DIRECTIVE PRINCIPLES, POLICIES AND RESPONSIBILITIES OF THE STATE**

**53. To be the Guiding Principles:** (1) The Directive Principles, Policies and Responsibilities of the State mentioned in this Part shall remain as guidelines for the governance of the State.

(2) The State shall mobilize or have it mobilized, the required resources and means for the implementation of the principles, policies and responsibilities mentioned in this Part.

**54. Directive Principles:**

(1) Keeping sovereignty, independence and integrity of the country to be of utmost importance and freedom, equality, property and all citizens shall be protected through rule of law and the norms and values of fundamental rights and human rights, gender equality, proportional inclusion, participation and social justice; and by maintaining a just system in all spheres of national life in order to establish a government system aimed at public welfare, while maintaining relations between federal units on the basis of cooperation between them, and internalizing the principle of inclusion in the governance system on the basis of local autonomy and decentralization, it shall be the political objective of the State to establish a federal democratic republican system to ensure an atmosphere where democratic rights are utilized.

(2) It shall be the socio-cultural objective of the State to build a civilized and egalitarian society by ending all forms of discrimination, oppression and injustice based on religion, culture, cultural practices, customs, traditional practices, or on any other grounds; develop socio-cultural values based on national pride, democracy, people orientation, dignity of labour, entrepreneurship,

discipline, dignity and tolerance, by respecting cultural diversity and maintaining communal harmony, solidarity and amity.

(3) It shall be the economic objective of the State to make the national economy self-reliant, independent, and developing it towards socialism oriented economy with equitable distribution of resources and means, by ending all forms of economic exploitation and inequality, with maximum utilization of available resources and means through the participation of cooperatives, and public and private sector for sustainable development, and to build an exploitation-free society by fair distribution of the achievements made so far.

(4) The international relations of the State shall be directed towards maintaining international relations based on sovereign equality, protecting sovereignty, independence, integrity and national interest of the country, and promoting national prestige in the international community.

#### **55. State policies:**

The State shall pursue the following policies:

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

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

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

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

- (6) Expanding and developing a harmonious and cooperational relations between federal units through partnerships in the management of resources and means, administration and responsibilities.

(c) **Policies regarding social and cultural transformation:**

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

(d) **Policies regarding finance and commerce:**

- (1) Strengthening national economy through the participation and free development of public, cooperatives, and the private sector.
- (2) Achieving economic prosperity with the maximum utilization of available resources and means
- (3) Prioritizing cooperatives and the mobilization of capital of this sector for national development.
- (4) Making provisions of regulation in maintaining a fair, accountable and competitive atmosphere in the investment and contribution of the private sector. The State shall encourage and mobilize them in the all-round-development of the nation.
- (5) Fair distribution of the results of development and available means and resources.

- (6) Diversifying and expanding markets for productions and services by identifying the areas of comparative profit, and promoting export.
- (7) Protecting consumer rights by maintaining discipline and business fairness by controlling anomalies and malpractices such as black-marketing, monopoly, artificial scarcity and unhealthy competition.
- (8) Prioritizing national investment based on Nepali labor, skill and raw material for the development of the economy of the country through the protection and promotion of national industries and resources and means.
- (9) Making the service sector competitive by prioritizing the investment of the country in this sector and developing it as an industry for the development of national economy.
- (10) Encouraging and mobilizing foreign capital and technology investment for infrastructure development in the areas of export promotion, and import to suit national interest.
- (11) Foreign aid shall be based on national needs and priority, and it shall be made transparent. The amount received as foreign aid shall be included in the national budget.
- (12) Utilizing the knowledge, skill, technology and capital of the non-resident Nepalis for national development.

(e) **Policies regarding agriculture and land reform:**

- (1) Introducing scientific land reform by ending dual ownership of land for the benefit of farmers.
- (2) Increasing produce and productivity through land plotting and by discouraging absentee land ownership.
- (3) Professionalizing and industrializing agriculture by protecting and promoting peasants' rights.
- (4) Making proper utilization of land through proper regulation and management on the basis of productivity of land, its nature, and also by maintaining environmental balance.
- (5) Making arrangements for agricultural tools and an access to market with appropriate price for the produce.
- (6) Undertake scientific land reform keeping in mind agriculture and land management, diversification and commercialization of agriculture, and increasing the produce, while also prioritizing welfare of farmers

(f) **Development policy:**

- (1) Developing physical infrastructure in a balanced, environment friendly and sustainable way by prioritizing the regions that were made to lag behind in terms of development .
- (2) Increasing the participation of local people in development process.
- (3) Promoting investment in scientific studies and research, and inventions in science and technology, and for their progress and development, while protecting scientific, technological and intellectual minds and special talents.
- (4) Developing and expanding information technology as required by the nation, and making its access easy and simple for the general public, while also making its maximum use for national development.
- (5) Prioritizing poor citizens in the distribution of the fruits of development, and making necessary arrangements for the general public to have a fair share of it.
- (6) Developing an integrated national identity management information system, and manage it in an integrated way for all kinds of information and statistics relating to citizens, and integrate it to the services and facilities provided by the State and the national development planning.
- (7) Updating of population statistics and affiliating it with the national development planning.

(g). **Policy regarding the conservation, management and use of natural resources:**

- (1) The State shall pursue a policy of conserving the natural resources available in the country by imbibing the norms of inter-generation judicious use of it and for the national interest. It shall also be about its sustainable use in an environmental friendly way. The policy shall ensure the fair distribution of the benefits generated by it by giving local people the priority and preferential rights.
- (2) The State shall pursue a policy of prioritizing national investment in water resources based on people's participation and making a multi-utility development of water resources.
- (3) The State shall pursue a policy of developing and producing renewable energy, ensuring cheap, easily available and dependable supply of energy, and making an appropriate use of it to meet the basic needs of the citizens.
- (4) Developing a sustainable and dependable irrigation system by controlling water-related natural disasters with the management of the river systems.
- (5) The State shall pursue a policy of making a sustainable use of biodiversity through the conservation and management o forests, fauna and flora, and by minimizing the negative

impacts of industrialization and physical development by promoting public awareness on environmental cleanliness and protection.

(6) The State shall pursue a policy of keeping at least 40 percent of the landmass as forested area in order to strike an environmental balance.

(7) The State shall pursue a policy of adopting appropriate ways of minimizing or stopping negative impacts on environment if it is there, or if there is a possibility of such an impact on nature, environment, or biodiversity.

(8) The State shall formulate policies and enact laws on the basis of the principle of sustainable environment development based on pre-warning and pre-informed agreements regarding environmental protection. Those people who pollute the environment shall have to be responsible for their action.

(9) The State shall formulate and pursue a policy of designing a pre-warning system, disaster preparedness, rescue, relief works and rehabilitation in order to minimize the risks of natural disasters.

(h) **Policies regarding the basic needs of citizens:**

(1) Making education scientific, technical, professional, practical, and employment and people oriented in order to prepare the human resources to be competent, competitive, moral, and committed to national interest.

(2) Increasing the investment of the State in the educational sector, and regulating and managing the investment of the private sector in it to make education service oriented.

(3) Making higher education easily available, of high quality and accessible, and gradually making it free.

(4) Establishing and promoting information centers and libraries for the personality development of citizens.

(5) The State shall gradually increase necessary investment in the public health sector in order to make citizens healthy.

(6) Ensuring an easy, simple and equal access of all to high quality health care.

(7) The State shall gradually increase investment in the health sector and make it service oriented by regulating and managing the investment of the private sector in it.

(8) Gradually increase the number of health institutions and health workers, while emphasizing research on health in order to make qualitative health service available to all.

(9) It shall be the policy of the State to increase general life expectancy by decreasing maternity-infant mortality rate by encouraging family planning population management based on the need and capacity of the country.

(10) Developing well-planned and organized settlement areas by managing the unplanned settlements.

(11) Increasing investment in the agricultural sector by making necessary provisions for sustainable productivity, supply, storage and security, while making it easily available with effective distribution of food grains by encouraging food productivity that suits the soil and climate conditions of the country in accordance with the norms of food sovereignty.

(12) Making a well-planned supply system by ensuring equal access of citizens to the basic needs and services, and prioritizing the remote areas and regions that were made to lag behind.

(13) Increasing investment in the transportation sector by ensuring simple, easy and equal access of all citizens to transportation facilities, and prioritizing environment friendly technology, encouraging public transportation and quality private transportation, while also making the transportation sector safe, well managed and disabled friendly.

(14) Ensuring insurance policy for citizens and making arrangements for their access to health care.

(i) **Policies regarding labor and employment:**

(1) Creating a condition to ensure employment for all and employment opportunities in the country itself by making the labor power, which is the main social and economic force, competent and professional.

(2) Guaranteeing social security by ensuring the basic rights of all laborers in accordance with the concept of dignity of labor.

(3) Ending child labor and all forms of labor exploitation.

(4) Ensuring the participation of laborers in the management.

(5) Regulating and managing foreign employment in order to make this sector exploitation free, safe and well-managed to guarantee laborers' right and employment.

(6) Encouraging the use of the capital, skill, technology and the experience gained in foreign employment in the productivity sector of the country.

(j) **Policies regarding social justice and inclusion:**

(1) Making appropriate arrangements of livelihoods by prioritizing employment for single women who are in helpless conditions.

(2) Making women self reliant who are vulnerable, victims of conflict, excluded by family and the society, by making necessary arrangements of rehabilitation, protection and empowerment for them.

(3) Ensuring the use of necessary services and facilities during the reproductive stage

(4) Economically evaluating the works and contribution in regard to child care and care for the family.

(5) Paying primary attention to the utmost interest of children.

(6) Rehabilitation of kamaiya (bonded laborers), kamlari, haruwa, charuwa, haliya, the landless and the squatters by identifying them, and making arrangements of housing, or providing small plot of land or house, employment, or arable land for their livelihoods.

(7) Providing appropriate opportunities to youths for their contribution to the all-round-development of the State by increasing their participation in it, through the creation of an atmosphere for them to use their political, economic, social and cultural rights, and also by providing special opportunities in educational, health and employment sector through their personality development for their empowerment and all-round-development.

(8) Making special arrangements to ensure the rights of Adivasi Janjatis (indigenous ethnic groups) to lead a dignified life with their respective identities, and making them participate in decision making processes that concern them, and preserving and maintaining the traditional knowledge, skill, experience, culture and social practices of Adivasi Janjatis and local communities.

(9) Making special arrangements for minority communities to exercise their social and cultural rights by maintaining their identity.

(10) Making special arrangements for the Madhesi community to have equal distribution of benefits of economic, social and cultural opportunities, and also for the protection, progress, empowerment and development of the very poor and backward classes within the Madhesi community.

(11) Making special provisions of protection, progress, empowerment and development, and the fulfillment of basic needs of the citizens of oppressed and backward regions.

(12) Giving priority to the very poor within all communities, regions, and gender, while providing social security and social justice.

(13) Making a well planned investment in sports and sports men and women in order to produce healthy, able and disciplined citizens and developing sports as a medium of consolidating national unity and promoting national prestige in the international arena.

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

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

(1) Making judicial administration swift, competent, easily available, economical, impartial, effective and accountable to people.

(2) Adopting alternative methods such as reconciliation and mediation for the settlement of disputes of ordinary nature.

(3) Adopting effective methods in controlling corruption and irregularities in all areas, including politics, administration and the social sector.

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

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

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

(2) Entering into treaties and agreements on the basis of equality and mutual interest, by reviewing past treaties.

**56. Responsibilities of the State:**

It shall be the responsibility of the State to maintain the sovereignty, national independence and indivisibility of Nepal, protecting and maintaining fundamental rights and human rights, and following the directive principles of the State and gradually implementing the policies.

**57. Submitting report:**

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

**58. Provision regarding monitoring:**

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

**59. Questions not to be raised in court:**

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

**PART 5**

**RESTRUCTURING OF THE STATE AND THE DISTRIBUTION OF STATE POWER**

**60. Structuring of the State:** (1) The Federal Democratic Republic of Nepal shall have three main levels of structuring: federal, provincial and local.

(2) The State powers of Nepal shall be used by the federal, provincial and the local level in accordance with this constitution.

(3) There shall be eight provinces in Nepal on the basis of identity and capability, which shall include caste/community, linguistic, cultural, geographical/regional continuity and historicity relating to identity; and, economic inter-relations and capability, status and viability of infrastructure development, availability of natural resources and means and easy accessibility to administration, in regard to capability. The government shall form a federal commission to make suggestions regarding the delineation of provinces. The term of the commission shall be for six months.

(4) The final decision on the provinces on the basis of the suggestions of the federal commission as provided for in sub-clause (3), shall be done by a two-thirds majority of the total number of existing members of the Legislature-Parliament within three months of the date of submission of the commission report to the transformed Legislature-Parliament in accordance with this Constitution.

(5) The naming of the province structured according to sub-clause (4) shall be done by a two-thirds majority of the total number of members of the provincial assembly concerned.

(6) There shall be rural municipality, municipality and district assembly under the local level. The number of wards of the rural municipality shall be specified by law.

(7) Special structures may be built as required and as provided for by law

(8) The Government of Nepal shall form a commission to determine the number and area of the village municipality, municipality and special structures,. The commission shall have to follow the criteria determined by the government of Nepal while determining the number and area of the village municipality, municipality and special structures.

(9) The formation of the commission according to sub-clause (8) shall be done within six months from the date of commencement of this constitution. The term of the commission shall be for one year.

(10) The federal, provincial and local entities shall protect Nepal's sovereignty, unity, indivisibility, independence, national interest, all-round-development, multi-party competitive democratic republican federal governance system, human rights and fundamental rights, rule of law, separation of power, balance and control, an egalitarian society based on plurality and equality, proportional representation, and identity.

**61. Distribution of State power:** (1) The power of the federation shall be relating to the subjects mentioned in Schedule (4), and the exercise of such authority shall be done in accordance with this Constitution and the federal law.

(2) The power of the province shall be relating to the subjects mentioned in Schedule (5), and the exercise of such authority shall be done in accordance with this Constitution and the federal law.

(3) The concurrent/shared power of the federation and the province shall be relating to the subjects mentioned in Schedule (6), and the exercise of such authority shall be done in accordance with this constitution and the laws made by the federal parliament and provincial assembly.

(4) The laws to be enacted by the provincial assembly as provided o for in sub-clause (3), shall have to be done in a way not to contradict the laws made by the federal parliament.

(5) The laws made by the provincial assembly according to sub-clause (3) shall be unacceptable to extent it contradicts the laws made by the federal parliament.

(6) The power of the local level entity shall be relating to the subjects mentioned in Schedule , and the exercise of such authority shall be done according to this Constitution and laws made by the village assembly and municipal assembly.

**62. Residual powers:** Powers relating any subject that are not mentioned in the list of powers of the federation, province or the local level entity, or in the concurrent/shared powers of federation and the province, or not stated in this Constitution, shall rest with the federation as residual powers.

**63. Use of fiscal power:** (1) The federal, provincial and the local entities shall enact law, make annual budget, make necessary decisions, formulate policies and planning, and implement them in regard to the subjects related to the fiscal power mentioned in their respective lost of powers.

(2) The federation may make basic laws regarding necessary policies and criteria related to the subjects included in the list of concurrent/shared power and in other areas of fiscal authority, which may also be implemented in provinces.

(3) The federation, province and the local level entity shall make budgets of their respective levels, and the budget shall be presented in accordance with the federal law.

(4) The federation, province and the local level entity shall have to make arrangements for equitable distribution of the benefits from the development of natural resources. A certain portion of such benefit, royalty, services or objects, shall have to be distributed in areas affected by projects and to the local communities as provided for by law.

(5) When the federal, provincial and local level entity utilize natural resources, they shall have to give priority to local communities to make certain percentage of investment if they wish to do that in view of the nature and percentage in the investment.

(6) The government of Nepal shall have the right to seek foreign aid and loan. The economic stability of the country as a whole shall have to be maintained in doing so.

(7) The management of budget deficit of the federation, province and the local level entity and the arrangements regarding fiscal discipline shall be in accordance with federal law.

**64. Distribution of sources of revenue:** (1) The federation, province and the local level entity shall impose tax on subjects within their fiscal jurisdiction and collect revenue from such sources.

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

(2) The Government of Nepal shall make necessary arrangements to equitably distribute the revenue generated by it from its sources, between the federation, province and the local level entities.

(3) The amount of the fiscal transfer the province and the local level entities are to receive shall be as recommended by the National Natural Resources and Fiscal Commission, as provided for in Part 25.

(4) The Government of Nepal shall distribute fiscal equalization grants to province and local level entity on the basis of their need for expenditure, their capacity in generating revenue and the efforts made by them.

(5) The province shall distribute fiscal equalization grants received from the Government of Nepal and the revenue generated from its sources, to the local level entities under it on the basis of need for their expenditures and their capacity to generate revenue, in accordance with provincial law.

(6) The Government of Nepal shall make arrangements regarding conditional grants to be provided through the Federal Consolidated Fund, complementary grants, or the special grants for other purposes.

(7) The distribution of revenue between the federal, provincial and the local level entity shall be transparent.

(8) While enacting the federal Act regarding revenue distribution, the matters that need to be included are: national policy, national needs, the autonomy of provinces and local level entities, the service delivery of the provinces and local level entities and the fiscal rights given to them; their capacity to generate revenue; their contribution to development works; regional imbalance; poverty and inequality; exclusion, emergency works and the support of meet temporary needs.

## **PART 6**

### **PRESIDENT AND VICE-PRESIDENT**

#### **65. President:**

(1) There shall be a President in Nepal.

(2) The President shall be the head of the State. He/she shall perform his/her duties according to this Constitution and law.

(3) The President shall be the commander of Nepal Army.

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

(5) The main responsibility of the President shall be to adhere to and protect the Constitution.

#### **66. Election of the President:**

(1) An electoral college, consisting of voting members of the federal parliament and the members of provincial assembly, shall elect the President. It shall be done as provided for in law with the difference of weightage in voting of the members of the federal parliament and the members of provincial assembly.

(2) Notwithstanding anything contained in sub-clause (1), it shall not be deemed to prevent the formation of an electoral college for the use of the election of the President simply because of the reason that an election of provincial assembly has not been held in any province.

(3) The person who receives majority votes of the total number of existing members of the Electoral College as provided for in sub-clause (1), shall be elected as President.

(4) If any candidate fails to receive majority votes according to sub-clause (3), there shall be a second round of voting between the two candidates who receive the highest votes.

(5) In the second round of voting according to sub-clause (4), the candidate who receives more than 50 percent of the total valid votes, shall be considered elected to the post of the President.

Provided that, in case two candidates receive equal votes, it shall be decided by a lottery draw.

(6) If a person who is elected to the position of the President already holds a political position through election, nomination, or appointment, the position held by such a person shall automatically become vacant.

(7) The election of the President and other related arrangements shall be as provided for by law

**67. Term of the President:**

(1) The term of the President shall be for five years.

(2) The President whose term has expired pursuant to sub-clause (1), shall continue to work according to this Constitution until the newly elected President joins the office.

**68. Qualifications of the President:**

(1) A person shall be eligible to be President if he/she fulfils the following qualifications:

- (a) He/she is eligible to be a member of the federal parliament.
- (b) He/she has attained at least 45 years of age, and
- (c) Is not ineligible by any law.

(2) Notwithstanding anything contained in sub-clause (1), a person who has already been elected President for two terms, shall not be eligible to be a presidential candidate for the presidential election thereafter.

**69. The circumstances in which the President ceases to hold office:**

The President shall cease to hold office under the following circumstances:

- (a) If a written resignation is tendered to the Vice-President.
- (b) If an impeachment motion, based on charges of gross violation of the constitution, is tabled against the President by at least one-fourth of the total number of existing members of the federal parliament, is passed by the joint meeting of both the Houses

of the federal Parliament, by a two-thirds majority of the total number of existing members of both the Houses.

- (c) If the term of office expires
- (d) If he/she dies

**70. Functions, duties and powers of the President:**

(1) The following shall be the functions, duties and powers of the President:

- (a) Summoning and prorogating the sessions of both the Houses of the federal parliament,
- (b) Certification of the Bills passed by the federal parliament,
- (c) Appoint different officials according to the Constitution and law,
- (d) Receive letters of credentials of foreign ambassadors and diplomatic missions,
- (e) Confer awards, titles, decorations and medals on behalf of Nepal
- (f) Pardon, suspend or reduce the sentence passed by judicial, quasi-judicial and administrative bodies or officials,

(2) The President shall perform all the works on the suggestions and consent of the Council of Ministers, except the works that shall have to be done on the recommendation of some Body or officials as specified in this Constitution and law.

(3) The decision, or Order to be made in the name of the President as provided for by sub-clause (1), and the certification of credentials in that regard, shall be done as specified by law.

**71. Vice-President:**

(1) There shall be a Vice-President in Nepal.

(2) The vice-President shall perform the duties of the President until a new President is elected in the case when the President ceases to hold Office due to reasons other than when the President is absent or the term of office has expired.

(3) If a person is elected to the position of Vice-President already holds a political position through election, nomination or appointment, the position held by such a person shall automatically become vacant.

**72. The circumstances in which the Vice-President ceases to hold office:**

The Vice-President shall cease to hold office under the following circumstances:

- (a) If he/she tenders a written resignation to the President,
- (b) If an impeachment motion, based on charges of gross violation of the Constitution, is tabled against the Vice-President by at least one-third of the total number of existing members of the federal parliament, is passed by the joint meeting of both the Houses of the federal parliament by at least a two-thirds majority of the total number of existing members of both the Houses.
- (c) If the term of office expires,
- (d) If he/she dies.

**73. Other provisions regarding the Vice-President:**

The qualification of the Vice-President, election process, and other provisions regarding the term of office, shall be similar to that of the President.

**74. Oath of office of the President and Vice-President:**

The President shall take the oath of office and secrecy before the Chief Justice, and, the Vice-President before the President, as provided for by law, before assuming the responsibilities of the office.

**75. Remuneration and other benefits to the President and Vice-President:**

The remuneration and other benefits to the President and Vice-President shall be as determined by an Act, and until such Act is made, it shall be as specified by the Government of Nepal.

**76. Secretariat of the President and the Vice-President:**

- (1) Separate offices shall be set up to assist the works of the President and the Vice-President.
- (2) The Government of Nepal shall provide necessary personnel and make other arrangements for the management of the works of the offices pursuant to sub-clause (1).

## **PART 7**

### **FEDERAL EXECUTIVE**

#### **77. Form of governance:**

The form of governance of the country shall be a multi-party, competitive, federal democratic republican parliamentary system based on plurality.

78. **Executive Power:** (1) The executive power of Nepal shall rest with the Council of Ministers in accordance with this Constitution and law.

(2) The responsibility of providing general directives, control and enforcement regarding the governance system of Nepal, by adhering to this constitution and law, shall rest with the Council of Ministers.

(3) The entire works relating to the federal executive of Nepal shall be done in the name of the Government of Nepal.

(4) The decision or Order and related certification of credentials as provided for by sub-clause (3) shall be done according to law.

#### **79. Constitution of the Council of Ministers:**

(1) The President shall appoint the parliamentary party leader of the political party with the majority in the House of Representatives as a Prime Minister, and a Council of Ministers shall be formed in his/her chairmanship.

(2) If there is not a clear majority of any party according to sub-clause (1), the President shall appoint as Prime Minister the member of the House of Representatives who can have the majority with the support of two or more political parties represented in the House of Representatives.

(3) If there is a situation wherein it is not possible to make the appointment of the prime minister as provided for in sub-clause (2) within 30 days of the final result of the election of the House of Representatives, or if the appointed prime minister, as provided for in sub-clause (4), fails to receive a vote of confidence, the President shall appoint the leader of the party with the highest number of members in the House of Representatives as the prime minister.

(4) The prime minister appointed according to sub-clause (2) or (4) shall have to receive the vote of confidence of the House of Representatives within 30 days of his/her appointment .

(5) If a prime minister appointed according to sub-clause (3) fails to receive a vote of confidence, the President shall appoint a member as prime minister, who is in a condition to get the vote of confidence of the House of Representatives as provided for in sub-clause (2).

- (6) The prime minister appointed according to sub-clause (5) shall have to get the vote of confidence according to sub-clause (4).
- (7) If the prime minister appointed according to sub-clauses (3) or (5), fails to get the vote of confidence according to sub-clauses (4) or (6), or if any member fails to be appointed as prime minister according to sub-clause (5), the President shall dissolve the House of Representatives and fix a date to conduct another election within six months.
- (8) The procedure regarding the appointment of the prime minister shall have to be completed within 55 days after the post of the prime minister falls vacant, or the announcement of the final results of the election of the House of Representatives according to this Constitution.
- (9) The President shall, on the recommendation of the prime minister, form a council of ministers consisting of members not exceeding 25 in number from among the members of the federal parliament on the basis of the principle of inclusion.
- Explanation:** For the purpose of this Article ‘minister’ stands for deputy prime minister, minister, minister of state and assistant minister.
- (10) The prime minister and the ministers shall be collectively accountable to the federal parliament, and, a minister shall be personally accountable to the prime minister for the works of his/her ministry, and also to the federal parliament.

**80. The circumstances under which the prime minister and minister ceases to hold office:**

- (1) The prime minister shall cease to hold office in the following circumstances|
- (a) If he/she tenders written resignation to the President,
  - (b) If a motion of no confidence according to Article (104) is passed, or if a vote of confidence fails to be approved,
  - (c) If he/she ceases to be a member of the House of Representatives,
  - (d) If he/she dies.
- (2) The deputy prime minister, minister, state minister and assistant minister shall cease to hold office int the following circumstances:
- (a) If he/she tenders a written resignation to the prime minister,
  - (b) If the prime minister removes him/her from the post,
  - (c) If the prime minister ceases to hold office according to sub-clause (1), or
  - (d) If he/she dies
- (3) If the prime minister ceases to hold the office according to sub-clause (1), the same council of ministers shall continue to work until another council of ministers is constituted.

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

**81. A person is to be minister who is not a member of the federal parliament:**

(1) Whatsoever is contained in Article (79), the president may, on the recommendation of the prime minister, appoint deputy prime minister, minister, minister of state, assistant minister, who is not a member of the federal parliament.

(2) The minister appointed according to sub-clause (1) shall have to receive membership of the federal parliament within six months of taking oath of office.

(3) If the minister fails to get the membership of the federal parliament according to sub-clause (2), the minister shall not be eligible for reappointment as minister during the tenure of the existing House of Representatives.

(4) Whatever may be contained in sub-clause (1), a person who has lost election in the election of the existing House of Representatives, shall not be eligible to be a minister according to sub-clause (1), during the tenure of the existing House of Representatives.

**82. The remuneration and other benefits to the prime minister, deputy prime minister, minister, state minister and assistant minister:**

The remuneration and benefits to the prime minister, deputy prime minister, minister, state minister, and assistant minister shall be as provided for by Act. Until such an Act is formulated, it shall be as determined by the Government of Nepal.

**83. Oath of office:**

The Prime Minister, the deputy prime minister and minister shall take the oath of office and secrecy to the President, and, the state minister and assistant minister to the prime minister.

**84. The President to be informed:**

The prime minister shall inform the president about the following:

- (a) The decision of the Council of Ministers,
- (b) The Bill to be presented before the federal parliament,
- (c) If the President asks for other information relating to Part (a) and (b), the other information shall be provided.
- (d) Contemporary situations of the country and subjects relating to foreign affairs.

**85. The working procedure of the government of Nepal:**

(1) The division of works and work performance of the government of Nepal shall be in accordance with the regulations passed by the government of Nepal.

(2) No question shall be raised in any court as to whether or not the regulations under sub-clause (1) were abided by.

## **PART 8**

### **FEDERAL LEGISLATURE**

#### **86. Constitution of Legislature:**

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

**87. Legislative Powers of Federal Parliament:** The legislative powers of Federal Parliament shall be as provided for in the Federal list of powers Schedule- 4 and concurrent list in Schedule- 6.

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

- (a) One hundred and sixty five members elected from first-past-the-post electoral system consisting of one member from each of the one hundred and sixty five electoral constituencies, formed by dividing Nepal into 165 constituencies based on geography, population and provincial balance.
- (b) One hundred and ten members elected from proportional representation electoral system where voters vote for parties, while treating the whole country as a single electoral constituency.

(2) Provision shall be made according to law for the representation of political parties to file candidacy for the election of the House of Representatives for proportional representation system through closed list, of women, *Dalit, Adibasi, Janajati, Adibasi Janajati, Khas Arya, Madhesi, Tharu, Muslim*, backward regions and minority communities on the basis of geography, population and provincial balance.

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

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

(4) Every Nepali citizen who has attained the age of eighteen years, as provided in law, shall be entitled to vote in any constituency.

(5) Subject to law, any Nepali citizen, who is entitled to vote in election for House of Representatives, and who meets the requirements under Article 91, shall be allowed to file candidacy from any constituency.

(6) In case of vacancy of a seat of a member in House of Representatives, while still ahead of six months its terms, such vacancy shall be filled through process by which said member had been elected.

(7) Subject to the provisions in this Article, the election of House of Representatives and other matters thereto shall be as provided in law.

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

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

Provided that,

In situation when state of emergency exists, term of House of Representatives may be extended, not exceeding one year, in accordance with law.

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

**90. Constitution of National Assembly and terms of members:** (1) Nationally Assembly shall be a permanent house. The term of one-third members of National Assembly shall expire every two years.

(2) There shall be forty five members in the National Assembly as follows:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Provided that,

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

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

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

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

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

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

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

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

**96. Chairperson and Vice-Chairperson of National Assembly:**

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

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

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

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

(4) The office of the Chairperson and Vice chairperson shall be vacant in the following circumstances:

- (a) if s/he ceases to be a member of the National Assembly,
- (b) if s/he submits a written resignation,
- (c) if a resolution is passed by a majority of two-thirds of the total members of the National Assembly to the effect that his or her conduct is not compatible with his/her position.
- (d) if s/he dies.

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

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

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

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

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

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

**98. Quorum:**

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

**99. Address by President:**

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

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

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

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

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

**101. Constitution of Committees:**

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

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

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

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

**103. Voting:**

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

**104. Provision related to Vote of Confidence and Motion of no-confidence:**

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

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

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

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

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

(5) The name of the member proposed for Prime Minister should be mentioned when tabling the no-confidence motion under clause (4).

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

(7) If the office of Prime Minister falls vacant under clause (6), the President shall appoint the member proposed in motion of no-confidence under Article 79, the Prime Minister.

**105. Motion of Impeachment:**

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

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

(3) A motion of impeachment recommendation committee shall be formed in House of Representatives to recommend charges of impeachment under clause (1) and (2).

(4) The committee formed under clause (3) shall comprise of eleven members.

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

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

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

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

If a person sits or votes in a meeting of either House of Parliament as a member without taking an oath pursuant to Article 92, or knowing that s/he is not qualified for membership in the House,

s/he shall, on order of the person chairing the House, be liable to a fine of five thousand rupees for each day of such presence or voting. The fine shall be recovered as government dues.

**107. Privileges:**

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

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

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

(4) The provisions laid in clause (1) and (3) shall also apply to any person, other than a member, who is entitled to take part in a meeting of the House.

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

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

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

Provided that,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**112. Remuneration:**

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

**PART 9**

**FEDERAL LEGISLATIVE PROCEDURE**

**113. The procedure of introducing a Bill:**

(1) A Bill may be introduced to any of the Houses of the federal Parliament by adhering to this Constitution.

(2) The finance Bill and Bills concerning the security agencies, including the Nepal Army, Nepal Police, Armed Police, shall be introduced only as a government Bill.

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

(a) The imposition, collection, abolition, remission, alteration of taxes or regulation of tax system.

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

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

(d) the custody and investment of all revenues received by any Government fund, money acquired through the repayment of loans and the grant of money, or audit of the accounts of the Government.

(e) Matters directly related to sub-clause (a), (b), (c) and (d).

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

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

**114. Procedure for passing Bills:**

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

(2) The Finance Bill passed by the House of Representatives, shall be sent to the National Assembly (Rastriyasabha). The National Assembly shall have to discuss on the Bill send it back to the House of Representatives with suggestions, if any, within fifteen days of receiving it.

(3) The House of Representatives shall discuss over the Bill returned with suggestions according to sub-clause (2), incorporate the appropriate suggestions, if any, and present it to the President for certification.

(4) If the National Assembly does not return the Bill even after 15 days of receiving it according to sub-clause (2), the House of Representatives shall send the Bill to the President for certification.

(5) Except In the case of a Finance Bill, the Bill sent to the National Assembly by the House of Representatives after passing it, the National Assembly shall have to send them back with suggestions after passing them within two months of receiving them. In the event when such bills are not returned by the National Assembly within the timeframe, the House of Representatives shall send such Bills to the President for certification, after making a decision on them with a majority voting of total existing number of members.

(6) If one House rejects the Bill passed by another House, or if it is passed with amendments, the Bill shall have to be sent back to the House where it had been originated.

(7) If a Bill is rejected by National Assembly, or sends it back with amendments to the House of Representatives, and if a majority of the existing number of members of the House of Representatives discuss over it and pass it as it is, or pass it with amendments, the Bill shall be presented to the President for certification.

(8) If a Bill is sent back to the National Assembly by the House of Representatives with amendments as provided for by sub-clause (6), and if National Assembly also passes the Bill along with the amendments made, it shall be presented to the President for certification.

(9) The following Bills shall be presented in the joint meeting of both the Houses and if the Bill is passed as it is or with amendments by the joint meeting, the House where the Bill had originated shall present it before the President for certification.

- (a) Bills Passed by the National Assembly but rejected by the House of Representatives, or
- (b) Bills sent back by the House of Representatives to the National Assembly with amendments but National Assembly failing to agree on the amendment.

(10) If the session ends when a Bill is still under consideration, the next session may take over the procedure.

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

**115. Withdrawal of Bill:**

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

**116. Certification of the Bills:**

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

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

(2) The Bill presented to the President for certification according to this Article, shall be certified within 15 days, and both the Houses shall be informed about that as early as possible.

(3) Except in the case of a Finance Bill, if the President is satisfied that reconsideration is necessary on a bill, the Bill may be sent back to the House where it originated with necessary information within 15 days of receiving the Bill.

(4) If the President sends back a Bill with the information and if both the Houses reconsiders the bill as it was presented or with amendments, and pass it and present it again to the President, the Bill shall be certified by the President within 15 days of its submission.

(5) The Bill becomes an Act after it is certified by the President.

**117. Ordinance:**

(1) If at any time, except when both the Houses of the federal Parliament is in session, the President is satisfied that circumstances exist which render it necessary to take action, the president may issue an Ordinance on the recommendation of the Council of Ministers.

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

Provided that, every such Ordinance:

- (a) Shall be tabled at the next session and if not passed by both the Houses, it shall cease to be effective,
- (b) May be repealed at any time by the President,
- (c) Shall unless rendered ineffective or repealed under sub-clause (a) or (b), cease to have effect after six months of its issuance, or after six months of the meeting of both the Houses,

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

## **PART-10**

### **FEDERAL FINANCIAL PROCEDURES**

#### **118. Not tax to be levied or loan to be raised:**

- (1) No tax will be levied and collected except in accordance with law.
- (2) No loan shall be raised or guarantee be given by the Government of Nepal except in accordance with law.

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

Provided that, the money of religious endowments, other than private religious endowments, shall be regulated by laws to be enacted.

**120. Expenditure from Federal Consolidated Fund or Federal Government Fund:** No expenditure shall be incurred out of the Federal Consolidated Fund or any other federal government fund, other than the following:

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

Provided that matters relating to the Contingency Fund shall be governed in accordance with Article 127.

**121. Expenditure chargeable on the Federal Consolidated Fund:**

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

- (a) amount to be managed by the Act relating to expenses of the President,
- (b) amount to be managed by the Act relating to expenses of the Vice-president,
- (c) amount required as remuneration, privileges and retirement payable to the Chief Justice, Supreme Court Justice, Constitutional Court Justice and the Judicial Council members,
- (d) amount required as remuneration and privileges payable to the Speaker and deputy Speaker of the House of Representatives, Chair and Vice-chair of National Assembly,
- (e) amount required as remuneration and privileges payable to the Heads and office-bearers of constitutional bodies,
- (f) amount to be managed by the Act relating to the expenses of the Head of Province,
- (g) the administrative expenses of the Supreme Court, Constitutional Court, Judicial Council and constitutional bodies,
- (h) all charges relating to debts for which the Government of Nepal is liable,
- (i) any sum required to be paid under any judgement or decree of a court against the Government of Nepal, and
- (j) Any other sum declared by law to be chargeable on the Federal Consolidated Fund.

**122. Estimates of Revenues and expenditure:**

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

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

(2) The annual estimates to be presented pursuant to Clause (1) shall be accompanied by a statement of the expenses allocated to each Ministry in the previous financial year and particulars of whether the objectives of the expenses have been achieved.

(3) The Finance Minister of the Government of Nepal shall table the revenue and expenditure estimates as per Clause (1) on the 15<sup>th</sup> of the month of Jestha (beginning of June) in the Lunar Calendar every year.

**123. Appropriation Act:**

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

**124. Supplementary estimates:**

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

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

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

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

**125. Votes on Account:**

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

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

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

**126. Votes of credit:**

Notwithstanding anything contained elsewhere in this Part, if owing to a local or national emergency due to either natural causes, a threat of external aggression or internal disturbances or other reasons, and it is impractical or inexpedient in view of the security or interest of the State to specify the details required under Clause (1) of Article 122, the Finance Minister may present a Vote of Credit Bill before the House of Representatives giving only a description of the proposed expenditure.

**127. Federal Contingency Fund:**

A Federal Act may create a Contingency Fund into which shall be paid from time to time such money as may be determined by law. Such Fund shall be under the control of the Government of Nepal. Any unforeseen expenditures shall be met out of such fund by the Government of Nepal. The amount of expenditures so met shall be reimbursed as soon as possible by a Federal Act.

**128. Act relating to financial Procedures:**

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

**PART-11**

**JUDICIARY**

**129. Courts to exercise powers related to justice:**

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

(2) All must adhere to the order or verdict given by the court in relation to the court cases.

**130. Courts:**

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

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

(2) In addition to the courts referred to in Clause (1), other institutions may be established as per the need to adopt other alternatives of dispute resolution or judicial bodies to see cases at the local level as per the law.

**131. Specialized court:**

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

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

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

**132. Supreme Court**

- (1) There shall be a Supreme Court in Nepal.
- (2) The Supreme Court shall be the Court of Record. Unless otherwise provided in this Constitution, all other courts and judicial institutions shall be under the Supreme Court. The Supreme Court shall have the final power to interpret the Constitution and law.
- (3) The Supreme Court may inspect, supervise and give necessary directives to courts and other judicial institutions falling under its jurisdiction on matters relating to judicial administration or management. But, it cannot give such directives on matters of judicial execution.
- (4) The interpretation of constitution and law or the legal principles propounded by the Supreme Court in relation to court cases must be followed by all. The Supreme Court can initiate a contempt of court case and punish as per the law against anyone obstructing its or its subordinate court's act of judicial execution or not abiding by its order or verdict.
- (5) The Supreme Court shall, in addition to the Chief Justice, consist of up to a maximum of fourteen other judges. If the load of cases in the Supreme Court increases, the Chief Judge of the High Court may be mobilized for some time in the Supreme Court.

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

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

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

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

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

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

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

#### **134. Conditions of service and benefits of the Chief Justice and Judges:**

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

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

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

(4) The remuneration and other conditions of service of the Chief Justice and other judges of the Supreme Court shall not be altered to their disadvantage. However, this provision shall not apply in case of a declaration of a state of emergency due to severe economic breakdown.

#### **135. Removal of Chief Justice or Judges of the Supreme Court:**

(1) The Chief Justice or Judge of the Supreme Court will cease to hold office in the following situations:

- (a) If the Chief Justice submits her/his written resignation to the President and a Judge submits her/his resignation to the Chief Justice,
- (b) If she/he attains the age of six-five years,
- (c) If an impeachment resolution is passed as per Article 105,
- (d) If the President relieves her/him of the post on the recommendation of the Constitutional Council in case of the Chief Justice and on the recommendation of the

Judicial Council in case of the Judge for not being able to perform duties in service due to physical or mental illness,

- (e) If convicted by the court on criminal charges of moral degradation, or
- (f) If she/he dies.

(2) A motion for impeachment may be presented before the House of Representatives by one-fourth members of the total number of its existing members against the Chief Justice or any Judge of the Supreme Court on the ground that she/he is unable to perform their duties for reasons of incompetence or misbehavior, failure to discharge the duties of their office in good faith or failure to discharge the duties of their office due to reasons of serious violation of the code of conduct. If the motion is passed by a two-thirds majority of the total number of existing members in the House of Representatives, she/he shall ipso facto cease to hold office.

Provided that, the Chief Justice or Judge so charged shall not be deprived of the opportunity to defend her/himself.

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

(4) The Chief Justice or the Judge who has been relieved of duties as per Clause (2) will face action as per the law on the offenses committed while holding office.

(5) The Rules of Procedure of impeachment shall be determined by the law.

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

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

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

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

**137. Jurisdiction of the Supreme Court:**

(1) Any Nepali citizen may file a petition in the Supreme Court to have any law or any part thereof declared void on the ground of inconsistency with this Constitution because it imposes an unreasonable restriction on the enjoyment of the fundamental rights conferred by this Constitution or on any other ground, and extra-ordinary power shall rest with the Supreme Court to declare that law void either ab initio or from the date of its decision if it appears that the law in question is inconsistent with the Constitution.

(2) The Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal right for which no other remedy has been provided or for which the remedy even though provided appears to be inadequate or ineffective, or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern, have the extraordinary power to issue necessary and appropriate orders to enforce such rights or settle the dispute. For these purposes, the Supreme Court may, with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders and writs including the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto.

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

(3) The Supreme Court shall hear appeal of cases that have been initiated and executed by the High Court, a subject of public interest litigation including a question related to the interpretation of the constitution and law or a case referred by the High Court along with its opinion that it would be appropriate for the Supreme Court to decide on it.

(4) The Supreme Court shall have jurisdiction to hear original and appellate cases, to review its own judgements or interim order, to examine decision referred for confirmation, review cases or hear petitions.

**138. Transfer of cases:**

- (1) If a case including the same question in substantial terms are under consideration of the Supreme Court and High Courts and if the Supreme Court considers that the question is of public importance or if it is seen so in the petition of the Attorney General or the petitioner of the case, the Supreme Court shall have the right to invite the case and decide it together.
- (2) If special circumstances arise whereby question could be raised on the judicial impartiality over the hearing of a case in any High Court, the Supreme Court may order as per the law by clarifying the reason and basis to transfer the hearing of the case from one High Court to another High Court.

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

**140. Responsibility of the Chief Justice:**

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

### **141. Constitutional Court**

- (1) There shall be a Constitutional Court in Nepal.
- (2) The formation of the Constitutional Court shall be as follows:
  - (a) Chief Justice -Chair
  - (b) Two senior most Justice of the Supreme Court -Member
  - (c) Two persons to be appointed by the President on the recommendation of the Judicial Council from among those who meet the qualifications of a Supreme Court Justice and who holds a master's degree in law -Member
- (3) The jurisdiction of the Constitutional Court shall be as follows:
  - (a) To resolve the dispute over the jurisdiction between the Federation and Province, among Provinces, between a Province and local level and among the local levels (of government),
  - (b) To resolve the dispute concerning the election of the Federal Parliament or Provincial Assembly, and the question of ineligibility of the member of the Federal Parliament or the member of the Provincial Assembly.
- (4) The decision of the Constitutional Court shall be final decision.
- (5) The Constitutional Court shall continue to exist for ten years from the commencement of this Constitution. Following the period, the cases and records under consideration at the Constitutional Court shall be transferred to the Supreme Court.
- (6) The terms of service and benefits of the members to be appointed as per sub-Clause (c) of Clause (2) shall be similar to a Supreme Court Justice.
- (7) Other arrangements of the Constitutional could shall be as prescribed by the law

### **142. Annual report:**

- (1) Each year, the Supreme Court, the Constitutional Court, Judicial Council and Federal Judicial Service Council shall present its annual report to the President, and the President through the Prime Minister shall submit such reports before the Federal Parliament.
- (2) If recommendations from the Federal Parliament are deemed necessary upon discussion on the annual report submitted as per Clause (1), then such recommendations may be given to the concerned institution through the Government of Nepal, Ministry of Law and Justice.
- (3) Other provisions relating to the annual report as per Clause (1) will be as per the law.

### **143. High Court :**

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

(2) The High Court can initiate a contempt of court case and punish as per the law against anyone obstructing its or its subordinate court's act of judicial execution or not abiding by its order or verdict.

(3) In addition to the Chief Judge, every High Court shall have judges in the number as provided in the Federal Law.

**144. The appointment and qualifications of the Chief Judge and Judge of the High Court:**

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

(2) Any Nepali citizen who has a Bachelor's Degree in law and has worked as a District Judge for at least five years or has practiced as a law graduate senior advocate or advocate for at least ten years ; or for at least 10 years, has either taught law or conducted research thereon or worked in any other field of law or justice or worked in any post of gazetted first class officer of the Judicial Service for a period of at least five years shall be considered eligible for appointment as Chief Judge or other Judge of the High Court.

(3) During appointments of Chief Judge and other Judges of the High Court from among the persons meeting qualifications as per Clause (2), in case of a district judge, the appointment shall be made also on the ground of the proportion of cases decided annually by her/him and the situation of cases endorsed or overturned during final decision in the higher court, and in case of others, on the ground of examination and evaluation as per the law.

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

**145. Conditions of service and benefits of Chief Judge and Judge:**

(1) Unless otherwise mentioned in this Constitution, the remuneration and other conditions of service of the Chief Judge and other Judges of the High Court shall be as per the law.

(2) Notwithstanding anything contained in Clause (1), the Chief Judge and Judge of the High Court, who has been removed from office following action by the Judicial Council or following punishment by the court on criminal charges constituting moral degradation, shall not be entitled to gratuity or pension.

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

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

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

**146. Removal of the Chief Judge or Judge :**

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

- (a) If she/he submits written resignation to the Chief Justice,
- (b) If she/he attains the age of sixty three years,
- (c) If she/he is removed by the Judicial Council for reasons of incompetence, misbehavior, ill-intended activities and serious violation of the code of conduct,
- (d) If she/he is removed by the Judicial Council for being unable to discharge the duties of her/his office due to physical or mental illness.
- (e) If punished by the court on criminal charges constituting moral degradation, or
- (f) If she/he dies.

(2) A Judge who is facing a charge before being removed from office as per Sub-clause (c) of Clause (1) must be given a reasonable opportunity to defend herself/himself. The Judge against whom proceedings have been initiated accordingly shall not perform duties of her/his office until the proceedings have been completed.

(3) The Chief Judge or Judge removed from office may face investigation and prosecution as per the law for offense committed while holding office.

**147. Chief Judge and Judge not be engaged in any other assignment and transfer related provision:**

(1) The Chief Judge and Judge shall not be transferred to or deputed to any assignment except that of a Judge.

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

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

**148. Jurisdiction of the High Court:**

(1) The High Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal right for which no other remedy has been provided or for which the remedy even though provided appears to be inadequate or ineffective, or for the settlement of any legal question involved in any dispute of public interest or concern, have the right to issue necessary and appropriate orders in the name of governments, office-bearers, institutions or individuals within its provincial jurisdiction.

(2) For the purpose of Clause (1), the High Court may issue appropriate orders and writs including the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto.

Provided that except on the ground of absence of jurisdiction, the High Court shall not, under this Clause, interfere with the internal task and the proceedings and decision of the Provincial Assembly concerning violation of its privileges and any penalties imposed thereof.

(3) The High Court shall have jurisdiction to hear original and appellate cases and to examine decisions referred for confirmation, as provided for in law.

(4) Other powers and working procedures of the High Court shall be as per the law.

**149. Transfer of cases:**

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

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

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

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

**152. District Court :**

(1) There shall be a district court in every district.

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

**153. Appointment, qualifications and remuneration and other terms of service of the Judges of District Courts:**

(1) The Chief Justice shall, on the recommendation of the Judicial Council appoint the Judges of the District Courts.

(2) Any Nepali who has a Bachelor's Degree in law and worked for eight years in any post of gazetted third class officer of Judicial Service or at least three years in any post of gazetted second class officer or has practiced as a law graduate advocate for at least eight years or has either taught law or conducted research thereon or worked in any other field of law and justice for at least eight years shall be eligible for candidate of written examinations for the post of Judge of the District Court.

(3) The Judicial Service Commission shall, after taking written and verbatim practical examinations as per the law from among the persons with qualifications as per Clause (2), recommend to the Judicial Council as per the merit list for appointment as district judge.

(4) The remuneration and other conditions of service of the Judges of District Court shall be as per the law.

(5) The remuneration and other conditions of service of the Judges of the District Court shall not be altered to their disadvantage.

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

(6) A Judge of the District Court shall cease to hold office in the following circumstances:

(a) If she/he submits written resignation to the Chief Justice of Supreme Court,

(b) If she/he attains the age of sixty three years,

(c) If she/he is removed by the Judicial Council for reasons of incompetence, misbehavior, ill-intended work or serious violation of the code of conduct,

(d) If removed by the Judicial Council for being unable to discharge the duties of her/his office due to physical or mental illness,

(e) If punished by the court on criminal charges constituting moral degradation, or

(f) If she/he dies.

(8) A Judge of the District Court who is facing a charge before being removed as per Sub-clause (c) of Clause (6) shall be given a reasonable opportunity to defend herself/himself. The Judge against whom proceedings have been initiated accordingly shall not perform the duties of her/his office until the proceedings have been completed.

- (9) The Judge thus removed may face investigation and prosecution as per the law on offenses committed while holding office.

**154. Judges of the District Court not to be engaged in any other assignment and provisions related to transfer:**

- (1) A District Court Judge shall not be engaged in or deputed to any assignment except that of a Judge.

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

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

**155. Jurisdiction of the District Court:**

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

**156. Judicial Council :**

- (1) There shall be a Judicial Council to make recommendations and give advice in accordance with this Constitution concerning the appointment of, transfer of, disciplinary action against, dismissal of Judges, and other matters relating to judicial administration, which shall consist of the following as its Chairperson and members:-
- (a) The Chief Justice -Chairperson
  - (b) The Federal Minister for Law and Justice -Member
  - (c) Senior-most Judge of the Supreme Court -Member
  - (d) A legal expert nominated by the President on the recommendation of the Prime Minister -Member
  - (e) A senior advocate, or an advocate who has at least twenty years' experience to be appointed by the President on the recommendation of the Nepal Bar Association -Member
- (2) The term of office of the members referred to in Sub-clauses (d) and (e) of Clause (1) shall be four years and their remuneration and privileges shall be the same as those of a Judge of the Supreme Court.

- (3) The members referred to in Sub-clauses (d) and (e) of Clause (1) above, may be removed from office on the same grounds and in the same manner as provided for the removal of a Judge of the Supreme Court.
- (4) The Chairperson inter alia members of the Judicial Council may obtain and study the documents and files of a case related to any complaint lodged against a judge, and may furnish information thereon to the Judicial Council.
- (5) The Judicial Council may, while carrying out preliminary investigation of a complaint received against a judge, constitute a Committee of Inquiry, if it has determined that a detailed investigation by an expert is required.
- (6) The Judicial Council shall, pursuant to this Constitution, maintain an updated record of the persons who meet the qualifications to be appointed to the post of Chief Justice and Judge of the Supreme Court, Judge of the Constitutional Court, Chief Judge and Judge of the High Court.
- (7) The other functions, duties and powers of the Judicial Council shall be as per the law.

**157. The Federal Judicial Service Commission:**

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

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

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

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

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

(3) The other functions, duties, and powers, and working procedures of the Federal Judicial Service Commission shall be as per the law.

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

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

## **PART-12**

### **PROVINCIAL EXECUTIVE**

#### **160. Exercise of Provincial executive power:**

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

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

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

(3) The executive functions of the Province shall be exercised in the name of the Provincial government.

(4) The provincial executive power, pursuant to this Constitution, shall be as provided in the list of competencies of the Province in Schedule-5 and the list of Concurrent competencies/powers of Federation and Province in Schedule-6.

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

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

#### **161. Provisions related to the Provincial Head:**

(1) Every province shall have a Provincial Head as the representative of the Federal government.

(2) The President shall appoint a Provincial Head for every province.

(3) The term of office of the Provincial Head shall be of five years, except when she/he is removed by the President before the expiry of her/his term of office.

(4) The same person shall not be the Provincial Head for more than one time in the same Province.

**162. Qualifications of Provincial Head**

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

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

**163: Vacation of the post of Provincial Head:**

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

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

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

**164. Functions, duties and powers of Provincial Head:**

(1) The functions, duties and powers of the *Provincial Head* shall be as follows:

- (a) Summon and prorogue the session of Provincial Assembly,
- (b) Certify the bills passed by the Provincial Assembly,
- (c) Appoint various office-bearers of the concerned Province to be appointed pursuant to constitution and law.
- (d) Confer the provincial-level awards, titles, honors, decorations and medals,
- (e) Pardon, suspend or reduce any sentence imposed by the concerned High Court and subordinate Courts pursuant to Provincial law.

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

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

**166. Constitution of the Provincial Council of Ministers:**

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

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

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

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

(5) If the Chief Minister appointed pursuant to Clause (3) cannot obtain a vote of confidence pursuant to Clause (4), the Provincial Head shall appoint as Chief Minister any other member pursuant to Clause (2) who can win a vote of confidence in the Provincial Assembly.

(6) The Chief Minister appointed pursuant to Clause (5) must obtain a vote of confidence pursuant to Clause (4).

(7) If the Chief Minister appointed pursuant to Clause (3) or (5) fails to obtain a vote of confidence pursuant to Clause (4) and (6) or if appointment of Chief Minister pursuant to Clause (5) is not possible, the Provincial Head shall dissolve the Provincial Assembly and announce the date for another elections to be held within six months.

(8) The appointment process of the Chief Minister in pursuant to this Article shall be completed within thirty-five days of the announcement of the final result of the election held for the Provincial Assembly pursuant to this Constitution or from which the post of the Chief Minister falls vacant.

(9) The Provincial Head shall, on the recommendation of the Chief Minister, constitute from among the members of the Provincial Assembly the Provincial Council of Ministers on the basis of the principles of Inclusion and not exceeding more than twenty per cent of the total number of members of the Provincial Assembly, including the Chief Minister.

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

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

**167. Removal of Chief Minister and Ministers:**

(1) The Chief Minister shall be deemed to have ceased to hold office in the following situations:

- (a) If the Chief Minister submits her/his resignation to the Provincial Head.
- (b) If the no-confidence motion against her/him pursuant to Article 187 is passed or vote of confidence fails,
- (c) If she/he ceases to be the member of the Provincial Assembly, or
- (d) If she/he dies.

(2) The Minister, State Minister or Assistant Minister shall be deemed to have ceased to hold office in the following situations:

- (a) If they submit their resignation to the Chief Minister,
- (b) If the Chief Minister removes them,
- (c) If the Chief Minister ceases to hold office pursuant to Clause (1), or
- (d) If she/he dies.

(3) If the Chief Minister ceases to hold office pursuant to Clause (1), the existing Council of Ministers shall continue to function until a new Provincial Council of Ministers is constituted.

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

**168. Appointment of non-member of Provincial Assembly as Minister, State Minister or Assistant Minister:**

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

(2) The Minister, State Minister or Assistant Minister appointed pursuant to Clause (1) shall gain membership of the Provincial Assembly within six months of taking oath.

(3) Failure to attain membership of the Provincial Assembly within the period pursuant to Clause (2) shall make them ineligible to be re-appointed as Minister, State Minister or Assistant Minister during the term of the existing Provincial Assembly.

(4) Notwithstanding anything contained in Clause (1) a person who lost in the elections of the existing Provincial Assembly shall not be eligible for appointment to the post of Minister, State Minister or Assistant Minister pursuant to Clause (1) during the term of the same Provincial Assembly.

**169. Remuneration and other benefits of Chief Minister, Minister, State Minister and Assistant Minister:**

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

**170. Oath:** The Chief Minister and Ministers shall take their oath of office and secrecy as per the law before the Provincial Head, and the State Ministers and Assistant Ministers shall take their oath of office and secrecy before the Chief Minister.

**171. Provincial Head to be informed:**

The Chief Minister shall inform the *Provincial Head* about the following subjects:

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

**172. Conduct of business of the Provincial government:**

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

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

## **PART-13**

### **PROVINCIAL LEGISLATURE**

#### **173. The legislative power of provincial assembly:**

The legislative power of the Province shall, pursuant to this Constitution, be vested in the Provincial Assembly. The legislative power of the Provincial Assembly shall be as provided in the provincial list of competencies pursuant to Schedule-5 and concurrent list of competencies pursuant to Schedule-6.

**174. Provincial Legislature:** The Legislature of the Province shall be unicameral, called Provincial Assembly.

#### **175. Constitution of the Provincial Assembly:**

(1) Every provincial assembly shall consist of the following number of members:

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

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

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

(3) Sixty per cent of the members of the Provincial Assembly shall be elected through first-past-the-post election system and forty per cent through proportional representation election system on the basis of adult franchise through secret ballot as provided in the law.

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

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

(5) Notwithstanding anything contained in this Article, a minimum of one-third of the total members elected from every political party represented in the Provincial assembly shall be women.

If any political party does not have one-third women member elected among the members elected pursuant to section (a) of Clause (1), the concerned political party shall elect members as per section (b) of Clause (1) to ensure that a minimum of one-third of its members elected to the provincial assembly are women.

(6) A Nepali citizen who has attained the age of 18 years and living in the Province shall be entitled to vote in any one electoral constituency, as provided for in the law.

(7) Any person who has the right to vote in the election for the Provincial Assembly may, subject to provisions of the law, become a candidate from any electoral constituency of the Province.

(8) In a situation where the seat of any member falls vacant with more than six months of the term of the Provincial Assembly remaining, the seat shall be filled through by-election.

(9) Elections to the Provincial Assembly and other matters pertaining thereto shall be regulated as provided for in the law.

**176. Term of Provincial Assembly:** Unless dissolved earlier pursuant to this Constitution, the term of the Provincial Assembly shall be five years.

Provided that the term of the Provincial Assembly may be extended by a maximum of one year by the Provincial Act, in the event of the declaration of a State of Emergency. The term of Provincial Assembly extended accordingly shall ipso facto come to an end after six months of the date of annulment of the declaration of the State of Emergency.

**177. Qualification of members of Provincial Assembly:** Any person who possess the following qualifications is eligible to become a member of the Provincial Assembly:

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

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

**178. Oath of member of Provincial Assembly:** The members of the Provincial Assembly shall take the oath, as provided for in the law, before taking part for the first time in a meeting of the Assembly or a meeting of any of its Committee.

**179. Vacation of seat of Provincial Assembly member:**

The seat of a member of the Provincial Assembly shall be deemed to be vacant in the following circumstances:

- (a) if she/he submits resignation to the Speaker of the Provincial Assembly,
- (b) if she/he does not, or has ceased to, possess the qualifications pursuant to Article 177,
- (c) if the term of the Provincial Assembly expires or is dissolved,
- (d) if she/he remains absent from ten consecutive meetings without notification to the Provincial Assembly,
- (e) if the party of which she/he was a member when elected provides notification in the manner set out by provincial law that she/he has left the party, or
- (f) if she/he dies.

**180. Decision about disqualification of members of Provincial Assembly:** If a question arises as to whether any member of the Provincial Assembly is disqualified or has ceased to possess any of the qualifications required by Article 177, the final decision shall be made by the Constitutional Court.

**181. Speaker and Deputy Speaker of the Provincial Assembly :**

(1) The Provincial Assembly shall elect a Speaker and a Deputy Speaker from among its members within twenty days of the first meeting of the Assembly. One among the Province Speaker and Deputy Speaker shall be woman. If the office of the Speaker or Deputy Speaker falls vacant, the Provincial Assembly shall fill the vacancy through election from among its members. The Speaker and Deputy Speaker of the Provincial Assembly shall be from separate parties.

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

(2) In the absence of the Speaker of the Provincial Assembly, the Deputy Speaker shall chair the meeting of the Provincial Assembly.

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

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

- (a) if she/he ceases to be a member of the Provincial Assembly,
  - (b) if she/he submits written resignation, or
  - (c) if a resolution is adopted by a majority of two-thirds of the total number of members existing for the time being in the Provincial Assembly, to the effect that her/his conduct is not compatible with her/his position.
- (5) The Deputy Speaker shall preside over the meeting at which deliberations are to be held on a resolution that the conduct of the Speaker is not compatible with her/his position. The Speaker shall be entitled to take part and vote in the deliberations on such a resolution.

**182. Summoning and prorogation of sessions of Provincial Assembly:**

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

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

(2) The *Provincial Head* may prorogue the session of the Provincial Assembly.

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

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

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

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

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

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

**186. Privileges of Provincial Assembly:**

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

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

(3) No comment shall be made about the good faith of any proceedings of the Provincial Assembly, and no person shall make or disseminate anything about the comments or suggestion made by any member, deliberately misinterpreting or distorting their meaning.

(4) The provision of Clause (1) and (3) shall also be applicable to any other person who is allowed to take part in the Provincial Assembly, other than the member of the Provincial Assembly.

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

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

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

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

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

(8) If a person is in contempt of the Provincial Assembly, the person chairing the meeting may, in accordance with a decision by the meeting to that effect, reprimand or warn or impose a sentence of imprisonment not exceeding three months or impose a fine of up to ten thousand rupees on such a person, and such fine shall be recovered as government dues.

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

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

**187. Provisions related to Vote of Confidence and no-confidence motion:**

(1) If the Chief Minister considers it necessary or appropriate to make it clear that the Provincial Assembly has confidence in her/him, she/he may propose a vote of confidence to the Provincial Assembly any time.

(2) If the party represented by the Chief Minister is divided or if a party joining the provincial government withdraws its support, the Chief Minister shall propose a vote of confidence to the Provincial Assembly within thirty days.

(3) If the vote proposed in pursuant to Clause (1) and (2) is not passed by a majority of the total number of members existing in the timebeing, the Chief Minister shall cease to hold office.

(4) At least one-fourth of the total number of members of the Provincial Assembly may propose a no-confidence motion, stating that the Provincial Assembly has no confidence in the Chief Minister.

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

(5) A no-confidence motion pursuant to Clause (4) shall also include the name of the proposed member for the post of Chief Minister.

(6) If the no-confidence motion registered pursuant to Clause (4) is passed by a majority of the total number of members existing in the timebeing in the Provincial Assembly, the Chief Minister shall cease to hold office.

(7) If the no-confidence motion pursuant to Clause (6) is passed and the post of Chief Minister falls vacant, the Provincial Head shall appoint as Chief Minister, pursuant to Article 166, the member of the Provincial Assembly proposed pursuant to Clause (5).

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

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

**189. Unauthorized presence or voting in Provincial Assembly to be penalized :** If any person who has not taken oath pursuant to Article 178 or does not hold necessary qualifications for membership of the Provincial Assembly attends the Provincial Assembly or its Committee meetings or votes in capacity of a member then the person presiding over the meeting shall order a fine of five thousand rupees against the person for every instance of such attendance or voting, and the penalty shall be recovered as government dues.

**190. Restriction on discussion:** No discussion shall be held in the Provincial Assembly which could have an adverse impact in the judicial execution of a matter under consideration in any court of Nepal, and about anything done by a Judge in the course of performance of his or her judicial duties.

**191. Transaction of business in case of vacancy in membership:** The proceedings of the Provincial Assembly shall be conducted notwithstanding any vacancies in its membership, and no proceedings shall become invalid even if it subsequently found that a person not entitled to take part in the proceedings participated.

**192. Provincial Assembly to form committees:** The Provincial Assembly shall constitute committees or special committees as per the need and as provided for in its rules to manage the transaction of business of the Provincial Assembly.

**193. Procedure relating to the conduct of business of the Provincial Assembly:** The Provincial Assembly shall frame rules to conduct its business, maintain order during its meetings and to regulate the constitution, functions and procedures of, and for any other matters pertaining to, committees of the Provincial Assembly.

**194. Secretary and Secretariat of the Provincial Assembly :**

(1) The Provincial Head shall, on the recommendation of the Speaker of the Province, appoint Secretary of the Provincial Assembly.

(2) There shall be a Secretariat to carry out and manage the business of the Provincial Assembly. The establishment of such a Secretariat and other matters related thereto shall be as determined by Provincial law.

(3) The qualification, functions, duties, powers and other terms and conditions of service of the Secretary of the Provincial Assembly shall be as provided for in the law.

**195. Remuneration:** The remunerations and benefits of the Speaker, Deputy Speaker and members of the Provincial Assembly shall be as provided for in the Provincial law. Until such a law is formulated, it shall be as determined by the provincial government.

**PART 14-**

**PROVINCIAL LEGISLATIVE PROCEDURE**

**196. Procedure to introduce bills in the Provincial Assembly:**

- (1) A bill may be introduced, pursuant to this constitution, in the Provincial Assembly.
- (2) The Finance Bills and Bills concerning law and order shall be introduced only as a Government Bill.
- (3) “Finance Bill” means a Bill concerning all or any of the following subjects:
  - (a) the imposition, collection, abolition, remission, alteration or regulation of taxes or regulation of tax system in the Province,
  - (b) the preservation of the Provincial Consolidated Fund or any Government fund of another Province, the deposit of money into and the appropriation or the withdrawal of money from such funds, or the reduction, increment or cancellation of appropriations or of proposed expenditures from such funds,
  - (c) the regulation of matters relating to the raising of loans or the giving of guarantees by the Provincial Government, or any matter pertaining to amendment of the laws concerning the financial liabilities undertaken or to be undertaken by the Provincial Government,
  - (d) the custody and investment of all revenues received by any Provincial Government Fund, money acquired through the repayment of loans, and the grant of money; or audits of the accounts of the Provincial Government; or
  - (e) matters directly related to Sub-clauses (a), (b), (c), (d) and (e).

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

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

**197. Procedure for Passing Bills:**

- (1) A Bill passed by the Provincial Assembly shall be presented to the Head of Province for certification.

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

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

**198. Withdrawal of the Bill:**

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

**199. Certification of the Bill:**

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

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

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

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

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

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

**200. Ordinance:**

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

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

Provided that every such Ordinance:

- (a) shall be tabled at the next session of Provincial Assembly, and if not passed it shall ipso facto cease to be effective;
- (b) may be repealed at any time by the Head of Province ; and
- (c) shall, unless rendered ineffective or repealed under Sub-clause (a) or (b), ipso facto cease to have effect at the expiration of sixty days from the commencement of the session of the Provincial Assembly.

## **PART 15**

### **FINANCIAL PROCEDURES OF PROVINCE**

#### **201. No tax to be levied or loan to be raised**

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

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

Provided that, the money of any religious endowments, other than private religious endowments, shall be regulated by laws to be enacted.

#### **203. Expenditures from the Provincial Consolidated Fund or a Provincial Government Fund:**

No expenditure shall be incurred out of the Provincial Consolidated Fund or any other Provincial Government fund other than the following:

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

Provided that matters relating to the Provincial Contingency Fund shall be in accordance with Article 211.

**204. Expenditure chargeable on the Provincial Consolidated Fund:**

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

- (a) the amount to be provided for the salary and benefits of the Speaker and Deputy Speaker of the Province,
- (b) the amount required as remuneration and benefits payable to the Chairperson and members of the Provincial Public Service Commission,
- (c) all charges relating to debts for which the Provincial Government is liable,
- (d) any sum required to be paid under any judgement or decree of a court against the Provincial Government,
- (e) any other sum declared by law to be chargeable on the Provincial Consolidated Fund.

**205. Estimates of revenues and expenditure:**

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

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

(2) the annual estimate to be presented pursuant to Clause (1) shall be accompanied by a statement of the expenses allocated to each Ministry in the previous financial year and particulars of whether the objectives of the expenses have been achieved.

**206. Appropriation Act:**

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

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

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

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

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

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

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

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

**209. Votes of credit:**

Notwithstanding anything contained elsewhere in this Part, if owing to a provincial emergency due to either natural causes or a threat of external aggression or internal disturbances or other reasons, it is impractical or inexpedient in view of the security or interest of the Province to specify the details required under Clause (1) of Article 205, the Finance Minister of the Province may present a Vote of Credit Bill before the Provincial Assembly giving only a description of the expenditure.

**210. Provincial Contingency Fund:**

An Act may create a Fund by the name of Provincial Contingency Fund into which shall be paid from time to time such money as may be determined by the Act. Such Fund shall be under the control of the Provincial Government. Any unforeseen expenditures shall be met out of such Fund by the Provincial Government. The amount of the expenditures so met shall be reimbursed as soon as possible by an Act.

**211. Act relating to financial procedures:**

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

## **PART- 16**

### **LOCAL EXECUTIVE**

#### **212. Exercise of local executive power:**

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

#### **213. Provisions related to Head and Deputy Head of Village Executive:**

- (1) There shall be a Head of Village executive in every Village Municipality. The Village executive shall be formed under her/his chairpersonship.
- (2) The Village executive, pursuant to Clause (1), shall have a Deputy Head and fifteen members.
- (3) The Head and Deputy Head shall be elected by voters of the Village municipality through secret ballot on the basis of one person one vote through the first-past-the-post electoral system.

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

- (4) The Ward Chairpersons and members elected pursuant to Article 221 by the Village Assembly members within fifteen days of announcement of the final results of the village assembly election shall be ex-officio members of the Village executive.
- (5) Four women members elected by the Village Assembly members from among themselves and two persons elected from the Dalit or minority community enlisted in the voters list of the Village Municipality and with qualifications pursuant to Clause (6) below shall also be members of the Village executive.

(6) Any person with the following qualifications shall be eligible for election to the post of Head and Deputy Head:

- (a) be a Nepali citizen,
- (b) have attained twenty-one years of age,
- (c) is included in the voters list of the Village municipality,
- (d) is not ineligible by any law.

(7) The term of office of the Head, Deputy Head and Village executive members shall be of five years.

(8) Any person who has been elected to the post of the Head for two terms shall not be eligible to become a candidate in the subsequent Village municipality elections.

(9) The post of the Head or Deputy Head shall fall vacant under following conditions:-

- (a) if the Head tenders her/his resignation before the Deputy Head and the Deputy Head before the Head,
- (b) if her/his term comes to an end, or
- (c) if she/he dies.

(10) In case of the post of Head and Deputy Head falls vacant as per Clause (9) with more than one year of the term left, the vacant post for the remaining term shall be filled through by-elections.

#### **214. Provisions related to Head and Deputy Head of Municipality:**

(1) There shall be a Mayor of the Municipal Executive in every municipality. The municipal executive shall be formed under her/his chairpersonship.

(2) The Municipal Executive, pursuant to Clause (1), shall have a Deputy Mayor and fifteen members.

(3) The Mayor and Deputy Mayor shall be elected by voters of the Municipality through secret ballot on the basis of one person one vote through the first-past-the-post electoral system.

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

(4) The Ward Chairpersons and members elected pursuant to Article 222 by the Municipal Assembly members within fifteen days of announcement of the final result of the Municipal assembly election shall be ex-officio members of the Municipal executive.

(5) Five women members elected by the Municipal Assembly members from among themselves and three persons elected from the Dalit or minority community, enlisted in the voters list of the Municipality shall also be members of the Municipal executive.

(6) The term of office of the Mayor, Deputy Mayor and Municipal executive members shall be of five years.

(7) Any person who has been elected to the post of the Mayor for two terms shall not be eligible to become a candidate in the subsequent municipality elections.

(8) Any person with the following qualifications shall be eligible for election to the post of Head and Deputy Head:

- (a) be a Nepali citizen,
- (b) have attained twenty-one years of age,
- (c) is included in the voters list of the Municipality,
- (d) is not ineligible by any law.

(9) The post of the Head or Deputy Head shall fall vacant under following conditions:-

- (a) if the Mayor tenders her/his resignation before the Deputy Mayor and the Deputy Mayor before the Mayor,
- (b) if her/his term comes to an end, or
- (c) if she/he dies.

(10) In case of the post of Head and Deputy Head falling vacant as per Clause (9) with more than one year of the term left, the vacant post for the remaining period shall be filled through by-elections.

### **215. Judicial Committee:**

(1) There shall be a Judicial Committee under the Convenorship of the Deputy Head of the Village Executive in every Village Municipality and under the Convenorship of the Deputy Mayor of the Municipality in every Municipality to exercise power to hear cases, as entrusted to the Village Municipality or Municipality pursuant to Federal and Provincial laws.

(2) The Judicial Committee, pursuant to Clause (1), shall have two members designated by the Head of Village Executive in case of Village Municipality and two members designated by the Mayor of the Municipal executive in case of a Municipality.

**216. Conduct of business of Village Executive and Municipal Executive:**

The allocation and transaction of business of the Village Executive and Municipal Executive shall be carried out as set forth in rules approved by the Village Executive and Municipal Executive.

**217. Other provisions related to local level executive:**

Other provisions relating to the local level executive other than those written in this part shall be as provided for in the laws drafted, in pursuant to this Constitution, by the Federal Parliament.

**218. District Assembly:**

(1) There shall be a District Assembly, as provided in the law, for coordination and essential management among the Village Municipalities and Municipalities within the District.

(2) Head of every Village executive and Mayor of every Municipal executive within the district shall be members in the District Assembly. The first meeting of the District Assembly shall be held within thirty days of the announcement of the final results of the Village Assembly and Municipal Assembly elections.

(3) The District Assembly shall, pursuant to Provincial laws, elect a District Coordination Committee with a maximum of nine members including a Head, a Deputy Head, at least three women and at least one person from the Dalit or minority community. The District Coordination Committee shall execute all tasks to be carried out on behalf of the District Assembly.

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

(5) The term of office of the Head, the Deputy Head and member of the District Coordination Committee shall be of five years.

(6) The post of the Head or Deputy Head or member of the District Coordination Committee shall fall vacant under following conditions:-

- (a) if the Head tenders her/his resignation before the Deputy Head and the Deputy Head or member tenders her/his resignation before the Head,
- (b) if her/his term comes to an end, or
- (c) if she/he dies.

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

- (a) to coordinate among the Village Municipalities and Municipalities and Province within the District,
- (b) to carry out monitoring so as maintain balance in development and construction works,

(c) to maintain coordination among the Federal and Provincial government offices and Village Municipality and Municipality within the district,

(d) to perform other tasks as provided for in the Provincial law.

(8) The fiscal responsibility related to the operation of District Assembly and benefits received by members of District Coordination Committee shall be upon the Provincial Government.

## **PART 17**

### **LOCAL LEGISLATURE**

#### **219. Legislative Power of Local tier:**

(1) The legislative power of the local tier shall, subject to this Constitution, be vested in the Village Assembly and Municipal Assembly.

(2) The legislative power of the Village Assembly and Municipal Assembly shall be as provided in the local tier list of competencies pursuant to Schedule-7.

#### **220. Village Assembly or Municipal Assembly:**

There shall be a Village Assembly in the Village Municipality and a Municipal Assembly in the Municipality.

#### **221. Constitution of Village Assembly:**

(1) Every Village Assembly shall consist of forty-five members elected as provided in the law and comprising a village executive Head, a Deputy Head and five members each from every Ward of the Village Municipality.

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

(3) One person from among the five members elected from every ward by a majority of the total number of members of the Village Assembly existing in the time-being, shall be the elected member of the Village executive. Such member shall be the ex-officio Chair of the concerned Ward. A Ward Committee shall be formed in every ward including the Ward Chairperson and elected members from the same Ward.

(4) The election of the members of the Village Assembly shall be held through secret ballot on the basis of adult franchise through the first-past-the-post electoral system.

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

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

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

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

**222. Constitution of Municipal Assembly:**

(1) Every Municipal Assembly shall consist of at least fifty-five members elected as provided in the law and comprising a Municipal executive Head, a Deputy Head and five members each from every Ward of the Municipality.

(2) The Municipal Assembly to be constituted, pursuant to Clause (1), shall have the representation of at least two women from every Ward of the Municipality.

(3) One person from among the five members elected from every ward by a majority of the total number of members of the Village Assembly existing in the time-being, shall be elected the member of the Municipal executive. Such member shall be the ex-officio Chair of the concerned Ward. A Ward Committee shall be formed in every ward including the Ward Chairperson and elected members from the same Ward.

(4) The election of the members of the Municipal Assembly shall be held through secret ballot on the basis of adult franchise through the first-past-the-post electoral system.

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

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

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

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

**223. Chairperson and Vice-Chairperson of Village Assembly and Municipal Assembly:**

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

**224. Term of office of Village Assembly and Municipal Assembly :**

The term of Village Assembly and Municipal Assembly shall be five years.

**225. To draft laws:**

(1) The Village Assembly and Municipal Assembly shall draft necessary laws in subjects mentioned in the list of competencies of the local tier pursuant to Schedule-7.

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

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

**PART-18**

**LOCAL FINANCIAL PROCEDURE**

**227. No tax to be levied or loan to be raised:**

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

(2) The local tier shall impose tax in areas within its jurisdiction, without causing any adverse impact on the national economic policy, transportation of goods, services, capital and labour, and on neighboring Province or local tiers.

**228. Consolidated Fund:**

(1) There shall be a Local Consolidated Fund in every Village Municipality and Municipality under the local tier. All revenues received by the local Village Municipality or Municipality, grants and loans received from the Government of Nepal and the Provincial Government and any amount received from other sources shall be such Fund.

(2) Provision relating to expenditures from the Local Consolidated Fund, pursuant to Clause (1), shall be as provided for in the law.

**229. Budget of Village Municipality and Municipality:**

(1) The Village Executive and Municipal Executive shall, with respect to every fiscal year, present before the Village Assembly or Municipal Assembly annual estimates of revenues and expenditure, and have it passed.

(2) If the Village Executive and Municipal Executive have to develop a deficit budget, they shall, pursuant to Federal law and Provincial law, also propose sources to fulfill the deficit.

**PART-19**

**INTERRELATIONSHIP BETWEEN THE FEDERATIONS, PROVINCES  
AND LOCAL TIERS**

**230. Legislative interrelationship between Federation and Province:**

(1) Federal law shall be formulated to be enforced across Nepal or to any region of Nepal as per the need. Provincial law shall be formulated to be effective within its own territory.

(2) If two or more than two Provinces make a petition before the Federal Parliament to draft laws on any subject in the Provincial List of Competencies in Schedule-5, the Federal Parliament shall draft necessary laws. Such laws shall be enforced in the respective Provinces.

**231. Executive relations between the Federation, Provinces and local tier:**

(1) The Federation, Provinces and the local tiers shall enjoy relations based on the principles of cooperativeness, coexistence and coordination.

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

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

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

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

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

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

(7) The Government of Nepal shall, in pursuant to the Constitution and Federal law, provide necessary support and directives to the Village Executive and Municipal Executive through the Provincial Government.

**232. Executive relations among the Provinces:**

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

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

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

**233. Inter-Provincial Council:**

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

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

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

**234. Coordination between the Federation, Provinces and local tiers:**

(1) The Federal Parliament shall formulate necessary laws to maintain coordination between the Federation, Provinces and local tiers.

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

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

**235. Interprovincial Trade**

No obstruction of any kind or levying of taxes or discrimination shall be made in the export and import of goods or services from one Province or local tier to another Province or local tier and in the transportation of any goods or services via the territory of any province or local tier to another province or local tier of Nepal.

**236. Not to affect the jurisdiction of the Constitutional Court:** Nothing contained in this Part shall have any effect on the jurisdiction of the Constitutional Court as provided for in Article 141.

**PART 20**

**COMMISSION FOR THE INVESTIGATION OF ABUSE OF AUTHORITY**

**237. Commission for the Investigation of Abuse of Authority:**

(1) There shall be a Commission for the Investigation of Abuse of Authority in Nepal, consisting of a Chief Commissioner and four other Commissioners. The Chief Commissioner shall act as the Chairperson of the Commission for the Investigation of Abuse of Authority.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chief Commissioner and other Commissioners.

(3) The term of office of the Chief Commissioner and other Commissioners shall be six years from the date of appointment.

(4) Notwithstanding anything contained in Clause (3), the office of the Chief Commissioner or a Commissioner shall be deemed vacant under the following circumstances:

- (a) if she/he submits a written resignation to the President,
- (b) if she/he attains the age of sixty-five,
- (c) if a resolution of impeachment is passed against her/him,
- (d) if she/he dies.

(5) Any person who possesses the following qualifications is eligible to be appointed as the Chief Commissioner or a Commissioner of the Commission for the Investigation of Abuse of Authority:

- (a) holds a bachelor's degree from a recognized university,
- (b) is not a member of any political party immediately before the appointment,
- (c) has at least fifteen years of experience in the field of accounting, revenue, engineering, law, development or research and is a distinguished person,
- (d) has attained forty-five years of age, and
- (e) possesses a high moral character.

(6) The remuneration and other conditions of service of the Chief Commissioner and the Commissioners shall be as determined by law. The remuneration and other conditions of service of the Chief Commissioner and the Commissioners shall not, so long as they hold office, be altered to their disadvantage.

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

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

Provided that,

(a) Nothing in this Clause shall be deemed to be a bar to the appointment of a Commissioner of the Commission for the Investigation of Abuse of Authority as its Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, her/his term of office shall be computed as to include her/his tenure as Commissioner as well.

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

### **238. Functions, duties and powers of the Commission for the Investigation of Abuse of Authority**

(1) The Commission for Investigation of Abuse of Authority may, in accordance with the law, conduct or cause to be conducted investigations of corruption by a person holding any public office.

Provided that his Clause shall not be applicable to any official in relation to whom this Constitution itself separately provides for such action, and to any officials with regard to whom other law has separately made special provision.

(2) Any investigation may be conducted or caused to be conducted, against any official of a Constitutional Body removed from their office following an impeachment resolution on the ground of misbehavior, any Judge removed by the Judicial Council, or any person proceeded against under the Army Act after they are removed from office, in accordance with law.

(3) If the Commission for the Investigation of Abuse of Authority finds, upon investigation carried out pursuant to Clause (1), that a person holding any public office has committed an act which is defined by law as corrupt, it may lodge or caused to be lodged a case against such person or any other person involved therein in a court with jurisdiction, in accordance with the law.

(4) If the Commission for the Investigation of Abuse of Authority finds, upon investigation carried out pursuant to Clause (1), that the nature of the work to be carried out by the person holding any public office falls under the jurisdiction of another authority or body, it may forward a recommendation to authority or body concerned in writing for necessary action.

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

(6) The Commission for the Investigation of Abuse of Authority may delegate any of its functions, duties and powers relating to the investigation or lodging of cases, to the Chief Commissioner, Commissioner or any officer-level employee of the Government of Nepal to be exercised and followed in compliance with the conditions specified.

## **PART - 21**

### **AUDITOR GENERAL**

#### **239. Auditor General:**

(1) There shall be an Auditor General of Nepal.

(2) The Auditor General shall be appointed by the President on the recommendation of the Constitutional Council.

(3) The term of office of the Auditor General shall be six years from the date of appointment.

(4) Notwithstanding anything contained in Clause (3), the office of the Auditor General shall be deemed vacant in the following circumstances:-

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

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

(c) if a resolution of impeachment is passed against her/him, or

d) if she/he dies.

(5) Any person who possesses the following qualifications is eligible to be appointed as the Auditor General:-

(a) holds a Bachelors Degree in Management, Commerce or Accounts from a recognized university, or has worked as a Special Class Officer of the Government of Nepal after successfully completing the Chartered Accountants examination, or has at least twenty years experience in the field of auditing,

(b) is not a member of any political party immediately before appointment,

(c) has attained forty years of age, and

(d) possesses high moral character.

(6) The remuneration and conditions of service of the Auditor General shall be as determined by law. The remuneration and other conditions of service of the Auditor General shall not, so long as she/he holds office, be altered to her/his disadvantage.

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

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

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

#### **240. Functions, duties and powers of the Auditor General:**

(1) The accounts of the Supreme Court, the Constitutional Court, the Federal Parliament, Provincial Assemblies, Provincial Governments, Constitutional bodies or their offices, the Office of the Attorney General and the Nepal Army and Nepal Police and Armed Police as well as of all other government offices and courts shall be audited by the Auditor General in the manner determined by law, with due consideration given to the regularity, economy, efficiency, effectiveness and the propriety thereof.

(2) The Auditor General shall be consulted in the matter of the appointment of auditors for carrying out the audit of any corporate body of which the Government of Nepal or Provincial Government owns more than fifty percent of the shares or assets. The Auditor General may also issue necessary directives setting forth the principles for carrying out the audit of such corporate bodies.

(3) The Auditor General shall, at all times, have access to documents concerning the accounts for the purpose of carrying out the functions specified in Clause (1). It shall be the duty of the Head

of the office in question to provide all documents or information which may be demanded by the Auditor General or her/his employees.

(4) The accounts to be audited pursuant to Clause (1) shall, subject to the relevant law, be maintained in such form as is prescribed by the Auditor General.

(5) In addition to the accounts of the offices referred to in Clause (1), the law may also require that the accounts of any other office or institution be audited by the Auditor General.

## **PART – 22**

### **FEDERAL PUBLIC SERVICE COMMISSION**

#### **241. Federal Public Service Commission:**

- (1) There shall be a Federal Public Service Commission of Nepal consisting of a Chairperson and four other members.
- (2) The President, shall on the recommendation of the Constitutional Council, appoint the Chairperson and members of the Federal Public Service Commission.
- (3) At least fifty percent of the total number of members of the Federal Public Service Commission shall be appointed from persons who have worked for twenty years or more in any government service, and the rest of the members shall be appointed from persons who have done research, investigation, teaching or any other significant work in fields such as science, technology, art, literature, law, public administration, sociology or any other sphere of national life and who hold a high reputation.
- (4) The term of office of the Chairperson and other members of the Federal Public Service Commission shall be six years from the date of appointment.
- (5) Notwithstanding anything contained in Clause (4), the office of Chairperson or other members shall be deemed vacant in the following circumstances:-
  - (a) if she/he submits a written resignation to the President,
  - b) if she/he attains the age of sixty-five,
  - c) if a resolution of impeachment is passed against her/him, or
  - d) if she/he dies.
- (6) A person who possesses the following qualifications is eligible to be appointed as the Chairperson and member of the Federal Public Service Commission:
  - (a) holds a post-graduate degree from a recognized university,

- (b) is not a member of any political party immediately before appointment,
- (c) has attained the age of forty years, and
- (d) possesses high moral character.

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

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

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

Provided that,

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

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

#### **242. Functions, duties and powers of the Federal Public Service Commission:**

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

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

(2) In addition to the Civil Service, provisions shall be made in the law for the Federal Public Service Commission to manage the recruitment, appointment and promotion of Army, Federal Police or Armed Police, the Government Universities, other government services and public enterprises under the jurisdiction of the Federation.

**Explanation:** For the purpose of this Article, the words "public enterprise" shall mean any corporate body in which the Government of Nepal owns and controls more than fifty percent of the shares or assets.

(3) Permanent appointment to any position which carries the benefit of pension shall not be made except in consultation with the Federal Public Service Commission.

(4) The Federal Public Service Commission shall be consulted on the following subjects:

a) matters concerning the law relating to the conditions of service of the Federal Civil Service,

b) the general principles to be followed in the course of appointment to, promotion to, and departmental action concerning therein, the Federal Civil Service or positions therein,

c) matters concerning the suitability of any candidate for appointment to a Federal Civil Service position for a period of more than six months,

d) matters concerning the suitability of any candidate for transfer or promotion from one kind of Federal Civil Service to another kind of Federal Civil Service or from any other Government Service to the Federal Civil Service or for changing the service or translocation from the Civil Service Position of any Province to Federal Civil Service position or from Federal Civil Service position to the Provincial Civil Service.

e) matters concerning the permanent transfer or promotion of any employee working in any position of an organization which is not required to consult with the Federal Public Service Commission on matters of appointment, to any position for which consultation with the Federal Public Service Commission is required, and

f) matters relating to departmental actions proposed against any Federal Civil Servant.

(5) Notwithstanding anything contained in Clause (3), matters falling within the purview of the Federal Judicial Service Commission pursuant to Article 157 shall be governed by that Article.

(6) The Federal Public Service Commission may delegate any of its functions, duties and powers to any members of the commission, a committee of such members or any employee of the Government of Nepal, to be exercised and followed in compliance with specified conditions.

(7) Subject to this Constitution, other functions, duties and working procedures of the Federal Public Service Commission shall be as determined by law.

**243. Provision related to Provincial Public Service Commission:**

(1) There shall be a Provincial Public Service Commission in every Province.

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

**PART-23**

**ELECTION COMMISSION**

**244. Election Commission:**

(1) There shall be an Election Commission in Nepal consisting of a Chief Election Commissioner and four other Election Commissioners. The Chief Election Commissioner shall act as the Chairperson of the Election Commission.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chief Election Commissioner and the Election Commissioners.

(3) The term of office of the Chief Election Commissioner and the Election Commissioners shall be six years from the date of appointment.

(4) Notwithstanding anything mentioned in Clause (3), the office of the Chief Election Commissioner and Election Commissioner shall be deemed vacant in the following circumstances:

- (a) if she/he submits a written resignation to the President,
- (b) if she/he attains the age of sixty-five,
- (c) if a resolution of impeachment is passed against her/him, or
- (d) if she/he dies.

(5) Any person who possesses the following qualifications is eligible to be appointed as the Chief Election Commissioner or an Election Commissioner :-

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

(6) The remuneration and other conditions of service of the Chief Election Commissioner and the Election Commissioners shall be as determined by law. The remuneration and other conditions of service of the Chief Election Commissioner and the Election Commissioners shall not, so long as they hold office, be altered to their disadvantage.

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

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

Provided that,

(a) Nothing in this Clause shall be deemed to be a bar to the appointment of an Election Commissioner as the Chief Election Commissioner, and when an Election Commissioner is so appointed as the Chief Election Commissioner, her/his term of office shall be computed so as to include her/his term as Commissioner as well.

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

**245. Functions duties and, powers of Election Commission:**

(1) The Election Commission shall, subject to this Constitution and other laws, conduct, supervise, direct and control the election of the President, the Vice-President, Federal Parliament, Provincial assemblies, local bodies and referendum.

(2) If candidacy nominations have been registered for the election of the President, the Vice-President, the member of Federal Parliament and Provincial Assembly but a question arises before the completion of the election about the illegitimacy of a candidate or the candidate ceases to possess the qualifications set out respectively in Articles 68, 91 and 177, a final decision thereon shall be made by the Election Commission.

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

(4) Subject to this Constitution, other functions, duties and powers and working procedures of the Election Commission shall be as regulated by law.

**246. Necessary employees to be provided:** The Government of Nepal shall provide necessary employees and other things as may be required to perform the functions of the Election Commission in accordance with this Constitution.

**PART 24**  
**NATIONAL HUMAN RIGHTS COMMISSION**

**247. National Human Rights Commission:**

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

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

(b) Four persons from amongst the persons who hold a high reputation and have been actively involved in the field of, and rendered an outstanding contribution to, the protection and promotion of human rights, or various sections of human life – Member

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

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

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

- (a) if she/he submits a written resignation to the President,
- (b) if a resolution of impeachment is passed against her/him, or
- (c) if he or she dies.

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

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

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

conditions of service of the Chairperson and the Members of the National Human Rights Commission shall not, so long as they hold office, be altered to their disadvantage.

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

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

(a) Nothing in this Clause shall be deemed to be a bar to the appointment of a member of the National Human Rights Commission and its Chairperson, and when an a member is so appointed as the Chairperson, her/his term of office shall be computed so as to include her/his term as member as well.

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

**248. Functions, duties and powers of National Human Rights Commission:**

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

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

- (a) conduct inquiries into, and investigations of, and recommendation for action against the perpetrator of, instances of violation or abetment of violation the human rights of any person or a group of persons, upon a petition or complaint presented to the Commission by the victim herself/himself or any person on her/his behalf or upon information received from any sources, or on its own initiative,
- (b) forward a recommendation to the authority concerned to take departmental action against any authority that has the duty of responsibility to prevent violations of human rights, if it failed to perform such duty or responsibility or showed recklessness or lack of interest in performing that duty,
- (c) make recommendations if necessary, to lodge a petition in the court, in accordance with the law, against a person or institution that has violated human rights,
- (d) work jointly and in a coordinated manner with civil society to enhance awareness of human rights,

- (e) forward a recommendation to the relevant authority for taking departmental action against or imposing punishment on the violators of human rights, giving clear reasons and basis therefor,
- (f) review existing laws relating to human rights on a periodic basis and to recommend to the Government of Nepal necessary reforms and amendment thereto,
- (g) recommend with reasons to the Government of Nepal that it become a party to any international treaties and agreements on human rights, if it is desirable to do so, and to monitor the implementation of the international treaties and agreements on human rights to which Nepal is a party and if found not to be implemented, forward recommendations to the Government of Nepal for effective implementation of such agreements,
- (h) Publicize the names of any official, person or bodies not following or implementing the recommendations and directions of the National Human Rights Commission regarding the violations of human rights in accordance with law, and to record them as human rights violators.

(3) The National Human Rights Commission in performing its functions and duties, may exercise the following powers:-

- (a) exercise same powers as the court in requiring any person to appear before the Commission for recording their statement and information or examining them, receiving and examining evidence, and ordering the production of any physical proof,
- (b) in case the Commission has received the information from any source that a serious incident of violation of human rights has occurred or is likely to occur, it may enter a person's residence or office, conduct a search and seize any documents and evidence relating to human rights violations therein,
- (c) enter any government premises or other places, without prior notice, in case the Commission has received information that violation of human rights of a person is occurring thereon and immediate action is required, to provide rescue,
- (d) order compensation for the victims of human rights violations in accordance with law,
- (e) exercise or cause to be exercised powers, and carry out its duties as prescribed by law.

**PART 25**

**NATIONAL NATURAL RESOURCES AND FISCAL COMMISSION**

**249. National Natural Resources and Fiscal Commission:**

- (1) There shall be a National Natural Resources and Fiscal Commission in Nepal consisting of a chairperson and members not exceeding five in number.
- (2) The President shall, on the recommendation of the Constitutional Council, appoint Chairperson and members of the National Natural Resources and Fiscal Commission.
- (3) The tenure of office of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be for six years from the date of appointment.
- (4) Notwithstanding anything contained in Clause (3), the office of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be deemed vacant in the following circumstances:
  - (a) If a written resignation is tendered to the President,
  - (b) If an impeachment motion against him/her is passed, or
  - (c) If he/she dies.
- (5) Any person with the following qualifications is eligible to be appointed as the Chairperson or member of the National Natural Resources and Fiscal Commission:
  - (a) who holds at least a Master's Degree in the concerned subject from a university recognized with expertise in natural resources or fiscal management, economics, law or management,
  - (b) who is not a member of a political party at the time of the appointment,
  - (c) who is at least forty years of age, and
  - (d) who has a high moral character.
- (6) The remuneration and the conditions of service of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be as provided for by law, and the remuneration and conditions of service shall not be alterable to their disadvantage.

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

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

Provided that,

- (a) This sub-clause shall not be deemed to be a bar to appoint a member of the National Natural Resources and Fiscal Commission to the position of chairperson, and, if a member of the National Natural Resources and Fiscal Commission is appointed as chairperson of the Commission, the tenure served as a member shall also be computed to the term of office of the Chairperson as well.
- (b) Notwithstanding anything contained in this sub-clause, it shall not be deemed to be a bar for a member to be appointed in a political position, or a position which requires investigations into, or research on, or an inquiry into any subject, or to a position which requires making advices, comments, or recommendations after conducting studies or research on such a subject.

**250. The functions, duties and powers of the National Natural Resources and Fiscal Commission:**

- (1) The functions, duties and powers of the National Natural Resources and Fiscal Commission shall be as follows :
  - (a) Determine extensive grounds and measures, regarding the distribution of revenue from the federal consolidated fund to the federal, provincial and local level governments according to the constitution and law,
  - (b) Making recommendations, according to law, on distribution of the equalization grants to provincial and local governments from the federal consolidated fund,
  - (c) Conducting research and studies in regard to making a basis for distribution of conditional grants to provincial and local governments in compliance with national policy and program and standards, and the state of infrastructure there.
  - (d) Determine extensive grounds and measures regarding the distribution of revenue between provincial and local governments from the provincial consolidated fund.
  - (e) Making recommendations regarding the measures of reforms on responsibilities of expenditures and revenue generation between the federal, provincial and local governments.
  - (f) Making recommendations about the internal loans the federal, provincial and local governments may take, by analyzing the economic indexes in totality.

(g) Reviewing the bases of revenue distribution between the federal and provincial governments, and making recommendations for reform.

(h) Making recommendations about coordination and mitigation of disputes likely to arise between the federation and province, between the provinces, between a province and local level entity, or between local level entities.

(2) Other matters including the functions, duties and powers of the National Natural Resources and Fiscal Commission, extensive basis for revenue distribution, the qualifications of the officials of the Commission, conditions of service and other related matters, shall be as provided for by law.

(3) The National Natural Resources and Fiscal Commission shall have the right to make recommendations to the Government, by conducting necessary research into, in regards to environmental issues linked to distribution of natural resources that are vulnerable for disputes. .

(4) The other functions, duties and powers of the National Natural Resources and Fiscal Commission shall be as provided for in the law.

## **PART 26**

### **NATIONAL WOMEN COMMISSION**

#### **251. National Women Commission:**

( 1) There shall be a National Women Commission in Nepal consisting of a Chairperson and for other members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the National Women Commission.

(3) The term of office of the Chairperson and other members shall be six years from the date of appointment.

(4) Notwithstanding anything contained in Clause (3), the office of the Chairperson and members of National Women Commission shall be deemed vacant in the following circumstances:

- (a) if she submits written resignation to the President,
- (b) if she attains the age of sixty five,
- (c) if a motion of impeachment is passed against her, or
- (d) if she dies.

(5) Any person who possesses the following qualifications is eligible to be appointed as the Chairperson or member of National Women Commission :-

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

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

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

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

- (a) Nothing in this Clause shall be deemed to be a bar to the appointment of a member of the National Women Commission as the Chairperson, and when a member is so appointed as the Chairperson of National Women Commission, her term of office shall be computed as to include her term as member as well.
- (b) Nothing in this clause shall be deemed to be a bar to being appointed to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or examinations on any subject, and provide advice, opinions or recommendations after carrying such studies or research.

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

- (a) To formulate policies and programs regarding women welfare for the Government of Nepal and forward them to the Government for implementation,
- (b) To review whether or not statutes related to women's welfare are executed, and whether the international covenant signed by Nepal, as a signatory, has been executed, and to forward a recommendation to the Government of Nepal in case they are found not to have been executed,

- (c) To monitor, review and evaluate policies and programs implemented by the State to bring women into the mainstream of national development such as proportionate representation in all of the state agencies, and to forward a recommendation to the Government of Nepal for an effective implementation of those provisions,
  - (d) To carry out research and studies regarding gender equality, women empowerment, other legal provisions concerning women, and to forward a recommendation to the concerned bodies regarding the areas to be amended in those laws, and to monitor the same,
  - (e) To monitor the government regarding report to be submitted by the Government of Nepal in matters related to international covenant and treaties to which Nepal is a party,
  - (f) To lodge a petition in the court, in accordance with the law, in matters related with gender violence, and women deprived of women rights due to social malpractices or to forward a recommendation to concerned authority to lodge a petition against such person or organization,
  - (g) To carry out other duties as prescribed by law.
- (2) The National Women Commission may delegate, some of its rights to the Chairperson of the Commission, member, committee, sub-committee or officer level staff or an officer of the Government of Nepal, to be exercised in compliance with the conditions specified.

## **PART 27**

### **NATIONAL DALIT COMMISSION**

- 253. National Dalit Commission:** (1) There shall be a National Dalit Commission in Nepal consisting of Chairperson and four other Members.
- (2) The President shall, on the recommendation of Constitutional Council, appoint the Chairperson and members of Federal Dalit Commission.
- (3) The term of office for the Chairperson and Members of National Dalit Commission shall be for six year from the date of appointment.
- 4) Notwithstanding anything contained in the clause (4), the office of the Chairperson and the members of federal Dalit Commission shall be vacant in the following circumstances:-
- (a) if he/she submits written resignation to the President,
  - (b) If he/she is passed 65 years of age,
  - (c) in case impeachment proposal filed against him/her is passed, or
  - (d) if he/she dies.
- (5) Persons who meet following qualification shall be eligible for appointment in the posts of Chairperson and members of the Federal Dalit Commission:-
- (a) who has significantly contributed to Dalit welfare, human rights and in the legal field for at least ten years,

(b) in case of the Chairperson who has held at least Bachelor's Degree in human rights, social justice, sociology, or law from the university or the institution recognized by the Government of Nepal,

(c) who has attained the age of forty years,

(d) who has not been a member of any political party immediately before the appointment,

(e) who possesses high moral character.

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

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

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

Provided that,

(a) Nothing in this clause shall be deemed to be a bar to the appointment of a member of National Dalit Commission as Chairperson thereof, and when a member is so appointed as the Chairperson, his/her term of office shall be computed so as to include his/her tenure as member as well.

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

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

(a) To carry out research and studies regarding Dalit community of Nepal so as to identify measures to be taken and make a recommendation to the Government of Nepal,

(b) To formulate national policies and programs in matters related with ending caste discrimination, untouchability, suppression and to enhance Dalit's status and development, and to forward a recommendation to the Government of Nepal,

(c) To monitor, so as to ensure whether the special provisions and laws related with Dalit welfare have been implemented or not, and to forward a recommendation to the government of Nepal, in case these provisions are found not to have been implemented,

(d) To review or monitor the Government of Nepal, so as to ensure that the Government of Nepal submits the report as a signatory to the international treaties and agreement, as provisioned by those treaties,

(e) To monitor, review and evaluate the policies and programs implemented by the State to bring Dalit community into the mainstream of national development such as proportionate representation in all of the state agencies, and to forward a recommendation to the Government of Nepal for an effective implementation of those provisions,

(f) To carry out other duties as prescribed by law.

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

## PART 28

### NATIONAL INCLUSION COMMISSION

**255. National Inclusion Commission:** (1) There shall be a National Inclusion Commission in Nepal consisting of Chairperson and as many as eight other members.

(2) The President shall, on the recommendation of Constitutional Council, appoint the Chairperson and members of National Inclusion Commission.

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

(4) Notwithstanding anything contained in the clause (4), the posts of the Chairperson or member of National Inclusion Commission shall be deemed vacant in the following circumstances:-

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

(b) If he/she is past 65 years of age,

(c) in the case impeachment proposal filed against him/her is passed, or

(d) if he/she dies.

(5) Persons who meet following qualification requirement shall be eligible for appointment in the post of Chairperson and member of National Inclusion Commission:-

(a) who has significantly contributed, for at least ten years, in the field of social inclusion, persons with disability, marginalized, minority and backward communities, human rights, or served in the remote areas of the country,

(b) (in case of the Chairperson) who has attained at least Bachelor's Degree from the university recognized by the Government of Nepal,

(c) who has attained the age of forty years,

(d) who has not been a member of any political party immediately before the appointment,

(e) who possesses high moral character and social prestige.

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

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

(7) The person once appointed to the office of Chairperson and the member of National Inclusion Commission shall not be eligible for appointment in other government services.

Provided that,

- (a) Nothing in this clause shall be deemed to be a bar to the appointment of a member of National Inclusion Commission as Chairperson thereof, and when a member is so appointed as the Chairperson, his/her term of office shall be computed so as to include his/her tenure as member as well.
- (b) Nothing in this clause shall be deemed to be a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to the position which has the responsibility of submitting advice, opinions or recommendations.

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

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

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

## **PART 29**

### **ATTORNEY GENERAL**

**257. Attorney General:** (1) There shall be an Attorney General in Nepal.

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

(3) The person qualified to be the judge of the Supreme Court shall be eligible to be appointed as Attorney General.

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

(a) if she/he submits resignation in writing through the Prime Minister to the President,

(b) if the President, on the recommendation of the Prime Minister, removes him/her from the office,

(c) if she/he dies.

(5) The remuneration and other facilities of the Attorney General shall be at par with that of a judge of the Supreme Court. The other conditions of the service of the Attorney General shall be as prescribed by law.

**258. Functions, Duties and Powers of Attorney General:** (1) The Attorney General shall be the Chief Legal Advisor to the Government of Nepal. It shall be the duty of the Attorney General to give opinions and advice on constitutional and legal matters to the Government of Nepal and to such other authorities as the Government of Nepal may specify.

(2) The Attorney General or officers subordinate to him/her shall represent the Government of Nepal in suits in which the rights, interests or concerns of the Government of Nepal are involved. Unless this constitution otherwise requires, the Attorney General shall have the right to make the final decision to initiate proceedings in any case on behalf of the Government of Nepal in any court or judicial authority. The Attorney General shall appoint other attorneys as needed to deal with legal proceedings.

(3) The advice from the Attorney General shall be required to withdraw any lawsuits filed on behalf of the Government of Nepal.

(4) In case of being called to do so, the Attorney General may appear in the meeting of the Federal Legislature or any committee to express his/her opinion on any legal question.

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

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

(a) To appear on behalf of the Government of Nepal in litigations submitted by or against the Government of Nepal.

(b) To monitor or cause to be monitored the implementation of interpretation of law and the legal principles propounded by the Supreme Court in the course of proceeding.

(c) On the basis of To investigate allegations of inhuman treatment to any person in custody, or any denial of consultation with his/her relatives or through legal practitioners in case of complaints or information received to him through any means and give necessary instruction, under this constitution, to the relevant authorities, to prevent the recurrence of such a situation.

(7) The Attorney General may delegate his/her functions, duties and power to his subordinates or prosecutors, to be exercised in compliance with the conditions specified.

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

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

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

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

(2) The Head of Province shall, in recommendation of the Chief Minister, appoint Chief Attorney in the province. The Chief Attorney shall hold office during the pleasure of the Chief Minister.

(3) The person qualified to be the judge of the High Court shall be eligible to be appointed as Chief Attorney.

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

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

(b) if the Head of Province, on the recommendation of the Chief Minister, removes him/her from the office,

(c) if she /he dies.

(5) The Chief Attorney shall be the Chief Legal Advisor to the provincial government. It shall be the duty of the Chief Attorney to give opinions and advice on constitutional and legal matters to the provincial government and to such other authorities as the provincial government may specify.

(6) The office of the Attorney General shall manage the staffs under office of Chief Attorney.

(7) The remuneration and other facilities of the Chief Attorney shall be at par with that of a judge of the High Court. The other conditions of the service of Chief Attorney shall be as prescribed by law of the province.

(8) The functions, duties and powers of Chief Attorney shall be as determined by law.

### **PART 30**

#### **PROVISION REGARDING NATIONAL DEFENSE COUNCIL**

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

- |   |              |
|---|--------------|
| (a) Prime Minister                        | -Chairperson |
| (b) Defense Minister, Government of Nepal | -Member      |
| (c) Home Minister, Government of Nepal    | -Member      |
| (d) Minister for Foreign Affairs, GoN     | -Member      |
| (e) Finance Minister, Government of Nepal | -Member      |

(2) The Secretary of Ministry of Defense shall work as the Secretary of National Defense Council.

(3) The National Defense Council shall submit its annual report to the President; the President shall make it present to the federal legislature through the Council of Ministers, Government of Nepal.

(4) Other provisions of National Defense Council shall be in accordance with federal law.

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

(2) The entry of women, Dalit, indigenous community, Khash Arya, Madhesi, Tharu, Muslim, people of backward class and backward region shall be ensured in Nepal Army, based on the principle of equality and proportionate representation as provided for in the law.

(3) The Government of Nepal may, in accordance with law, mobilize Nepal Army for works relating to development, disaster management and others.

(4) The President shall appoint or remove the Commander-in-Chief of Nepal Army.

(5) Except for mobilization of Nepal Army for disaster management, the decision by Council of Ministers, Government of Nepal on recommendation of National Defense Council, shall have to be presented to the federal legislature within a month, such decision shall have to be approved by the Federal Legislature.

(6) Other provisions relating to Nepal Army shall be as provided by law.

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

(2) There shall be a separate police organization in each province.

(3) Other provisions relating to Nepal Police, Armed Police and National Intelligence and Investigation Unit shall be as provided by federal law.

### **PART 31**

#### **PROVISION RELATING TO POLITICAL PARTIES**

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

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

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

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

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

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

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

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

(6) Political parties may be formed, registered and operated also in the province, as provided for in the law.

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

(2) Any law, arrangement or decision which allows for participation or involvement of only a single political party or persons having a single political ideology, philosophy or programs in the election, political system of the country or conduct of states affairs shall be considered against this constitution and shall *ipso facto* be void.

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

(2) While applying for registration pursuant to clause (1), a political party shall have to clarify the details under clause (3) of Article 266, and also meet the conditions set in clause (4).

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

## **PART 32**

### **EMERGENCY POWERS**

**268. Emergency Powers:** (1) In case a graver emergency arises in relation to the sovereignty or integrity of Nepal or the security of any part thereof, whether by war, external attack, armed revolt, extreme economic disarray, natural calamity or epidemic outbreak, the President may, by Proclamation or Order, declare a state of emergency to be enforced in Nepal or any specified part thereof.

(2) Notwithstanding anything contained in clause (1), in case a grave situation arises, whether by natural calamity or epidemic outbreak, in any province, the concerned province may request the Government of Nepal to declare, by Proclamation or Order, a state of emergency to be enforced in the province or any specified area of the province.

(3) The Proclamation or the Order issued pursuant to clause (1) shall be presented before the meetings of both houses of federal legislature for approval within a month from the date of its issuance.

(4) If the Proclamation or the Order presented for the approval pursuant to clause (3) is approved by a two-third majorities of the total members present at the meetings of both the houses of federal legislature, such Proclamation or Order shall continue in force for a period of three months from the date of Order or Proclamation.

(5) If the Proclamation or Order presented before both houses of federal legislature pursuant to clause (4) is not approved, such Proclamation or Order shall, *ipso facto*, be invalid.

(6) The proposal to extend the period of the Proclamation or Order of state of emergency for another period, not exceeding for three months, may be forwarded in the federal legislature, stating that the circumstances under clause (4) still exist.

(7) Pursuant to Clause (6), if the resolution for Proclamation or Order of state of emergency for another period is passed by a majority of the two third members present of both the houses of the federal legislature, the state of emergency for the said period shall continue to exist.

(8) After the state of emergency has been declared pursuant to clause (1), the President may issue necessary orders to meet the exigencies. Orders so issued shall be operative with the same force and effect as law so long as the state of emergency is in operation.

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

Provided that,

Article (21), section (c) and (d) of clause (2) of Article (22), Article (23), clause (2) of Article 24, Article 25, 26, 27, 29, 31, 34, 35, 36, 37, 40, clause (1) and (2) of Article 41, Article 43, 44, 46, 48, 50 and the right to constitutional remedy related to Article 51 and right to *habeas corpus* shall not be suspended.

(10) In circumstances where any Article of this constitution is suspended pursuant to clause (9), no petition may be made in any court of law, nor any question be raised for the enforcement of the fundamental rights conferred by such Article.

(11) If, during the continuation of a Proclamation or Order pursuant to clause (1), any damage is inflicted upon any person by an act of any official done in contravention of law or in bad faith, the affected person may, within three months from the date of termination of the Proclamation or Order, file a petition for compensation for said damage. In case the petition is filed, the court may arrange for the appropriate compensation as per the law, or punish the guilty.

(12) The President may, at any time during its continuance, revoke the proclamation or order relating to state of emergency pursuant to clause (1).

### **PART 33**

#### **AMENDMENT OF THE CONSTITUTION**

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

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

Provided that,

Clause (1) shall not be amended.

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

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

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

Provided that,

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

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

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

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

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

## **PART 34**

### **MISCELLANEOUS**

**270. Provision relating to Referendum:** (1) If the two third majority of the total members in the federal legislature take a decision that it is necessary to make a decision on any matters of national importance through referendum, a decision may be reached on such matters through referendum.

(2) The procedures pertaining to referendum shall be as determined by the law.

**271. Pardon:** The President may grant pardons to persons convicted, and suspend, commute, or reduce any sentence imposed by any court, judicial or quasi-judicial bodies or administrative officer or authority.

**272. Titles, honors, and decorations:** (1) The President shall confer the titles, honors, or decorations to be conferred on behalf of the State.

(2) Any citizen of Nepal shall have to take approval from the Government of Nepal before accepting any title, honor, or decoration from the government of any foreign country.

**273. Right to enter into treaty :** (1) The right to enter into treaty or agreement shall rest in federation.

(2) The Government of Nepal shall have to consult respective province while making the treaties or agreement on matters under provincial list.

(3) The Council of Ministers of a province may enter into a contractual agreement on industrial and economic issues after taking approval from the Government of Nepal.

**274. Ratification of, accession to, acceptance of or approval of treaties or agreement:** (1) The ratification of, accession to, acceptance of or approval of treaties or agreement to which the State of Nepal or the Government of Nepal is to become a party shall be as determined by the law.

(2) The laws to be made pursuant to clause (1) shall, *inter alia*, require that the ratification of, accession to, acceptance or approval of treaty or agreement on the following subjects be done by two thirds majority of the total members in both houses of federal legislature:-

(a) peace and friendship,

(b) security and strategic alliance,

(c) the boundaries of Nepal, and

(d) natural resources and the distribution of their uses.

(3) No agreement or treaty to be done after the commencement of this constitution shall be implemented by the Government of Nepal or State of Nepal so long as it is not ratified, acceded, accepted or approved as per this Article.

(4) Notwithstanding anything contained in clause (1) and (2), there shall be no agreement and treaty that may adversely affect regional integrity of Nepal.

**275. Special arrangements for Prime Minister acting as the Head of State:** In case the position of the President and Vice-President of Nepal falls vacant at once under this constitution, the Prime Minister shall perform the responsibilities mandated to the President under this constitution.

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

**277. Nepali Ambassadors and Emissaries:** The President may appoint ambassadors of Nepal and other emissaries for specified purposes based on the principle of inclusion.

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

(a) Prime Minister -Chairperson

(b) Chief Justice -Member

(c) Speaker of the House of Representatives -Member

(d) President of National Assembly - Member

(e) Leader from the Opposition Party in House of Representatives -Member

(f) A woman member nominated by the Council of Ministers from among those who have earned special expertise in various government services, law or justice or national life  
-Member

(2) When the position of the Chief Justice falls vacant and a recommendation has to be made for the same, the Minister for Justice shall be present in the Constitutional Council as a member.

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

Provided that,

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

(4) Other functions, rights and powers of the Constitutional Council and proceedings related to appointment of Chief Justice, chief and officials of Constitutional Council shall be as determined by the federal law.

(5) The Chief Secretary of the Government of Nepal shall function as the secretary of the Constitutional Council.

(6) The General Secretary of the Government of Nepal shall work as the Secretary of Constitutional Council

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

(2) Province, village council and municipal council may constitute and operate various government services as may be required for running the administration.

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

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

(2) The Government of Nepal shall appoint the Chairperson and the members of Constituency Delimitation Commission.

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

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

(a) who has held at least a Master's Degree in a relevant subject from a university recognized by the Government of Nepal,

(b) who has attained the age of forty years,

(c) who has high moral character.

(5) The position of the Chairperson or members of the Constituency Delimitation Commission shall be deemed vacant in the following circumstances:-

(a) if she /he submits written resignation,

(b) if Council of Ministers of Government of Nepal relieves him/her from duty, or

(c) if she /he dies.

(6) The Constituency Delimitation Commission, while delimiting the constituencies in accordance with this Article, shall, based on geography and population representation, maintain as far as practicable the equal ratio or proportionality between geography, population and the number of members.

(7) While delimiting the constituencies pursuant to clause (6), attention shall be paid to population density of the constituency, geographical conditions, administrative and transportation proximity, and the communal and cultural characteristics of the people living in such districts.

(8) No question shall be raised in any court of law regarding the constituencies determined by Constituency Delimitation Commission.

(9) The Constituency Delimitation Commission shall submit its report to the Government of Nepal about the work it has performed.

(10) The Government of Nepal shall submit the report received pursuant to clause (9) to the federal legislature and also forward it to the Election Commission for implementation.

(11) Constituency Delimitation Commission shall determine its own working procedures.

(12) The remuneration and other benefits of the Chairperson and members of the Constituency Delimitation Commission shall be similar to those of Chief Election Commissioner and Election Commissioner, respectively.

(13) The constituencies determined in pursuant to clause (6) shall be put to a review in every 20 years.

(14) The Government of Nepal shall provide staff to the Constituency Delimitation Commission in the number as required.

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

(2) There shall be a Chairperson and members as may be required in Language Commission.

(3) Rights, duties and powers of the Language Commission shall be as follows:-

(a) To determine the basis for a language to acquire status of official language and forward a recommendation to the Government of Nepal,

(b) To forward a recommendation to the government of Nepal regarding the measures to be adopted for the protection, promotion and development of languages,

(c) To measure the standards for development of mother language, and to forward a recommendation to the Government of Nepal regarding its potentials for use in education,

(d) To carry out research, monitoring and studies of languages.

(4) The Language Commission shall accomplish the tasks outlined in section (a) of clause (3) within five years of formation.

(5) The Government of Nepal may, in coordination with the provincial government, establish the branch offices of Language Commission in the provinces.

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

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

(2) To be eligible for appointment in other positions in constitutional organs other than mentioned in clause(1), it requires ten years completed after naturalised citizenship acquired, five years of residence after acquiring citizenship by descent, of naturalized acquired under Sub-clause (2) of Clause 13, of requisitioning of Nepali citizenship following renouncement of Nepali citizenship,

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

(2) A joint committee shall be formed, in accordance with law, comprising the members of both the houses of Federal Legislature for the purpose mentioned under clause (1).

(3) The members represented in the joint committee under clause (2) shall not be entitled to advocate in the Supreme Court until the term of the Federal Legislature.

**284. Monitoring and evaluation of the work of Constitutional Bodies:** The chief and officials of the constitutional bodies should be accountable to federal legislature. Monitoring and evaluation of works and proceedings of the constitutional bodies shall be done by the respective committee of the Parliament.

**285. Annual report of Constitutional Body:** (1) The constitutional bodies, formed in accordance with this Constitution, shall submit the annual report about its works to the President, who in turn shall have it presented at the federal legislature, through the Prime Minister.

(2) The details to be included in the report under clause (1) shall be as determined by law.

## **PART 35**

### **TRANSITIONAL PROVISIONS**

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

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

(2) The Bills that were under consideration in the House of Representatives at the time of the commencement of this Constitution shall be transferred to the legislature parliament under clause (1).

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

(4) Pursuant to this Constitution, the Legislature Parliament will conduct all the activities under the prerogative of the Federal Legislature until the elections for House of Representatives are conducted.

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

this constitution, and their conditions of services will be the same as those during their time of appointment.

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

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

(2) After this constitution comes into effect, the elections for the President and Vice President shall be conducted by the transformed Legislature-Parliament, pursuant to Clause (1) of Article 286.

(3) Pursuant to Clause (6) of Article 286, within one month of summoning a session of the Legislature-Parliament, President and Vice President shall be elected by the majority of the members present in the Legislature Parliament.

(4) If the post of either President or Vice President falls vacant after being elected pursuant to Clause (3), re-elections shall be conducted by the Legislature Parliament pursuant to Clause (1) of Article (286), until the formation of the Federal Legislature

(5) The provisions regarding posts of President and Vice-president lying vacant and impeachment of President and Vice-president under this Article shall be as provided in the Interim Constitution (2007).

(6) The term of office of the President and Vice-president elected under this Article, shall be until new President and Vice-president are elected from the Electoral College as mentioned in Article 66, and assume office.

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

(2) The Council of Ministers shall be constituted under the chairmanship of the Prime Minister, who shall be elected within seven days of summoning a session pursuant to Clause (6) of Article (286) after the commencement of this Constitution.

(3) For the period until the election of House of Representatives is not conducted as mentioned in this Constitution, the provision of election of the Prime Minister, vote of confidence, no confidence motion, and other provisions relating to Council of Ministers shall be as provided by the Interim Constitution (2007).

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

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

(2) The transformed legislature parliament pursuant to clause (6) of article 286 shall conduct the election of Speaker and Deputy-speaker within a month of the commencement of the session of Legislature-parliament.

(3) The proceedings of the election of the Speaker and Deputy-speaker as under clause (2), the proposal regarding whether they have followed by code of conduct and passing such proposal, shall be as provided in the Interim Constitution (2007).

**290. Provision relating to the Judiciary:** (1) The Supreme Court, Constituent Assembly Court, Appellate Court, and District Courts subsisting at the time of the commencement of this constitution shall continue until the structure of the judiciary is constituted under this constitution. And this constitution shall not be meant to hinder the making of the decision by the concerned courts on cases filed prior to the commencement of this Constitution.

(2) .....*Discussion on the continuity and reappointment of the judges working all levels of the judicial system is ongoing*

(3) The cases under consideration at the Constituent Assembly Court shall be transferred to Constitutional Court after the latter is constituted as per this Constitution.

(4) The cases under consideration in the Appellate Courts shall be transferred to the High Courts with similar jurisprudence after the High Courts are constituted under this Constitution.

(5) Now existing Special Military Court shall remain in place until the time Special Military Court is constituted, in accordance with this Constitution. The cases sub-judice at the existing Special Military Court shall be transferred to Special Military Court after it has been constituted, in accordance with this Constitution.

(6) The criminal cases, that demand more than six months of imprisonment, lying sub-judice at other bodies except the courts, shall be transferred to the District Courts of the respective districts after the commencement of this Constitution.

**291. Provisions regarding Constitutional Bodies and Officials thereof:** (1) The constitutional bodies and officials thereof subsisting at the time of the commencement of this constitution, but which are not to be reestablished under this Constitution, shall cease to exist after the commencement of this Constitution.

(2) The constitutional bodies subsisting at the time of the commencement of this Constitution shall be deemed to have been constituted under this Constitution, and this Constitution shall not hinder such bodies in dealing with matters under consideration according to the existing laws.

(3) .....*Discussion are ongoing with regards to continuation and re-appointment of the officials of Constitutional bodies*

**292. Provision regarding the Local Bodies:** The local bodies existing at the time of the commencement of this Constitution shall exist until the number and constituency is determined, in accordance with this constitution. Elections shall be conducted for the local bodies as determined.

**293. Existing laws to remain in operation:** (1) All the laws in the force at the time of commencement of this Constitution shall remain in operation until repealed or amended.

Provided that laws inconsistent with this Constitution shall, to the extent of inconsistency, *ipso facto*, cease to operate, one year after first session of federal legislature, in accordance with this constitution.

(2) The activities under peace process conducted as per the Interim Constitution 2007 shall be considered to be conducted as per this constitution.

**294. Power to remove difficulties:** If any difficulty arises in connection with the implementation of this Constitution, until election of the federal parliament has been held (in accordance with this constitution) its session started and the session of the transformed legislature parliament is not underway, the President, on the recommendation of the Council of Ministers, Government of Nepal, may issue necessary orders to remove such difficulties. Such orders shall be required to be presented immediately to the meeting of the Legislature parliament or Federal legislature for endorsement.

## **PART 36**

### **DEFINITIONS AND INTERPRETATIONS**

**295. Definitions and Interpretations:** (1) Unless the subject or context otherwise requires, in this Constitution:-

(a) “Minority” means those caste, language, and religious communities, whose population is less than that determined by the law, and who has their own specialties, and who aim to protect them; it also signifies those groups who have faced discrimination and harassed.

(b) “Article: means an Article of this Constitution.

(c) “Citizen” means citizen of Nepal.

(d) “Province” means the area and structure of the federal unit carved in accordance with this Constitution.

(e) ‘Remuneration’ means and includes salary, allowances, pension and any other forms of emoluments.

(f) “State power” means powers of the Executive, the Legislative and the Judiciary.

(g) “Bill” means a draft of a Constitution or an Act which has been introduced in the federal legislature or a provincial assembly.

(h) “Federation” means the federal structure that is the apex body of the federal system. It also refers to the composite picture of various provinces and local bodies of Federal Democratic Republic Nepal.

(i) “Constitutional body” means Commission for Investigation of Abuse of Authority, Auditor General, Federal Public Service Commission, Election Commission, National Human Rights Commission, National Natural Recourses and Finance Commission, National Women Commission, National Dalit Commission and National Inclusion Commission, established in accordance with this Constitution.

(j) “Marginalized” means those who have been forced to fall backward politically, economically and socially, those who have been unable to avail services because of discrimination and harassment, and because of geographical disconnection, and those communities whose standard of living has been below the legal standard as specified in the Human Development indicators. It also signifies the ultra-marginalized and communities on verge of extinction.

(k) “Local level” means village council, municipal council and district assembly to be formed in accordance with this Constitution.

(2) Unless the subject or context otherwise requires, the prevailing law of Nepal relating to interpretations shall, subject to the provisions of this Constitution, apply to the interpretation of this Constitution in the same manner that law applies to the interpretation of the laws of Nepal.

### **PART 37**

#### **SHORT TITLE, COMMENCEMENT AND ABROGATION**

**296. Short title, Commencement and Abrogation:** (1) This Constitution shall be called (Constitution of Nepal, 2015(2072)).

(2) This Constitution shall come into force from .....

**297. Dismissal:** The Interim Constitution of Nepal 2007 has been dismissed.

**SCHEDULE- 1**

**(RELATED WITH CLAUSE (2) OF ARTICLE 8)**

**Method of Making the National Flag of Nepal**

**(A) Method of Making the shape inside the Border**

- (1) On the lower portion of a crimson cloth draw a line AB of the required length from left to right.
- (2) From A draw a line AC perpendicular to AM making AC equal to AB plus one third AB. From AC mark off D making the line AD equal to line AB. Join BD.
- (3) From BD mark off E making BE equal to AB.
- (4) Touching E draw a line FG, starting from the point F on line AC, parallel to AB to the right hand-side. Mark off FG equal to AB.
- (5) Join CG.

**(B) Method of making the Moon**

- (6) From AB mark off AH making AH equal to one-fourth of line AB and starting from H draw a line HI parallel to line AC touching line CG at point I.
- (7) Bisect CF at J and draw a line JK parallel to AB touching CG at point K.
- (8) Let L be the point where lines JK and HI cut one another.
- (9) Join JG.
- (10) Let M be the point where line JG and HI cut one another.
- (11) With center M and with a distance shortest from M to BD mark off N on the lower portion of line HI.
- (12) Touching M and starting from O, a point on AC, draw a line from left to right parallel to AB.
- (13) With center L and radius LN draw a semi-circle on the lower portion and let P and Q be the points where it touches the line OM respectively.
- (14) With the center M and radius MQ draw a semi-circle on the lower portion touching P and Q.
- (15) With center N and radius NM draw an arc touching PNQ at R and S. Join RS. Let T be the point where RS and HI cut one another.
- (16) With center T and radius TS draw a semi-circle on the upper portion of PNQ touching at two points.
- (17) With center T and radius TM draw an arc on the upper portion of PNQ touching at two points.

- (18) Eight equal and similar triangles of the moon are to be made in the space lying inside the semi-circle of No (16) and outside the arc of No (17) of his Schedule.

**(C) Method of Making the Sun**

- (19) Bisect line AF at U, and draw a line UV parallel to AB line touching line BE at V.
- (20) With center W, the point where HI and UN cut one another and radius MN draw a circle.
- (21) With center W and radius LN draw a circle.
- (22) Twelve equal and similar triangles of the sun are to be made in the space enclosed by the circle of No (20) and No (21) with the two apexes of two triangles touching line HI.

**(D) Method of Making the Border**

- (23) The width of the border will be equal to the width of TN. This will be of deep blue color and will be provided on all the sides of the flag. However, on the given angles of the flag the external angles will be equal to the internal angles.
- (24) The above mentioned border will be provided if the flag is to be used with a rope. On the other hand, if it is to be hoisted on a pole, the hole on the border on the side AC can be extended according to requirements.

**Explanation:-** The lines HI, RS, FE, ED, JG, OQ, JK and UV are imaginary. Similarly, the external and internal circles of the sun and the other arcs except the crescent moon are imaginary. These are not shown on the flag.

**SCHEDULE – 2**

**(RELATED TO CLAUSE (1), ARTICLE 9)**

**NATIONAL ANTHEM OF NEPAL**

*Sayaú thúgā phūlkā hāmī, euṭai mālā nepālī*  
*Sārwabhaum bhai phailiekā, Mechi-Mahākālī*  
*Prakritikā kotī-kotī sampadāko āchala,*  
*bīrharūkā ragata le, swatantra ra aṭala*  
*Gyānabhūmi, śhāntibhūmi Tarāī, pahād, himāla*  
*Akhaṇḍa yo pyāro hāmro māṭṛibhūmi Nepāla*  
*Bahul jāti, bhāṣhā, dharmā, sānskṛti chan biśhāla*  
*Aragāmī rāshṭra hāmro, jaya jaya Nepāla*

Woven from hundreds of flowers, we are one garland that's Nepali  
Spread sovereign from Mechi to Mahakali.

A playground for nature's wealth unending  
Out of the sacrifice of our braves, a nation free and unyielding.

A land of knowledge, of peace, the plains, hills and mountains tall  
Indivisible, this beloved land of ours, our motherland Nepal.

Of many races, languages, religions, and cultures of incredible sprawl  
This progressive nation of ours, all hail Nepal.

**SCHEDULE – 3**  
**(RELATED TO CLAUSE (2), ARTICLE 9)**  
**COAT OF ARMS OF NEPAL**



DRAFT

**SCHEDULE 4****(RELATED TO ARTICLE 36(1) AND 87)****LIST OF FEDERAL POWERS/JURISDICTION**

<b>Serial Number</b>	<b>Subjects</b>
1.	Related to defense and army
	a) Protection of national unity and territorial integrity
	b) Related to national security
2.	Central police, armed police force, national intelligence and investigation, peace and security
3.	Central planning, central bank, financial policy, currency and banking, monetary policy, foreign grants, aids and loan.
4.	Monitoring and regulation of telecommunication, central telecom, radio frequency distribution, television and postal service
5	Customs, excise-duty, value added tax (VAT), corporate income tax, individual income tax, passport fee, visa fee, tourism fee, service charge, penalties and fines
6.	Royalty received on natural resources
7.	Federal civil service, judicial service and other government services
8.	Central statistics (national and international standards and qualities)
9.	Mega projects for electricity, irrigation and other government and donor-funded projects.
10.	Central university, university standard and regulation, central library
11.	Central health policy (setting standard, quality and monitoring of the health services, national/special service provider hospitals, traditional treatment services, control of communicable diseases
12.	Federal legislature, federal executive, local level affairs

13.	International trades, exchange, ports and quarantines
14.	International and inter-province aviation, international airports
15.	Foreign and diplomatic affairs, international relations and related to United Nations
16.	International treaties and agreements, extradition, mutual legal assistance and international border management
17.	National train service and national highways management
18.	Laws related to Supreme Court, Constitutional Court, High Courts, District Courts and Judicial Administration
19.	Citizenship, passport, visa, and immigration
20.	Nuclear energy, atmosphere and space related
21.	Intellectual property (including patent, design, copy right)
22.	War and defense
23.	Factory and production of arms and ammunitions
24.	Standards and metrology
25.	Mining, exploration
26.	National and international ecology management
27.	Insurance policy
28.	Formulating criminal and civil laws
29.	Casino and carbon services
30.	Constitutional bodies and commission of central importance
31.	Issues not listed in the federation, province and local level power or concurrent level power, along with issues not mentioned in this constitution and law.

**SCHEDULE 5****(RELATED WITH ARTICLE 61 (2), 160(4), 173, 230(2), 269(4))****LIST OF PROVINCIAL POWERS/JURISDICTION**

<b>Serial Number</b>	<b>Subjects</b>
1.	Provincial police administration as well as law and order
2.	Bank and financial institution, cooperatives, and foreign grants and aids with consent from the center
3.	Radio, FM, television
4.	Tax on remuneration, land and house registration fee, vehicle tax, excise duty, entertainment tax, advertisement tax, tax on tourism and agricultural income, service charge and penalties and fines
5.	Royalty received on natural resources
6.	Provincial civil service, judicial service and other government services
7.	Provincial statistics
8.	Provincial level electricity, irrigation projects and other projects
9.	Provincial level university, higher education, libraries and museums
10.	Health service
11.	Related to provincial assembly, provincial cabinet and special structures
12.	Business within the province
13.	Provincial aviation service
14.	Provincial railway and provincial highways
15.	Provincial investigation bureau
16.	Provincial electricity and irrigation projects

17.	Infrastructure management and other necessary matters of the courts and judicial bodies of the province, except Constitutional Court and Supreme Court
18.	Provincial public service commission
19.	Land management, record-keeping of the land and land revenue collection
20.	Exploration and management of mines
21.	Insurance management and operation
22.	Protection and use of language, culture, script and religion
23.	Management of forest, water resources and ecology within the province
24.	Agriculture and livestock development, factories, industrialization, business, transportation, production and sales of alcohol and beverages
25.	Books and press
26.	Guthi (community trust/endowment) management

**SCHEDULE 6****(RELATED TO ARTICLE 61(3), 87,160(4), 123)****LIST OF CONCURRENT (FEDERAL AND PROVINCIAL) POWERS/JURISDICTION**

<b>Serial Number</b>	<b>Subjects</b>
1.	Criminal and civil work procedures and evidences and oath of office (legal recognition, public act and records and judicial process)
2.	Supply, distribution, price control, standard and monitoring of essential goods and services
3.	Preventive detention, jail and custody management on the matters of national security and management of law and orders
4.	Transfer of accused as well as persons in custody and jail from one province to other.
5.	Laws related to family affairs (marriage, property transfer, divorce, endangered, orphan, adopted child, successors and joint family).
6.	Receiving property, acquisition and creation of rights
7.	Matters related to contracts, cooperatives, collaborations and agencies
8.	Matters related to bankruptcy and insolvency
9.	Medicine and pesticides
10.	Planning, family planning and population control
11.	Acts related to social security and employment, trade union, industrial dispute, labor rights and disputes
12.	Medical, legal and other professions
13.	Vital registrations (birth, death)
14.	Water transportation, environment conservation and bio-diversity

15.	Related to mediums of mass communication
16.	Preservation of archeological materials, historical monuments and museums
17.	Industries and minerals and infrastructures
18.	Casino, lottery, vehicles licensing
19.	Natural and man-made disaster preparedness, rescue, relief and rehabilitation
20.	Tourism, drinking water and sanitation
21.	Movies, cinema halls and sports
22.	Insurance
23.	Poverty alleviation and industrialization
24.	Scientific research, science and technology and human resource development
25.	Inter-provincial forest, wildlife, birds, mountains, national parks and water uses
26.	Land policy and related legal provisions

**SCHEDULE 7****(RELATED TO 61(6), 212 (7), 219(2), 224 (1))****LIST OF POWERS/JURISDICTION FOR LOCAL LEVEL**

<b>Serial number</b>	<b>Subjects</b>
1.	Municipal police, community police
2.	Cooperatives
3.	FM operation
4.	Local tax (property tax, house rent tax, fee on registration of houses and land, vehicle tax), service fee, tourism fee, advertisement tax, business tax, land tax (land revenue), fines, entertainment tax
5.	Royalty received on natural resources
6.	Management of local services
7.	Local statistics and record keeping
8.	Local development projects and programs
9.	Primary and secondary education
10.	Basic health and sanitation
11.	Management of local environment conservation and biological diversity
12.	Local roads, rural roads, agriculture roads, irrigation
13.	Management of local court, reconciliation and mediation
14.	Distribution of citizenship and passport and management of local records
15.	Distribution of land, building ownership certificates
16.	Farming and livestock, agriculture production management, livestock health, cooperative

17.	Management of senior citizens, people with physical disability and disabled
18.	Collection of statistics of unemployed people
19.	Management, operation and control of agriculture publicity
20.	Registration of individual incidents—birth, marriage and death
21.	Drinking water, small electricity projects (alternative energy)
22.	Disaster management
23.	Conservation of Watershed, wetland, wildlife, mines and minerals
24.	Preservation and development of language and culture