

**Constituent Assembly**  
**Committee for Preserving the National Interests**  
**Preliminary draft along with the explanatory note, based on the Concept Paper**  
**2066**

<b>S.No.</b>	<b>Subject</b>	<b>The proposed provision to be included in the constitution</b>	<b>Possible slot in the Constitution</b>
1.	Preamble	<p>Recalling the sacrifice made by the brave martyrs for the nation!</p> <p>We, the Nepali people with sovereign powers and state authority inherent in us, declare this for the happiness, peace and prosperity of the present and future generation :</p> <p>"...Pledging to preserve and promote Nepal's sovereignty, geographical integrity, independence and national unity, law and order, federal democratic and inclusive republic, to create opportunities for the Nepali people for food, shelter and clothing, education, health, employment, income generation, personality development, safety of lives, wealth and property, and enhancing Nepali citizens' honor and pride in the national and international forum,</p> <p>Having determined to ensure equitable economic, social and cultural progress and development of all Nepali people,</p> <p>Remaining committed to the goal of building a new international system for world peace, prosperity and equality based on democracy and respect of human rights, including the right to live freely by putting an end to inequality, hunger and</p>	In the 'Preamble'

		poverty that has been seen as an obstacle to world peace, prosperity and equality.	
2.	Exercise of sovereignty	<p>The sovereignty inherent in the people shall be exercised accordingly :-</p> <p>(a) Legislative rights shall be exercised through the Legislature and referendum</p> <p>(b) Executive Rights shall be exercised through the Head of State/Council of Ministers elected by the people.</p> <p>(c) Right to justice shall be exercised by the court and judicial bodies in accordance with this Constitution and other laws and recognized principles of law.</p> <p>(d) All organs of the Government shall respect, protect and promote the fundamental rights of the citizens bestowed upon them by the Constitution and unless as provided by the law no (limitation, bar or forbiddance) shall be made in the exercise of such rights.</p> <p>(e) Every citizen shall exercise adult franchise through elections of the people's representatives and referendum, as provided by the law.</p>	To be included as a separate Article under the 'Preliminary'
3.	National Interests:	(1) Building a discrimination-free, equitable society based on preservation of the sovereignty and national integrity, independence and identity of the nation, and	To be included as a separate Article under the 'Preliminary'

		<p>by maintaining national unity, social and cultural harmony, proportionate and inclusive multi-party democratic federal republican political system, economic prosperity, transportation, information and technology development, social harmony among various ethnicities, class and groups shall be the fundamental issues of national interests of Nepal.</p> <p>(2) Acts carried out against the interests of the nation by jeopardising the country's sovereignty and integrity, or the good relations subsisting among various ethnicities, religions and communities leaking the country's secret information to unauthorized people or institution shall be punishable by law.</p> <p>(3) The diplomatic conduct and acts carried out against the national interests and dignity shall be punishable by law.</p>	
4.	Fundamental Rights:	<p>(1) Right to protection of heritage: Every person shall have the right to protect and utilize the country's natural resources and cultural heritage.</p> <p>(2) All citizens shall have the right to education, health, employment, food, shelter, clothing, irrigation, developed seeds, fertilizers and food sovereignty.</p> <p>(3) Provided that nothing shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may (be contrary to) undermine the</p>	To be included as a separate Article under the 'Fundamental Rights' Part

		sovereignty, integrity and national unity of Nepal.	
5.	Duties of citizens	<p>(1) It shall be the duty of every citizen to assist and serve the protection and promotion of national interests.</p> <p>(2) It shall be the duty of every citizen to respect and promote Nepal's sovereignty, integrity and national unity.</p> <p>(3) For defending the country, the Government may, as per the need, call on citizens who have attained 18 years of age for military training, and accordingly serving the nation by taking part in the training shall be the duty of every citizen.</p> <p>(4) It shall be the duty of every citizen to respect the national flag and song.</p>	
6.	Responsibilities of the State	<p>(1) It shall be the responsibility of the state to create an atmosphere where economic, social, political and cultural rights could be enjoyed in an equal and just manner by protecting the citizens as well as maintaining intact the nation's freedom, geographical integrity, sovereignty and national unity.</p> <p>(2) It shall be the responsibility of the state to promote national interest through the enhancement of the protection and identity of the freedom of Nepal and self-dignity of Nepali people in the international arena by</p>	To be included as the State's Responsibilities under 'Responsibilities, Directive Principles and Policies of the State' part

		<p>safeguarding the sovereignty and national integrity, enhancement of national unity and national dignity, national security and political stability, preservation and promotion of natural and cultural heritages and women, Dalits, Indigenous, endangered castes, ethnicities, Muslims, Madhesis, languages, religions and cultures of various communities, economic prosperity, poverty alleviation, building of non-discriminatory society, guarantee of rights of all class, castes, gender, senior citizens, disabled, children and people from minority, marginalized communities and sectors, advocating for the rule of law, principles of Panchasheel and world peace.</p> <p>(3) It shall be the responsibility of the state to preserve ,promote and enlist rare flora and fauna, mountains, water resources, lakes, wetlands, parks, reserves, mines etc.,which exist as the natural and cultural heritage and those enlisted in the world heritage list by documenting them for the protection of the cultural and natural heritage of the country.</p> <p>(4) It shall be the responsibility of the state to formulate and implement the central policy regarding national interest and security for the protection and promotion of issues of national interest by fulfilling the Nepali People's aspirations for peace, security, prosperity and freedom.</p>	
7.	The State's Directive	(1) The international relation of the state shall be guided towards the promotion of national interests by	To be included as the State's

	Principles	<p>enhancing the national dignity in the international arena and maintaining the sovereignty, integrity and freedom of the country.</p> <p>(2) The international relation of Nepal shall be operated with commitment to the principles and norms of the UN Charter, international law that resolves internal conflicts between countries peacefully, and does not interfere in internal affairs of an independent country by another independent country and respects the freedom and sovereign equality of all countries.</p> <p>(3) The objective of the international relations of Nepal shall be to contribute towards the full disarmament of the world by protesting the use of force (power) and military force in international relations.</p>	Responsibilities under 'Responsibilities, Directive Principles and Policies of the State' part
8.	The State's Policies	<p>(1) The state shall pursue a policy of managing and controlling international borders in a scientific manner and regulating the management of the borders with neighboring countries being based on the principle of the border system for the effective protection and promotion of the geographical integrity of Nepal.</p> <p>(2) The state shall pursue a policy of maximum utilization of human resources available in the country and of creating an atmosphere whereby every citizen can dedicate/offer their skills, knowledge, and ideas in the interest of the nation.</p>	To be included as the State's Responsibilities under 'Responsibilities, Directive Principles and Policies of the State' part

		<p>(3) The state shall pursue a policy to identify, preserve and promote the natural and cultural heritage of the country and to ensure inter-generational equitable rights of present and future generations over such heritage.</p> <p>(4) The state shall pursue a policy to maintain forests in at least 40 per cent area/territory of the country to maintain clean and healthy environment by raising people's awareness on environmental cleanliness.</p> <p>(5) The state shall pursue a policy to identify, preserve and promote the traditional knowledge, skills, research and practice related to life-cycle (biological) and cultural resources of indigenous nationalities and to ensure the rights of concerned communities over the benefits earned from such knowledge, skills and practice.</p> <p>(6) The state shall pursue a policy to encourage the participation of women, landless and impoverished groups in local communities in the conservation of natural resources and cultural heritages of the country and to ensure the right to equitable access to the benefits earned through the conservation and promotion of such heritages.</p> <p>(7) The state shall pursue a policy to mobilize the natural resources and heritages of the country in a useful and beneficial manner in favour of the nation and national</p>	
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		<p>interests.</p> <p>(8) The state shall pursue a policy to institutionalize peace in Nepal on the basis of international norms, and by protecting the national independence and sovereignty, maintaining the geographical integrity and self-dignity, considering the reality of globalization and increasing mutual interdependency among countries, on the basis of equality, maintaining collaborative good relations in economic, social and other sectors with neighboring countries and all other countries in the world on equal footing, based on respect of the Principles of the UN Charter, Non-Alignment, Panchasheel and Peaceful Co-existence and respect of human rights, norms of international law and world peace.</p> <p>(9) The state shall pursue a policy with both the neighboring countries on the basis of equality by further consolidating and strengthening the social and cultural relationship between the Nepali people and the people of neighboring countries.</p> <p>(10) Nepal shall pursue a policy to protest the use of any force and threat against the regional integrity and independence of a country by another country in any effort made to resolve a dispute between countries</p>	
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		<p>through war.</p> <p>(11) The foreign policy of Nepal shall remain active towards maintaining economic and social relationship with Nepali citizens residing in various countries, as well as for protecting the rights and well-being of the Nepali citizens outside Nepal.</p> <p>(12) The state shall pursue a policy to provide required assistance to concerned parties through the UN and international bodies in sharing experiences and achievements earned by Nepal in the field of conflict resolution for the peaceful settlement of internal conflict, and war faced by independent nations, with full support and cooperation to the promotion and development of world peace as well as respect, protection and promotion of democracy and human rights.</p> <p>(13) The state shall pursue a policy to utilize the knowledge, skills and experiences of the retired army and police personnel as per the need of the country.</p>	
9.	<b>Foreign Relation</b>	Authority relating to conducting of Nepal's foreign policy shall rest with the Centre/Union. The Centre/Union shall have the authority to conduct the foreign relations of Nepal.	To be included in the list of rights of the Central Government after restructuring of the state and its power sharing is ascertained.

10.	Nepali ambassador and emissaries	<p>(1) The Head of the State, on the recommendation of the Head of the State/Council of Ministers, may appoint ambassadors of Nepal and other emissaries for any specified purposes.</p> <p>(2) The Head of the State shall accept the letter of credentials of foreign ambassadors and emissaries.</p>	To be included as a separate Article under 'Miscellaneous' part.
11.	Power to conclude treaties	<p>(1) Power relating to conclude treaties shall rest with the Centre/Union.</p> <p>(2) The Centre/Union shall take consent of the concerned provinces while concluding the treaties or agreements that directly affect them or on the subjects falling under the jurisdiction of the provinces.</p> <p>(3) With consent of the central government, provinces may hold contractual agreements on economic and industry-related issues.</p>	To be introduced as a separate Article under 'Treaties or Agreements' part.
12.	Treaties or agreements that cannot be reached	<p>No treaty or agreement shall be reached on the following matters:-</p> <p>(1) Matters relating to narrowing Nepal's territorial boundaries or matters detrimental to the provincial integrity of the state.</p> <p>(2) Matters jeopardizing Nepal's sovereignty and national unity.</p> <p>(3) Matters inconsistent with the constitution</p> <p>(4) Matters pertaining to the distribution of the uses of Nepal's natural resources, causing disadvantages to Nepal in the long-term.</p>	To be introduced as a separate Article under 'Treaties or Agreements' part.
13.	The ratification of, accession to, acceptance	<p>(1) The ratification of, accession to, acceptance of or approval of treaty or agreement to which the state of Nepal or government of Nepal is to become a party shall</p>	To be introduced as a separate Article under 'Treaties or

	of or approval of treaties or agreements	<p>be as determined by the law.</p> <p>(2) The laws to be made pursuant to clause(1), <i>inter alia</i>, require that the ratification of, accession to, acceptance of or approval of treaty or agreements on the following subjects be done by a two-thirds majority of the total number of members of the Central/Federal legislature existing:-</p> <ul style="list-style-type: none"> <li>(a) Peace and friendship;</li> <li>(b) Security and strategic alliance;</li> <li>(c) The boundaries of Nepal; and</li> <li>(d) Natural resources and distribution of their uses.</li> </ul> <p>(3) Notwithstanding anything contained in clause(2), the ratification of, accession to, acceptance of or approval of the treaty or agreements on the following subjects may be done at a meeting of the central/federal legislature by a simple majority of the members present:-</p> <ul style="list-style-type: none"> <li>(a) Treaty or agreement on the subjects referred to in sub-clauses(a) and (d), which is of ordinary nature and does not affect the nation extensively, seriously or in long-term;</li> <li>(b) In case the ratification of, accession to, acceptance of or approval of a treaty is mandatory in accordance with the provision of the treaty itself;</li> <li>(c) Establishment of an inter-governmental organization or acquisition of membership of such organization;</li> <li>(d) Any treaty imposing any obligations or financial burden upon Nepal and in case any legal arrangements need to be made for its execution;</li> <li>(e) Treaty or agreement inconsistent with the prevailing laws.</li> </ul>	Agreements' part.
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		(4) After the commencement of this constitution, unless a treaty or agreement is not ratified, acceded to, accepted or approved in accordance with this Article, it shall not be binding on the Government of Nepal or the state of Nepal.	
14.	Treaty provisions to come into force as laws:	<p>(1) If the state of Nepal or Government of Nepal is party to a treaty that is ratified, acceded to, accepted or approved by the legislature and if the contents of the same conflict with the current laws, the latter shall be held invalid to the extent of such conflict for the purpose of that treaty and the provisions of the treaty shall be applicable in that connection as Nepal Laws.</p> <p>(2) In case any treaty which has not been ratified, accepted or approved by the legislature or has not received acceptance for accession to, but imposes any additional obligation or financial burden upon Government of Nepal and if legal arrangements need to be made for its execution, Government of Nepal shall formulate the necessary laws for execution of such treaties.</p>	To be introduced as a separate Article under 'Treaties or Agreements' part.
15.	Treaty or agreement to be tabled in the central legislature	Government of Nepal shall table a resolution of the treaty or agreement that does not need to be ratified, acceded to or approved but to which state of Nepal or Government of Nepal is party to before the meeting of the Central Legislature/concerned committee of the Central Legislature.	To be introduced as a separate Article under 'Treaties or Agreements' part.
16.	Obtaining approval of Legislature:	Prior to making an agreement about granting permission in regards to making investments for the use of water resources to any individual or institution other than national resident or institution, an approval to that effect should be obtained from the majority of the meeting of the Central Legislature.	To be introduced as a separate Article under 'Treaties or Agreements' part.
17.	Emergency Powers	(1) If a grave emergency arises in regard to the sovereignty or integrity of Nepal or the security of any part thereof,	To be included under 'Emergency Powers'

		<p>whether by war, external aggression, armed rebellion or extreme economic disarray, the Head of the State on the recommendation of the Head of the State/Council of Ministers of the Government of Nepal may, by proclamation or order, declare a state of emergency to be enforced in Nepal or any specified part thereof.</p> <p>(2) If grave emergency arises in a province as a result of severe natural disaster or extreme economic disarray, the government of the province with consent of the Central/Union government may, by proclamation or order, declare a state of emergency in the areas falling under its provincial jurisdiction.</p>	part.
18.	Right to self-determination	The Federal governance system of Nepal shall function by being based on the principles of autonomous system of governance. Every province and local government shall, as provided for in this constitution and in a way not to be contrary to the sovereignty, integrity and national unity, enjoy full right to self-determination for political, economic, social and cultural development of their people residing in their own territory and to promote, preserve and utilise the natural resources.	To be introduced as a separate Article under 'Miscellaneous' part.
19.	Political Party	No political party shall be allowed to perform its activities contrary to the sovereignty, integrity and national unity of the state. Any act performed against this shall be punishable by law.	To be included under 'Political Parties' part
20.	Provisions regarding Referendum	<p>(1) If the Federal/ Union Legislature decides, by a two-thirds majority of the total number of existing members that it is necessary to make a decision on any matters of national importance, a decision may be reached on such matters through referendum.</p> <p>(2) The procedures pertaining to making decision pursuant</p>	To be introduced as a separate Article under 'Miscellaneous' part.

		to sub-clause (1) shall be as determined by the law.	
21.	Nepal's International borders	<p>(1) The principal responsibility of security, management and demarcation of Nepal's international border shall rest with the Federal/Central government.</p> <p>(2) Permanent demarcation of Nepal's international borders with India shall be carried out the basis of the treaties held between the then Government of Nepal and East India Company (British Government) in 1816, 1819, 1860 and 1875 AD. And Nepal's international borders with China shall be managed according to the treaty held with China in 1961AD.</p>	To be included in the list of rights of the Central Government after restructuring of the state and its power sharing is ascertained.
22.	National Defence Council	<p>(1) There shall be a National Defence Council in order to formulate policies about Nepal's overall national interests, security, and defence and make recommendations to the Council of Ministers/ Head of the Executive on mobilization and management of the Nepal Army. The Council shall be comprise the following Chairperson and members:-</p> <p>(a) Head of Executive- Chairperson</p> <p>(b) Defence Minister-Member</p> <p>(c) Home Minister- Member</p> <p>(d) Foreign Minister- Member</p> <p>(e) Finance Minister- Member</p> <p>(f) Two ministers from Council of Ministers, nominated by the Head of Executive as per requirement - Member</p>	To be included under 'National Security' part
		<p>(2) The National Defence Council, as per its need, may invite security experts as advisers to the meeting of the Council.</p>	

		<p>(3) The appointment of the Secretary of the National Defence Council shall be made by the Head of the Government.</p> <p>(4) There shall be a Planning sub-committee, an Advisory sub-committee, and an Implementation sub-committee in the Secretariat for effective functioning of the National Defence Council.</p> <p>(5) Other provisions regarding the National Defence Council shall be as determined by the law.</p>	
23.	Formation of the Military Service Commission:	As provided for in the law, a Military Service Commission shall be constituted in order to oversee the issues of appointment and promotion of Nepal's National Army (personnel??).	To be included under 'National Security' part
24.	Provisions regarding Nepal's National Army	<p>(1) There shall be an institution of Nepal National Army for safeguarding the sovereignty, integrity, independence and national unity and for national development and construction works.</p> <p>(2) For sustainable peace, political stability, and economic prosperity, the Nepal Army with a national character shall be constituted in accordance with the proportional, inclusive, and democratic principles and following the rehabilitation, management and integration of the combatants living in cantonments (People's Liberation Army) and Nepal Army on the basis of the 12 -point agreement and the Comprehensive Peace Agreement.</p> <p>(3) The Head of State shall be the Supreme Commander of the Nepal Army.</p> <p>(4) The Head of the State, on the recommendation of the Head of the Government/Council of Ministers, shall appoint the Commander-in-Chief of the Nepal Army.</p> <p>(5) The Council of Ministers may, as provided for in the</p>	To be included under 'National Security' part

		<p>law, remove the Commander-in-Chief of the Nepal Army,</p> <p>(6) The Head of the State, on the recommendation of the Head of the Government / Council of Ministers, shall control, mobilize, run and manage the Nepal Army in accordance with the law.</p> <p>(7) Except in the event of mobilization of the Nepal Army at times of natural disaster, the decision regarding mobilization of the Nepal Army made by the Council of Ministers, on the recommendation of the National Defence Council, should be presented before and approved by the Special Security Committee of the Central Legislature and approved within a month from the date of having made the decision thereof.</p> <p>(8) Other matters pertaining to the Nepal Army shall be as provided for in the law.</p>	
25.	Provisions regarding the paramilitary force:	<p>(1) The formation, operation and control of the paramilitary force and its terms of reference and other powers shall be as determined by the law.</p> <p>(2) A Paramilitary Force Service Commission shall be constituted in order to oversee the issues of the appointment and promotion of the paramilitary force (personnel).</p>	To be included under 'National Security' part
26.	Provisions regarding Intelligence agencies	Formation, operation and control of the intelligence agency and its works and other provisions shall be as determined by the law.	To be included under 'National Security' part
27.	Provisions regarding	(1) Police Service shall be constituted to maintain internal peace, law and order in the province.	To be included under 'National Security'



	police	<p>(2) Operation, control, functioning and other provisions of the Police Service shall be as determined by the law.</p> <p>(3) A Police Service Commission shall be formed in the province for the appointment and promotion of the Police Service (personnel).</p>	part
28.	To be accountable to the government	Nepal National Army, paramilitary force, intelligence agencies and police organizations shall remain accountable to the government.	To be included under 'National Security' part
<p>Note: Since the structure of governance of the state is yet to be determined, terms such as 'The Head of State on the recommendation of the Head of State/ Council of Ministers have been used in various lines of this draft. However these words are meant to refer to the Head the Executive.</p>			