

THE INTERIM CONSTITUTION OF NEPAL 2063 (2007)

AS AMENDED BY THE FIRST TWO AMENDMENT ACTS 2063 AND 2064 (2007)*

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PREAMBLE

WE, THE PEOPLE OF NEPAL, IN EXERCISE OF THE SOVEREIGN POWERS AND STATE AUTHORITY INHERENT IN US;

Recognizing the mandate of the NEPALI PEOPLE expressed, from time to time, since before 1951 until now, through historical struggles and people's movements for democracy, peace and progress;

Having determined upon the progressive restructuring of the state in order to resolve the existing problems of the country relating to class, caste, region and gender;

Expressing our full commitment to democratic norms and values including a system of competitive multiparty democratic rule, civil liberties, fundamental rights, human rights, adult franchise, periodic elections, full freedom of the press, independence of the judiciary and concepts of the rule of law;

Guaranteeing the basic rights of the Nepali people to frame a Constitution for themselves and to participate in the free and impartial election of the Constituent Assembly in a fear-free environment;

AND keeping democracy, peace, prosperity, progressive economic-social changes and sovereignty, integrity, independence and dignity of the country as a central concern;

NOW THEREFORE, in order to institutionalize the achievements of the revolution and movements till this date, hereby promulgate this INTERIM CONSTITUTION OF NEPAL, 2063 (2007), prepared through a political consensus and to be in force until a new Constitution is framed by the Constituent Assembly.

PART 1
PRELIMINARY

1. Constitution as the fundamental law

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

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

2. Sovereignty and state authority

The sovereignty and the state authority of Nepal are vested in the Nepali people.

3. Nation

Having multi-ethnic, multi-lingual, multi-religious, multi-cultural characteristics with common aspirations, 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 and fully democratic State.

(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. Language of the nation

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

(2) The Nepali language in the Devanagari script shall be the language of official business.

(3) Notwithstanding whatever is written in clause (2), the use of one's mother tongue in a local body or office shall not be barred. The state shall translate the language used for such purposes into the language of official business for the record.

6. National flag

The national flag of Nepal, as handed down by tradition, consists of two juxtaposed triangular figures with a crimson coloured 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. The method of drawing the flag and other particulars relating thereto shall be as set out in Schedule 1.

7. **National anthem etc**

(1) The national anthem and the coat-of-arms of Nepal shall be as determined by the Government of Nepal.

(2) The Rhododendron Arboreum is the national flower, Crimson is the national colour, the Cow is the national animal and the Lophophorus is the national bird of Nepal.

PART 2 CITIZENSHIP

8. Citizenship at the commencement of the Constitution

(1) Persons who have citizenship at the commencement of this Constitution and persons who are eligible to acquire citizenship by virtue of the provisions of this Part shall be the citizens of Nepal.

(2) At the commencement of this Constitution, the following persons who have their domicile in Nepal shall be deemed to be citizens of Nepal by descent

- (a) a person who has acquired citizenship by descent before the commencement of this Constitution, and
- (b) any person whose father or mother was a citizen of Nepal at the birth of such person.

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

(4) Whenever any territory is acquired by way of merger into Nepal, every person having his domicile within such territory shall become a citizen of Nepal, as provided for by the existing law.

(5) Any person born and living permanently in Nepal before the end of Chaitra, 2046 (mid April, 1990) shall acquire the citizenship of Nepal by birth in accordance with the existing law.

Provided that application to that effect shall be submitted once in accordance with existing laws within the prescribed timeframe.

(6) A woman of foreign nationality who is married to a Nepali citizen may acquire naturalized citizenship, if she desires to do so, as provided for by the existing law.

(7) Notwithstanding anything contained elsewhere in this Article, in the case of a person born to a woman citizen of Nepal married to a foreigner, if such a person is born in Nepal and has been residing permanently in Nepal and has not acquired citizenship of the foreign country by virtue of the citizenship of his or her father, he or she may acquire naturalized citizenship of Nepal according to the existing law.

9. Naturalized or honorary citizenship

Except as provided for in Article 8, the Government of Nepal may grant naturalized or honorary Nepalese citizenship (to a foreigner) in accordance with laws in force.

10. Acquisition and termination of citizenship

The acquisition and termination of citizenship and other necessary arrangements shall be in accordance with the existing law.

11. **Citizenship team to be assigned**

The Government of Nepal may assign a Citizenship Distribution Task Force to grant citizenship to persons eligible to acquire citizenship as provided for in existing laws.

PART 3
FUNDAMENTAL RIGHTS

12. Right to freedom

- (1) Every person shall have the right to live with dignity, and no law which provides for capital punishment shall be made.
- (2) Except as provided for by law no person shall be deprived of his/her personal liberty.
- (3) Every citizen shall have the following freedoms
 - (a) freedom of opinion and expression;
 - (b) freedom to assemble peaceably and without arms;
 - (c) freedom to form political party or organisations;
 - (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, be engaged in employment, industry and trade.

Provided that,

- (1) Nothing in sub-clause (a) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of Nepal, or which may jeopardize the harmonious relations subsisting among the people of various castes, tribes, religions or communities, or on any act of defamation, contempt of court or incitement to an offence, or on any act which may be contrary to decent public behaviour or morality.
- (2) Nothing in sub-clause (b) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty, integrity or law and order situation of Nepal .
- (3) Nothing in sub-clauses (c) and (d) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of Nepal, or which may jeopardize the harmonious relations subsisting among the people of various castes, tribes, religions or communities, or which may instigate violence, or which may be contrary to public morality.
- (4) Nothing in sub-clause (e) shall be deemed to prevent the making of laws which are in the interest of the general public, or which are made to impose reasonable restrictions on any act which may jeopardize the harmonious relations subsisting among the people of various castes, tribes, religions or communities.
- (5) Nothing in sub-clause (f) shall be deemed to prevent the making of laws to impose restrictions on any act which may be contrary to public health or

morality, to confer on the State the exclusive right to undertake specific industries, businesses or services, or to impose any condition or qualification for engaging in any industry, trade, profession or occupation.

13. Right to equality

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

(2) There shall be no discrimination against any citizen in the application of general laws on grounds of religion, race, gender, caste, tribe, origin, language or ideological conviction or any of these.

(3) The State shall not discriminate among citizens on grounds of religion, race, caste, tribe, gender, origin, language or ideological conviction or any of these.

Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of women, Dalits, indigenous ethnic tribes, Madhesi or peasants, labourers or those who belong to a class which is economically, socially or culturally backward, or children, the aged, disabled or those who are physically or mentally incapacitated.

(4) There shall be no discrimination with regard to remuneration and social security between men and women for the same work.

14. Right against untouchability and racial discrimination

(1) No person shall, on the ground of caste, descent, community or occupation, be subject to racial discrimination and untouchability in any form. Such a discriminatory act shall be liable to punishment and the victim shall be entitled to compensation as provided by the law.

(2) No person shall, on the ground of caste or tribe, be deprived of the use of public services, conveniences or utilities, or be denied access to any public place, or public religious places, or be prevented from performing any religious act.

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

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

(5) Any act contrary to the provisions of clauses (2), (3) and (4) shall be punishable in accordance with law.

15. Rights regarding publication, broadcasting and press

(1) There shall be no prior censorship of publication and broadcasting or printing of any news item, editorial, article, feature or other reading or audio-visual material by any means including electronic publication, broadcasting and the press.

Provided that nothing shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty or integrity of Nepal, or which may jeopardise the harmonious relations subsisting among the peoples of various castes, tribes or communities; or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act which may be contrary to decent public behaviour or morality.

(2) If there is any broadcasting, publishing or printing of material using radio, television, online or other types of digital or electronic equipment or medium, no such equipment or medium shall be closed, seized or any registration cancelled because of such broadcasting, publication or printing.

(3) No newspaper, periodical or press shall be closed or seized nor shall its registration be cancelled merely for printing or publishing any news items, articles, editorials, writings or other reading material.

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

16. Rights regarding environment and health

(1) Every person has the right to live in a clean environment.

(2) Every citizen shall have the right to basic health services free of cost from the State as provided for in the law.

17. Education and cultural rights

(1) Each community shall have the right to receive basic education in their mother tongue as provided for in the law.

(2) Every citizen shall have the right to receive free education from the State up to secondary level as provided for in the law

(3) Each community residing in Nepal has the right to preserve and promote its language, script, culture, cultural civilisation and heritage.

18. Rights regarding employment and social security

(1) Every citizen shall have the right to employment as provided for in the law.

(2) Women, labourers, the aged, disabled as well as incapacitated and helpless citizens shall have the right to social security as provided for in the law.

(3) Every citizen has the right to food security as provided for in the law.

19. Right to property

(1) Every citizen shall, subject to the laws in force, have the right to acquire, own, sell and otherwise dispose of property.

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

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

(3) Compensation shall be provided for any property requisitioned, acquired or encumbered by the State in implementing scientific land reform programme or in public interest in accordance with law. The amount and basis of compensation, and relevant procedure shall be as prescribed by law.

20. Rights of women

(1) No woman shall be discriminated against in any way on the basis of gender.

(2) Every woman shall have the right to reproductive health and other reproductive rights.

(3) No physical, mental or other form of violence shall be inflicted on any woman, and such an act shall be punishable by law.

(4) Sons and daughters shall have equal rights to ancestral property.

21. Right to social justice

Women, Dalits, indigenous ethnic groups, Madhesi communities, oppressed group, the poor farmers and labourers, who are economically, socially or educationally backward, shall have the right to participate in state structures on the basis of principles of proportional inclusion.

22. Rights of children

(1) Every child shall have the right to his or her own identity and name.

(2) Every child shall have the right to be nurtured, to basic health and social security.

(3) Every child shall have the right not to be subjected to physical, mental or any other form of exploitation. Any such act of exploitation shall be punishable by law and any child so treated shall be compensated as determined by law.

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

(5) No minor shall be employed in factories, mines or in any other hazardous work nor shall be used in army, police or in conflicts.

23. Right to religion

(1) Every person shall have the right to profess, practise and preserve his or her own religion as handed down to him or her from ancient times paying due regard to social and cultural traditions.

Provided that no person shall be entitled to convert another person from one religion to another, and no person shall act or behave in a manner which may infringe upon the religion of others.

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

24. Rights regarding justice

(1) No person shall be detained without being informed of the ground for such an arrest.

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

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

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

Provided that nothing in clauses (2) and (3) shall apply to 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 the law in force at the time of the offence.

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

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

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

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

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

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

25. Right against preventive detention

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

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

* In Nepali it is unnecessary to set out "his or her" etc – possessives are neutral in terms of gender. In this translation we have chosen to use the clumsy "his/her" etc, or occasionally the ungrammatical "their", to avoid gender specific language – eds.

26. Right against torture

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

(2) Any such an act pursuant to clause (1) shall be punishable by law, and any person so treated shall be compensated in a manner determined by law.

27. Right to information

(1) Every citizen shall have the right to demand or obtain information on any matters of concern to himself or herself or to the public.

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

28. Right to privacy

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

29. Right against exploitation

(1) Every person shall have the right against exploitation.

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

(3) No person shall be subjected to human trafficking, slavery or bonded labour.

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

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

30. Right Regarding labour

(1) Every employee and worker shall have the right to proper work practices.

(2) Every employee and worker shall have the right to form trade unions, to organise themselves and to engage in collective bargaining for the protection of their interests in accordance with law.

31. Right against exile

No citizen shall be exiled.

32. Right to constitutional remedy

The right to proceed in the manner set out in Article 107 for the enforcement of the rights conferred in this Part is guaranteed.

PART 4
RESPONSIBILITIES, DIRECTIVE PRINCIPLES AND POLICIES OF THE
STATE

33. Responsibilities of the State

The State shall have the following responsibilities:

(a) recognizing the need for the functional realisation of the sovereignty that is inherent in the Nepali people, it is the obligation of the state to focus the attention of the whole nation on the completion of the election for the members of the Constituent Assembly ***by Mangsir 2064** [*by 15 December 2007 – tr.*] in a free and fair manner,

(b) to ensure progressive political, economic and social changes in the country,

(c) to adopt a political system which fully abides by the universally accepted concepts of fundamental human rights, multi-party competitive democratic system, sovereign authority inherent in the people and supremacy of the people, constitutional checks and balances, rule of law, social justice and equality, independence of judiciary, periodic elections, monitoring by civil society, full independence of the press, right to information of the people, transparency and accountability in the activities of political parties, people's participation, neutral, competent and clean administration and to maintain good governance by eliminating corruption and impunity,

(d) to carry out an inclusive, democratic and progressive restructuring of the State by eliminating its existing form of centralized and unitary structure in order to address the problems related to women, Dalits, indigenous tribes, Madhesis, oppressed and minority community and other disadvantaged groups, by eliminating class, caste, language, gender, culture, religion and regional discriminations,

† (d1) to enable Madhesi, Dalits, indigenous ethnic groups, women, labourers, peasants, the physically impaired, disadvantaged classes and disadvantaged regions to participate in all organs of the State structure on the basis of proportional inclusion,

(e) to formulate a common minimum programme for socio-economic transformation to eliminate all forms of feudalism and implement it gradually,

(f) to pursue a policy of adopting scientific land reform programmes by gradually ending feudalistic land ownership,

(g) to follow a policy of protecting and promoting national industries and resources,

* Amended on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment) Act, 2064.

† Amended on 2063 Chaitra 30 (April 13, 2007) by the Interim Constitution of Nepal (First Amendment) Act, 2063.

- (h) to pursue a policy of establishing the rights of all citizens to education, health, housing, employment and food sovereignty,
- (i) to adopt a policy of ensuring socio-economic security and provide land to the economically backward classes, including the landless, bonded labourers, tillers and shepherds,
- (j) to adopt a policy of taking severe action and punishing any individual who earns unjust wealth through corruption committed while holding an office of profit,
- (k) to formulate a common development strategy for socio-economic transformation and justice, as well as for rapid economic progress and prosperity of the country,
- (l) to follow a policy that increases investment for promoting industry, trade and export, and create opportunities for employment and income generation by ensuring the professional rights of labourers,
- (m) to implement effectively international treaties and agreements to which the State is a party,
- (n) to repeal all discriminatory laws,
- (o) to use existing natural resources including water resources of the country for the interest of the nation,
- (p) to make arrangements for appropriate relief, recognition and rehabilitation for the families of those who died and for persons disabled and made helpless through injury caused during the course of the armed conflict,
- (q) to provide relief to the families of the victims, on the basis of the report of the Investigation Commission constituted to investigate the cases of persons who were the subject of enforced disappearance during the course of the conflict,
- (r) to conduct special programmes to rehabilitate the displaced persons, to provide compensation for damaged private and public property, and to rebuild infrastructure destroyed during the course of the conflict, and
- (s) to constitute a high-level Truth and Reconciliation Commission to investigate the facts about those persons involved in serious violations of human rights and crimes against humanity committed during the course of conflict, and to create an atmosphere of reconciliation in the society.

34. Directive Principles of the State

- (1) It shall be the chief objective of the State to promote conditions of welfare on the basis of the principles of an open society, by establishing a just system in all aspects of national life, including social, economic and political life, while at the same time protecting the lives, property, equality and liberty of the people.
- (2) It shall be the objective of the State to maintain law and order and peace, protect and promote human rights, promote public welfare in the society, and create opportunities for maximum participation of the people through self-governance, while maintaining a system where people can reap the benefits of democracy.

(3) It shall be the political objective of the State to build a prosperous and advanced Nepal by institutionalizing democracy achieved as a result of the struggle of Nepali people and by creating an environment wherein its benefits could be enjoyed.

(4) The fundamental economic objective of the State must be to give priority and protection to making the national economy independent, self-reliant and progressive by preventing the concentration of available resources and means of the country within a limited section of society, by making arrangements for equitable distribution of economic gains based on social justice, by making such provision as will prevent economic inequality and exploitation of any caste, gender, tribe, origin or individuals, and by giving priority and encouragement to national private and public enterprises.

(5) The social objective of the State shall be to establish and develop a healthy social life on the foundation of justice and morality, by eliminating all types of economic and social inequalities and by establishing harmony among diverse caste, tribe, religion, language, race, community and religious groups.

(6) The State shall, in its international relations, be guided by the objective of enhancing the dignity of the nation in the international arena by maintaining the sovereignty, integrity and independence of the country.

35. State policies

(1) The State shall pursue a policy of raising the standard of living of the general public by fulfilling basic needs such as education, health, transportation, housing, and employment of the people of all regions, by equitably distributing investment of economic resources for balanced development of the country.

(2) The State shall pursue a policy of economic development through governmental, cooperative and private sectors.

(3) The State shall pursue a policy of strengthening the unity of the nation by maintaining the cultural diversity of the country through the promotion of healthy and harmonious social relations, on the basis of equality and coexistence, among people of various religions, cultures, castes, communities, sects, origins, languages and linguistic groups, and by assisting in the equal promotion of their languages, literatures, scripts, arts and cultures,

(4) The State shall, while mobilizing the natural resources and heritage of the country that might be useful and beneficial to the interest of the nation, pursue a policy of giving priority to the local community.

(5) The State shall make necessary arrangements to maintain the natural environment. The State shall give priority to special protection of the environment, and rare wildlife, and prevent further damage due to physical development activities, by increasing awareness of the general public about environmental cleanliness. Provision shall be made for the protection of the forest, vegetation and biodiversity, their sustainable use and for equitable distribution of the benefits derived from them.

(6) The State shall develop the agriculture sector as an industry by encouraging farmers and increasing productivity, and by creating conditions for economic progress of the majority of the people who are dependent on agriculture.

- (7) The State shall pursue a policy of enhancing the participation of the labour force, as the major socio-economic force in the country, in the management of enterprises by ensuring their right to work, and by protecting their rights and interests.
- (8) The State shall pursue a policy of encouraging maximum participation of women in national development by making special provision for their education, health and employment.
- (9) The State shall pursue a policy of making special provision for social security for the protection and welfare of single women, orphans, children, the helpless, the aged, disabled, incapacitated persons and tribes on the verge of extinction
- (10) The State shall pursue a policy which will help to uplift the economically and socially backward indigenous ethnic groups, Madhesis, Dalits, including marginalized communities, and workers and farmers living below the poverty line by making provisions for reservations in education, health, housing, food security and employment for a certain period of time.
- (11) The State shall pursue a policy of giving priority to the development of science and technology with a view to bring about prosperity in the country, and shall also adopt a policy of giving due consideration to the development of local technology.
- (12) The State shall, for the purpose of national development, pursue a policy of attracting foreign capital and technology, giving priority to national investment.
- (13) The State shall pursue the policy of creating conditions to gradually accelerate rural development, keeping in view the welfare of majority of the rural population.
- (14) The State shall pursue a policy of making special provision on the basis of positive discrimination for the minorities, landless, squatters, bonded labourers, persons with disability, backward communities and sections, and the victims of conflict, including women, Dalits, indigenous tribes, Madhesis and Muslims.
- (15) The State shall pursue a policy of providing a minimum required piece of land for settlement to the liberated bonded labourers having determined their exact numbers.
- (16) The State shall pursue a policy of creating basic infrastructure to impart technical education, training and orientation for the development of that class of people dependent on labour including farmers and labourers, to motivate their participation in the development process of the country.
- (17) The State shall pursue a policy of making legal provision for allowances to the aged, incapacitated women and the unemployed.
- (18) The State shall pursue a policy of modernising the traditional knowledge, skills and practices existing in the country by identifying and protecting them.
- (19) The State shall pursue a special policy of regulating the operation and management of public and non-governmental organizations established in the country.
- (20) The State shall pursue a special policy of mobilizing the youthful human resources for the development of the country.

(21) The foreign policy of Nepal shall be based on the principles of the United Nations Charter, nonalignment, the principles of *Panchsheel*, international law and the norms of world peace.

(22) The State shall pursue a policy of making continuous efforts to institutionalize peace in Nepal through international norms and values, by promoting cooperative and good relations in economic, social and other spheres with neighbouring friendly nations and all other countries of the world, on the basis of equality.

36. Questions not to be raised in court

(1) No question shall be raised in any court as to whether provisions contained in this Part are implemented or not.

(2) The State shall mobilize or cause the mobilization of the required resources and necessary means for the implementation of the principles and policies contained in this Part.

PART 5 EXECUTIVE

37. Executive power

- (1) The executive power of Nepal shall, pursuant to this Constitution and other laws, be vested in the Council of Ministers.
- (2) The responsibility for issuing general directives, controlling and regulating the administration of Nepal shall, subject to this Constitution and other laws, lie in the Council of Ministers.
- (3) The executive functions of Nepal shall be exercised in the name of the Government of Nepal.
- (4) Any decision or order or implementation warrant to be issued in the name of the Government of Nepal, pursuant to clause (3) above, shall be authenticated as prescribed by law.

38. Constitution of the Council of Ministers

- (1) The Prime Minister shall be selected by political consensus and the Council of Ministers shall be formed under the chairpersonship of the Prime Minister.

Explanation: For the purpose of this Constitution "political consensus" means the political consensus reached between the seven political parties - Nepali Congress, Communist Party of Nepal (UML), Nepali Congress (Democratic), Janamorcha Nepal, Nepal Sadbhawana Party (Anandidevi), Nepal Majdur Kisan Party, Samyukta Bam Morcha Nepal - and Communist Party of Nepal (Maoist) on 22 Kartik 2063 (November 8, 2006).

- (2) If consensus cannot be reached pursuant to clause (1), the Prime Minister shall be elected by a majority of two-thirds of the members of the Legislature-Parliament.
- (3) The structure of, and allocation of portfolios to, the Interim Council of Ministers shall be determined by consensus.
- (4) The Council of Ministers shall consist of a Deputy Prime Minister and other Ministers as required.

Explanation: For the purpose of this Article the word 'Minister' shall also mean a Minister of State who holds an independent portfolio in a Ministry.

- (5) The Prime Minister shall appoint Ministers on the recommendation of the political parties concerned from among the members of the Legislature-Parliament.
- (6) The Prime Minister and other Ministers shall be collectively responsible to the Legislature-Parliament, and the Ministers shall be individually responsible to the Prime Minister and the Legislature-Parliament for the work of their respective Ministries.
- (7) The Prime Minister shall cease to hold office in the following circumstances

- a) if he or she submits a written resignation to the Speaker of the Legislature-Parliament,

*** (1a) if a vote of no-confidence is passed against him/her pursuant to Article 55**

- b) if he/she ceases to be a member of the Legislature-Parliament; or
- c) if he/she dies.

(8) The Deputy Prime Minister, Ministers, State Ministers and Assistant Ministers shall cease to hold their respective offices in the following circumstances

- (a) if he or she submits a written resignation to the Prime Minister,
- (b) if the Prime Minister ceases to hold his/her office pursuant to clause (7),
- (c) if he/she is removed from his/her office by the Prime Minister upon the recommendation of or in consultation with the party concerned, or
- (d) if he/she dies.

(9) If the Prime Minister ceases to hold office pursuant to clause (7), the existing Council of Ministers shall continue to function until a new Council of Ministers is constituted.

(10) In the case of the death of the Prime Minister, the Deputy Prime Minister or the seniormost Minister shall act as Prime Minister until a new Prime Minister is selected.

39. State Ministers and Assistant Ministers

(1) The Prime Minister may, on the recommendation of the political party concerned, appoint any Minister of State from among the members of Legislature-Parliament.

(2) The Prime Minister may, on the recommendation of the political party concerned, appoint any Assistant Minister from among the members of Legislature-Parliament to assist any Minister in carrying out his/her responsibility.

40. Appointment of non-member of Legislature-Parliament as Minister

Notwithstanding anything contained in Articles 38 and 39, the Prime Minister may appoint any person who is not a member of Legislature-Parliament as Deputy Prime Minister, Minister, State Minister or Assistant-Minister **† on the basis of political consensus.**

41. Remuneration and other benefits

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

* Clause (a1) added on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment) Act, 2064.

† Words added on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment) Act, 2064.

42. Oath

The Prime Minister shall take his/her oath of office and secrecy before the Legislature-Parliament, and the Deputy Prime Minister, Ministers, State Ministers and Assistant Ministers shall take their oath of office and secrecy before the Prime Minister.

43. Conduct of business of the Government of Nepal

(1) The conduct of business of the Government of Nepal shall be carried out consistently with the aspirations of the united people's movement, political consensus and culture of mutual cooperation. The common minimum programme prepared through mutual agreement shall be the basis of the policies of the Government of Nepal.

(2) The allocation of portfolios and transaction of business of the Government of Nepal shall be carried out as provided for in rules approved by the Government of Nepal.

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

44. The Council of Ministers after the formation of Constituent Assembly

After the formation of the Constituent Assembly, the exercise of the executive power, constitution of the Council of Ministers and other matters related thereto shall, *mutatis mutandis*, be in accordance with the provisions in this Part.

PART 6

LEGISLATURE-PARLIAMENT

45. Constitution of Legislature-Parliament

(1) There shall be a unicameral Legislature-Parliament in Nepal which shall consist of the following 330* members as set out in schedule 2

- (a) 209 members of the seven political parties and other parties who were sitting as elected members of the House of Representatives and National Assembly immediately before the commencement of this Constitution,

Explanation: The phrase "Seven Political Parties" means Nepali Congress, Communist Party of Nepal (UML), Nepali Congress (Democratic), Janamorcha Nepal, Nepal Sadbhawana (Anandidevi), Nepal Majdur Kisan Party and Samyukta Bam Morcha (United Left Front), which reached a political understanding on Kartik 22, 2063 (November 8, 2006),

- (b) 73 members on behalf of Communist Party of Nepal (Maoist),
- (c) 48 members nominated by consensus from the Samyukta Bam Morcha, people-based and professional organizations, oppressed communities, backward regions, indigenous ethnic groups, and from among women and various political personalities.

(2) Notwithstanding anything contained in clause (1), persons who were against the People's Movement shall not be in the Legislature-Parliament.

(3) The Legislature-Parliament shall be conducted on the basis of political consensus.

(4) The term of the Legislature-Parliament shall come to an end following the first meeting of the Constituent Assembly.

(5) If any seat of a member of the Legislature-Parliament falls vacant, for any reason, the vacancy shall be filled for the remaining period by nomination by the same political party or group which the member was representing.

46. Qualifications for membership

In order to be a member of the Legislature-Parliament, a person must satisfy the following qualifications

- (a) be a citizen of Nepal,
- (b) have attained at least twenty-five years of age,
- (c) be committed to the spirit of the peoples' movement,
- (d) not be holding any office of profit.

* Note: in reality the number was only 329 because one member was barred by the house as having opposed the people's movement [eds.].

Explanation: For the purpose of sub-clause (d), "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.

47. Decision as to disqualification of members

If a question arises as to whether a member of Legislature-Parliament is disqualified or has ceased to possess any of the qualifications set out in Article 46, the final decision shall be made by the Legislature-Parliament.

48. Vacation of seat

The seat of a member of the Legislature-Parliament becomes vacant in the following circumstances

- (a) if he/she resigns in writing,
- (b) if he/she does not have the qualifications specified in Article 46,
- (c) if the party he/she represented gives notice that he/she is no longer in the party,
- (d) if the tenure of the Legislature-Parliament expires, or
- (e) if he/she dies.

49. Oath

Each member of the Legislature-Parliament shall, before taking part for the first time in the Legislature-Parliament meeting, take an oath in the specified form.

50. Speaker and Deputy Speaker of the Legislature-Parliament

(1) The Legislature-Parliament shall elect a Speaker and a Deputy Speaker from among its members by political consensus. If a consensus cannot be reached, a majority of two-thirds of its total members shall elect them. If the office of the Speaker and Deputy Speaker falls vacant, the Legislature-Parliament shall fill the vacancy through election from among its members.

(2) The Speaker and Deputy Speaker of the Legislature-Parliament shall not be members of the same political party.

(3) In the absence of the Speaker of the Legislature-Parliament, the Deputy Speaker shall chair the meeting of the Legislature-Parliament.

(4) 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 seniormost by age among the members present, shall preside over the meeting of the Legislature-Parliament.

(5) The office of the Speaker and Deputy Speaker shall become vacant in the following circumstances

- (a) if he or she ceases to be a member of the Legislature-Parliament,
- (b) if he or she submits a written resignation,

- (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 Legislature-Parliament, to the effect that his or her conduct is not compatible with his or her position.

(6) 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 his or her position. The Speaker shall be entitled to take part and vote in the deliberations on such a resolution.

51. Summoning and prorogation of sessions

(1) The Prime Minister shall summon the first session of the Legislature-Parliament and subsequent sessions from time to time,

(2) The Prime Minister shall, in consultation with the Speaker, prorogue the session of the Legislature-Parliament.

*** (3) If, when the Legislature-Parliament is not in session or has been adjourned, at least one-fourth of all its members submit a request stating that it is desirable that a session or meeting of the Legislature-Parliament be called, the Prime Minister shall call the session or meeting of the Parliament by setting the date and time for this within a fortnight, and the Legislature-Parliament shall convene or commence its session on the specified date and at the time thus fixed.**

Clarification: For the purposes of this Clause 'request' should be understood as a written petition submitted by the applicants with their signatures.

52. Address by the Prime Minister

The Prime Minister shall address the session of the Legislature-Parliament presenting the annual policy and programmes of the Government.

53. Quorum

Except as otherwise provided for in this Constitution, no proposal or resolution shall be presented for decision in any meeting of the Legislature-Parliament unless one-fourth of the total number of members are present.

54. Transaction of business in case of vacancy in membership

(1) The proceedings of the Legislature-Parliament shall be conducted notwithstanding any vacancies in its membership, and no proceedings shall become invalid even if it is subsequently found that a person not entitled to take part in the proceedings participated.

(2) A Minister, Minister of State or Assistant Minister who is not a member of the Legislature-Parliament shall be entitled to attend the session of Legislature-Parliament or any meeting of its Committee.

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

* Clause (3) added on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment), 2064.

55. Voting

Except as otherwise provided for in this Constitution, all questions submitted for decision in the Legislature-Parliament shall be decided by a majority vote of the members present and voting. Normally, the presiding member shall not have the right to vote.

Provided that in case of a tie he/she may exercise a casting vote.

*55A. Vote of confidence

(1) If the Prime Minister considers it necessary or appropriate to make it clear that the Legislature-Parliament has confidence in him, he may propose a vote of confidence to the Legislature Parliament any time.

2) At least one-fourth of the total number of the members of the Legislature-Parliament may propose a no-confidence motion stating that the Legislature-Parliament has no confidence in the Prime Minister.

Provided that a no-confidence motion against the same Prime Minister shall not be moved more than once within six months.

(3) A decision on the motion pursuant to Clause (1) or (2) shall be made by a two-thirds majority of the members of the Legislature-Parliament present.

56. Privileges

(1) There shall be full freedom of speech in the meeting of the Legislature-Parliament 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 Legislature-Parliament shall have full power to regulate its business, and it shall have the exclusive right to decide whether or not any proceeding of the Legislature-Parliament 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 Legislature-Parliament, and no person shall make or disseminate anything about comments or suggestions made by any member, deliberately misinterpreting or distorting their meaning.

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

Explanation: For the purposes of clauses (1), (2), (3) and (4), the word "Legislature-Parliament" shall mean the Legislature-Parliament and any of its committees.

(5) No member of Legislature-Parliament shall be arrested during the session of the Legislature-Parliament.

* Article 55A added on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment), 2064.

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 Legislature-Parliament.

(6) Any breach of privilege provided for in this Article shall be deemed to constitute contempt of the Legislature-Parliament and the Legislature-Parliament shall have the exclusive right to decide whether or not any breach of privilege of the legislature has taken place.

(7) If a person is in contempt of the Legislature-Parliament, 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. If the fine is not paid by such a person, it shall be recoverable as government dues.

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

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

57. Procedure Relating to the conduct of business

The Legislature-Parliament shall, subject to provisions of this Constitution, conduct its business on the basis of political consensus, and frame rules for maintaining order during its meetings and to regulate the constitution, functions and procedures of, and for any other matters pertaining to committees of the Legislature-Parliament. Until such rules are formulated, the Legislature-Parliament shall regulate its own rules of procedure.

***57A Opposition**

The opposition and its leader in the Legislature-Parliament shall be provided for by law.

58. Committees

There shall be committees and sub-committees in the Legislature-Parliament as provided for in its rules.

59. Constituent Assembly to exercise the powers of the Legislature-Parliament

After the termination of tenure of the Legislature-Parliament pursuant to clause (4) of Article 45 the powers of the Legislature-Parliament under this Constitution shall be exercised by the Constituent Assembly.

* Article 57A added on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment), 2064.

60. Restriction on discussion

(1) No discussion shall be held in the Legislature-Parliament on a matter which is 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.

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

(2) The provision made pursuant to clause (1), shall also be applicable to the Constituent Assembly.

61. Secretariat of Legislature-Parliament

(1) There shall be a secretariat to carry out and manage the business of the Legislature-Parliament. The establishment of such a Secretariat and other matters related thereto shall be as determined by law.

(2) The Government of Nepal shall make available the necessary personnel required to conduct and manage the business of the Legislature-Parliament.

62. Remuneration

The remuneration and facilities of the Speaker, Deputy Speaker, Member and Chairpersons of the Committees of the Legislature-Parliament shall be as provided for in law and, until so determined, it shall be as determined by the Government of Nepal.

PART 7

CONSTITUENT ASSEMBLY

63. Formation of the Constituent Assembly

(1) A Constituent Assembly shall be constituted to formulate a new Constitution by the Nepali people themselves, subject to the provisions of this Constitution.

(2) The election of the Constituent Assembly shall be held on a date to be specified by the Government of Nepal after the commencement of this Constitution

*** (3) In accordance with the law, there will be the following members of the CA, elected and nominated according to the mixed electoral system, taking account of the equality of population, geographical convenience and special characteristics, and, in the case of Madhes on the basis of percentage of the population -**

- (a) One member elected, under the first-past-the-post system, from each geographical constituency, the number of such constituencies being determined by the Constituency Delimitation Commission under Article 154(a), based on the national census preceding the Constituent Assembly elections, and as far as possible maintaining the same relationship between number of members and population for all the administrative districts, while retaining the same administrative districts as hitherto.[†]**
- (b) A number of members, equal to the number elected under sub-clause (a), elected according to the proportional representation system, with voting being for political parties, and treating the whole country as a single constituency.**
- (c) Seventeen members nominated by the Council of Ministers on the basis of consensus from among distinguished personalities who have made significant contributions to national life.**

* Revised on 2063 Chaitra 30 (April 13, 2007) by the Interim Constitution of Nepal (First Amendment), 2063. As originally passed it read

(3) The Constituent Assembly shall consist of the following four hundred twenty five members, out of which four hundred and nine members shall be elected through Mixed Electoral System and sixteen members shall be nominated, as provided for in the law

- (a) Two hundred and five members shall be elected from among the candidates elected on the basis of First-Past-the-Post system from each of the Election Constituencies existed in accordance with the prevailing law before the commencement of this Constitution.
- (b) Two hundred and four members shall be elected under the proportional electoral system on the basis of the votes to be given to the political parties, considering the whole country as one election constituency.
- (c) Sixteen members to be nominated by the interim Council of Ministers, on the basis of consensus, from amongst the prominent persons of national life.

[†] This is not quite a literal translation, but we believe it reflects the meaning of the very complex Nepali original.

*** (3a). Notwithstanding anything contained in Sub-clause (a) of Clause 3, while determining the number of constituencies according to this Clause, the number of constituencies in each administrative district prescribed by the laws prevailing during the elections for the then House of Representatives in 2056 [1999], shall not be reduced, but the number of constituencies in the hilly and mountainous areas shall be increased on the basis of percentage of population growth, and, then in determining the constituencies in Madhesh, the number of constituencies in the administrative districts in Madhesh shall be increased in order to ensure that those constituencies are in proportion to the percentage of population.**

(4) The principle of inclusiveness shall be taken into consideration by political parties while selecting candidates pursuant to sub-clause (a) of clause (3), and, while making the lists of the candidates pursuant to sub-clause (b), the political parties shall ensure the proportional representation of women, Dalits, oppressed communities/indigenous groups, backward regions, Madhesis and other groups, in accordance with the law.

(5) Notwithstanding anything in clause 4, a minimum of one-third of the total number of candidates nominated shall be women, taking together the number of candidates on the basis of proportional representation pursuant to sub-clause (b) of clause (3) and the number of candidates pursuant to sub-clause (a) of the clause.

(6) The election of the members of the Constituent Assembly shall be held through secret ballot, as provided for in the law.

(7) For the purpose of election to the Constituent Assembly, every Nepali citizen who has attained the age of eighteen years by the end of Mangsir, 2063 (15th December 2006) shall be entitled to vote, as provided for in the law.

(8) Subject to the provisions of this Article, elections to the Constituent Assembly and other matters pertaining thereto shall be regulated as provided for in the law.

64. Term of the Constituent Assembly

Unless otherwise dissolved earlier by a resolution passed by the Constituent Assembly, the term of the Constituent Assembly shall be two years from the date of its first meeting.

Provided that the term of the Constituent Assembly may be extended for up to six months by a resolution of the Constituent Assembly, in the event that the task of drafting the Constitution is not completed due to the proclamation of a State of Emergency in the country.

65. Qualifications of the members

In order to be a member of Constituent Assembly a person must have the following qualifications

- (a) be a Nepali citizen,
- (b) have attained at least twenty-five years of age,

* Clause (3a) added on 2063 Chaitra 30 (April 13, 2007) by the Interim Constitution of Nepal (First Amendment), 2063.

(c) not have been punished for any criminal offence involving moral turpitude,

***(c1) not be ineligible under any law,**

(d) not be holding an office of profit.

Explanation: For the purpose of this sub-clause (d), "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.

66. Decision about disqualification of members

If a question arises as to whether any member of the Constituent Assembly is disqualified or has ceased to possess any of the qualifications required by Article 65, the final decision shall be made by the Constituent Assembly Court.

67. Vacation of seat of a member

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

- (a) if he/she resigns in writing,
- (b) if he/she does not, or has ceased to, possess the qualifications pursuant to in Article 65,
- (c) if he/she, remains absent from ten consecutive meetings without notification to the Assembly,
- (d) if the party of which he/she was a member when elected provides notification in the manner set out by law that he/she has left the party, or notifies that he/she no longer holds the membership of the party, or
- (e) if he/she dies.

Explanation: The provision contained in sub-clause (d) shall not be applicable to the Chairperson or Vice Chairperson of the Constituent Assembly.

68. Oath of members

Every member of the Constituent 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.

69. Meeting of the Constituent Assembly

(1) The first meeting of the Constituent Assembly shall be held, as summoned by the Prime Minister, within twenty-one days after the final results of the election of members of the Constituent Assembly has been made public by the Election Commission, and the

* Sub-clause (c1) added on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment), 2064.

subsequent meetings shall be held on such a date and place as prescribed by the person presiding over the Constituent Assembly.

(2) Notwithstanding anything contained in clause (1), if one-fourth of the members of the Constituent Assembly make an application, with reasons, to the Chairperson of the Constituent Assembly stating that it is appropriate to convene a meeting of the Constituent Assembly, the Chairperson shall convene such meeting within fifteen days.

70. Procedure for passing a Bill relating to the Constitution

(1) The Constituent Assembly shall, in order to pass a Bill relating to the Constitution, vote on the Preamble and each Article of such a Bill introduced before it.

(2) To vote according to clause (1), at least two-thirds of the total members of the Constituent Assembly must be present and must pass the motion unanimously.

(3) If a unanimous decision pursuant to clause (2), regarding the Preamble or any Article of the Bill relating to the Constitution is not reached, the leaders of the parliamentary party of the political parties represented in the Constituent Assembly shall consult each other to achieve consensus on such matters.

(4) The consultation to be carried out pursuant to clause (3), must be completed within a maximum of fifteen days from the date on which the unanimous decision could not be reached.

(5) If consultation is carried out pursuant to clause (4), fresh voting on the Preamble or any Article of such Bill shall be carried out within seven days from the date of the completion of such consultation.

(6) If a unanimous decision is not reached as provided in clause (2) even after carrying out the voting pursuant to clause (5), there shall be a further vote on such Preamble or Article on which a unanimous decision could not be reached, and if at least two-thirds of the total members of the Constituent Assembly for the time being were present in the meeting, and at least two-thirds of the members present vote in favour, such Preamble or Article shall be deemed to have been passed.

(7) For the purpose of this Article a decision made during voting on the Preamble or any Article of the Bill relating to the Constitution introduced in the Constituent Assembly shall be deemed to be unanimous if none of the members voted against the Preamble or Article that is the subject of the vote.

71. Chairperson and Vice Chairperson of the Constituent Assembly

(1) The Constituent Assembly shall elect a Chairperson and a Vice Chairperson from among its members before the commencement of its work of formulating the Constitution.

(2) In the elections pursuant to clause (1) the Chairperson and Vice Chairperson shall be from different political parties represented in the Constituent Assembly.

(3) If the election of the Chairperson and Vice Chairperson has not taken place pursuant to clause (1), the senior-most member of the Constituent Assembly by age shall preside over the meeting of the Assembly.

(4) The Chairperson and Vice Chairperson shall act as neutral persons and not favour any political party or parties while performing their duties in accordance with this Constitution.

72. Vacation of the office of Chairperson and Vice Chairperson

(1) The office of the Chairperson and Vice Chairperson shall become vacant in the following circumstances

- a) If he/she submits a written resignation,
- b) If he/she ceases to be a member of the Constituent Assembly,
- c) If a resolution is passed by a majority of at least two-thirds of the total number of the members in the Constituent Assembly to the effect that his or her conduct is not compatible with his or her position, or
- d) If he/she dies.

(2) The Vice Chairperson or any other member shall preside over a meeting at which deliberations are to be held on a resolution that the conduct of the Chairperson of the Constituent Assembly is not compatible with his/her position, and the Chairperson can take part and vote in the deliberations on such a resolution.

73. Quorum

Except as otherwise provided in this Part, no quorum shall be deemed to be achieved and no question or resolution shall be presented for decision unless at least one-fourth of the total number of members are present.

74. Transaction of Business of the Constituent Assembly in the case of vacancy in Membership

The Constituent Assembly may conduct its proceedings notwithstanding any vacancies in its membership, and no proceedings shall become invalid even if it is subsequently found that a person not entitled to take part in the proceedings participated.

75. Voting

Except as otherwise provided in this Part, all questions submitted for decision in the Constituent Assembly shall be decided by a majority vote of the members present and voting. Normally the member presiding shall not have the right to vote.

Provided that in case of a tie, he/she may exercise a casting vote.

76. Penalty for Unauthorized Presence or Voting

If a person is present or votes in the meetings of Constituent Assembly or any of its committees as a member without taking an oath pursuant to Article 68, or knowing that he/she is not qualified for membership of the Constituent Assembly, he/she shall, on the ruling of the person chairing the meeting, be liable to a fine of five thousand rupees for every such presence or voting. The fine shall be recoverable as government dues.

77. Privileges

(1) There shall be full freedom of speech in the meetings of the Constituent Assembly and no member shall be arrested, detained or prosecuted in any court for anything expressed or for any vote cast in such a meeting.

(2) Each meeting of the Constituent Assembly shall have full power to regulate its internal business, and it shall have the exclusive right to decide whether any proceeding of the Constituent Assembly is regular or not. 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 Constituent Assembly, and no person shall make or disseminate anything about comments or suggestions made by any member, deliberately misinterpreting or distorting their meaning.

(4) No proceedings shall be initiated against any person in any court for publishing any document, report, vote or proceeding which is carried out under the authority given by the Constituent Assembly.

Explanation: For the purposes of clauses (1), (2), (3) and (4) the words "Constituent Assembly" shall mean the meeting of the Constituent Assembly or any of its committees.

(5) No member of the Constituent Assembly shall be arrested during the session of the Constituent Assembly.

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 immediately inform the person chairing the Constituent Assembly.

(6) Any breach of privilege stated in this Article shall be deemed to constitute contempt of the Constituent Assembly and the breach of privilege of the Constituent Assembly shall be considered as the contempt of the Constituent Assembly. The Constituent Assembly shall have the exclusive right to decide whether or not any breach of privilege has taken place.

(7) If a person is in contempt of the Constituent Assembly, the person who is chairing the meeting to that effect may, after a decision by the meeting, admonish, 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. If the fine is not paid by such a person, it shall be recoverable as government dues.

Provided that if the person so accused submits an apology to the satisfaction of the Constituent Assembly, it may either pardon him/her, or alter or not implement the sentence imposed on him/her.

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

78. Procedure relating to the conduct of business

The Constituent Assembly shall, subject to the provisions of this Constitution, frame rules for conducting its business, maintaining order during its meetings and regulating the constitution, functions, procedures and any other matters relating to its committees. Until

such time as rules are made, the Constituent Assembly shall establish its own rules of procedure.

79. Committees

There shall be Committees and Sub-Committees of the Constituent Assembly as provided for in the law. The services of experts may be obtained as required.

80. Secretariat of the Constituent Assembly

(1) There shall be a secretariat to conduct the business of the Constituent Assembly. The establishment of the Secretariat and other matters related thereto shall be as determined by law.

(2) The Government of Nepal shall make available the necessary personnel required to conduct and manage the business of the Constituent Assembly.

81. Remuneration

The remuneration and privileges of the Chairperson, Vice Chairperson, Members and the Chairperson of the Committees of the Constituent Assembly shall be as provided for in the law, and, until so provided, shall be as determined by the Government of Nepal.

82. Dissolution of the Constituent Assembly

On the day of the commencement of the Constitution promulgated by the Constituent Assembly, the task given to the Constituent Assembly shall come to an end.

Provided that, until the election of the Legislature-Parliament held in accordance with the Constitution promulgated by the Constituent Assembly, the proceedings of the Legislature-Parliament shall be conducted as specified in the Constitution promulgated by the Constituent Assembly.

83. Acting in the capacity of Legislature-Parliament

(1) Notwithstanding anything contained elsewhere in this Part, the Constituent Assembly shall also act as Legislature-Parliament as long as the Constituent Assembly remains in existence, and the Constituent Assembly may constitute a separate committee to conduct necessary regular legislative functions.

(2) The Chairperson and Vice Chairperson of the Constituent Assembly shall be respectively the Speaker and Deputy Speaker of the Legislature-Parliament.

(3) The Secretariat of the Constituent Assembly and its personnel shall be the Secretariat and personnel of the Legislature-Parliament.

(4) When the Constituent Assembly is acting in the capacity of the Legislature-Parliament, the provisions contained in Part 8, with necessary modifications, shall be applicable to the Assembly.

PART 8
LEGISLATIVE PROCEDURE

84. Authority to introduce a Bill

(1) A Bill may be introduced in the House by any member of the Legislature-Parliament.

Explanation: For the purpose of this Part "House" means the Legislature-Parliament and "member" means member of the Legislature-Parliament.

(2) Any Finance Bill and any Bill concerning the security agencies, including the Nepal Army, the Armed Police Force or the Nepal Police, shall be introduced only as a Government Bill.

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

- (a) the imposition, collection, abolition, remission, alteration or regulation of taxes,
- (b) the preservation of the Consolidated Fund or any other 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 guarantees 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 of Nepal, or
- (e) matters directly related to sub-clauses (a) to (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 licence fee, application fee, renewal fee, or it provides for imposition of any penalty or imprisonment, or by reason that it provides for the imposition of any tax, duties or fees by a local authority.

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

85. Procedure for passage of Bills

(1) Any member, who wants to introduce a Bill in the House, shall have to give at least seven day's notice to the Secretary General or Secretary of the Legislature-Parliament about the Bill.

Provided that prior notice of five days shall be sufficient for a Government Bill.

(2) Copies of the Bill shall be made available to all members two days before the introduction of the Bill.

(3) The member who has introduced the Bill may propose the Bill in the House for consideration.

(4) If the proposal pursuant to clause (3) is accepted, discussion clause by clause of the Bill shall be held in the House or in the relevant Committee.

(5) The member introducing the Bill shall, after the completion of the clause by clause discussion on the Bill, if that discussion takes place in the House, or after the completion of the discussion on the report of the Committee, if the clause by clause discussion has taken place in Committee, move a motion in the Legislature- Parliament that the Bill be passed.

(6) If the proposal presented pursuant to clause (5) is passed by a simple majority of the total number of members of the House, the Bill shall be deemed to have passed.

86. Withdrawal of Bills

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

87. Certification of the Bill

A Bill passed by the House shall become an Act after it is certified by the Speaker of the Legislature-Parliament.

88. Ordinances

(1) If at any time, except when the Legislative-Parliament is in session, the Government of Nepal is satisfied that circumstances exist which render it necessary to take immediate action, without prejudicing the provisions set out in this Constitution, the government of Nepal may promulgate any Ordinance it deems necessary.

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

Provided that every such Ordinance

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

PART 9
FINANCIAL PROCEDURE

89. No tax to be levied or loan to be raised except in accordance with law

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

90. 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 the money received in repayment of any loan made under the authority of any Act and any amount received by the Government of Nepal shall be credited to a Government Fund to be known as the Consolidated Fund.

Provided that, except in the case of private religious endowments, the money of religious endowments, shall be regulated by laws to be enacted.

91. Expenditures from the Consolidated Fund or a Government Fund

No expenditure shall be incurred out of the Consolidated Fund or any other 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 Contingency Fund shall be governed in accordance with Article 98.

92. Expenditure chargeable on the Consolidated Fund

The expenditures relating to the following matters shall be charged on the Consolidated Fund

- (a) the amount required as remuneration and benefits and pension payable to the Chief Justice of Nepal and other Judges of the Supreme Court,
- (b) the amount required as remuneration and benefits payable to the following officials -
 - (i) the Speaker and Deputy Speaker of the Legislature-Parliament,
 - (ii) the Chairperson and Vice chairperson of the Constituent Assembly,

- (iii) the Chief Commissioner and other Commissioners of the Commission for the Investigation of Abuse of Authority,
 - (iv) the Auditor General,
 - (v) the Chairperson and members of the Public Service Commission,
 - (vi) the Chief Election Commissioner and other Election Commissioners, and
 - (vii) the Chairperson and members of the National Human Rights Commission.
- (c) the administrative expenses of the Supreme Court, the Commission for the Investigation of Abuse of Authority, the Office of the Auditor General, the Public Service Commission, the Election Commission and the National Human Rights Commission,
 - (d) all charges relating to debts for which the Government of Nepal is liable,
 - (e) any sum required to be paid for any judgment or decree of a court against the Government of Nepal; and
 - (f) any other sum declared by law to be chargeable on the Consolidated Fund.

93. Estimates of revenues and expenditure

(1) The Finance Minister shall, with respect to every fiscal year, present before the Legislature-Parliament annual estimates including the following matters

- (a) an estimate of revenues,
- (b) the money required to meet the charges on the 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.

94. 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.

95. Supplementary estimates

(1) The Finance Minister shall, in respect of any financial year, present supplementary estimates before the Legislature-Parliament, 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.

96. 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 93 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.

97. 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 that it is impractical or inexpedient in view of the security or interest of the State to specify the details required under Article 93, the Finance Minister may present a Vote of Credit Bill before the Legislature-Parliament giving only a description of the proposed expenditures.

98. Contingency Fund

An 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 the expenditures so met shall be reimbursed as soon as possible by an Act.

99. 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 10 JUDICIARY

100. 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, the laws and the recognized principles of justice.

(2) The judiciary of Nepal shall be committed to this Constitution by recognizing the concept, norms and values of the independent judiciary, and by realizing the spirit of democracy and the aspirations of the *Jana Andolan*.

101. Courts

(1) There shall be the following courts in Nepal

- (a) Supreme Court,
- (b) Appellate Court, and
- (c) District Court.

(2) In addition to the courts referred to in clause (1), for the purpose of hearing special types of cases the law may establish and constitute special types of courts, judicial institutions or tribunals.

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

102. Supreme Court

(1) The Supreme Court shall be the highest court in the judicial hierarchy.

(2) All other courts and judicial institutions of Nepal, other than the Constituent Assembly Court, shall be under the Supreme Court. The Supreme Court may inspect, supervise and give directives to its subordinate courts and other judicial institutions.

(3) The Supreme Court shall be a Court of Record. It may initiate proceedings and impose penalties in accordance with law for contempt of itself and of its subordinate courts or judicial institutions.

(4) Except on the matters which fall under the jurisdiction of the Constituent Assembly Court, the Supreme Court shall have the final power to interpret this Constitution and other prevailing laws.

(5) The Supreme Court shall, in addition to the Chief Justice of Nepal, consist of up to a maximum of fourteen other Judges. If at any time, the number of existing Judges becomes insufficient due to an increase in the number of cases in the Supreme Court, *ad hoc* Judges may be appointed for a fixed term.

103. Appointment and qualifications of Judges of the Supreme Court

(1) The Prime Minister shall appoint the Chief Justice of the Supreme Court on the recommendation of the Constitutional Council, and the Chief Justice shall appoint other Judges of the Supreme Court on the recommendation of the Judicial Council. The tenure of office of the Chief Justice shall be six years from the date of appointment, subject to sub-clause (b) of clause (1) of Article 105.

(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.

(3) Any person who has worked as a Judge of an Appellate Court or in any equivalent post in the judicial service for at least seven years, or has worked as a gazetted officer first class or above of the judicial service for at least twelve years, or has practised law for at least fifteen years as a law graduate advocate or senior advocate, or a distinguished jurist who has worked for at least fifteen years in the judicial or legal field is eligible for appointment as a Judge of the Supreme Court.

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

(5) The Chief Justice and other Judges of the Supreme Court shall hold office until they attain the age of sixty-five years.

104. Conditions of service and privileges of the Chief Justice and Judges

(1) The Chief Justice, and the permanent judges of the Supreme Court who have served for at least five years, shall get a pension at retirement as provided for in the law.

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

(3) Notwithstanding anything in clauses (1) and (2), any Chief justice or Judge of the Supreme Court who has been removed from office through impeachment, shall not be entitled to any gratuities and pensions.

(4) The remuneration, privileges and other conditions of service of the Chief Justice and other Judges of the Supreme Court, shall not be altered to their disadvantage.

105. Removal of the Chief Justice and Judges of the Supreme Court

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

- a) if the Chief Justice submits his/her resignation to the Council of Ministers or a Judge submits his/her resignation to the Chief Justice,
- b) if he/she attains the age of sixty-five years.

- c) if the Legislature-Parliament passes a resolution of impeachment,
- d) if he/she dies.

(2) A motion for impeachment may be presented before the Legislature-Parliament against the Chief Justice or any other Judges on the ground that he/she are unable to perform their duties for the reasons of incompetence, misbehaviour, failure to discharge the duties of their office in good faith, physical or mental condition, and if a two-thirds majority of the total number of its members passes the resolution, he/she shall *ipso facto* cease to hold office.

Provided that the Chief Justice or Judge so charged shall not be deprived of the opportunity to submit clarification.

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

106. Chief Justice or Judges not to be engaged in any other assignment

(1) The Chief Justice or Judges 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, assign the Chief Justice or a Judge of the Supreme Court to work concerning judicial inquiry or to legal or judicial investigation or research, for a specified period or to any other assignment of national importance.

(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 Service, except for the post as provided by sub-clause (a) of clause (1) of Article 131, nor shall he/she be entitled to practice law before any court.

107. 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 proceedings and decisions of the Legislature-Parliament concerning violation of its privileges and any penalties imposed therefor.

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

(4) The Supreme Court may review its own judgments or final orders subject to the conditions and in the circumstances prescribed by law. Such a review shall be carried out by judges other than those who were involved in making the decision that is the subject of review.

(5) Other powers and procedures of the Supreme Court shall be as prescribed by law.

108. Establishment, management and jurisdiction of Appellate Courts and District Courts

The establishment and operation of the Appellate Courts, District Courts and other courts and judicial entities subordinate to the Supreme Court shall, subject to this Constitution, be as determined by law.

109. Appointment, Qualifications and Conditions of Services and Privileges of the Judges of Appellate Courts and Districts Courts

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

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

(3) Any Nepali citizen, who has a Bachelor's Degree in law and has worked for at least three years as a gazetted second class officer in the Judicial Service, or has practiced law for at least eight years as an advocate after having obtained a Bachelor's Degree in law, is eligible for appointment as a District Judge.

(4) A person who is an advocate with a Bachelor's Degree in law and has passed the written and oral examination conducted by the Judicial Council may be appointed to the post of the District Judge pursuant to clause (3). Such examination system and procedures shall be prescribed by law.

(5) For the appointment to the post of judge of the Appellate Court and the District Court the Judicial Council shall consider, *inter alia*, the qualifications, capacity, experience, dedication and contribution to justice, reputation earned in public life and high moral character of a person and make recommendations accordingly.

(6) Unless the subject or context otherwise requires, the word "Judge" as mentioned in this Article and ensuing Articles shall mean and include an Additional Judge.

(7) The remuneration, allowances, pension, leave, gratuity and privileges and other conditions of service of the Chief Judge and other Judges of the Appellate Courts and the Judges of the District Court shall be as determined by law.

(8) The remuneration, privileges and conditions of service of the Chief Judge, other Judges of the Appellate Courts and the Judges of the District Courts shall not be altered to their disadvantage.

(9) Notwithstanding anything contained in clause (7), a Judge of an Appellate Court or of a District Court who is removed from his/her office pursuant to Sub-clause (c) of clause (10) shall not be entitled to any gratuities or pension.

(10) A Judge of an Appellate Court or District Court shall cease to hold office in the following circumstances

- a) if he/she submits written resignation to the Chief Justice,
- b) if he/she attains the age of sixty three years,
- c) if he/she is removed by the Chief Justice in accordance with a decision of the Judicial Council for reasons of incompetence, misbehaviour or failure to discharge the duties of his/her office in good faith, incapacity to discharge those duties due to physical or mental reasons or for deviation from the task of dispensing justice.

A Judge of the Appellate Court or District Court who is facing a charge under this sub-clause shall be given a reasonable opportunity to defend himself/herself; and for this purpose, the Judicial Council may constitute a "Committee of Inquiry" for recording the statement of the Judge, collecting evidence and submitting its findings thereon. The working procedure of the Committee shall be as regulated by law.

- d) if he/she dies.

(11) A Judge of an Appellate Court or District Court against whom proceedings have been initiated pursuant to sub-clause (c) of clause (10) shall not perform the duties of his/her office until the proceedings have been completed.

110. Judges of the Appellate Court and District Court not to be transferred to, or engaged in any other assignment

(1) A judge shall not be transferred to, 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 Judge of the Appellate Court and the District Court for a specified period to work concerning judicial inquiry, or to any legal or judicial investigation or research, or to any other work of national concern. With regard to the Judges of the Appellate Courts or District Courts, the Chief Justice, in consultation with the Judicial Council, may assign them to the above mentioned work, including work relating to elections.

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

(3) The Chief Justice may assign a judge of any Court for a specified period of time as a judge of another court of similar level taking into consideration the number and subject matter of the cases to be decided.

(4) The Supreme Court may, as provided for in the law, authorize a judge, who is designated as a judge in a geographical region, to issue preliminary or interim orders through electronic or other media, in the course of dealing with cases, to another nearby court of the same level taking into consideration the geographical situation.

111. Transfer of cases

If the Supreme Court is satisfied that the dispensation of justice in a case registered in a particular court may be adversely affected if it is heard by that court, the Supreme Court may order another court of the same level to hear such a case.

112. Responsibility of the Chief Justice

The Chief Justice shall have the ultimate responsibility to make the administration of justice effective, and for this purpose he/she may, subject to this Constitution and other laws, give necessary instructions to the Supreme Court and other subordinate courts.

113. 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, and 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 Minister of Justice | – | Member |
| c) Senior-most Judge of the Supreme Court | – | Member |
| d) A person to be nominated by the Prime Minister from among jurists, | – | Member |
| e) A senior advocate, or an advocate who has at least twenty years experience, to be appointed by the Chief Justice on the recommendation of the Nepal Bar Association | – | Member |

Explanation: For the purpose of this article, the word "Minister" shall also include a Minister of State for Justice with an independent portfolio

(2) The term of office of the members referred to in sub-clauses (c) and (d) 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-clause (c) and (d) 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 and 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 other functions, duties and powers of the Judicial Council shall be as determined by law.

114. Judicial Service Commission

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

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

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

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

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

115. Duty to extend cooperation to the courts

It shall be the duty of the Government of Nepal and the offices and officials subordinate to the Government of Nepal to act in aid of the Supreme Court and other courts in carrying out the functions of dispensing justice.

116. Orders and decisions of courts to be binding

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

(2) Any interpretation given to a law or any legal principle laid down by the Supreme Court in the course of the hearing of a suit shall be binding on the Government of Nepal and all offices and courts.

117. Annual report

(1) Each year, the Supreme Court shall submit its annual report to the Prime Minister, and the Prime Minister shall make arrangements to place such reports before the Legislature-Parliament.

(2) The annual report to be submitted pursuant to clause (1) shall contain *inter alia* the following particulars -

- (a) the number of cases registered in the Supreme Court and other subordinate courts,
- (b) the number of cases disposed of and pending out of the cases registered as stated in sub-clause (a), and the reason for the latter being pending,
- (c) details of new precedents set by the Supreme Court,
- (d) number of cases reviewed by the Supreme Court,
- (e) description of judicial comment made by the Supreme Court, if any, on the matter of competence regarding the conduct of the judicial duty of any judge of a court subordinate to it,
- (f) amount of fines and penalties paid,
- (g) details regarding the implementation of decisions,
- (h) the budget appropriated to the Supreme Court and subordinate courts, and statement of expenditures.

(3) While submitting the annual report pursuant to clause (1), the Supreme Court shall also include the details of the work performed by the Judicial Council and the Judicial Service Commission.

118. Constituent Assembly Court

(1) A Constituent Assembly Court shall be constituted to resolve complaints regarding election to the Constituent Assembly.

(2) The constitution, jurisdiction and other matters relating to the Constituent Assembly Court established pursuant to clause (1) shall be as determined by law.

(3) Notwithstanding anything contained elsewhere in this Constitution, unless a petition is filed in the court constituted pursuant to clause (1), in the manner prescribed by law, no question shall be raised in any court regarding the election of a member to the Constituent Assembly.

(4) Notwithstanding anything contained elsewhere in this Constitution, once the process of election to the Constituent Assembly has commenced, no question shall be raised in any court in such a way as to hinder the election.

PART 11

COMMISSION FOR THE INVESTIGATION OF ABUSE OF AUTHORITY

119. 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 as many other Commissioners as required. If additional Commissioners are appointed apart from the Chief Commissioner, the Chief Commissioner shall act as Chairperson of the Commission for the Investigation of Abuse of Authority.

(2) The Prime Minister shall, on the recommendation of the Constitutional Council, appoint the Chief Commissioner and other Commissioners.

(3) Subject to the proviso pursuant to sub-clause (a) of clause (7), the term of office of the Chief Commissioner and other Commissioners shall be six years from the date of appointment.

Provided that

(a) If, before the expiry of his/her term, the Chief Commissioner or a Commissioner attains the age of sixty-five, he/she shall retire.

(b) The Chief Commissioner or a Commissioner may be removed from his/her office on the same ground and in the same manner as has been set out for the removal of a Judge of the Supreme Court.

(4) The office of the Chief Commissioner or a Commissioner shall be deemed vacant under the following circumstances -

(a) if he/she submits a written resignation to the Prime Minister,

(b) if pursuant to clause (3), his/her term expires or he/she is removed from his/her office,

(c) if he/she dies.

5) No person shall be eligible to be appointed as the Chief Commissioner or a Commissioner unless he/she -

(a) holds a Bachelor's Degree from a university recognized by the Government of Nepal,

(b) is not a member of any political party immediately before the appointment,

(c) has at least twenty years 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.

(7) A person once appointed as the Chief Commissioner or Commissioner shall not be eligible for appointment in other Government Service.

Provided that

(a) Nothing in this Clause shall be deemed to be a bar to appointment of a Commissioner of the Commission for the Investigation of Abuse of Authority as its Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his/her term of office shall be computed as to include his/her tenure as Commissioner as well.

(b) Nothing in this clause shall be deemed to be a bar to appointment to any position of 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.

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

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

Provided that this 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) An inquiry and 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 misbehaviour, any Judge removed by the Judicial Council on similar charges, 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 inquiry or investigation carried out pursuant to clause (1), that any person holding any public office has misused his/her authority by committing an act which is defined by law as improper conduct, it may warn such person, or forward a recommendation to the authority concerned in writing to take departmental action or any other necessary action as prescribed by the law.

(4) If the Commission for the Investigation of Abuse of Authority finds, upon inquiry or investigation carried out pursuant to clause (1), that a person holding any public office 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.

(5) If the Commission for the Investigation of Abuse of Authority finds, upon inquiry or investigation carried out pursuant to clause (1), that the nature of 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 the authority or body concerned in writing for necessary action.

(6) Subject to this Constitution, other functions, duties, powers and procedures of the Commission for the Investigation of Abuse of Authority shall be as determined by law.

(7) The Commission for the Investigation of Abuse of Authority may delegate any of its powers, functions and duties relating to the inquiry, investigation or lodging of cases, to the Chief Commissioner, Commissioner or any employee of the Government of Nepal to be exercised in compliance with the conditions specified.

121. Annual report

(1) The Commission for the Investigation of Abuse of Authority shall submit an annual report to the Prime Minister on the work it has performed in accordance with this Constitution, and the Prime Minister shall make arrangements to submit such report before the Legislature-Parliament.

(2) The annual report to be submitted pursuant to clause (1) shall contain *inter alia* the total number of complaints lodged during the year at the Commission for the Investigation of Abuse of Authority; the number of cases in which investigation has been completed, cases filed in court with jurisdiction in accordance with law, with the number of cases pending, the cases in which warnings have been issued, or forwarded with recommendations in writing for departmental or any other necessary action; the achievements in preventing corruption and the recommendations for improvements in the future.

PART 12
AUDITOR GENERAL

122. Auditor General

- (1) There shall be an Auditor General of Nepal.
- (2) The Auditor General shall be appointed by the Prime Minister on the recommendation of the Constitutional Council.
- (3) Subject to the proviso of clause (7), the term of office of the Auditor General shall be six years from the date of appointment.

Provided that

- (a) If, before the expiry of his/her term, the Auditor General attains the age of sixty-five, he/she shall retire.
 - (b) The Auditor General may be removed from his/her office on the same grounds and in the same manner as has been set out for removal of a Judge of the Supreme Court.
- (4) The office of the Auditor General shall be deemed vacant in the following circumstances -
- (a) if he/she submits a written resignation to the Prime Minister,
 - (b) if pursuant to clause (3) his/her term expires or he/she is removed from his/her office,
 - (c) if he/she dies.
- (5) No person shall be eligible to be appointed as the Auditor General unless he/she -
- (a) holds a Bachelors Degree in Management, Commerce or Accounts from a university recognized by the Government of Nepal, or has worked as a Special Class Officer of the Government of Nepal after successfully completing the Chartered Accountants examination, or has at least twenty years experience in the field of auditing;
 - (b) is not a member of any political party immediately before appointment;
 - (c) has attained forty-five years of age, and
 - (d) possesses high moral character
- (6) The remuneration and other 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 he/she holds office, be altered to his/her disadvantage.
- (7) A person once appointed as the Auditor General shall not be eligible for appointment in other Government service.

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

123. Functions, duties and powers of the Auditor General

(1) The accounts of the Supreme Court, Legislature-Parliament, Constituent Assembly, Commission for the Investigation of Abuse of Authority, Auditor General, Public Service Commission, Election Commission, National Human Rights Commission, Office of the Attorney General and other offices of constitutional entities and the Nepal Army and Armed Police and the Nepal Police as well as of all other government offices and courts shall be audited by the Auditor General in the manner determined by law, with due consideration given to the regularity, economy, efficiency, effectiveness and the propriety thereof.

(2) The Auditor General shall be consulted in the matter of the appointment of auditors for carrying out the audit of any corporate body of which the Government of Nepal 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 his/her 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.

124. Annual report

(1) The Auditor General shall submit to the Prime Minister an annual report on the work the office has performed, and the Prime Minister shall make arrangements to submit such reports to the Legislature-Parliament.

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

PART 13
PUBLIC SERVICE COMMISSION

125. Public Service Commission

- (1) There shall be a Public Service Commission of Nepal consisting of a Chairperson and such number of other members as may be required.
- (2) The Prime Minister shall on the recommendation of the Constitutional Council, appoint the Chairperson and other members of the Public Service Commission.
- (3) At least fifty percent of the total number of members of the Public Service Commission shall be appointed from persons who have worked for at least twenty years in any government service, and the rest of the members shall be appointed from persons who have done research, investigation, teaching or any other significant work in fields such as science, technology, art, literature, law, public administration, sociology or any other sphere of national life and who hold a high reputation.
- (4) Subject to the proviso under sub-clause (a) of clause (8), the term of office of the Chairperson and other members of the Public Service Commission shall be six years from the date of appointment.

Provided that

- (a) If, before the expiry of his/her term, the Chairperson or a member of the Public Service Commission attains the age of sixty-five, he/she shall retire.
 - (b) The Chairperson and other members of the Public Service Commission may be removed from office on the same grounds and in the same manner as has been set out for the removal of a Judge of the Supreme Court.
- (5) The office of the Chairperson or other members of the Public Service Commission shall be deemed vacant in the following circumstances -
- (a) if he/she submits a written resignation to the Prime Minister,
 - (b) if pursuant to clause (4) his/her term expires or he/she is removed from his/her office,
 - (c) if he/she dies.
- (6) No person shall be eligible to be appointed as Chairperson or member of the Public Service Commission unless he/she possess the following qualifications -
- (a) holding a post-graduate degree from a university recognized by the Government of Nepal,
 - (b) not being a member of any political party immediately before the appointment,
 - (c) having attained the age of forty-five years, and

d) possessing high moral character.

(7) The remuneration and other conditions of service of the Chairperson and the member of the Public Service Commission shall be as determined by law. The remuneration and other conditions of service of the Chairperson and the members of the Public Service Commission shall not, so long as they hold office, be altered to their disadvantage.

(8) A person once appointed to the office of the Chairperson and the member of the Public Service Commission shall not be eligible for appointment 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 Public Service 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 any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

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

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

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

(2) Permanent appointment to any position in the Civil Service which carries the benefit of pension shall not be made except in consultation with the Public Service Commission.

(3) The Public Service Commission shall be consulted on the following subjects

- a) matters concerning the law relating to the conditions of service of the Civil Service,
- b) the general principles to be followed in the course of appointment to, promotion to, and departmental action concerning the Civil Service or positions,
- c) matters concerning the suitability of any candidate for appointment to a Civil Service position for a period of more than six months,
- d) matters concerning the suitability of any candidate for transfer or promotion from one service to another within the Civil Service or from any other Government Service to the 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 Public Service Commission on matters of appointment, to any position for which consultation with the Public Service Commission is required, and
- f) matters relating to departmental actions proposed against any Civil Servant.

(4) Notwithstanding anything contained in clause (3), matters falling within the purview of the Judicial Service Commission pursuant to Article 144 shall be governed by that Article.

(5) The Public Service Commission shall be consulted on the general principles to be followed in the course of appointment to and promotion of the Military Service, Armed Police Service or Police Service.

(6) The Public Service Commission may provide advice, if requested by any public enterprise, with regard to the prevailing regulations relating to the terms and conditions of service of their employees, and with regard to the general principles to be followed in the course of appointment to, promotion to, and departmental action against such employees.

Explanation: For the purpose of this Article the words “Public Enterprise” mean any corporate body in which the Government of Nepal owns and controls more than fifty percent of the shares or assets.

(7) The Public Service Commission may delegate any of its functions, duties and powers to any of its members, a committee of such members or any employee of the Government of Nepal, to be exercised in compliance with specified conditions.

(8) Subject to this Constitution, other functions, duties and working procedures of the Public Service Commission shall be as determined by law.

127. Annual report

(1) Each year, the Public Service Commission shall submit to the Prime Minister an annual report on the work it has performed, and the Prime Minister shall make arrangements to submit such reports before the Legislature-Parliament.

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

PART 14
ELECTION COMMISSION

128. Election Commission

- (1) There shall be an Election Commission in Nepal consisting of a Chief Election Commissioner and up to four other Commissioners. If, apart from the Chief Election Commissioner, other Election Commissioners are appointed, the Chief Election Commissioner shall act as the Chairperson of the Election Commission.
- (2) The Prime Minister shall, on the recommendation of the Constitutional Council, appoint the Chief Election Commissioner and the Election Commissioners.
- (3) Subject to the proviso under sub-clause (a) of clause (7), the term of office of the Chief Election Commissioner and the Election Commissioners shall be six years from the date of appointment.

Provided that

- (a) If before the expiry of his/her term, the Chief Election Commissioner and the Election Commissioner attains the age of sixty-five, he/she shall retire.
 - (b) The Chief Election Commissioner and the Election Commissioner may be removed from his/her office on the same grounds and in the same manner as has been set out for the removal of a Judge of the Supreme Court.
- (4) The office of the Chief Election Commissioner or an Election Commissioner shall be deemed vacant in the following circumstances
 - (a) if he/she submits a written resignation to the Prime Minister,
 - (b) if pursuant to clause (3) his/her term expires or he/she is removed from office,
 - (c) if he/she dies.
- (5) No person shall be eligible to be appointed as the Chief Election Commissioner or an Election Commissioner unless he/she -
 - (a) holds a Bachelor's Degree from a university recognized by the Government of Nepal,
 - (b) is not a member of any political party immediately before the appointment,
 - (c) has attained the age of forty-five years and
 - (d) 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.

(7) A person once appointed to the office of the Chief Election Commissioner or an 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 Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his/her term of office shall be computed as to include his/her term as Commissioner 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.

129. Functions, duties and powers of the Election Commission

(1) The Election Commission shall, subject to the provisions of this Constitution and other laws, conduct, supervise, direct and control the elections to the Constituent Assembly, any referendum to be held pursuant to Article 157 of this Constitution, and the local government body elections. For these purposes, the Election Commission shall prepare the voters' rolls.

(2) If, after nominations for election to Constituent Assembly have been filed but before the election is completed, a question arises as to whether a candidate is disqualified or has ceased to possess the qualifications set out in Article 65, 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, a Commissioner or any employee of the Government of Nepal to be exercised in compliance with the conditions specified.

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

130. The Government of Nepal to provide necessary employees to the Election Commission

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 15
NATIONAL HUMAN RIGHTS COMMISSION

131. National Human Rights Commission

(1) There shall be a National Human Rights Commission in Nepal consisting of the following Chairperson and the 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 outstanding contribution being actively involved in the field of protection and promotion of human rights or social work.

- Chairperson

- (b) four persons from among those who have made outstanding contribution, by being actively involved in the field of protection and promotion of human rights or social work.

- Members

(2) While appointing the chairperson and members of the National Human Rights Commission, diversity, including gender diversity, must be maintained.

(3) The Prime Minister shall, on the recommendation of the Constitutional Council, appoint the Chairperson and the Members of the National Human Rights Commission.

(4) The term of the office of the Chairperson and the members of the National Human Rights Commission shall be six years from the date of appointment.

Provided that the Chairperson and the members of the National Human Rights Commission may be removed from his/her office on the same ground and in the same manner as has been set out for removal of a Judge of the Supreme Court.

(5) The office of the Chairperson and the members of the National Human Rights Commission shall be deemed vacant in the following circumstances

- (a) if he/she submits a written resignation to the Prime Minister,
- (b) if pursuant to clause (4) his/her term expires or he/she is removed from his/her office,
- (c) if he/she dies.

(6) No person shall be eligible to be appointed as the Chairperson or a member of the National Human Rights Commission unless he/she

- (a) holds a Bachelor's Degree from a university recognized by the Government of Nepal, and
- (b) is of high moral character.

(7) 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.

(8) A person who has been the Chairperson or the Members of National Human Rights Commission shall not be eligible for appointment in any other government service.

Provided that 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.

132. Functions, duties and powers of the 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 Commission may carry out the following functions -

- (a) conduct inquiries into, investigations of, and recommendation for action against the perpetrator of, instances of violation or abetment of violation of the human rights of any person or a group of persons, upon a petition or complaint presented to the Commission by the victim himself/herself or any person on his/her behalf or upon information received from any source, or on its own initiative,
- (b) forward a recommendation to the authority concerned to take departmental action against any authority that has the duty or 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 recommendation if necessary, to lodge a petition in the court, in accordance with the law, against a person who has violated human rights,
- (d) work jointly and in a coordinated manner with civil society to enhance awareness of human rights,
- (e) forward a recommendation to the relevant authority for taking departmental action against or imposing punishment on the violators of human rights, giving clear reasons and basis therefor.
- (f) review prevailing 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 right violators.

(3) The National Human Rights Commission in performing its functions and duties may exercise the following powers -

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

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

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

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

(e) exercise or cause to be exercised other powers, and carry out its duties as prescribed by law.

(4) Notwithstanding anything contained in this Article, the National Human Rights Commission shall have no jurisdiction with respect to any matter which falls within the jurisdiction of the Army Act.

Provided that nothing shall be a bar to proceedings in respect to cases of violation of human rights and humanitarian laws.

133. Annual report

(1) The National Human Rights Commission shall submit to the Prime Minister an annual report on the work it has performed in accordance with this Constitution, and the Prime Minister shall make arrangements to submit such reports before the Legislature-Parliament.

(2) In addition to other matters the annual report to be submitted pursuant to clause (1), shall contain the complaints received by the National Human Rights Commission throughout the year and description of inquiries and investigations thereon, recommendations made to the Government of Nepal on various matters, number of cases lodged in the court, if any, against human rights violators and the particulars of recommendations for improvement in the future regarding the protection and promotion of human rights.

PART 16
ATTORNEY GENERAL

134. Appointment of the Attorney General

(1) There shall be an Attorney General in Nepal who shall be appointed by the Prime Minister. The Attorney General shall hold office during the pleasure of the Prime Minister.

(2) No person shall be eligible to be appointed as Attorney General unless he/she is qualified to be appointed as a Judge of the Supreme Court.

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

- (a) if he/she submits a resignation in writing to the Prime Minister,
- (b) if the Prime Minister removes him/her from the office.
- (c) if he/she dies.

(4) The remuneration and other facilities of the Attorney General shall be at par with that of a judge of the Supreme Court. The other conditions of service of the Attorney General shall be as determined by law.

135. Functions, duties and powers of the Attorney General

(1) The Attorney General shall be the Chief Legal Advisor to the Government of Nepal. It shall be the duty of the Attorney General to give opinions and advice on constitutional and legal matters to the 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.

(3) While discharging duties under clause (2), the Attorney General shall have authority as follows -

- (a) to appear on behalf of the Government of Nepal when the latter is bringing* or defending litigation.
- (b) To monitor or cause to be monitored the interpretation of law and implementation of the legal principles propounded by the Supreme Court in the course of litigation.

* The Nepali covers both civil and criminal proceedings – eds.

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

(4) 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.

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

136. Annual report

(1) The Attorney General shall, every year, prepare an annual report on the works he/she has performed in accordance with this constitution and other laws, and submit it to the Prime Minister, and the Prime Minister shall make arrangements to present the same to the Legislature Parliament.

(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 discussion of cases prosecuted by the government, a summary of cases involving the government as either plaintiff or defendant, a report of crimes, and recommendations for future improvements in cases brought by the government.

137. Power to appear in the Legislature-Parliament

The Attorney General shall have the power to appear and express his/her opinion on any legal question in the Legislature-Parliament, the Constituent Assembly or any of its committee meetings.

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

PART 17
STRUCTURE OF STATE AND LOCAL SELF GOVERNANCE

138. Progressive restructuring of the State

(1) To bring an end to discrimination based on class, caste, language, gender, culture, religion and region by eliminating the centralized and unitary form of the State, the State shall be made inclusive and restructured into a progressive, ***Democratic Federal System**.

(2) A High Level Commission shall be constituted to make recommendations for the restructuring of the State in accordance with clause (1). The composition, function, duty, power and terms of service of such Commission shall be as determined by the Government of Nepal.

(3) The final decision **relating to the structure of the State and** †**federal system** shall be made by the Constituent Assembly.

139. Provision for local self governance

(1) Arrangements shall be made to set up local self governance bodies on the basis of principles of decentralization and devolution of power by creating a congenial atmosphere for the exercise of the people's sovereignty and thereby ensuring maximum peoples' participation in the country's governance, to provide services to the people at the local level and for the institutional development of democracy.

(2) Interim local bodies shall be constituted at the District, Municipality and Village levels by consensus among all consenting parties to the agreement reached on the 22nd day of Kartik 2063 BS (November 7, 2006) between Nepali Congress, Communist Party of Nepal (UML), Nepali Congress (Democratic), Jana Morcha Nepal, Nepal Sadhbhavana Party (Anandidevi), Nepal Majdur Kishan Party and United Left Front along with Communist Party of Nepal (Maoist).

(3) The organizational structure, forms and territorial boundaries as well as the process of formation of the local self governance bodies shall be as provided for in the law.

140. Mobilization and management of revenue

(1) In order to make the local bodies engaged in local self governance more competent by mobilising and allocating resources, and maintaining an equitable and judicious balance in the distribution of the fruits of development, and to make the local bodies accountable in recognising, formulating and implementing local level projects, there shall be sharing of accountabilities and revenues between the Government of Nepal and local self governance bodies according to the provisions in the law.

* Amended on 2063 Chaitra 30 (April 13, 2007) by the Interim Constitution of Nepal (First Amendment), 2063, introducing the word "federal".

† Amended on 2063 Chaitra 30 (April 13, 2007) by the Interim Constitution of Nepal (First Amendment), 2063.

(2) While mobilizing and sharing revenues pursuant to clause (1) special consideration should be given to balanced and uniform development, and the total advancement of socially and economically backward classes and communities.

PART 18
POLITICAL PARTIES

141. Prohibition on the imposition of restrictions on political parties

(1) Persons who are committed to a common political ideology, philosophy and programme shall, subject to the laws made under proviso (3) of clause (3) of Article 12 of this Constitution, be entitled to form and operate political parties of their choice 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 programmes, and to carry out any other activities for that purpose. Any law, arrangement or decision which restricts any such activities shall be considered inconsistent with this Constitution and shall *ipso facto* be void.

(2) Any law, arrangement or decision which allows for participation or involvement of only a single political party or persons having a single political ideology, philosophy or programme in the elections, political system of the country or conduct of state affairs shall be inconsistent with this Constitution and shall *ipso-facto* be void.

(3) Political Parties with objectives contrary to the spirit and norms of the preamble of this constitution shall not be considered qualified for party registration.

142. Registration required for securing recognition for the purpose of contesting elections as a political party

(1) Any political party wishing to secure recognition from the Election Commission for the purposes of elections shall be required to register its name with the Election Commission in accordance with the procedure determined by the Commission. Political parties that fail to register their names shall be removed from the list of the Election Commission.

(2) While applying for the registration pursuant to clause (1) above, a political party shall, along with its constitution, manifesto and rules, clarify the following details, in addition to other matters -

- (a) the name of the political party and address of its central office,
- (b) the names and addresses of the members of its Executive Committee or any such other similar committee, and
- (c) the details and the sources of funds of the political party.

(3) Political parties shall fulfil the following conditions while filing an application pursuant to clause (1) -

- (a) the constitution and the rules of the political party must be democratic,
- (b) the constitution or the rules of the political party must provide for election of office bearers of the party at all levels at least once in every five years,
- (c) there should be a provision for the inclusion of members from neglected and oppressed groups including women and Dalits in the executive committees at various levels, and
- (d) there should be effective provision in the constitution of a party to discipline its members.

(4) The Election Commission shall not register any political party if any Nepali citizen is discriminated against in becoming a member of the political party on the basis of religion, caste, tribe, language or gender or if the name, objectives, symbol or flag of such political party is of a character that may disturb the country's religious or communal unity or is divisive in character, or if the constitution or rules of such party have the objective of protecting and promoting a partyless or single party system of government.

(5) For the purpose of the registration of a party for election, an application with the support and signature of at least ten thousand voters shall be necessary.

Provided that in the case of the parties represented in the Interim Legislature-Parliament, this provision shall not be applicable.

(6) The establishment, registration, recognition and other matters, except those stated in this Part, shall be as provided for in the law.

PART 19

EMERGENCY POWERS

143. Emergency Powers

(1) If a grave emergency arises in regard to the sovereignty or integrity of Nepal or the security of any part thereof, whether by war, external aggression, armed rebellion or extreme economic disarray, the 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.

(2) The Proclamation or the Order issued pursuant to clause (1) shall be laid before the meeting of the Legislature-Parliament for approval within a month from the date of its issuance.

(3) If a Proclamation or Order laid for approval pursuant to clause (2) is approved by a two-thirds majority of the Legislature-Parliament present at the meeting such Proclamation or Order shall continue in force for a period of three months from the date it was made.

(4) If the Proclamation or the Order laid before a meeting of the Legislature-Parliament pursuant to clause (2) is not approved pursuant to clause (3), such Proclamation or the Order shall, *ipso facto* to cease to operate.

(5) Before the expiration of the period referred to in clause (3), if a meeting of the Legislature-Parliament, by a majority of two-thirds of the members present, passes a resolution to the effect that circumstances referred to in clause (1) continue to exist, it may extend the period of the Proclamation or Order of State of Emergency for another one period, not exceeding three months as specified in such resolution.

(6) After a State of Emergency has been declared pursuant to clause (1), the Council of Ministers of the Government of Nepal may issue such orders as are necessary to meet the exigencies. Orders so issued shall be operative with the same force and effect as law so long as the State of Emergency is in operation.

(7) During the time of the Proclamation or Order of the State of Emergency made by the Council of Ministers of the Government of Nepal, pursuant to clause (1), the fundamental rights provided in Part 3 may be suspended so long as the Proclamation or Order is in operation.

Provided that clauses (1), (2) of article 12 and sub-clause (c) and (d) of clause 3, Article 13 and 14, clause (2) and (3) of Article 15, Article 16, 17, 18, 20, 21, 22, 23, 24, 26, 29, 30 and 31 and the right to constitutional remedy related to Article 32 and the right to *Habeas Corpus* shall not be suspended.

(8) In circumstances where any Article of this Constitution is suspended pursuant to clause (7) above, no petition may be made in any court of law, nor any question be raised for the enforcement of the fundamental rights conferred by such Article.

(9) If, during the continuance of a Proclamation or Order 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 the said damage, and if the court finds the claim valid, it shall cause the compensation to be paid.

(10) The Council of Ministers of the Government of Nepal may, at any time during its continuance, revoke the Proclamation or Order relating to the State of Emergency pursuant to clause (1).

PART 20
PROVISIONS REGARDING THE ARMY

144. Formation of the Nepal Army

- (1) There shall be an institution of the Nepal Army in Nepal.
- (2) The Council of Ministers shall appoint the Commander-in-Chief of the Nepal Army.
- (3) The Council of Ministers shall control, mobilize and manage the Nepal Army in accordance with the law. The Council of Ministers shall, with the consent of the political parties and by seeking the advice of the concerned committee of the Legislature-Parliament, formulate an extensive work plan for the democratization of the Nepal Army and implement it.
- (4) In the case of formulating and implementing the action plan pursuant to clause (3), determination of the appropriate number of the Nepal Army, its democratic structure and national and inclusive character shall be developed, and training shall be imparted to the army in accordance with the norms and values of democracy and human rights.
- (5) Other matters pertaining to the Nepal Army shall be as provided for in the law.

145. National Defence Council

(1) There shall be a National Defence Council in order to recommend the Council of Ministers for mobilization, operation and use of the Nepal Army consisting of the following Chairperson and members:-

(a) Prime Minister	Chairperson
(b) Defence Minister	Member
(c) Home Minister	Member
(d) Three ministers designated by the Prime Minister	Members

- (2) In case the Prime Minister and the Defence Minister are the same person, the senior-most member of the Council of Ministers shall be a member of the National Defence Council.
- (3) If the National Defence Council considers it necessary, it may invite other persons to the meeting of the Council.
- (4) The Secretary of the Ministry of Defence shall work as the Secretary of the National Defence Council, and, in his/her absence, the officer designated by the Prime Minister shall carry out such work.
- (5) Except in the case of mobilization of the Nepal Army because of natural calamities, the decision made by the Council of Ministers of the Government of Nepal for the mobilization

of the army shall be presented to the special committee prescribed by the Legislature-Parliament within a month of the decision, and be approved accordingly.

(6) The National Defence Council may regulate its own working procedures.

146. Transitional provision for the combatants

The Council of Minister shall form a special committee to supervise, integrate and rehabilitate the combatants of the Maoist Army, and the functions, duties and powers of the committee shall be as determined by the Council of Ministers.

147. Management and monitoring

Other arrangements regarding the management and monitoring of the arms and the army shall be carried out in accordance with the 'Comprehensive Peace Accords' (*Bishtrit Shanti Samjhauta*) concluded between the Government of Nepal and CPN-Maoist on 5 Mangsir 2063 (November 21, 2006) and 'Agreement on the Monitoring of the Management of Arms and Armies' reached on 22 Mangsir 2063 (December 8, 2006).

PART 21
AMENDMENT OF THE CONSTITUTION

148. Amendment of the Constitution

- (1) A Bill regarding amendment or repeal of any Article of the Constitution may be presented in the Legislature-Parliament
- (2) The Bill shall be deemed passed if the Bill so presented at the Legislature-Parliament is approved by at least two-thirds majority of the total existing members.

PART 22
MISCELLANEOUS

149. Constitutional Council

(1) There shall be a Constitutional Council for making recommendations in accordance with this Constitution for appointment of officials to Constitutional Bodies, which shall consist of the Chairperson and members as follows

(a) Prime Minister	Chairperson
(b) Chief Justice	Member
(c) Speaker of the Legislature-Parliament	Member
(d) Three ministers designated by the Prime Minister	Members

(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 procedures regarding the appointment of the officials of the Constitutional Bodies, and the functions, duties, powers and working procedures of the Constitutional Council shall be as determined by the law.

(4) The Chief Secretary of the Government of Nepal shall work as the Secretary of the Constitutional Council.

150. Nepali Ambassadors and Emissaries

The Council of Ministers may appoint Ambassadors of Nepal and other emissaries for specified purposes.

151. Pardon

The Council of Ministers may grant pardons [to persons convicted], and suspend, commute or reduce any sentence imposed by any court, special court, military court or by any other judicial or quasi-judicial, or administrative authority or institution.

152. Titles, honours, and decorations

(1) Titles, honours or decorations to be conferred on behalf of the State shall be conferred by the Prime Minister.

(2) No citizen of Nepal shall, without the approval of the Government of Nepal, accept any title, honour or decoration from the government of any foreign country.

153. Constitution of the Government Service

The Government of Nepal may, in order to run the administration of the country, constitute the civil service and other government services as required. The constitution, operation, and terms and conditions for such services shall be as determined by an Act.

154. Formation of Commissions

The Government of Nepal may form necessary commissions to safeguard and promote the rights and interests of different sectors of the country including women, Dalits, indigenous ethnic groups, Madhesi, disabled, labourers or farmers. The provisions for the formation, functions, duties and powers of such commissions shall be as determined by the law.

***154A Constituency Delimitation Commission**

(1) For the purpose of electing members to the Constituent Assembly, the Government of Nepal may form a Constituency Delimitation Commission, with the following Chairperson and members

(a) A retired Judge of the Supreme Court	Chairperson
(b) A geographer	Member
(c) A sociologist or demographer	Member
(d) An administrator or management expert	Member
(e) A special class gazetted officer of the Government of Nepal	Member Secretary

(2) The appointment of the Chairperson and members of the Constituency Delimitation Commission shall be done by the Government of Nepal.

(3) The term of office of the Constituency Delimitation Commission shall be as determined by the Government of Nepal at the time of the formation of the Commission, and the term may be extended, if required, by the Government of Nepal.

(4) Notwithstanding anything contained in Clause (1), no individual shall be deemed eligible to be appointed to the position of Chairperson or member of the Constituency Delimitation Commission unless he/she.

- (a) holds at least a Master's Degree in a relevant subject from a university recognized by the Government of Nepal,**
- (b) is at least forty-five years of age, and**
- (c) is of high moral character.**

(5) The position of the Chairperson or member of the Constituency Delimitation Commission shall be deemed vacant if -

- (a) he or she submits a resignation in writing to the Prime Minister,**

* Added on 2063 Chaitra 30 (April 13, 2007) by the Interim Constitution of Nepal (First Amendment), 2063.

(b) he or she dies.

(6) The Constituency Delimitation Commission, while delimiting the constituencies, shall determine the number of members to be elected on the basis of the population of each district in accordance with Clauses (3) and (3a) of Article 63, maintaining as far as practicable proportionality between the number of members and the population of the districts, and fix the number of constituencies for election of members of the Constituent Assembly accordingly.

(7) While delimiting the electoral constituencies pursuant to Clause (6), on the basis of equality of population, geographical convenience and special characteristics, attention shall be paid to the boundary of each administrative district, geographical conditions, population density, transportation facilities, and the communal and cultural characteristics of the people living in such districts.

(8) Notwithstanding anything in Clause (7) the number of electoral constituencies in each administrative district shall not be fixed below the number of constituencies that existed at the time of the commencement of this Constitution.

(9) No question shall be raised in any law court regarding the constituencies determined, * or reviewed pursuant to Clause (10c), by the Constituency Delimitation Commission.

(10) The Constituency Delimitation Commission shall submit its report to the Prime Minister about the work carried out by it.

†(10a) The Prime Minister shall submit the report received pursuant to clause (10) to the Council of Ministers, and the Council of Ministers shall send the report to the Election Commission and other bodies concerned for implementation.

(10b) Notwithstanding anything in Clause (10a), if the Council of Ministers deems it necessary that a report submitted to the Prime Minister pursuant to Clause (10) be reviewed because of technical errors in a particular district, the Council of Ministers may, in such a special situation, set a deadline and request the Chairperson and member of the Commission formed pursuant to Clause (1) to review the report once.

* Added on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment).

† Added on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment), 2064.

(10c) If the Council of Ministers makes a request under Clause (10b), the Chairperson and member of such a Commission shall review the matter requested by the Council of Ministers within the deadline specified and submit a report to the Prime Minister.

(10d) A report received pursuant to Clause (10c) shall be implemented pursuant to Clause (10a)

(10e) Notwithstanding anything contained elsewhere in this Clause while carrying out a review pursuant to Clause (10c), the Constituency Delimitation Commission will be deemed to be in existence for the entire period under Clause (10b).

(11) The Constituency Delimitation Commission shall determine its own 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 Government of Nepal shall provide the required number of staff for the Constituency Delimitation Commission.

155. Hearing for the officials of constitutional bodies and provisions regarding citizenship

(1) Prior to appointment to constitutional posts on the recommendation of the Constitutional Council according to this Constitution, and to * **the appointment of the Judges of the Supreme Court and ambassadors**, there shall be a parliamentary hearing in accordance with the provisions of the law.

(2) In order to be eligible for appointment to constitutional positions under this Constitution, a person must be a citizen of Nepal by descent or birth or by naturalization and have lived in Nepal for at least ten years.

156. Ratification of, accession to, acceptance of or approval of treaties or agreements

(1) The ratification of, accession to, acceptance of or approval of treaties or agreements 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 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 Legislature-Parliament existing:-

- (a) Peace and friendship;
- (b) Security and strategic alliance;
- (c) The boundaries of Nepal; and
- (d) Natural resources and the distribution of their uses.

* Amended on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment), 2064, to include reference to appointments of judges and ambassadors.

Provided that if any treaty or agreement referred in the sub-clauses (a) and (d), is of ordinary nature which does not affect the nation extensively, seriously or in the long-term, the ratification of, accession to, acceptance of or approval of such treaty or agreement may be done at a meeting of the Legislature-Parliament by a simple majority of the members present.

(3) After the commencement of the Constitution, unless a treaty or agreement is 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.

(4) Notwithstanding anything contained in clauses (1) and (2), no treaty or agreement shall be concluded that may be detrimental to the territorial integrity of Nepal.

157. Decision could be made through referendum

(1) Except as provided elsewhere in the Constitution, if the Constituent Assembly 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.

(2) The procedures pertaining to making decision pursuant to clause (1) shall be as determined by the law.

158. Power to remove difficulties

If any difficulty arises in connection with the implementation of this Constitution, the Council of Ministers may issue necessary Orders to remove such difficulties, and such Orders require endorsement by the Legislature-Parliament or the Constituent Assembly within a month.

PART 23

TRANSITIONAL PROVISIONS

159. Provisions regarding the King

- (1) No power regarding the governance of the country shall be vested in the King.
- (2) The Prime Minister shall perform all work pertaining to the governance and operation of the country.
- (3) Notwithstanding anything contained elsewhere in this Constitution, the Constituent Assembly shall decide by a simple majority at its first meeting about whether or not to continue the monarchy in existence.

*** (3a) Notwithstanding anything in Clause (3), a majority of at least two-thirds of the total number of the existing members of the Legislature-Parliament may pass a resolution abolishing the monarchy if it concludes that the King poses serious obstacles to the election to the Constituent Assembly.**

(3b) A decision to submit a proposal pursuant to Clause (3.a) shall be made by the Council of Ministers and such proposal shall be submitted to the Legislature-Parliament.

- (4) The property of late King Birendra, late Queen Aishwarya and other members of their family shall be brought under the control of the Government of Nepal, and a Trust shall be established to use the property for the benefit of the nation.
- (5) All the property acquired by King Gyanendra in the capacity of King (for instance: the palaces in different parts of the country, forests and national parks, heritage sites of historical and anthropological importance etc.) shall be nationalized.

160. Provisions regarding the Council of Ministers

- (1) The Council of Ministers existing at the time of the commencement of this Constitution shall be deemed to have been constituted under this Constitution.
- (2) The Council of Ministers constituted pursuant to clause (1), shall continue to work until the Council of Ministers is constituted under Article 38.

161. Provisions regarding the Legislature-Parliament

- (1) Immediately after the commencement of this Constitution, the Legislature-Parliament shall be constituted under this Constitution.

* Clauses (3a) and (3b) added on 2064 Jestha 30 (June 13, 2007) by the Interim Constitution of Nepal (Second Amendment), 2064.

(2) After the commencement of this Constitution, the existing House of Representatives and the National Assembly shall *ipso facto* be dissolved, and the first meeting of the Legislature-Parliament under this Constitution shall convene on the same day.

(3) 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 this Constitution.

(4) The Parliament Secretariat and officials and the staff working in the Secretariat at the time of the commencement of this Constitution shall be deemed to be the Secretariat of the Legislature-Parliament and the officials and staff of the Secretariat shall be deemed to have been appointed under this Constitution.

162. Provisions regarding the Judiciary

(1) The Supreme Court, Appellate Court and District Courts 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 the making of the decisions by the concerned courts on cases filed prior to the commencement of this Constitution.

(2) The Judges working in the Supreme Court, Appellate Courts and District Courts, after the commencement of this Constitution, shall take an oath of commitment to this Constitution as determined by the Government of Nepal. Any Judge who decline to take the oath shall *ipso facto* cease to hold office.

(3) Necessary legal arrangements shall be made on the basis of democratic norms and values to bring about gradual reforms in the judicial sector to make it independent, clean, impartial and competent.

163. 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 re-established 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 laws in force. Necessary legal arrangements shall be made to bring about gradual reform in the Constitutional Bodies and the officials thereof, according to democratic norms and values.

(3) The subsisting National Human Rights Commission constituted according to existing laws shall continue to exist until the constitution of a National Human Rights Commission as provided for in this Constitution, and the pending petitions and complaints shall be transferred to the National Human Rights Commission constituted under this Constitution; and the Commission shall take up such petitions and complaints in accordance with this Constitution and the laws made under it.

164. Existing laws to remain in operation

(1) Decisions made and work performed by the reinstated House of Representatives that are not inconsistent with this Constitution shall be deemed to have been made and performed in accordance with this Constitution.

(2) All the laws in force at the time of commencement of this Constitution shall remain in operation until repealed or amended.

Provided that laws inconsistent with this Constitution shall, to the extent of inconsistency, *ipso facto*, cease to operate three months after the commencement of this Constitution.

PART 24
DEFINITIONS

165. Definitions

(1) Unless the subject or context otherwise requires, in this Constitution:-

- a. "Article" means an Article of this Constitution;
- b. "Nepal" means the State of Nepal;
- c. "Citizen" means the citizen of Nepal;
- d. "Bill" means a draft of a Constitution or an Act which has been introduced in the Legislature-Parliament or the Constituent Assembly.
- e. "Remuneration" means and includes salary, allowances, pension and any other forms of emoluments.

(2) Unless the subject or context otherwise requires, the prevailing laws of Nepal relating to interpretation shall, subject to the provisions of this Constitution, apply to the interpretation of this Constitution in the same manner as that law applies to the interpretation of the laws of Nepal.

PART 25
SHORT TITLE, COMMENCEMENT AND ABROGATION

166. Short title and commencement

- (1) This Constitution shall be called “The Interim Constitution of Nepal, 2063 (2007)”.
- (2) This Constitution shall be promulgated by the House of Representatives and be approved by the interim Legislature-Parliament. The details regarding the implementation of this Constitution shall be as described in Schedule 3.
- (3) The "Comprehensive Peace Accord" concluded between the Government of Nepal and the Communist Party of Nepal (Maoist) on Mangsir 5, 2063 (November 21, 2006), and an agreement relating to "Agreement on the Monitoring of the Management of Arms and Armies" reached on Mangsir 22, 2063 (December 8, 2006) are exhibited in Schedule 4.
- (4) This Constitution shall come into force from Monday, Magh One of the year Two Thousand Sixty Three (15 January 2007).

167. Abrogation

The Constitution of the Kingdom of Nepal, 2047 (1990) is hereby abrogated.

SCHEDULE-1
(RELATING TO ARTICLE 6)
NATIONAL FLAG

(A) Method of Making the Shape inside the Border

- 1) On the lower portion of a crimson cloth draw a line AB of the required length from left to right.
- 2) From A draw a line AC perpendicular to AB making AC equal to AB plus one third AB. From AC mark off D making 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 centre 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 centre 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 centre M and radius MQ draw a semi-circle on the lower portion touching P and Q.
- 15) With centre 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 centre T and radius TS draw a semi-circle on the upper portion of PNQ touching it at two points.
- 17) With centre 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 this 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 centre W, the point where HI and UV cut one another and radius MN draw a circle.
- 21) With centre 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 circles 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 TN. This will be of deep blue colour and will be provided on all the sides of the flag. However, on the five 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 also imaginary. These are not shown on the flag.

SCHEDULE – 2
(RELATING TO CLAUSE (1) OF ARTICLE 45)

- (A) Members according to Clause (1) of Article 45
Members of the House of Representatives
1. Mr. Ajaya Kumar Chaurasia Barai, Parsa-2
 2. Mr. Ajaya Pratap Shah, Kapilbastu-4
 3. Mr. Arjun Jung Bahadur Singh, Bajhang-1
 4. Mr. Arjun Prasad Joshi, Parbat-1
 5. Astha Laxmi Shakya (Bohora), Kathmandu-6
 6. Mr. Ananda Prasad Dhungana, Dhanusha-3
 7. Mr. Ananda Prasad Pokhrel, Dolakha-2
 8. Mr. Aamod Prasad Upadhyaya, Morang-1
 9. Mr. Ishwar Pokhrel, Kathmandu-3
 10. Mr. Umakanta Chaudhari, Bara-1
 11. Ms. Urmila Aryal, Parsa-4
 12. Mr. Hrishikesh Gautam, Bara-3
 13. Mr. Eknath Ranabhat, Chitwan-2
 14. Mr. Om Prasad Ojha, Taplejung-2
 15. Mr. Kamal Prakash Sunuwar, Ramechhap-1
 16. Ms. Kamala Panta (Acharya), Gorkha-2
 17. Mrs. Kashi Paudel, Bardiya-1
 18. Ms. Kunta Sharma, Sunsari-1
 19. Mr. K.P. Sharma Oli, Jhapa-2
 20. Mr. Keshar Man Roka, Rukum-1
 21. Mr. Keshav Thapa, Ilam-3
 22. Mr. Kailash Nath Kashaudhan, Banke-3
 23. Mr. Krishna Kishore Ghimire, Dang-3
 24. Mr. Krishna Pratap Malla, Dhanusha-4
 25. Mr. Krishna Prasad Dahal, Makwanpur-1
 26. Mr. Krishna Prasad Bhattarai, Parsa-1
 27. Mr. Krishna Prasad Sitaula, Jhapa-1
 28. Mr. Krishna Lal Maharjan, Lalitpur-2
 29. Mr. Khum Bahadur Khadka, Dang-1
 30. Mr. Khem Raj Bhatta Mayalu, Bardiya-3
 31. Mr. Girija Prasad Koirala, Sunsari-5
 32. Mr. Gehendra Giri, Dang-4
 33. Mr. Gokarna Raj Bista, Gulmi-3
 34. Mr. Gopal Prasad Koirala, Jhapa-6
 35. Mr. Gopal Man Shrestha, Shyanja-2
 36. Mr. Gorakh Bahadur Bogati, Humla
 37. Mr. Govinda Bahadur Shah, Achham-1
 38. Mr. Govinda Raj Joshi, Tanahu-1
 39. Mr. Govinda Bikram Shah, Jajarkot-1
 40. Dr. Gangadhar Lamsal, Chitwan-3
 41. Mr. Ganga Prasad Nepal, Sindhuli-1
 42. Mr. Ghanendra Basnet, Bhojpur-1
 43. Mr. Chakra Prasad Bastola, Jhapa-4
 44. Mr. Chandra Bahadur Shahi, Mugu
 45. Mr. Chandra Mani Kharal, Nawalparasi-2
 46. Mr. Chirinjibi Wagle, Gorkha-1
 47. Mr. Chitra Bahadur K.C., Baglung-2
 48. Mrs. Chitra Lekha Yadav, Siraha-2
 49. Mr. Jagadish Prasad Shah, Saptari-4
 50. Mr. Jagannath Khatiwada, Udayapur-2
 51. Mr. Janak Raj Giri, Bajura
 52. Mr. Jaya Prakash Prasad Gupta, Saptari-1
 53. Mr. Tuka Raj Sigdel, Tanahu-3
 54. Mr. Tek Bahadur Chokhal, Kailali-4
 55. Mr. Tanka Prasad Rai, Shankhuwasabha-1
 56. Mr. Tanka Prasad Sharma Kandel, Baglung-1
 57. Mr. Dambar Singh Sambahamphe, Panchthar-2
 58. Mr. Dila Ram Acharya, Arghakhanchi-1
 59. Mr. Dilli Raj Khanal, Arghakhanchi-2
 60. Mr. Dilli Raj Sharma, Parbat-2
 61. Mr. Tara Nath Ranabhat, Kaski-1
 62. Mr. Tara Sam Yangya, Jhapa-5
 63. Mr. Tarini Dutta Chataut, Kanchanpur-2
 64. Mr. Tirtha Ram Dangol, Kathmandu-7
 65. Ms. Tirtha Gautam, Rukum-2
 66. Mr. Til Kumar Meyangbo (Limbu), Taplejung-1
 67. Mr. Dan Bahadur Chaudhari, Kapilbastu-1
 68. Mr. Damodar Bastakoti, Nawalparasi-1
 69. Mr. Dil Bahadur Lama, Rasuwa
 70. Mr. Dilendra Prasad badu, Darchula
 71. Mr. Durga Linkha, Dhankuta-1
 72. Mr. Duryodhan Singh, Rupandehi-1
 73. Mr. Devi Lal Thapa, Jumla
 74. Mr. Devendra Raj Kandel, Nawalparasi-4
 75. Mr. Dharma Nath Prasad Shah, Siraha-5
 76. Mr. Nara Bahadur Hamal, Dailekh-1
 77. Mr. Narendra Bahadur Bam, Baitadi-1
 78. Mr. Narendra Vikram Nemwang, Jhapa-3
 79. Mr. Nawa Raj Subedi, Pyuthan-2
 80. Mr. Nagendra Kumar Raya, Sarlahi-4
 81. Mr. Narayan Prakash Saund, Kanchanpur-1
 82. Mr. Narayan Man Bijukchhe, Bhaktapur-1
 83. Mr. Narayan Sharma Paudel, Chitwan-4
 84. ~~Mr. Netra Lal Shrestha, Salyan-2~~ (Removed as MP after informing Legislature-Parliament on 18 July 2007)
 85. Mr. Parashu Ram Meghi Gurung, Shankhuwasabha-2
 86. Mr. Pari Thapa, Baglung-3
 87. Mr. Pashupati Chaulagain, Dolakha-1
 88. Mr. Pashupati S.J.B. Rana, Sindhupalchok-3
 89. Mr. Palten Gurung, Manang

90. Mr. Puskar Nath Ojha, Kailali-3
91. Mr. Purna Bahadur Khadka, Surkhet-1
92. Mr. Prakash Jwala, Salyan-1
93. Mr. Prakash Bahadur Gurung, Kaski-3
94. Mr. Pradeep Kumar Gyawali, Gulmi-2
95. Mr. Pradeep Nepal, Kathmandu-1
96. Mr. Prem Lal Singh, Kathmandu-4
97. Mr. Phatik Bahadur Thapa, Gulmi-1
98. Mr. Pharmulaha Mansur, Bara-4
99. Mr. Bala Dev Sharma Majgaiya, Dang-2
100. Mr. Bal Bahadur K.C. (Khatri), Solukhumbu-1
101. Mr. Birodh Khatiwada, Makwanpur-2
102. Mr. Benup Raj Prasain, Ilam-1
103. Dr. Banshi Dhar Mishra, Rautahat-3
104. Mr. Bhakta Bahadur Balayar, Doti-1
105. Mr. Bhadra Bahadur Thapa, Palpa-1
106. Mr. Bharat Kumar Shah, Rupandehi-4
107. Mr. Bharat Mohan Adhikari, Morang-2
108. Mr. Mahantha Thakur, Sarlahi-5
109. Mr. Mahadev Gurung, Kaski-2
110. Mr. Mahendra Kumar Raya, Mahottari-4
111. Mr. Mahendra Prasad Yadav, Sarlahi-1
112. Mr. Mahendra Bahadur Pandey, Nuwakot-3
113. Mr. Mahendra Yadav, Mahottari-1
114. Mr. Mahesh Acharya, Morang-5
115. Mr. Madhav Kumar Nepal, Rautahat-1
116. Mr. Mo. Aaftab Aalam, Raurahat-2
117. Mr. Mohan Bahadur Basnet, Sindhupalchok-1
118. Mr. Mangal Prasad Tharu, Bardiya-2
119. Mr. Mangal Siddhi Manandhar, Kathmandu-5
120. Mr. Yagya Jit Shah, Rupandehi-5
121. Mr. Yadav Bahadur Rayamajhi, Palpa-3
122. Mr. Yog Narayan Yadav, Dhanusha-2
123. Mr. Raghujii Panta, Lalitpur-3
124. Mr. Ratna Prasad Sharma Neupane, Jajarkot-2
125. Mr. Ramesh Lekhak, Kanchanpur-3
126. Mr. Rajendra Kharel, Kavrepalanchok-3
127. Mr. Rajendra Prakash Lohani, Nuwakot-1
128. Mr. Rajendra Prasad Pandey, Dhading-3
129. Mr. Rajendra Mahato, Sarlahi-2
130. Mr. Ram Kumar Chaudhari, Saptari-2
131. Mr. Ramkrishna Tamrakar, Rupandehi-2
132. Mr. Ram Chandra Tiwari, Mahottari-2
133. Mr. Ram Chandra Paudel, Tanahu-2
134. Mr. Ram Chandra Yadav, Siraha-1
135. Mr. Ram Chandra Raya, Siraha-1
136. Mr. Ram Janam Chaudhari, Kailali-2
137. Mr. Ram Nath Adhikari, Dhading-2
138. Mr. Ram Bahadur Gurung, Lamjung-1
139. Mr. Ram Bahadur Bista, Achham-2
140. Dr. Ram Varan Yadav, Dhanusha-5
141. Dr. Ram Sharan Mahat, Nuwakot-2
142. Mr. Ram Hari Dhungel, Ramechhap-2
143. Mrs. Renu Kumari Yadav, Saptari-3
144. Mr. Romi Gauchan Thakali, Mustang
145. Mr. Laxman Prasad Mehata, Sunsari-3
146. Mr. Lal Babu Pandit, Morang-3
147. Mr. Lila Mani Pokhrel, Sindhuli-3
148. Mr. Lekh Nath Acharya, Rolpa-1
149. Mr. Lekh Nath Neupane, Bhaktapur-2
150. Mr. Basanta Kumar Nemwang, Panchthar-1
151. Mr. Vijaya Kumar Gachhadar, Sunsari-2
152. Mr. Vijaya Subba, Terathum
153. Mrs. Vidya Devi Bhandari, Kathmandu-2
154. Mr. Binaya Dhawaja Chand, Baitadi-2
155. Mr. Bir Bahadur Lama, Makwanpur-3
156. Mr. Birendra Kumar Kanaudiya, Kapilbastu-3
157. Mr. Sharat Singh Bhandari, Mahottari-3
158. Mr. Shiva Kumar Basnet, Khotang-2
159. Mr. Shiva Prasad Humagai, Kavrepalanchok-2
160. Mr. Shiva B. Deuja, Kavrepalanchok-1
161. Mr. Shiva Raj Joshi, Dailekh-2
162. Mr. Shiva raj Joshi, Surkhet-3
163. Mr. Shuvash Karmacharya, Sindhupalchok-2
164. Mr. Sher Dhan Rai, Bhojpur-2
165. Mr. Sher Bahadur Deuba, Dadeldhura
166. Mr. Shankar Nath Sharma Adhikari, Sindhuli-2
167. Mr. Shankar Prasad Pandey, Syanja-3
168. Mr. Sarba Dhan Rai, Khotang-1
169. Mrs. Sabitri Bogati (Pathak), Chitwan-1
170. Mr. Siddha Raj Ojha, Doti-2
171. Mr. Subhash Nemwang, Ilam-2
172. Mr. Surendra Prasad Chaudhari, Parsa-3
173. Mr. Surendra Hamal, Rolpa-2
174. Mr. Suresh Kumar Karki, Udayapur-1
175. Mr. Suresh Malla, Bajhang-2
176. Mr. Sushil Koirala, Banke-2
177. Ms. Sushila Nepal, Lalitpur-1
178. Miss. Shushila Swanr, Kailali-1
179. Mr. Surya Prasad Pradhan, Rupendehi-3
180. Mr. Surya Bahadur Thapa, Dhankuta-2
181. Mr. Som Prasad Pandey, Palpa-2
182. Mr. Sohan Prasad Chaudhari, Bara-2
183. Mr. Smriti Narayan Chaudhari, Dhanusha-1
184. Mr. Harka Man Tamang, Morang-4
185. Mr. Hari Acharya, Pyautah-1
186. Mr. Hari Narayan Chaudhari, Morang-6
187. Mr. Hari Prasad Sapkota, Sunsari-4
188. Mr. Hari Bhakta Adhikari, Lamjung-2
189. Mr. Hari Lal Joshi, Gorkha-3
190. Mr. Hit Kaji Gurung, Syanja-1

191. Mr. Hom Nath Dahal, Okhaldhunga-1
192. Mr. Hridaya Ram Thani, Surkhet-2
193. Mr. Hridayesh Tripathi, Nawalparasi-3
194. Mr. Gyanu K.C., Banke-1

Members of the National Assembly

1. Mr. Akkal Bahadur Bista, Achham
2. Mr. Ashok Koirala, Morang
3. Mr. Urba Dutta Panta, Kanchanpur
4. Mr. Deepak Bahadur Gurung, Kaski
5. Mr. Bal Bahadur Rai, Okhaldhunga
6. Mr. Bedu Ram Bhusal, Kapilbastu
7. Miss. Maiya Devi Shrestha, Chitwan
8. Mr. Radheshyam Adhikari, Kathmandu
9. Mr. Ram Jeevan Singh, Mahottari
10. Mr. Ram Preet Paswan, Saptari
11. Mr. Ranga Nath Joshi, Bardiya
12. Mr. Laxmi Das Manandhar, Kathmandu
13. Mr. Lalit Kumar Basnet, Makawanpur
14. Ms. Shree Maya Thakali, Mustang

(B) Members according to Clause (1) of Article 45

Nominated by CPN (Maoist)

1. Mr. Krishna Bahadur Mahara, Rolpa
2. Mr. Dev Gurung, Manang
3. Mr. Deena Nath Sharma, Baglung
4. Mr. Matrika Yadav, Dhanusha
5. Mr. Lokendra Bista, Rukum
6. Ms. Hisila Yami, Kathmandu
7. Mr. Janardan Sharma, Rukum
8. Mr. Lekh Raj Bhatta, Kailali
9. Mr. Khadga Bahadur B.K., Kalikot
10. Ms. Jayapuri Gharti Magar, Rolpa
11. Mr. Suresh Kumar Ale Magar, Tanahu
12. Mr. Tilak Pariyar, Banke
13. Mr. Mahendra Paswan, Siraha
14. Mr. Prabhu Shah, Rautahat
15. Mr. Krishna Dev Singh Danuwar, Siraha
16. Ms. Kamala Rokka, Rukum
17. Mr. Padam Bahadur Rai, Bhojpur
18. Mr. Ganga Narayan Shrestha, Sindhuli
19. Mr. Santosh Budha Magar, Rolpa
20. Mr. Bhakta Bahadur Shah, Jajarkot
21. Mr. Hit Bahadur Tamang, Nuwakot
22. Mr. Ram Charan Chaudhari Tharu, Bardia
23. Mr. Dilip Maharjan, Kathmandu
24. Mr. Narayan Prasad Dahal, Chitwan
25. Mr. Bam Dev Kshetri, Rupandehi
26. Ms. Purna Kumari Subedi, Banke
27. Ms. Uma Bhujel, Gorkha

28. Ms. Amrita Thapa, Syanja
29. Mr. Tanka Angbohng Limbu, Taplejung
30. Ms. Dharma Sheela Chapagai, Jhapa
31. Ms. Narayani Devi Shrestha, Lalitpur/Bhaktapur
32. Ms. Saraswati Chaudhari, Saptari
33. Ms. Ram Kumari Yadav, Dhanusa
34. Ms. Mani Limbu, Udayapur
35. Ms. Satya Pahadi, Dolpa
36. Ms. Shova Kattel, Chitawan
37. Ms. Dama Sharma, Dang
38. Ms. Uma B.K., Kapilbastu
39. Ms. Manju Bam, Baitadi
40. Ms. Rupa Chaudhari, Kailali
41. Ms. Bhagawati Pradhan, Sindhupalchok
42. Ms. Devi Khadka, Dolakha
43. Ms. Kumari Moktan, Makwanpur
44. Ms. Sabitri Gurung, Tanahu
45. Ms. Balawati Sharma, Baglung
46. Ms. Rupa B.K., Palpa
47. Ms. Sita B.K., Pyuthan
48. Ms. Sarala Regmi, Bardiya
49. Ms. Saraswati Mohara, Dailekh
50. Mr. Ram Ashraya Ram, Parsa
51. Ms. Tika Budhathoki, Salyan
52. Mr. Nanda Singh Sarki, Dadeldhura
53. Mr. Mangal Biswakarma, Surkhet
54. Mr. Parashuram Ramtel, Gorkha
55. Mr. Bharat Prasad Shah, Mahottari
56. Mr. Surya Nath Prasad Yadav, Saptari
57. Mr. Shalikram Jamkattel, Dhading
58. Mr. Paramananda Barma Kurmi, Banke
59. Mr. Binod Kumar Upadhyaya, Rupandehi
60. Mr. Shiva Kumar Mandal, Morang
61. Mr. Chinak Kurmi, Nawalparasi
62. Mr. Ram Laut Tiwari, Kapilwastu
63. Mr. Satya Narayan Bhagat Bin, Rautahat
64. Mr. Indra Jit Tharu, Dang
65. Mr. Puran Rana Tharu, Kanchanpur
66. Mr. Purna Singh Rajbanshi, Jhapa
67. Mr. Gama Bahadur Shrishya Magar, Myagdi
68. Mr. Sudarshan Baral Magar, Gulmi
69. Mr. Surya Man Dong Tamang, Kavrepalanchok
70. Mr. Khim Lal Devkota, Kaski
71. Ms. Furbi Sherpa, Terhathum
72. Ms. Sheela Yadav, Bara
73. Ms. Buddhi Man Majhi, Sindhuli

(C) Members according to Clause (1) of Article 45

Nominated by Nepali Congress

1. Mr. Kul Bahadur Gurung, Ilam
2. Mr. Bhim Bahadur Tamang, Dolakha
3. Mrs. Sujata Koirala, Sunsari
4. Mr. Deenbandhu Shrestha, Jumla
5. Mr. Yagya Raj Pathak, Doti
6. Ms. Sita Devi Yadav, Siraha
7. Mrs. Krishna Kumari Shrestha, Chitawan
8. Mr. Harihar Dahal, Kathmandu
9. Mr. Mitha Ram Biswakarma, Parbat
10. Mr. Amresh Kumar Singh, Sarhali

(C) Members according to Clause (1) of Article 45

Nominated by the Communist Party of Nepal (UML)

1. Ms. Parbati Chaudhari, Kailali
2. Ms. Reema Nepali, Rolpa
3. Ms. Shanti Pakhrin, Dolakha
4. Ms. Paro Devi Yadav, Siraha
5. Ms. Jayanti Rai, Bhojpur
6. Mr. Rijwan Ansari, Sarlahi
7. Mr. Chooda Mani Jangali (Biswakarma), Kaski
8. Mr. Bam Dev Gautam, Bardiya
9. Mr. Jhala Nath Khanal, Ilam
10. Mr. Amrit Kumar Bohara, Sindhupalchok

(C) Members according to Clause (1) of Article 45

Nominated by CPN (Maoist)

1. Ms. Shanta Shrestha, Kathmandu
2. Mr. Padam Lal Biswakarma, Ilam
3. Mr. Hari Roka, Khotang
4. Mr. Malla K. Sundar, Kathmandu
5. Mr. Kumar Phudung, Terathum
6. Mr. Krishna Acharya, Kaski
7. Mr. Narayan Prasad Regmi, Dang
8. Mr. Bhikshu Ananda, Kathmandu
9. Mr. Iliyas Musalman, Kapilbastu
10. Ms. Moti Devi Chaudhari, Bardiya

(C) Members pursuant to Clause (1) of Article 45

Nominated by Nepali Congress (Democratic)

1. Mr. Prakash Man Singh, Kathmandu
2. Mr. Bimalendra Nidhi, Dhanusa
3. Mr. Pradeep Giri, Siraha
4. Dr. Minendra Rijal, Morang

5. Dr. Prakash Sharan Mahat, Nuwakot
6. Ms. Uma Adhikari Regmi, Chitawan

(C) Members pursuant to Clause (1) of Article 45

Nominated by Jana Morcha Nepal

1. Mr. Kaman Singh Lama, Kavrepalanchok
2. Mr. Anjana Bishankhe, Kathmandu
3. Mr. Asarfi Sada, Saptari

(C) Members pursuant to Clause (1) of Article 45

Nominated by Nepal Workers and Peasants Party

1. Mr. Sunil Prajapati, Bhaktapur
2. Mr. Jagya Bahadur Shahi, Dailekh
3. Ms. Lila Nyaichyai

(C) Members pursuant to Clause (1) of Article 45

Nominated by Nepal Sadbhawana Party (Anandi Devi)

1. Ms. Anandi Devi Singh, Saptari
2. Mr. Bharat Bimal Yadav, Mahottari
3. Mr. Govinda Tharu, Bardiya

(C) Members pursuant to Clause (1) of Article 45

Nominated by United Left Front

1. Mr. Chandra Prakash C.P. Mainali, Jhapa
2. Mr. Nanda Kumar Prasai, Jhapa
3. Mr. Ganesh Shah, Dhanusa

SCHEDULE-3
RELATING TO CLAUSE (2) OF ARTICLE 166

This Constitution shall be promulgated by the House of Representatives and be ratified by the Legislature-Parliament after the beginning of the monitoring of arms and army management in accordance with the "Comprehensive Peace Accord" concluded between the Government of Nepal and the Communist Party of Nepal (Maoist) on Mangsir 22, 2063 (November 21, 2006), and "Agreement on the Monitoring of the Management of Arms and Armies" reached on Mangsir 5, 2063 (8 November 2006).

SCHEDULE-4
(RELATING TO CLAUSE (3) OF ARTICLE 166)

**COMPREHENSIVE PEACE ACCORD CONCLUDED BETWEEN THE
GOVERNMENT OF NEPAL AND THE COMMUNIST PARTY OF NEPAL
(MAOIST)**

Preamble

Respecting the people's mandate expressed in favour of democracy, peace and progress by the Nepali people through the historic struggles and people's movement, launched from time to time, since prior to 1950 to till now,

Reaffirming full commitment towards the 12-points Understanding, the 8-points Agreement reached between the Seven Political Parties and the Communist Party of Nepal (Maoist), the 25-points Code of Conduct agreed between the Government of Nepal and the CPN (Maoist), the decisions of the meeting of high level leaders of the Seven Political Parties and the CPN (Maoist) held on November 8, 2006 including all agreements, understandings, code of conducts concluded between the Government of Nepal and the CPN (Maoist), and correspondence of similar view point sent to the United Nations Organisation,

Expressing determination to carry out a progressive restructuring of the state to resolve the existing problems based on class, caste, region and gender,

Reiterating the commitment towards the competitive multiparty democratic system of governance, civil liberty, fundamental rights, human rights, full press freedom and concept of rule of law including democratic values and norms,

Remaining committed to the Universal Declaration of Human Rights, 1948 and international humanitarian laws and basic principles and values relating to human rights,

Guaranteeing the fundamental rights of the Nepali People to participate in the elections of the Constituent Assembly in a free, impartial and fearless environment,

Keeping democracy, peace, prosperity, progressive socio-economic change and freedom, integrity, sovereignty and dignity of the country at the center,

Expressing determination to implement the commitment of holding an election of the Constituent Assembly in free and impartial manner by June 14, 2007,

Declaring the beginning of a new chapter of peaceful collaboration by ending the armed conflict that existed in the country since 1995, on the basis of the political understanding reached between both parties in order to fulfill the guarantee of sovereignty of the Nepali people, progressive political outlet, democratic restructuring of the state and socio-economic and cultural transformation through the Constituent Assembly,

Now, therefore, this Comprehensive Peace Accord has been concluded between the Government of Nepal and CPN (Maoist) with a commitment to transform the ceasefire reached between the Government of Nepal and CPN (Maoist) into a long term peace.

1. Preliminary

1.1. This Accord shall be referred as the "Comprehensive Peace Accord, 2006." In short, the Accord shall be referred as Peace Accord.

1.2. The Accord shall come into force from today through a public declaration of the Government side and the Maoist side.

1.3. Both sides shall issue necessary directives to all the agencies under them to immediately implement and abide by this Accord and, shall implement or cause it to be implemented.

1.4. All the agreements, understandings, code of conducts and decisions reached between the Seven Political Parties, the Government and the Maoist sides attached as an annex shall be deemed to be an integral part of this Accord.

1.5. The understandings and agreements to be reached in future as per necessary for the implementation of this Accord shall also be deemed to be a part of this Accord.

2. Definitions: Unless the subject or context otherwise requires, in this Accord

(a) "**Ceasefire**" means the act to prohibit all terms of attack, kidnapping, act of disappearance, detention, mobilization, strengthening, aggression and violent activities of armed forces and the activities spreading destruction, incitement and instigation in the society through whatsoever means carried out between the Government of Nepal and the CPN (Maoist) by aiming at each other.

(b) "**Interim Constitution**" means the "Interim Constitution of Nepal, 2007" to be promulgated for the period until a new constitution is drafted and promulgated by the Constituent Assembly.

(c) "**Interim Council of Ministers**" means the Interim Council of Ministers to be constituted under the Interim Constitution.

(d) "**Both sides**" mean the Government of Nepal side and the Communist Party of Nepal (Maoist) side.

(e) "**Law in Force**" means the Interim Constitution of Nepal, 2007 and the Nepal laws in force that are not inconsistent with it. Provided that this definition shall not obstruct the legal provisions that existed before the promulgation of the Interim Constitution 2007.

(f) "**Verification**" means the matter of preparation of exact record after verification of army, combatants and arms by the United Nations Organization.

3. Political-Economic-Social Transformation and Conflict Management

Both sides agree to adopt the following policies and programmes for the political, economic and social transformation and to manage the existing conflict in the country in a positive manner.

3.1. To ensure progressive political, economic and social transformation in the country on the basis of the decisions reached at the meeting of high level leaders of Seven Political Parties and CPN (Maoist) on November 8, 2006.

3.2. To constitute an Interim Legislature-Parliament on the basis of the Interim Constitution, and to hold an election of the Constituent Assembly in a free and impartial manner by the Interim Government by June 14, 2007 and to ensure practically the sovereignty vested upon the Nepali people.

3.3. No powers to rule the country shall be vested upon the King. The properties of late King Birendra, late Queen Aishwarya and their family shall be transferred to the Government of Nepal and be utilized for the national interest by forming a trust. All properties (like the palaces located in different places, forest and parks, heritages of historical and archeological importance etc.) acquired by King Gyanendra in that capacity shall be nationalized. Matter whether or not to maintain the institution of monarchy shall be decided by a simple majority in the first meeting of the Constituent Assembly.

3.4. To adopt a political system that fully abides by the universally accepted concepts of fundamental human rights, multiparty competitive democratic system, sovereignty vested upon the people and supremacy of the people, constitutional checks and balances, rule of law, social justice and equality, independent judiciary, periodic elections, monitoring of the civil society, complete press freedom, people's right to information, transparency and accountability in the activities of political parties, people's participation, impartial, competent, and fair bureaucracy and to maintain good governance by ending corruption and impunity.

3.5. To carry out an inclusive, democratic and progressive restructuring of the State by eliminating the current centralized and unitary form of the State in order to address problems related to women, Dalit, indigenous and ethnic (Janajati) people, Madhesi, oppressed, neglected and minority communities and backward regions by ending discrimination based on class, caste, language, gender, culture, religion and region.

3.6. To decide, through mutual agreement, a minimum common programme for the socio-economic transformation that ends all forms of feudalism and to implement it gradually.

3.7. To adopt a policy to introduce a scientific land reform programme by ending feudal land ownership.

3.8. To follow a policy to protect and promote the national industries and resources.

3.9. To adopt a policy to establish the rights of all citizens to education, health, housing, employment and food security.

3.10. To adopt a policy to provide land and other economic and social security to the economically backward classes including landless, bonded labours and pastoral farmers.

3.11. To adopt a policy of severe punishment to the person that acquires unjust wealth through corruption while holding a government office of profit.

3.12. To build a common development concept for socio-economic transformation and justice as well as to rapidly develop the country and make it economically prosperous.

3.13. To ensure the professional rights of the labourers and follow a policy for massive increase in employment and income generation opportunities by increasing investment in industries, trade, export promotion etc.

4. Management of Armies and Arms

In order to hold the election of the Constituent Assembly in a peaceful, impartial environment, free of fear, and for the democratization and restructuring of the army, to carry out the following tasks in accordance with the 12-points understanding, eight-points agreement and 25-points code of conduct concluded in the past, the five-points letter sent to the United Nations and the decision taken in the meeting of high level leaders held on November 8, 2006.

Regarding the Maoist Army

4.1. As per the commitment expressed in the letter sent to the United Nations on behalf of the Government of Nepal and the CPN (Maoist) on August 9, 2006, combatants of the Maoist army shall be confined within the following temporary cantonments in the following places. They shall be verified and monitored by the United Nations.

The main cantonments shall be located in the following places

1. Kailali
2. Surkhet
3. Rolpa
4. Nawalparasi
5. Chitwan
6. Sindhuli
7. Ilam

The sub-cantonments around the main cantonments shall be located at the rate of three each.

4.2. After confining the Maoist combatants within the cantonments, all arms and ammunition except those required for the security of the cantonments shall be securely stored in the cantonment itself and the key shall be kept by the concerned party after installing a single lock. In the process of installing such a lock, a device with a siren for the monitoring by the United Nations for its record shall be assembled. While carrying out the necessary inspection of the stored arms, the United Nations shall do it in the presence of the concerned party. Other technical details related to this process along with the camera monitoring shall be prepared through an agreement between the United Nations, CPN (Maoist) and the Government of Nepal.

4.3. When the Maoist combatants stay in the temporary cantonments, the Government of Nepal shall provide ration supplies and other necessary arrangements.

4.4. The Interim Council of Ministers shall work to supervise, integrate and rehabilitate the Maoist combatants.

4.5. Security provisions for the Maoist leaders shall be made through the understanding with the Government.

Regarding the Nepal Army-

4.6. The Nepal Army shall be confined within the barracks as per the commitment expressed in the letter sent to the United Nations. It shall be guaranteed that their arms are not used for or against any one. The Nepal Army shall also store their arms in equal numbers as that of the Maoists and it shall be sealed with a single-lock and the key shall be kept by the concerned party. In the process of installing the lock, a device shall be used along with a siren for its record for monitoring by the United Nations. While carrying out the necessary inspection of the stored arms, the United Nations shall do it in the presence of the concerned party. Other technical details related to this process along with camera monitoring shall be prepared through an agreement between the United Nations, the CPN (Maoist) and the Government of Nepal.

4.7. The control, mobilization and management of the Nepal Army shall be done by the Council of Ministers in accordance with the newly enacted Military Act. The Interim Council of Ministers shall prepare and implement a detailed action plan for the democratization of the Nepal Army having also taken suggestions from the concerned committee of the Interim Legislature. Under this scheme activities like determining appropriate number of the Nepal Army, its democratic structure and national and inclusive character, shall be developed and the army shall be based on democratic and human rights values and other related works shall also be performed.

4.8. The Nepal Army shall continue to perform functions like border security, security of the conservation areas, protection of parks, banks, airports, power houses, telephone towers, central secretariat and security of very important persons.

5. Ceasefire

5.1. Termination of military action and armed mobilization

- 5.1.1. Both sides express their commitments not to carry out the following activities
- a.) An act of using any type of arms and weapons targeted against each other in direct or indirect way or any attack;
 - b.) Searching or confiscating weapons belonging to either side with or without weapons at the place where the arms have been stored as per the understanding reached between the two sides;
 - c.) An act of hurting and exerting mental pressure on any person;
 - d.) An act of setting up ambush targeting each other;
 - e.) Murder and violent activities;
 - f.) An act of kidnapping/arrest/detention/disappearance;
 - g.) Damaging public/private/government or military property;
 - h.) Aerial attack or bombardment;
 - i.) An act of land mining and sabotage;
 - j.) An act of spying on military activities of each other.
- 5.1.2. Both sides shall not recruit additional military forces or shall not transport arms and ammunitions and explosives or conduct military activities against each other;

Provided that the Interim Government may, in order to prevent illegal trafficking of materials like arms and weapons, explosives or part or raw materials thereof, conduct patrolling, search or confiscate them at international borders or custom points by mobilising security forces.

- 5.1.3. No individual or group shall travel with illegal arms, ammunitions and explosives.
- 5.1.4. Both sides shall assist each other to mark landmines and booby traps used during the time of armed conflict by providing necessary information within 30 days and defuse and excavate the same within 60 days.
- 5.1.5. Armies of both sides shall not be present with arms or combat dress in any civil gathering, political meeting or any public programme.
- 5.1.6. The Nepal Police and Armed Police Force shall continue to act to maintain law, order and peace and conduct criminal investigation as per the spirit and letters of the people's movement and the Peace Accord according to the prevailing law.

5.1.7. Both sides shall issue circulars to their respective armed agencies or personnel to stop addressing as 'enemy' any armed person of the other side and also to treat them in similar manner.

5.1.8. Both sides express their consent to create an inventory of governmental, public and private buildings, land and other properties occupied, locked up or not allowed to be used in course of the armed conflict and to return them immediately.

5.2. Measures for Normalization of the Situation

5.2.1. It is not allowed to collect cash or kind and levy tax against one's will and contrary to the law in force.

5.2.2. Both sides agree to make public the status of the people taken in their custody and to release them within a period of fifteen days.

5.2.3. Both sides agree to make public the information about the real name, surname and address of the people who were disappeared by both sides and who were killed during the war and to inform also the family about it within 60 days from the date on which this Accord has been signed.

5.2.4. Both sides agree, to maintain peace in the society while normalizing the adverse situation created by the armed conflict and to form a National Peace and Rehabilitation Commission to carry out relief work for the people victimized and displaced by the war and to rehabilitate them.

5.2.5. Both sides agree to constitute a High-level Truth and Reconciliation Commission through the mutual agreement in order to investigate truth about those who have seriously violated human rights and those who were involved in crimes against humanity in course of the war and to create an environment for reconciliation in the society.

5.2.6. Both sides pledge to renounce war, attack, counter-attack, violence and counter-violence of all forms in the country with a commitment to ensure democracy, peace and progressive change in the Nepali society. There is an understanding between the two sides in the matter of assisting one another in peace building and maintaining law and order.

5.2.7. Both sides guarantee to withdraw accusations, claims, complaints and cases under consideration alleged against various individuals due to political reasons and to make immediately public the state of those who are in detention and to release them immediately.

5.2.8. Both sides express their commitment to allow the persons displaced due to the armed conflict to return back voluntarily to their respective ancestral or previous places of residence without any political prejudice, to reconstruct the infrastructure destroyed as a result of the conflict and to rehabilitate and socialize the displaced persons with due respect.

5.2.9. Both sides agree to resolve the problems occurred in the above mentioned context on the basis of mutual agreement and to take responsibility at the individual and collective manner for the task to create favourable environment for normalization of mutual relations and reconciliation and to implement it with the help of all political parties, civil society and also local organizations.

5.2.10. Both sides express their commitment not to discriminate against and place any kind of pressure on other members of the family for associating with a member of the family of one or the other side.

5.2.11. Both sides agree not to create any kind of obstacle and not to allow any kind of obstruction to be created for the employees of the Government of Nepal and public agencies

in the course of travelling freely to any part of the country to fulfill their duties and to perform their business and to extend cooperation to them to perform their duties.

5.2.12. Both sides agree to allow the United Nations, International Donor Agencies and Diplomatic Missions based in Nepal, national and international non-government organizations, press, human rights activists, election observers and foreign tourists unrestricted movement in the State of Nepal in accordance with law.

5.2.13. Both sides are committed to operate publicity programmes in a decent and respectable manner.

6. End of War

6.1. We hereby declare the end of the armed war going on since 1995, giving permanency to the ongoing ceasefire reached between the Government and the Maoists on the basis of the historic agreement concluded between the Seven Political Parties and the CPN (Maoist) on November 8, 2006.

6.2. The decision taken by the meeting of high level leaders of the Seven Political Parties and the CPN (Maoist) on November 8, 2006 shall be the main policy basis for long term peace.

6.3. After confining the Nepal Army in the barracks and the Maoist Army combatants in the cantonments, holding and displacing the arms, creating fear and threat and use of any type of violence and arms contrary to the understanding, agreements and law shall legally be punishable.

6.4. Armies of both sides shall not be allowed to publicize for or against any party and to go for or against of any side. However, they shall not be deprived of their voting rights.

7. Observance of Human Rights, Fundamental Rights and Humanitarian Law

Remaining committed to the Universal Declaration of Human Rights, 1948, international humanitarian law and fundamental principles and norms concerning human rights, both sides express their consent to the following issues

7.1. Human Rights

7.1.1. Both sides reconfirm their commitment to the respect and protection of human rights and commitment to the international humanitarian law and accept that nobody shall be discriminated on the basis of colour, gender, language, religion, age, race, national or social origin, wealth, disability, birth or any other status, opinion or faith.

7.1.2. Both sides agree to create an atmosphere for the Nepali people to enjoy their civil, political, economic, social and cultural rights and are committed to create an atmosphere where such rights are not violated in the future under any condition.

7.1.3. Both sides express the commitment that impartial investigation and action shall be carried out in accordance with law against the persons responsible for creating obstructions to exercise the rights stated in the Accord and ensure that impunity shall not be encouraged.

Apart from this, they also ensure the rights of the victims of conflict and torture and the rights of the family of disappeared persons to obtain relief.

7.1.4. Both sides shall not carry out acts of torture, kidnapping and forced labor against the public in general and shall also take necessary action to discourage such acts.

7.1.5. Both sides shall, on the basis of norms and values of secularism, respect social, cultural and religious sensitivity, religious sites and the religious faith of individuals.

7.2. Right to Life

7.2.1. Both sides respect and protect an individual's fundamental right to life. No one shall be deprived of this fundamental right and no law shall be made that provides for capital punishment.

7.3. Right to Individual Dignity, Freedom and Movement

7.3.1. Both sides respect and protect the right to individual dignity. In this connection, no person including those deprived of their freedom in accordance with the law shall be subjected to torture or any other cruel, inhuman or degrading treatment or punishment. The citizens' right to privacy shall be respected by law.

7.3.2. Both sides shall, respecting fully the individual's right to freedom and security, not keep anyone under arbitrary or illegal detention, kidnap or take as hostage. Both sides agree to make public the status of every disappeared person and those held captive and inform the family members, legal advisors and other authorized persons of matters related thereto.

7.3.3. Both sides respect and protect right to freedom of movement, freedom to choose the place of residence, subject to legal norms and express the commitment to respect the right of the persons displaced by the conflict and their families to return back to their original residence or to settle in any other places of their choice.

7.4. Civil and Political Rights

7.4.1. Both sides are committed to respect and protect every person's freedom of opinion, expression, to form union and association and to assemble peaceably and the right against exploitation.

7.4.2. Both sides respect the right of every citizen to take part directly or through one's nominated representative in the matters of public concern, to cast vote, to be elected and to enjoy the right to equality of entering into public service.

7.4.3. Both sides are committed to respect the person's right to be informed.

7.5. Socio-economic Rights

7.5.1. Both sides are committed to respect and protect a person's rights to livelihood through freely chosen or accepted employment.

7.5.2. Both sides are committed to respect and guarantee the rights to food security of all people. They ensure that no interference shall be made in use, transportation and distribution of food grains and food products.

7.5.3. Both sides acknowledge that the right to health of the citizen must be respected and protected. Both sides shall not hinder the supply and assistance of medicine and health related campaigns, and express their commitment to the treatment and rehabilitation of those injured during the conflict.

7.5.4. Realizing that the right to education for all should be ensured and respected, both sides are committed to maintain appropriate academic environment in educational institutions. Both sides agree to guarantee that the right to education shall not be violated. They agree to immediately put an end to activities like taking educational institutions under control and using them, causing teachers and students to be disappeared or taking them under control or abduction and not to establish military barracks in the schools and hospitals in a way so that it would affect them.

7.5.5. Both sides agree that private property of any person shall not be seized or controlled except in accordance with law.

7.5.6. Both sides believe in giving continuity to productive activities without disturbing the industrial environment in the country, respecting the right to collective bargaining and social security in the industrial enterprises, encouraging industrial enterprises and labourers to solve problems that arise between them, if any, in a peaceful manner and respect the right to work determined by the International Labor Organization.

7.6. Rights of Women and Children

7.6.1. Both sides fully agree to provide special protection to the rights of women and children, to immediately prohibit all types of violence against women and children, including child labor, as well as sexual exploitation and harassment, and not to include or use children who are eighteen years or below. Children so affected shall, be rescued immediately and necessary and appropriate assistance shall be provided for their rehabilitation.

7.7. Right to Personal Liberty

7.7.1. Both sides agree to the freedom of belief and opinion, freedom of speech and publication, freedom to assemble peaceably and without arms, freedom of movement, freedom to practise any profession or occupation of one's choice, freedom to acquire and use property, freedom to participate in peaceful political activities, freedom to be equal before the law; and to operate or cause to be operated a tolerant system of justice.

8. Mechanism for Dispute Settlement and Implementation

8.1. Both sides express their consent to be individually and collectively responsible for not repeating past mistakes in the future, and for correcting them gradually.

8.2. The National Peace and Rehabilitation Commission may create mechanisms as per necessary to make the peace campaign a success. The constitution and procedures of the Commission shall be as determined by the Interim Council of Ministers.

8.3. Both sides are committed to resolve all types of mutual differences or problems that may arise at present and in the future through mutual dialogue, understanding, agreements and negotiations.

8.4. Both sides express their commitment to the fact that the Interim Council of Ministers shall, in order to implement this Accord, the Interim Constitution and all the decisions, agreements and understandings concluded between the Seven Political Parties, the Government of Nepal and the CPN (Maoist), constitute the National Peace and Rehabilitation Commission, the Truth and Reconciliation Commission, a High-level Recommendation Commission for the Restructuring of the State and other mechanisms as per necessity, and may determine their working procedures.

9. Implementation and Monitoring

Both sides agree to the following arrangements for the implementation and the monitoring of the agreement referred to in this Accord -

9.1. Both sides agree to give continuity to the task for monitoring provisions concerning human rights referred to in this Accord by the Nepal based United Nations Office of the High Commissioner for Human Rights.

9.2. Both sides agree to cause to be monitored the management of armies and the arms by the United Nations Mission in Nepal as referred to in the five-point letter sent to the United Nations earlier and in this Accord and express their commitment to assist therein.

9.3. Both sides agree to cause the election of the Constituent Assembly to be supervised by the United Nations.

9.4. The National Human Rights Commission shall, in addition to its responsibilities as determined by law, also carry out such works as are related to the monitoring of human rights as referred to in this Accord. The said Commission in the course of performance of its business may coordinate with national and international institutions concerning human rights and obtain necessary help.

9.5. Both sides agree to receive the reports submitted by all abovementioned bodies, to provide information requested by them, and to implement the suggestions and recommendations provided by them on the basis of agreements and discussions.

10. Miscellaneous

10.1. Both sides agree not to operate parallel or other forms of mechanism in any areas of the State or Government machinery as per the spirit of the decisions of November 8, 2006 and the essence of the peace Accord.

10.2. Both sides agree to sign any complementary agreements, as per necessity, for the implementation of the present Accord.

10.3. This Accord may be amended at any time with the agreement of both sides. Both sides agree to provide the other party with a written notice of the amendment if a party desires to amend it. Amendment to the Accord may be made with the agreement of both sides after receiving such a notice. The provisions to be made by such an amendment shall not be below than that of the minimum standards of recognized international human rights and humanitarian laws and the main spirit for establishment of peace.

10.4. If any dispute arises in the interpretation of this Accord, a joint mechanism consisting of both sides shall make the interpretation on the basis of the preamble and the documents included in the annex to this Accord, and such an interpretation shall be final.

10.5. The concept of "two sides" and the "situation" as referred to in this Accord shall, ipso facto, be ceased after the constitution of the Interim Legislature-Parliament. Thereafter, all responsibility for implementing the obligations referred to in this Accord shall be as per the arrangements made by the Interim Council of Ministers. It shall be the duty and responsibility of all political parties to extend cooperation in the compliance and implementation of the Accord.

10.6. At a time when the entire country is centred in the main campaign of the election to the Constituent Assembly, we hereby heartily request all to resolve their problems and demands through dialogue and negotiation and to extend cooperation to the election of the Constituent Assembly and to the peace and security situation.

10.7. We hereby heartily appeal to civil society, professional groups, people's class organizations, media communities, intellectuals and all Nepali people to actively participate in this historic campaign to build a New Democratic Nepal and to establish sustainable peace through the elections of the Constituent Assembly by ending the armed conflict.

10.8. We heartily urge all the friendly nations and also the International Community including the United Nations Organization to extend their support to Nepal in this campaign for establishing full democracy and sustainable peace in the country. Taking cognizance of the responsibility for the future of the country and people, and being fully committed to the text of this Comprehensive Peace Accord, we hereby execute this Peace Accord on behalf of the

Government of Nepal and the Communist Party of Nepal (Maoist), and make this Comprehensive Peace Accord public.

Sd.
(Prachanda)
Chairperson,
Communist Party of Nepal (Maoist)

Sd.
(Girija Prasad Koirala)
Prime Minister,
Government of Nepal

Done on November 21, 2006

AGREEMENT ON MONITORING OF THE MANAGEMENT OF ARMS AND ARMIES 8 DECEMBER 2006

Preamble

In keeping with the letters to the United Nations (UN) Secretary-General of 9 August and the Comprehensive Peace Accord of 21 November 2006;

Guaranteeing the fundamental right of the Nepali people to take part in the constituent assembly elections in a free and fair environment without fear;

Declaring the beginning of a new chapter of peaceful democratic interaction by ending the armed conflict taking place in the country since 1996, based on the Comprehensive Peace Accord between the two parties in order to accomplish, through the constituent assembly, certainty of sovereignty of the Nepali people, progressive political outlet, democratic restructuring of the state, and socio-economic-cultural transformation; and,

Affirming the will to fully observe the terms of this bilateral agreement witnessed by the United Nations

The parties agree to seek UN assistance in monitoring the management of the arms and armies of both sides by the deployment of qualified UN civilian personnel to monitor, according to international

norms, the confinement of Maoist army combatants and their weapons within designated cantonment areas and monitor the Nepal Army (NA) to ensure that it remains in its barracks and its weapons are not used against any side.

1 Modalities of the Agreement

1.1 Principles

Neither of the parties shall engage in movement or redeployment of forces resulting in tactical or strategic advantage.

Any claims or reports of violations of this agreement will be reported to UN monitors, substantiated or not substantiated, and subsequently reported to the parties through the appropriate representative of the UN Mission in Nepal.

The security forces deployed by the interim government shall have authority to conduct routine patrol, explore in order to prevent illegal trafficking of the weapons, explosives or raw materials used in assembling weapons at the international border or custom points and seize them.

Both parties agree to allow the United Nations, international donor agencies and diplomatic missions based in Nepal, national and international non-governmental organizations, press, human rights activists, election observers and foreign tourists to travel unrestricted according to law in the state of Nepal. The parties will ensure the safety, security, freedom of movement and well-being of UN Mission and associated personnel, goods and services in all parts of Nepal.

The parties shall immediately take all necessary measures to cooperate with efforts aimed at controlling illicit trafficking of arms and the infiltration of armed groups.

Both parties fully agree to not include or use children who are 18 years old and under in the armed forces. Children thus affected would be immediately rescued and necessary and appropriate assistance will be provided for their rehabilitation.

1.2 Definitions

The following definitions are accepted

(1) *Cantonment (Maoist army)* is a temporarily designated and clearly defined geographical area for encampment and provision of services for the Maoist combatant units including weapons, ammunition and equipment. The cantonments are provided for all echelons of the Maoist army.

(2) *Barracking (NA)* is the deployment of Nepal Army units to barracks, including weapons, ammunition and equipment. No units below a company level will be independently deployed unless for activities specified elsewhere in this agreement or otherwise mutually agreed by the parties.

(3) *Secure arms storage areas* are either military barracks with regular armoury stores used for storage of weapons, munitions and explosives, or storage containers established in special perimeters at cantonment sites controlled and guarded by the responsible unit.

(4) *"The parties"* refers to the party of Government of Nepal (including the Nepal Army) and the party of the Communist Party of Nepal (Maoist), (including the Maoist Army.)

(5) *UN Monitoring* refers to all efforts by the United Nations Mission to determine relative compliance with the terms spelled out in this agreement and to report to all the parties and others concerned its findings.

(6) *The Joint Monitoring Coordination Committee (JMCC)* is the monitoring, reporting and coordinating body chaired by the UN with membership of the parties. The JMCC is responsible for supervising compliance by the parties with this agreement in accordance with provision 6.1 of this agreement.

(7) *Joint Monitoring Teams (JMTs)* are the bodies which will assist in monitoring the cessation of hostilities. The Joint Monitoring Teams will be active at the regional and local level and in mobile teams. Each team will be comprised of one UN monitor serving as team leader, one monitor from Nepal Army and one monitor from the Maoist Army. Joint Monitoring Teams will not be used for weapons storage inspections. Inspections at Maoist army cantonments will take place with a UN monitoring team and a representative of the Maoist army. Inspections at Nepal Army barracks will take place with a UN monitoring team and a Nepal Army representative.

(8) *Maoist army combatants*: For purposes of this agreement this will include regular active duty members of the Maoist army who joined service before 25 May 2006, who are not minors and who are able to demonstrate their service, including by CPN(M) identity card and other means agreed by the parties.

1.3 Promotion

The parties shall promote awareness of this agreement, and adherence to its provisions, among their commanders, members and affiliated groups.

The parties, Government of Nepal, Nepal Army (NA), CPN(M) and the Maoist army, shall design, in cooperation with the UN Mission, an awareness programme to ensure that local communities and the parties' commanders, members and affiliated groups understand the

mandate of the UN Mission and all of the obligations of the parties spelled out in this agreement. The information programmes shall include the use of meetings and print and electronic media in local languages.

1.4 Phases

This agreement shall come into force upon signing. Thereafter it shall be implemented in phases, as follows

- (1) Reporting and verification;
- (2) Redeployment and concentration of forces;
- (3) Maoist army cantonment, NA barracking and arms control; and,
- (4) Full compliance with the agreement.

A full and practical timeline will be established by the parties for all of these activities to take place in consultation with the UN.

2 Reporting and verification

The parties will report detailed information about their troops and this information will be treated with appropriate confidentiality by the United Nations. The parties will provide maps and sketches showing current dispositions, including

- (1) Order of battle/military structure, organisation, deployment and number of troops;
- (2) Minefields, landmines, unexploded ordnance, standard explosives, improvised explosive devices and exact location of such items;
- (3) All necessary information about roads, tracks, trails and passages related to encampments;
- (4) Information regarding armed or unarmed groups working along with the parties, the Nepal Army (NA) and the Maoist army, including their responsibilities; and,
- (5) Other information required by the UN Mission for proper monitoring of the disposition of arms and armies.

The UN Mission shall check this information immediately after monitors are deployed.

3 Redeployment and concentration of forces

Comprehensive plans, timelines and routes for the redeployment and concentration of forces will be provided by both the NA and Maoist army to the UN Mission.

The redeployment and concentration of all combatants in Nepal -- with the NA in barracks and the Maoist army moving in to cantonment sites -- shall be carried out in consultation with the UN. The redeployment and cantonment of forces will be monitored by the UN monitors after they are deployed.

Both sides express an understanding to create a record of government, public and private buildings, land and other properties and return them immediately.

The parties will withdraw all military and paramilitary checkpoints (unless explicitly permitted in this agreement) to promote and guarantee free movement and create an environment free of fear and intimidation.

The Nepal Police and Armed Police Force shall continue the task of maintaining law and order and conduct criminal investigations as per the spirit and sentiment of the *Jana Andolan* and peace accord as well as the prevailing law. Both parties agree not to operate parallel or

other forms of mechanism in any areas of the state or state machinery as per the spirit of the decisions of November 8, 2006 and the essence of the peace accord. All sides agree to let employees of Nepal Government and public agencies travel freely to any part of the country, to fulfill their duties and not to create any obstacle or obstruction while executing their work or not to let obstructions to arise and to facilitate their work.

4 Maoist Army cantonment, barracking of the NA and arms control

4.1 Maoist army cantonment

In accordance with the commitment expressed in the letter sent to the United Nations, Maoist army combatants and their weapons shall be confined within designated cantonment areas. The cantonment shall be based on comprehensive planning and preparation before implementation. After the Maoist army combatants stay in the temporary cantonments, the Government of Nepal will provide food supplies and other necessary arrangements. When implemented, the comprehensive concept shall ensure good communications and proper logistics. UN monitors will have access to any and all cantonment sites for purposes of monitoring.

4.1.1 Commanders' responsibilities

The normal Maoist army chain of command, control, communication and information will be utilised to control the Maoist army cantonment, using the normal Maoist army structure in administration of the sites.

There will be seven main cantonment sites and 21 satellite cantonment sites of three per main cantonment site. The satellite sites will be clustered no more than two hours driving distance from the main sites unless otherwise agreed by the parties.

The designated seven main sites will be under command, control, communication and information of the Maoist army site commander and the satellite sites by the designated satellite commanders. The site commanders shall provide the following information in detail for each site to the UN

Mission

- (1) Command structure for the unit and sub-units plotted on a map;
- (2) Names of commanders down to company level;
- (3) Communication system;
- (4) Complete list of personnel;
- (5) Complete list of weapons, i.e. types, numbers, serial number and calibre under storage at the main cantonment sites;
- (6) Ammunition inventory type, lot number and amount; and,
- (7) List of names for the site security guards detachment, and complete list of weapons and ammunition for the detachment (main and satellite cantonment levels).

Site commanders' responsibilities include

- (1) Camp security, including access control to the site;
- (2) Ensuring the security, freedom of movement and well-being of UN Mission and associated personnel, goods and services;
- (3) Providing information in cooperation with the UN Mission in accordance with section 2;

- (4) Maintenance of discipline, morale and normal training in the spirit of the Comprehensive Peace Accord, excluding live fire exercises;
- (5) Daily routines and control of troops; and,
- (6) Logistics and camp services (in cooperation with the Government of Nepal and other assisting agencies).

4.1.2 Weapons storage and control

The parties agree upon the safe storage of all Maoist army weapons and ammunition, in the seven main cantonment areas under UN monitoring, except as provided below for perimeter security purposes. Both sides shall assist each other to mark landmines and booby-traps used during the time of armed conflict by providing necessary information within 30 days and to defuse and remove/lift and destroy them within 60 days. All improvised explosive devices will be collected at designated sites a safe distance from the main cantonment areas. These sites shall be agreed by the parties in consultation with the UN Mission. Unsuitable devices will be destroyed immediately. Stable devices will be stored safely and under 24-hour armed guard provided for by the guard arrangements cited below. The parties, in consultation with the UN, will determine a timeline and process for the later destruction of all improvised explosive devices. To ensure the safety of both monitors and Maoist army personnel, no improvised explosive devices or crude bombs will be brought inside the cantonment sites.

In the main cantonment sites the weapons and ammunition storage area will be secured by the following system

- (1) A solid fence will surround the specified area, including a gate with a lock. There will be signs on the fence clearly identifying the restricted area.
- (2) The weapons storage depot will be composed of storage containers painted white and furnished with shelves for safe weapons storage and easy control, and with a complete inventory (weapon type, calibre and serial number).
- (3) A single lock provided by the UN will secure each storage container. The key will be held by the designated main cantonment site commander. A 24-hour surveillance camera provided by the UN Mission will cover the storage site and will be monitored from the UN office in the cantonment site. Floodlights will be switched on automatically during hours of darkness.
- (4) The UN Mission will provide an inspection registration device mounted on each container door indicating when the storage container has been opened.
- (5) An alarm system provided by the UN Mission will be connected to sirens in both the UN office and the camp commander's office. The system will be activated if the container door is opened without a "safe button" having been switched off in connection with regular inspections.
- (6) UN monitors will carry out the inspections of the arms storage area and containers in the presence of a Maoist army representative.

Each main cantonment site will be allowed 30 weapons of the same make and model to be used only for clearly defined perimeter security by designated guards, with each satellite allowed 15 such weapons under the same conditions. These weapons will all be properly registered with make and serial number and locked in a guardhouse when not in use. The parties, in consultation with the UN, will periodically review the number of weapons needed for perimeter security purposes on the basis of a shared threat assessment.

Security provisions will be made for CPN(M) leaders through understanding with the government.

The UN Mission shall monitor these commitments with a full-time presence at the Maoist army main cantonment sites and through field visits and regular inspections. These inspections will be carried out randomly and without warning.

4.1.3 Registration of Maoist army combatants at cantonment sites

All Maoist army combatants will be registered at the main cantonment sites. This registration will include the provision of age, name, rank, responsibilities within unit/formation, date of entry into service and will provide the basis for a complete list of personnel. Maoist combatants will be registered regardless if they are in possession of weapons or not. If with weapon, the type and condition of weapon will be specified. The total number of weapons will be categorized by unit/formation. Only those individuals who were members of the Maoist army before 25 May 2006 will be eligible for cantonment. The parties will agree as to how this pre-existing service is to be confirmed in consultation with the UN.

As part of this registration, all Maoist army combatants will present their Maoist army identity card to be marked by the UN. The process for marking the cards will be determined. This registration card will be the basis for any assistance received by Maoist army members. Unregistered persons will not be eligible for assistance or permitted to remain in cantonments.

Only those Maoist army combatants who have been properly registered at cantonment sites will be eligible for possible integration into the security forces fulfilling the standard norms. Any discharged personnel will be ineligible for possible integration. Those who are eligible for integration into the security forces will be determined by a special committee as agreed in the Comprehensive Peace Accord. This integration process will be determined in subsequent agreement with the parties.

Upon registration Maoist army combatants, if found to be born after 25 May 1988, will be honourably and automatically discharged.

Discharged Maoist army combatants must: release all weapons, uniforms and other military gear; and, agree not to return to cantonment sites unless mutually agreed by UN monitors in consultation with the parties. The assistance packages to be provided to voluntarily discharged personnel will be agreed by the parties in advance of cantonment.

The Interim Council of Ministers will form a special committee to supervise, integrate and rehabilitate the Maoist army combatants.

4.2 Barracking of the Nepal Army

4.2.1 General regulations

In accordance with the commitment expressed in the letter sent to the United Nations, the Nepal Army shall remain in its barracks and its arms are not to be used in favour of or against any side. UN monitors will have access to any and all NA barracks for purposes of monitoring whether Nepal Army forces or weapons are being used for or against any party. Upon visiting any Nepal Army barracks for inspection, the site commander will be duly notified, and UN inspections will relate only to matters regarding the disposition of forces and weapons.

The Council of Ministers will control, mobilise and manage the Nepal Army as per the Army Act of 2006 (*Sainik Ain 2063*) or its successor legislation. The Interim Council of Ministers to prepare and implement the detailed action plan of the Nepal Army's democratization by taking suggestions from the concerned committee of the Interim Parliament/legislature. Under

this to carry out activities like assessing the appropriate number of the Nepal Army, to train the army in democratic and human rights values while developing democratic structure, national and inclusive character.

4.2.2 Commander responsibilities

The normal NA chain of command, control, communication and information will be utilised to monitor the NA deployment to barracks. The commanders shall provide the following information in detail to the UN Mission

- (1) Command structure for the unit and sub-units plotted on a map;
- (2) Names of commanders down to company level;
- (3) Communication system;
- (4) Order of battle/military structure, organisation, deployment and number of troops;
- (5) Minefields, landmines, unexploded ordnance, standard explosives, improvised explosive devices and exact location of such items; and,
- (6) Other information required by the UN Mission for proper monitoring of the disposition of arms and armies.

The NA will ensure the safety, security, freedom of movement and well-being of UN Mission and associated personnel, goods and services, and provide information in cooperation with the UN Mission according to Section 2.

The UN Mission shall monitor these commitments through daily presence in selected NA barracks, field visits and regular inspections.

4.2.3 Weapons storage and control

The Nepal Army will remain within the barracks as per the commitment expressed in the letter sent to the UN to ensure that their arms are not used for or against any party. The Nepal Army to store arms in equal numbers to that of the Maoist army, to seal it with a single-lock and give the key to the concerned party. In the process of installing the lock, to assemble a mechanism including a siren and register for the monitoring by the UN. While carrying out the necessary examination of the stored arms, the UN will do so under the presence of a Nepal Army representative. The barrack/barracks where NA arms will be monitored under the conditions spelled out in section 4.1.2 will be identified and agreed by the parties. The arms will be stored in storage containers.

4.2.4 Deployment and Concentration of Forces – NA permitted activities

In accordance with the spirit of the Comprehensive Peace Accord, continuity will be given to functions of the Nepal Army including border security, security of the conservation areas, protected areas, banks, airports, power houses, telephone towers, central secretariat and security of VIPs. A detailed list of these institutions and installations will be kept by the Secretary Ministry Defence, along with the number and types of forces assigned to such duties. The list of such institutions and installations will be kept by the NA under seal, and this list will be made available to UN monitors when they deem necessary on a case-by-case basis.

Permitted NA activities are as follows

1. Routine military activities within the barracks and regular training in barracks and camps. The JMCC will be notified 48 hours in advance before undertaking limited live fire exercises at designated live firing ranges.
2. Participation in official ceremonies, parades, etc. as directed by the Government.
3. Provision of Border Security as directed by the Government.
4. Relief of troops on a one-to-one basis, including transport as mentioned.
5. Regular maintenance and replacement of non-lethal equipment, including transport as mentioned. Maintenance and replacement of lethal weapons will take place only with the determination of the interim government or agreement by both parties.
6. Execution of development and construction tasks as directed by the civilian authorities, on central, regional and local levels.
7. Provision of support in relief work in times of natural and other disasters as directed by the Government.
8. Participation in Peacekeeping Operations called for by the United Nations, and all preparations, transport, training, transfer of equipment, etc. connected to this.
9. Provision of security for VVIPs and VIPs.
10. Provision of security of vital installations as directed by the Government.
11. Provision of security of transportation of Nepal Rastra Bank funds.

For all of the above activities the rules regarding notification of troop, air movements and exercises spelled out in section 5.2 apply.

5. Compliance with the Agreement

5.1 Prohibited Activities

In the spirit of the Comprehensive Peace Accord, and in light of this agreement, after the placement of the Nepal Army in the barracks and the Maoist Army combatants in cantonment, the parties shall scrupulously refrain from the following activities

1. Holding and carrying arms is in violation of the law. Displaying arms, intimidation and any type of use of violence is prohibited, and use of arms is legally punishable.
2. Any type of arms and weapons targeted against each other in a direct or indirect way or any act of attack.
3. Harming or intimidating any person, including internally displaced persons, humanitarian and development workers and other non-combatants, and any seizure of their equipment and property.
4. Ambushes, murder or violent operations.
5. Kidnapping, unlawful detention or imprisonment, disappearances;
6. All offensive military flights in and over Nepal.
7. Damaging or seizing public/private/government, military or UN property and all attacks on UN and associated personnel.
8. Planting mines or improvised explosive devices, conducting sabotage or military espionage.

9. Recruiting additional armed forces or conducting military activities against each other, including transporting weapons, ammunitions and explosives (unless mutually agreed by the parties and notified in advance according to the terms of this agreement.)
10. Collecting cash or goods and services or levying tax against one's wishes and against the existing law.
11. Any actions that impede or delay the provision of humanitarian assistance or protection to civilians.
12. Any restrictions on the safe, free and unimpeded movement of humanitarian or development agencies undertaking activities approved by the interim government or its successor.
13. All acts and forms of gender-based violence.
14. Any restrictions on the free movement of people and goods.
15. All activities that obstruct the efforts of the UN Mission and amount to a failure to cooperate with the UN Mission, including the prohibition of the UN Mission patrols and flights over any location.
16. Any attempt by a party to disguise its equipment, personnel or activities as those of the UN Mission, other United Nations agencies, the International Committee of the Red Cross/Crescent or any other similar organisation.
17. Any attempt to redeploy military forces and equipment or occupation of any positions out of their respective deployment positions without the consent of the Joint Monitoring Coordination Committee.
18. The use of children who are 18 years old and under in the armed forces.
19. All hostile propaganda and incitement to military action.

The parties shall also refrain from all activities that are prohibited elsewhere in this agreement.

5.2 Permitted activities

The key principle that shall underpin permitted activities for both sides shall be to alleviate the effects of the armed conflict on civilians and the war-affected areas and to galvanise popular support for peace. Permitted activities for both sides will be conducted as per the decisions of the interim government. Troop, air movements and exercises have to be properly notified and approved by the Joint Monitoring Coordination Committee at least 48-hours in advance.

Permitted activities include

- (1) De-mining and decommissioning of military hazards;
- (2) Development activities to include improvement and opening of roads, rehabilitation of bridges and passages and airstrips according to the decisions of the interim government;
- (3) Humanitarian relief;
- (4) Socioeconomic activities such as assisting free movement of people, goods and services;
- (5) Free movement of unarmed soldiers in plain civilian clothes who are on granted leave, medical referrals, or visiting families – no more than 12 percent of the total retained force at a given cantonment or barracks will be on authorised leave at any given time unless mutually agreed by the parties;

- (6) Supply of non-lethal items to military units, food, water, medicine, petrol, oil and lubricants, stationary, uniforms etc; and,
- (7) Medical evacuation.

5.3 Violations

The following acts shall constitute violations of the agreement

- (1) Any act that contravenes this agreement;
- (2) Unauthorised troop movements;
- (3) Unauthorised recruitment, conscription or mobilisation;
- (4) Unauthorised replenishment of military equipment;
- (5) Violation of human rights, humanitarian law or obstruction of freedom of movement of people, goods and services;
- (6) Espionage, sabotage, air surveillance and acts of subversion; and,
- (7) Military flights, or military flights utilising civilian aircraft, over cantonment sites without 48-hour notification to the parties and the UN mission, except in emergency situations or medical evacuations.

6. The United Nations Mission

Monitoring of compliance with this agreement will be carried out

- (1) By UN Monitors; or,
- (2) By Joint Monitoring Teams, if so decided by the JMCC and in keeping with other provisions of this agreement.

The UN Mission will submit reports to the parties on compliance with this agreement. It will do so either directly or through the JMCC.

6.1 The Joint Monitoring Coordination Committee

The nine-member Joint Monitoring Coordination Committee (JMCC) will have a chairman appointed by the UN Mission. There will be two Vice-Chairmen, one each from the Maoist Army and the NA. The remaining six members will be two UN, two NA and two Maoist army, all as selected by the parties respectively.

The JMCC shall reach its decisions by consensus. In the event of a deadlock, the representative of the UN Secretary-General shall have final authority for reporting on the compliance of the parties with this agreement to the Secretary-General and to the interim government for resolution. The Chairman shall report regularly to the representative of the Secretary-General and to the designated representatives of the parties regarding the activities of the JMCC.

The JMCC shall serve three main functions

- (1) To assist the parties in implementing this agreement. The JMCC shall be the central coordinating body for monitoring arms and armies in accordance with the terms of this agreement and to approve, where appropriate those activities specified in Section 5.2.

(2) To serve as a dispute resolution mechanism. The JMCC shall resolve all disputes and military or operational difficulties, complaints, questions or problems regarding implementation of this agreement.

(3) To assist in confidence building. The JMCC shall work to gain the trust and confidence of the parties and promote the overall goals of this agreement among the people of Nepal.

In order to achieve these goals, the JMCC shall operate according to the following basic principles

(1) Resolve all problems and disputes at the lowest level possible, i.e. delegation of authority to the JMTs;

(2) Promote joint problem-solving and build trust and confidence through active efforts to appropriately investigate and report on all incidents of concern to the parties; and,

(3) Build on lessons learned in the process.

The Joint Monitoring Teams (JMTs) will assist the Joint Monitoring Coordination Committee at the local level and through site visits. The JMTs will comprise one international monitor as the team leader and one monitor from Nepal Army and one monitor from the Maoist Army. The number of JMTs and their deployment will be determined by the chairman of the JMCC in consultations with that body.

The tasks of the JMTs will include

(1) Village and community visits and liaison with the civilian community;

(2) Cooperation with other UN-agencies, and liaison with international organisations and nongovernmental organisations;

(3) Assistance to the parties in creating a favourable operational environment for the conduct of the ceasefire by information sharing and defusing local tension;

(4) A pro-active concept for initiation of conflict management at the local level; and,

(5) Investigation of complaints linked to possible alleged violations of the agreement, reference paragraph 5.1, and to recommend measures to ensure compliance.

Joint Monitoring Teams will not be used for designated weapons storage inspections.

7 Miscellaneous

This agreement can be revised at any time with the consent of both parties. Both parties agree to provide to each other prior written information if they wish to make any change. The amendments can be made to the agreement with the consent of both parties after receiving the information. The provisions to be made by such an amendment will not fall below the minimum standards of accepted international human rights and humanitarian laws.

Both parties consent to sign any complementary understandings, as necessary, for the implementation of the present agreement.

This agreement will be signed by both parties in Nepali and English. The United Nations will witness the English language version of this agreement and, accordingly, the English-language version of this agreement will be considered as authoritative in matters of dispute.

The spirit of the Comprehensive Peace Accord shall guide the interpretation and implementation of this agreement by all the parties.

This agreement shall come into force upon signature, and it supersedes the agreement of the same name done on the 28th day of November 2006 (12 Mangsir 2063 BS).

Done in Kathmandu, Nepal on the 8th day of December 2006 (22 Mangsir 2063 BS)

Krishna Bahadur Mahara
Coordinator
Negotiating team
CPN (Maoist)

Krishna Prasad Sitaula
Coordinator
Negotiating team
Government of Nepal

Witnessed by
Ian Martin
Personal Representative of the Secretary-General
United Nations