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Constituent Assembly

Constitutional Committee

Report Regarding the Concept Paper and Preliminary Draft

2066 (AD 2010)

Constituent Assembly, Constitutional Committee

Singh Durbar, Kathmandu.

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Opinion

Right Honorable Chairperson,

First of all, I would like to pay homage to the great martyrs who sacrificed their lives during the historical struggles and in the peaceful people's movements of the past for the country and the people. I would also like to remember the people who were disappeared during the conflict and the movements, and wish for the recovery of injured warriors.

The Interim Constitution (IC) of Nepal, 2063 (AD 2007) has provided Nepali people with basic right to build their own constitution. It is a known fact that the Constituent Assembly was formed accordingly and, in accordance with its Article 63, and the jurisdiction of the Constituent Assembly in pursuance to Constituent Assembly Rules, 2065 (AD 2008-09), Rule 65, By-laws (2) and (3), has been specified in the following gway.

- The by-laws have made a provision that the thematic committees shall present before the Constituent Assembly a report regarding the concept paper and preliminary draft pertaining to their jurisdiction. It would be the primary duty of the Constitutional Committee to prepare and present before the Constituent Assembly a draft of the constitution on the basis of the reports received from these committees and the recommendations and directions of the Constituent Assembly after holding a discussion on them.
- The by-laws have also given responsibility to the Constitutional Committee to identify issues which are not included in the Preamble of the Constitution or the jurisdiction of any thematic committees but which are necessary to be incorporated in the Constitution, and to prepare a concept paper and preliminary draft and present to the Assembly along with it.

The Committee has prepared this report as its prime responsibility after preparing a concept paper and preliminary draft along with the issues which are not included in the Preamble of the Constitution or fallen within the jurisdiction of any thematic committees but are essential to be incorporated in the Constitution. In this process, it has made a comparative study of our constitutional development and the subject matters of some of the world's constitutions, and has paid special heed to avoid duplication of the issues pertaining to the jurisdiction of the thematic committees. At the moment, it has identified the issues regarding the Preamble, themes to be included in Part One of the Constitution, process of amendment of the constitution, constitutional provisions regarding political parties, declaration of the state of emergency, transitional provisions, constitutional provisions regarding the right to remove difficulties, provisions to be incorporated in different Parts, Part of Definition, and Short Title and Commencement as the issues regarding the jurisdiction of the Committee. Consequently, it has, as a fulfillment of its responsibility, presented before the esteemed Constituent Assembly a report along with the concept paper and preliminary draft of the given issues.

With regard to the procedures relating to the conduct of business of the Constitutional Committee, a taskforce was formed in order to identify its jurisdiction, formation of work details, internal procedure of work for the Committee meetings, formation of work schedule and the areas of expert services required for the Committee, and to present a report along with the recommendations. The Committee had begun its work on the basis of the report of the taskforce. Accordingly, in view of the subject matters it had to cover, the jurisdictions of the Committee were divided into five components, and the work commenced after the

formation of subcommittees for the Preamble, Name of the Constitution, Amendment of the Constitution, Political Parties, Miscellaneous and Provisions for Emergency. These subcommittees had to make a comparative study of our past practices and the practices of other countries of the world as well as to study the latest developed values, and to use the world constitutions and books written by experts and periodicals as the reference materials. They then had to complete the preliminary work of preparing the concept paper and present the report to the Committee along with the recommendations.

Common people were invited by disseminating information through public media to provide their suggestions and recommendations on the issues relating to the jurisdictions of the Committee with an aim to involve them in creating their own constitution. The Committee prepared questionnaires consisting of twenty-six thematic questions. It is well known that the Committee also involved the honorable members therein and forty teams of the Constituent Assembly visited all the seventy-five districts of the country to collect public opinions and accordingly came up with those recommendations. The work began by forming subcommittees in order to study, analyze and tabulate the suggestions and recommendations received from the people, and to incorporate them in a single report.

The basic norms, values and principles to be internalized by the future constitution, the entire structure of the future constitution, and the concept paper required to incorporate the issues pertaining to the jurisdiction of the Constitutional Committee were presented differently by different political parties. With regard to the performance of the work of the Committee, experts in the issues concerned and the representatives of different organizations provided precious suggestions and recommendations on issues such as the basic principles of the future constitution and the concept paper to be prepared by the Constitutional Committee.

A 19-member draft subcommittee was formed in order to revise and finalize the concept paper prepared by the subcommittees on the basis of all the above procedures and recommendations discussed in the Committee, and to prepare the preliminary draft along with explanatory comments. The revised draft was prepared after an extensive discussion by the Committee on the preliminary draft presented by the draft subcommittee, and to incorporate the recommendations received thereof. The honorable members of the Committee were requested to present in writing any additional recommendations for the revised draft within a deadline. Then the written recommendations received within the deadline were further discussed extensively in the Committee wherein attempts were made to reach an agreement. For contentious issues, a process was adopted to finalize them through the democratic means of voting. Accordingly, a decision regarding the issues scheduled to be finalized through voting was held in the Committee held on 2066.09.10 (ie 25 December 2009). The issues that were settled through the decision were matched in the concept paper and preliminary draft, and consequently the present report has been presented to the esteemed Constituent Assembly through the Right Honorable Chairperson according to the decision made by the Committee made on 2066.09.10 (25 December 2009). Altogether seventy-nine meetings of the Constitutional Committee, spanning over a total of 205 hours, were held to complete the entire work.

It has been mentioned in the draft that the report of the Committee shall be completed after it receives the reports of the thematic committees of the Constituent Assembly on concept paper and preliminary draft report on issues pertaining to their jurisdictions. We have tried our best to incorporate all the issues raised in the preliminary drafts and concept papers presented by the Committees on issues that fall within its jurisdiction. Yet we would like to

welcome valuable suggestions by the honorable members of the Constituent Assembly if any issue is missing with the belief that the draft covering the issues relating the Committee's jurisdiction will be completed only with your suggestions.

I express my cordial thanks to the Right Honorable Chairperson of the Constituent Assembly, Honorable Vice Chairperson, and all the honorable members of the Committee for facilitating the smooth preparation of the preliminary draft of the Constitution along with the concept paper of the issues relating its jurisdiction. Moreover, I would like to express my appreciation to the experts who came to the Committee and made valuable suggestions and recommendations and for the untiring work of the Secretariat staff. I, on behalf of the Committee as well personally, would like to thank and acknowledge all Nepalese citizens residing in and outside the country who directly or indirectly contributed in the preparation of this report, and to all those experts, representatives of nongovernmental organizations, media, private sectors and the entire people who provided valuable suggestions and recommendations to the Committee.

Finally, I would like to present this report (as approved the committee) on the preliminary draft along with the concept paper on issues pertaining to the jurisdiction of the Committee through the honorable chairperson.

Thank you.

Date: 2066.9.20 (ie 4 January 2010)

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(Nilamber Acharya)
President

Logo

Constituent Assembly
Constitutional Committee

Ref. No.

Constituent Assembly Secretariat
Parliament Building, Singh Durbar
Kathmandu, Nepal.
Date: 2066.09.19
(ie 3 January 2010)

Right Honourable Chairperson,
Constituent Assembly.

Subject: Report Regarding the Concept Paper and Preliminary Draft.

We present this report keeping in mind the responsibility and jurisdiction specified by the Constituent Assembly Rules, 2065 (AD 2008-08), Rule 65, By-law (3) as well as following the decision of the Constitutional Committee meeting held on 2066.9.10 (ie 25 December 2009) to present the Report Regarding the Preliminary Draft Along with the Concept Paper, 2066 as prepared and passed by the Committee.

S.No.	Names	Signatures
1.	Hon. Nilamber Acharya (President)	Sd
2.	Hon. Agni Prasad Kharel	Sd
3.	Hon. Upendra Yadav	Sd
4.	Hon. Eknath Dhakal	Sd
5.	Hon. Kalpana Rana	Sd
6.	Hon. Kul Bahadur Gurung	Sd
7.	Hon. Keshav Prasad Mainali	Sd
8.	Hon. Khadga Bahadur Basyal (Sarki)	
9.	Hon. Khadga Bahadur Vishwakarma	Sd
10.	Hon. Khim Lal Devkota	Sd
11.	Hon. Gayatri Saha	
12.	Hon. Girija Prasad Koirala	
13.	Hon. Chandra Prakash Mainali	Sd
14.	Hon. Chandra Bahadur Gurung (Syangja)	Sd
15.	Hon. Chitra Bahadur K.C.	Sd
16.	Hon. Chhavi Lal Vishwakarma	Sd
17.	Hon. Jwala Kumari Sah	Sd
18.	Hon. Jayapuri Gharti	Sd
19.	Hon. Jhalnath Khanal	Sd
20.	Hon. Dev Prasad Gurung	Sd
21.	Hon. Dharma Sheela Chapagai	Sd

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S.No.	Names	Signatures
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22.	Hon. Narayan Kaji Shrestha	Sd
23.	Hon. Nilam Burma	Sd
24.	Hon. Padam Bahadur Rai	Sd
25.	Hon. Pari Thapa	
26.	Hon. Pasang Sherpa (Tapplejung)	Sd
27.	Hon. Pushpa Kamal Dahal (Prachanda)	
28.	Hon. Prakash Chandra Lohani	Sd
29.	Hon. Prakash Man Singh	
30.	Hon. Prem Bahadur Singh	Sd
31.	Hon. Baban Singh	Sd
32.	Hon. Barshman Pun Magar	Sd
33.	Hon. Baburam Bhattarai	Sd
34.	Hon. Buddha Ratna Manandhar	Sd
35.	Hon. Bhim Bahadur Rawal	Sd
36.	Hon. Mahanth Thakur	Sd
37.	Hon. Mahendra Paswan	Sd
38.	Hon. Madhav Kumar Nepal	Sd
39.	Hon. Malbar Singh Thapa	Sd
40.	Hon. Ratna Sherchan	Sd
41.	Hon. Ramchandra Poudel	Sd
42.	Hon. Ramcharan Chaudhari (Tharu)	Sd
43.	Hon. Rukmini Chaudhari (Tharu)	Sd
44.	Hon. Rupa V.K.	Sd
45.	Hon. Renu Chand (Bhatta)	Sd
46.	Hon. Laxman Lal Karn	Sd
47.	Hon. Laxmi Lal Chaudhari	
48.	Hon. Lokendra Bahadur Chand	Sd
49.	Hon. Bijay Kumar Gachhedar	Sd
50.	Hon. Bimlendra Nidhi	Sd
51.	Hon. Bishwendra Paswan	Sd
52.	Hon. Sharat Singh Bhandari (Mahottari)	Sd
53.	Hon. Sharada Jha	Sd
54.	Hon. Sadarul Miyan Haq	Sd
55.	Hon. Sapana Pradhan Malla	Sd
56.	Hon. Sarala Regmi	Sd
57.	Hon. Sarita Giri	Sd
58.	Hon. Sunil Prajapati	Sd
59.	Hon. Suprabha Ghimire	
60.	Hon. Surendra Pandey	Sd
61.	Hon. Suryaman Dong Tamang	Sd
62.	Hon. Hariraj Limbu	Sd
63.	Hon. Hridayesh Tripathi	Sd

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Documents received within the deadline fixed for the honorable members by the honorable chairperson in the meeting held on 2066.9.19 (3 January 2010) in order to be able to verify if the subject matters passed by voting held in the Committee on 2066.9.19 (3 December 2009) were matched in the Concept Paper Section or not....

Preliminary Draft

S. N.	Subject matters	Proposed draft of the provision for the Constitution	In which Part, Article or section of the Constitution it should be Placed	Rationale or explanatory comments for making the proposed provisions
1.	Preamble	<p><i>(We are not in a position to draft the Preamble in a way to contain the original spirit and full essence of the Constitution in the present context that not all the committees of Constituent Assembly have completed the task of preparing a concept paper and preliminary draft on all the aspects of the Constitution, and that the Constituent Assembly has not send the same along with its recommendations and directions to the Committee to incorporate in the draft. At present, this draft has been presented in a preliminary form proposing to give it completion in the process of preparing the entire draft of the Constitution.)</i></p> <p>WE, THE PEOPLE OF NEPAL, IN EXERCISE OF THE SOVEREIGN POWERS INHERENT IN US;</p> <p>Maintaining the independence, sovereignty, territorial integrity and national unity, liberty and dignity of Nepal;</p> <p>Recognizing the historical armed struggle, peaceful people’s movement and Madhesh movement and the abnegation and sacrifice of the people of Nepal, and the martyrs for democracy, peace, human rights and progressive</p>	In the beginning of the Constitution	<p>The Preamble expresses the main spirit and full essence of the Constitution. It is the spirit of the Constitution. The intent, purpose and objective of framing the Constitution can be known by studying the Preamble. It also establishes the ground, rationale and logic of framing the Constitution. The Preamble is regarded as the Gateway to Constitution from where we can have the perspective of the contents of the Constitution as well as the political, economic, social systems and philosophical aspects of</p>

	<p>change;</p> <p>Recalling the pains of discrimination and oppression created by feudal, autocratic, centralized, unitary and patriarchal state polity;</p> <p>Resolving to protect and promote the unity in diversity, socio-cultural solidarity, tolerance and goodwill while internalizing multi-ethnic, multi-lingual, multi-religious, multi-cultural and regional diversity;</p> <p>Committing ourselves to build the foundation of socialism while adopting democratic norms and values including a system of people's competitive multiparty democratic proportionate inclusive rule, civic liberties, fundamental rights, human rights, adult franchise, periodical elections, freedom of the press, competent, impartial and independent judiciary and the concept of the state of law;</p> <p>Maintaining national integrity and internalizing the people's right to self-determination, autonomy and self rule; <i>(There has been an agreement to make further discussions on this subject in the context of the report to be prepared by Committee on State Restructuring the State and Distribution of the State Power and Committee on the Determination of Forms of Governance of State)</i></p> <p>Having determined upon creating an equitable society on the basis of proportionate inclusive and participatory</p>	<p>the State.</p> <p>Generally, the contents of the Preamble is believed to incorporate such aspects as the rationale behind framing the constitution, authority or source of issuing the constitution, by whom, when and why the constitution was framed, a brief glimpse of the legal system internalized by the constitution, norms and values of the constitution, and wishes and desires of people. It is also believed to incorporate the issue of maintaining the freedom, independence, sovereignty, territorial integrity and national unity, oppression and pain inflicted by the past state polity, present ambitions and future goals, nature or characteristic of the State and loyalty towards people. Above all, it is believed to incorporate the aspect of recognizing the abnegation, sacrifice and contribution made by people towards achieving the present political system through different struggles and movements and remembering and honoring the martyrs thereof.</p>
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		<p>norms in order to ensure economic equality, prosperity and social justice while ending all kinds of discrimination including caste system and untouchability relating to class, caste, region, language, religion, gender and class;</p> <p>NOW THEREFORE, in order to fulfill the desire for sustainable peace, prosperity and development through a system of federal democratic republic rule while ending all kinds of the remains of feudalism, hereby promulgate this CONSTITUTION, framed through the Constituent Assembly.</p>		
2.	Constitution as the Fundamental Law	<p>1. <u>Constitution as the Fundamental Law:</u> (1) This Constitution is the fundamental law of Nepal. All laws inconsistent with this Constitution shall, to the extent of such inconsistency, be void.</p> <p>(2) It is the duty of every person to uphold this Constitution.</p>	Part One, Article 1	<p>The constitution is recognized as “fundamental”, “supreme” or “basic law” since it is framed by the people vested with the national sovereignty. It is also on this ground that the constitution is taken as the fundamental law. It is also considered to create all laws, and the bodies that enact laws. According to the norms of modern constitutionalism, all the institutions of the State should remain confined within the periphery determined by the constitution in order to materialize the concept of limited government and end arbitrariness. No laws are enacted in countries with written constitution which prove inconsistent with the constitution. The provision is made to render any laws framed to the extent of inconsistency with the constitution nullified. It is the constitution that determines the border line of state power and establishes harmony between the jurisdiction of the government and the civil rights. Since the constitution is the supreme law, a provision has also been made to render it as a duty of all (all the</p>

				citizens, state organs, public officials and different organizations and their officials) to abide by the constitution and fulfill their responsibility in accordance with it.
3.	Sovereignty and State Authority	<p>2. <u>Sovereignty and State Authority:</u> (1) The sovereignty and the state authority of Nepal vest in the Nepali people.</p> <p>(2) The Nepali people shall exercise the sovereignty and the state authority of Nepal according to the provision made in this Constitution.</p>	Part One, Article 2	It is deemed necessary to underline sovereignty in the constitution in order to identify the independent existence of the State and the real power within the country. This power is expressed in the constitution. There cannot be any dissension that the sovereignty is vested in people since the source of power in a democratic system of governance lies only in them. Therefore, it is clearly stated that the sovereignty of Nepal as well as the state power emanating from it is vested in Nepali people. Since people cannot by themselves use sovereignty which inherently rests in them and state power in all conditions, these are used by the institutions directly elected by the people and legal authorities established under the constitution. Looking back at the past constitutional history, we find that the Constitution of the Kingdom of Nepal, 2047 (AD 1991), Article 3 states that the sovereignty of Nepal shall be vested in Nepali people, which shall be exercised in accordance with the constitution. The Interim Constitution of Nepal, 2063 (2007), Article 2 even states that the sovereignty and state power of Nepal shall be vested in Nepali people. Since these constitutions have not stated anything about the exercise of this sovereignty and state power, this Constitution has made a provision that the Nepali people shall exercise the sovereignty and state power of Nepal as provided for in the Constitution.
4.	Nation, State and Area of	3. <u>Nation:</u> Having multi-ethnic, multi-lingual, multi-religious, multi-cultural	Part One, Articles 3 and 4	Nation is a holistic concept wherein lies religious, linguistic, cultural or ethnic identity and economic

	Nepal	<p>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 Nepali people collectively constitute the nation.</p> <p>4. <u>State of Nepal:</u> (1) Nepal is an independent, indivisible, sovereign, secular, inclusive, socialism oriented, republic and multi-national State which shall be called Nepal in brief.</p> <p>(2) The State of Nepal shall comprise the federal units as set out in Schedule 1.</p> <p>(3) The territory of Nepal shall comprise</p> <p>(a) the territory existing at the commencement of this Constitution, and</p> <p>(b) such other territory as may be acquired after the commencement of this Constitution.</p>		<p>interrelation adopted by the people of the society or group collectivity for long. The country is inhabited by people of different religions, colors, caste/ethnic groups and are united by a bond. Even if psychologically there is a feeling of "us" and "them" they wish to live together. They are tied together while committing themselves to national independence and integrity. Therefore, the definition follows that “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”.</p> <p>Our country is a common land for different caste, ethnic and language groups. Nepal has always remained independent and is also indivisible. In the present context the country has been transformed from a relatively religious and unitary state system into a secular, federal state system. Therefore, it shall be proper to define Nepal as an independent, indivisible, sovereign, secular, inclusive, socialism-oriented, republic and a multi-national State, and it is defined accordingly and called Nepal in short. A provision has been made to list the federal units of the Federal Republic of Nepal in the schedule. In addition, the territory that existed before the commencement of this Constitution, and territories acquired after its commencement shall be regarded as the territory of Nepal.</p>
	Language of the Nation	5. <u>Language of the Nation:</u> The draft to be proposed by the related thematic committees.	Part One, Article 5	
5.	National	6. <u>National Flag:</u> (1) The	Part One,	The existing national flag has been

	Flag, National Anthem and Coat-of-Arms	<p>national flag of Nepal, as handed down by tradition, consists of two juxtaposed triangular figures with a crimson colored base and deep blue borders, there being a white emblem of the crescent moon with eight rays visible out of sixteen in the upper part and a white emblem of a twelve rayed sun in the lower part.</p> <p>(2) The method of drawing the national flag of Nepal and other particulars relating thereto shall be as set out in Schedule 2.</p> <p>7. <u>National Anthem and Coat-of-Arms:</u> (1) The national anthem of Nepal shall be as set out in Schedule 3.</p> <p>(2) The coat-of-arms of Nepal shall be as set out in Schedule 4. <i>(The issue whether the provinces shall have their separate coats-of-arms or not shall be finalized after receiving the report of the Committee of State Restructuring and Distribution of State Power.)</i></p>	<p>Articles 6 and 7</p>	<p>retained as it has been very familiar as the national symbol of Nepal in national and international arenas.</p> <p>The present national anthem of Nepal has been retained <i>in situ</i> and stated in the schedule since it was selected from among the best compositions as requested by from all the Nepali people by the democratic government established through the historical people's movement, 2062-2063 (AD 2006). It was selected through a democratic process on the recommendations of a committee comprising learned experts and academicians of the related disciplines.</p> <p>The present coat-of-arms was also determined by the democratic government through a democratic process and implemented thereafter. It has also been retained because it is considered improper to change it frequently.</p>
6.	Amendment of the Constitution	<p>8. <u>Amendment of the Constitution:</u> (1) There can be no amendment in the Constitution if it negatively affects the democratic norms and values including sovereignty vested in people, republicanism, rule of law, independent judiciary, fundamental rights, human rights, freedom of the press, pluralism, multiparty competition, adult franchise and periodical elections.</p> <p>(2) A Bill regarding</p>	<p>The provision regarding constitutional bodies shall be placed later in a separate article under a separate Part</p>	<p>The provision regarding the amendment of the Constitution is deemed necessary in order to amend the constitution in accordance with the changes brought in social norms and values and people's wishes, and maintain it as a lively and dynamic document. Its major aim is to let the people fulfill their aspirations in a legitimate way and prevent them from resorting to violence or rebellion to achieve it.</p> <p>The original constituent power inherently lies in people. However,</p>

	<p>amendment or repeal of any Article of this Constitution may be presented, pursuant to Clause (1) above, in either House of the Federal Legislature. Such Bill can be presented by the Government of Nepal, a minimum number of members as specified or a Legislature of any federal unit.</p> <p>Provided that Clause (1) above shall not be amended.</p> <p>(3) Irrespective of what is mentioned in Clause (2) above, people's opinions can be collected through national referendum regarding the amendment or repealing of any Article of this Constitution, pursuant to Clause (1) above wherein the agenda is deemed proper to be resolved through national referendum provided that a proposal of that effect is presented by the minimum number of members specified and is passed by a majority vote in the Federal Legislature.</p> <p>(4) In case the agenda regarding the amendment or repealing of any Article of the Constitution through referendum, pursuant to Clause (3) above, is approved by the majority of total valid votes, it shall be deemed <i>ipso facto</i> amended.</p> <p>(5) The Bill presented in the related House, pursuant to Clause (2) above, shall be publicized for dissemination to common people within thirty days thereupon.</p> <p>(6) In case the Bill, presented in pursuance to Clause (2)</p>	<p>the right to the amendment of the constitution remains as a delegated right. The delegated right cannot violate the right of the builder of the constitution. Therefore, the changes made through amendment in contrast to the basic norms and values established by the people while framing the constitution leads not only to the amendment of the constitution but also to building a new constitution. It is clear in itself that such right rests inherently only in the sovereign people.</p> <p>The norms and values like sovereignty vested in people, rule of law, independent judiciary, fundamental rights, human rights, freedom of the press, pluralism, multiparty competition, adult franchise and periodical elections have been established in universally acceptable manner in the constitutional democratic rule of the twenty-first century. Similarly, in our context, a republic system has been established in accordance with popular wish following the demise of centuries-long monarchy. Therefore, substantial limitation has been imposed on the right to amendment in order to maintain these norms and values in the basic structure and to prevent amendments that may have negative impact on the constitution. Apart from this, provision has been made to present a Bill in either of the Houses of the Federal Legislature in order to amend or repeal any Article of the Constitution. There is also a provision that such a bill may be presented by the Government of Nepal, or a minimum number of members of the federal legislature or the legislatures of constituent units</p> <p>A provision has also been made in</p>
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	<p>above, is relating to the right of the federal units with regard to changing the boundary of any Federal Unit and Article ..., it should be forwarded to the legislatures of the federal units for approval within thirty days of its being presented.</p> <p>Provided that the Bill, presented in pursuance to Clause (2) above, is related only with a particular federal unit, the approval of the related federal unit shall be sufficient.</p> <p>(7) The majority of the federal units' Legislatures shall accept or reject the Bill presented for their approval in pursuance to Clause (6) above within three months thereof through a majority vote of the total number of existing members, and send an information thereof to the Federal Legislature.</p> <p>Provided that the Legislature of a federal unit is dissolved, it shall accept or reject and send back the Bill, within three months of convening its first meeting following its formation.</p> <p>(8) In case the Bill, presented in pursuance to Clause (2) above, and not requiring the approval of the federal units' Legislatures or the Bill, in pursuance to Clause (7) above, approved by the federal units' Legislatures is passed by a majority vote of at least two-third members of the total number of existing members in either House of the federal units' Legislatures, such Bill shall be presented to the Head of the State for approval.</p>	<p>order to establish the direct participation of people in the amendment of the constitution by collecting people's opinion through a referendum, as deemed proper, on agendas such as amending or repealing any Article of this Constitution in the proposal laid thereto by a minimum number of members specified by the Federal Legislature and should be approved by a majority vote. The provision has also been made that if the agenda of amending or repealing any Article of this Constitution through referendum is ratified by the majority of total valid votes, it shall be deemed <i>ipso facto</i> amended.</p> <p>The provision has been made to publicize the Amendment Bill within thirty days of its being presented in the House as it is deemed proper to informing the general public about such relevant issues as the amendment of the constitution.</p> <p>The federal system of rule internalizes the norms of common rule and self-rule and such provision has been made in this Constitution as well. Therefore, consent should be sought from the federal units regarding the amendment of the constitution on the issue of changing the boundary of any units and the rights of the federal units scheduled in the constitution. Accordingly, the provision has been made to send the Amendment Bill to the federal units' Legislatures within thirty days of its being presented in the Federal Legislature for approval. However, it is enough to send such a Bill only to a concerned unit or units only for their approval. The majority of the legislatures of federal units shall accept or reject the Bill presented for their approval within three</p>
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		<p>(9) The Head of the State shall approve of the Bill presented in pursuance to Clause (8) above within fifteen days thereof.</p> <p><i>(Since the issue of whether the Legislature shall be unicameral or bicameral, and what shall be its name, belongs to the jurisdiction of another committee, it shall be named according to the decision thereof.)</i></p>		<p>months thereof through a majority vote of the total number of members present, and send the information thereof to the Federal Legislature. However, if the Legislature of a federal unit is dissolved, it shall accept or reject and send back the Bill, within three months of convening its first meeting following its formation.</p> <p>The provision has been made that the Bill approved by the legislatures of federal units and the Bill not requiring their approval are passed by a majority vote of at least two-thirds members of the total number of members present in either House of the federal units' Legislatures. The provision is that such Bills shall be presented to the Head of the State for approval and the Head of the State shall approve the presented Bill within fifteen days thereof.</p>
7.	Political Parties	<p>9. <u>Formation, Registration and Operation of Political Parties:</u> (1) Persons who are committed to a common political ideology, philosophy and program shall, subject to the laws made under ... (Regarding the Freedom to Form Political Parties under Fundamental Rights), be entitled to form and operate political parties and to generate or cause to be generated publicity in order to secure public support and cooperation from the general public for their ideology, philosophy and programmes, and to carry out any other activities for that purpose.</p> <p>(2) The political parties formed according to Clause (1) above shall be registered at the Election Commission in accordance with the</p>	<p>To be placed under a separate Part after the Part regarding the amendment of the Constitution</p>	<p>A basic aspect of democracy is to form political parties. Political parties take a leading role in disseminating political ideologies before the people, making them aware, building opinions and to achieve the goal. Political parties play a decisive role in materializing the spirit of constitutionalism, ensuring people's supremacy, strengthening democracy by expressing the public opinion through elections, guaranteeing and causing to use the civil rights and liberties and establishing people's access and control over the state power. Therefore, the responsible role the political parties are considered important in a democratic system. The constitutions of all the countries of the world have no detailed provisions on political parties. Yet the present constitution of our country has made a provision regarding them keeping in view the</p>

	<p>procedure provided for in the current law.</p> <p>(3) While applying for the registration according to Clause (2) above, a political party shall, present its constitution, manifesto, rules and the report of annual auditing, and other matters as provided for in the law.</p> <p>(4) While applying for the registration according to Clause (2) above, political parties shall fulfill the following conditions:</p> <p>(a) The constitution and rules of the political party must be democratic,</p> <p>(b) The constitution or the rules of the political party must provide for election of office bearers of the party at federal and federal unit levels at least once in five years,</p> <p>(c) There should be a provision for inclusive participation, representing the diversity of Nepal at different levels of the Executive Committee,</p> <p>(d) There should be an effective provision in the constitution of a party to maintain discipline in its members.</p> <p>(5) If the name, objectives, logo or flag of a political party is of a character that may disturb the country's religious or communal unity or is divisive in character, such party shall not be registered.</p> <p>(6) Political parties can be established, registered and run at the regional level of unit as well.</p>	<p>historical context and the existence of such provision in past Constitution of the Kingdom of Nepal, 2047 (AD 1991) and the Interim Constitution of Nepal, 2063 (AD 2007).</p> <p>It is appropriate to accept the existence of political parties in the constitution and regulate the matters like forming the parties, and duly registering and operating them. Therefore, it is ensured that any Nepali citizen can form and operate political parties of their choice, and secure public support and cooperation for their ideology, philosophy and programmes. However, it is provisioned that the political parties formed and operated in this manner carry out their activities only according to Article ... of the Constitution.</p> <p>Provision has been made for the registration of political parties after their establishment, for their organizational development and operation as a legal person. Provision has also been made that they are registered at the Election Commission as it is deemed proper in the view of the expertise, prerequisites and organizational facilitation of the Election Commission. All the duly registered parties may or may not participate in elections. Therefore, the provision has been made for the parties willing to participate in the elections to get registered at the Election Commission for the same purpose. It is also provisioned that, while registering for both the stated purposes, parties must provide constitutions, manifestoes, rules, report of annual auditing and other matters as provided for in law. Moreover, The constitution and rules of the political parties must be</p>
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	<p>10. <u>Prohibition on the Imposition of Restrictions on Political Parties:</u> Any law, arrangement or decision which restricts any such activities as forming and operating the political parties according to Article 9 above and generates publicity in order to secure public support and cooperation from the general public for their ideology, philosophy and programmes shall be considered inconsistent with this Constitution and shall <i>ipso facto</i> be void.</p> <p>(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 program in the elections, political system of the country or conduct of state affairs shall be deemed inconsistent with this Constitution and shall <i>ipso facto</i> be nullified.</p> <p>11. <u>Registration Required for Securing Recognition for the Purpose of Contesting Elections as a Political party:</u> (1) Any political party, registered according to Article ... and 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 provided for in the current law.</p> <p>(2) While applying for the registration according to Clause (1) above, a political</p>	<p>democratic. The constitution must provide for holding the election of office bearers at federal and federal unit levels at least once in five years. There should also be a provision for inclusive participation representing the diversity of Nepal at different levels of the Executive Committee. A provision has been for political parties to have an effective provision to keep its members disciplined. However, it is provisioned that if the name, objectives, logo or flag of a political party is of a character that may disturb the country's religious or communal unity, or is divisive in character, such a party shall not be registered.</p> <p>The provision of establishing, registering and operating political parties also on the level of regional unit has been made realizing the importance of such fact in the federal system.</p> <p>The provision has been made that any law, arrangement or decision which restricts any such activities relating to the formation and operation of the political parties and in generating publicity in order to secure public support and cooperation from the general public for their ideology, philosophy and programmes, shall be considered inconsistent with this Constitution and shall thus automatically be nullified.</p> <p>Moreover, it has been provisioned that any law, arrangement or decision which allows for participation or involvement of only a single political party or persons with a single political ideology, philosophy or program in the elections, political system of the country or the operation of state</p>
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		<p>party shall clarify the details mentioned in Article 9, Clause (3) above, in addition to fulfilling the conditions set in Clause (4) of the same Article above.</p> <p>(6) Other matters relating to the establishment, registration and operation of the political parties shall be as provided for in law.</p>		<p>affairs shall be deemed inconsistent with this Constitution and shall <i>ipso facto</i> be nullified.</p> <p>Other matters relating the establishment, registration and operation of the political parties shall be as provided for in law.</p>
8.	Provision of Emergency	<p>13. <u>Provision of Emergency:</u> (1) If a grave emergency arises with regard to the sovereignty or integrity of Nepal or the security of any part thereof, whether by war, external aggression, armed rebellion or extreme economic disarray, natural calamity or epidemics, the Head of the State may, on the recommendation of the Council of Ministers of the Government of Nepal, by declaration or Order, declare a state of Emergency to be enforced in Nepal or any specified part thereof.</p> <p>(2) The declaration or the Order issued according to Clause (1) shall be laid before the meeting of the Federal Legislature for approval within a month from the date of its issuance.</p> <p><i>(It would be proper to decide about the issues like whether or not the declaration of the State of Emergency should be approved by the Legislature, whether the Legislature should be unicameral or bicameral and whether there should not be a provision regarding the dissolution of the Legislature, and if there is</i></p>	To be incorporated in a separate Part, after the Part relating to political parties	<p>The state affairs of any state is dynamic and, therefore, may face crisis in its national life. The provision has been made in the Constitution to strongly face the crises over sovereignty, integrity, peace and management, and declare a State of Emergency to overcome them. The provision has been made, pursuant to this norm, that if a grave emergency arises with regard to the sovereignty, integrity of Nepal or the security of any part thereof, a State of Emergency shall be declared to be enforced in Nepal or any specified part thereof. The variables of such grave emergency include war, external aggression, armed rebellion, extreme economic disarray, natural calamity or epidemics. Since that the right to decide whether or not the condition for declaring emergency exists lies with the executive authority of the State, a provision has been made that the Head of the State may, on the recommendation of the Council of Ministers, by declaring or through an Order, declare a State of Emergency. Considering the circumstances, the declaration or Order for a State of Emergency can be issued to be enforced in Nepal or any specified part thereof. This provision has been made by internalizing the fact that a military coup shall also be included in armed rebellion and the federal units shall request the federal government for</p>

	<p><i>such provision and if the declaration of the State of Emergency is issued when the Legislature is dissolved, what provision should be made for its approval, after the report of the Committee for Determining the Legislative Organs is obtained by the Constitutional Committee. Likewise, it would be proper to decide on the issues such as whether or not the declaration of the State of Emergency should be issued by the Head of the State on the recommendation of the Council of Ministers or by the Head of the State, after the report of the Committee on the Determination of Governance is obtained by the Committee)</i></p> <p>(3) If a declaration or Order laid for approval according to Clause (2) is approved by at least a two-thirds majority of the total number of existing members in both the Houses of the Federal Legislature such declaration or Order shall continue in force for a period of three months from the date it was issued.</p> <p>(4) If the declaration or the Order laid in both the Houses of the Federal Legislature pursuant to Clause (2) is not approved according to Clause (3), such declaration or the Order shall, <i>ipso facto</i>, cease to operate.</p> <p>(5) Before the expiration of the period referred to in Clause (3), if a meeting of both the Houses of the Federal Legislature, by a majority of</p>	<p>declaring a State of Emergency within their territories.</p> <p>The provision has been made in order to establish the control of the Legislature (people's representative institution) over the declaration of a State of Emergency made by the Executive authority, and to prevent the arbitrary use or abuse of this right. Accordingly, the declaration or the Order shall be laid in both the Houses of the Federal Legislature for approval within a month from the date of its issuance. The declaration or the Order laid for ratification shall be ratified by at least a two-thirds majority of the total number of existing members in both the Houses of the Federal Legislature. Thereupon such Proclamation or Order shall continue in force for a period of three months from the date it was issued. The provision is made that if the declaration or the Order laid for ratification in both the Houses of the Federal Legislature is not ratified, such declaration or the Order shall, <i>ipso facto</i>, cease to operate.</p> <p>The provision is also made that before the expiration of the period of a State of Emergency, if a meeting of both the Houses of the Federal Legislature, by a majority of at least two-thirds of the total number of existing members, passes a resolution to the effect that circumstances continue to exist, it may extend the period of the declaration of the State of Emergency for another one period. This period shall not exceed three months as specified in such resolution.</p> <p>The problem cannot be solved only by proclaiming a State of Emergency when the country is</p>
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		<p>at least two-thirds of the total number of members present, passes a resolution to the effect that circumstances referred to in Clause (1) continue to exist, it may extend the period of the declaration of the State of Emergency for another one period, not exceeding three months as specified in such resolution.</p> <p>(6) After a State of Emergency is declared according to Clause (1), the Head of the State may, on the recommendation of the Council of Ministers of the Government of Nepal, issue such orders as deemed necessary to meet the exigencies. Orders so issued shall be operative with the same force and effect as law as long as the State of Emergency is in operation.</p> <p>(7) During the time of the declaration or Order of the State of Emergency made by the Head of the State on the recommendation of the Council of Ministers of the Government of Nepal, according to Clause (1), the fundamental rights provided in Article ... from among the ones provided in Part ... may be suspended so long as the declaration or Order is in effect.</p> <p>Provided that the right to constitutional remedy pursuant to Article ... and the right to <i>Habeas Corpus</i> shall not be suspended.</p> <p>(8) In the circumstances where any Article of this Constitution is suspended according to Clause (7)</p>	<p>facing crises. Therefore, other measures apart from those as provided for in law shall also be taken to meet the exigencies and provide an outlet. In view of this, after a State of Emergency has been declared, the Head of the State may, on the recommendation of the Council of Ministers of the Government of Nepal, 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.</p> <p>It is natural that the fundamental rights of people are to some extent affected during the time of crisis on the sovereignty, integrity and security of the State. Therefore, such right may have to be suspended. During the time of the declaration or Order of the State of Emergency the fundamental rights provided in Article ... from among the ones provided in Part ... may be suspended, in accordance with the international practice and norm of suspending some of the fundamental rights, so long as the declaration is in operation. However, the provision is made that the right to constitutional remedy pursuant to Article ... and the right to <i>Habeas Corpus</i> shall not be suspended. It is provisioned that in circumstances where any Article is suspended, 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.</p> <p>If, during the continuance of a declaration or Order, any damage is inflicted upon any person by an act of any official done in bad faith, and if the affected person files, within three months from the date of</p>
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		<p>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.</p> <p>(9) If, during the continuance of a declaration according to Clause (1), any damage is inflicted upon any person by an action of any official done in bad faith, and if the affected person files a petition, within three months from the date of termination of the declaration, for compensation for the said damage, the court shall cause the compensation to be paid and punish the persecutor.</p> <p>(10) The Head of the State on the recommendation of the Council of Ministers of the Government of Nepal may, at any time during its continuance, revoke the declaration or Order relating to the State of Emergency pursuant to Clause (1).</p>		<p>termination of the declaration or Order, a petition for compensation for the said damage, the court shall cause the compensation to be paid and punish the persecutor.</p> <p>It is not essential and appropriate from the point of view of people's welfare to continue the State of Emergency after the crisis is over. Therefore, the provision is made that the Head of the State on the recommendation of the Council of Ministers of the Government of Nepal may, at any time during its continuance, revoke the declaration or order relating to the State of Emergency.</p>
9.	Miscellaneous	<p>14. <u>Provisions Regarding the Constitutional Council:</u> <i>(To be in force and effect if proposed by the thematic committees)</i></p> <p>15. <u>Nepali Ambassadors and Emissaries:</u> The Head of the State on the recommendation of the Council of Ministers may appoint, on the basis of the principle of proportionate inclusion, ambassadors of Nepal and other emissaries for specified purposes.</p> <p>16. <u>Pardon:</u> The Head of the State on the recommendation of the Council of Ministers may</p>	To be incorporated in a Separate Part after the Provision relating to Emergency	<p>The country has to appoint ambassadors and emissaries in order to maintain diplomatic relations with foreign, friendly nations and international organizations and to represent the country for specified purposes and international conferences. The right to make such appointments lies in the Executive. Accordingly, the provision has been made that the Head of the State shall, on the recommendation of the Council of Ministers of the Government of Nepal, appoint Nepalese ambassadors, and emissaries for specified purposes. It has been provisioned that the appointments of the ambassadors and emissaries shall be made on the basis of the principle of proportionate inclusion in order to</p>

	<p>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, as provided for in the law.</p> <p>17. <u>Titles, Honours, and Decorations:</u> (1) Titles, honors or decorations to be conferred on behalf of the State shall be conferred by the Head of the State on the recommendation of the Council of Ministers.</p> <p>(2) Every citizen of Nepal shall seek the approval of the Government of Nepal prior to accepting any title, honor or decoration from the government of any foreign country.</p> <p>18. <u>Constitution of the Government Service:</u> <i>(To be according to the draft prepared by the thematic committees concerned)</i></p> <p>19. <u>Hearing for the Officials of Constitutional Bodies and Provisions Regarding Citizenship:</u> To be incorporated according to the draft prepared by thematic Committees: <i>(To be in force and effect as proposed by related thematic committees)</i></p> <p>20. <u>Ratification of, Accession to, Acceptance of or Approval of Treaties or Agreements:</u> <i>(To be incorporated according to</i></p>	<p>ensure the participation of all the classes and communities in all the organs of the state structure within the country.</p> <p>Circumstances may arise requiring granting pardons [to persons convicted], and suspend, commute or reduce any sentence imposed through certain flaws in criminal judicial system, and political or other such reasons. This is a very significant right. The abuse of this right might also lead to a state of impunity. Therefore, one should be careful that it is not used for any unholy indiscreet, discriminatory and ill intent. This provision has been made keeping this in view. Accordingly, the Head of the State on the recommendation of the Council of Ministers may, under the legal standards set by the Federal Legislature, 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.</p> <p>The Head of the State, on the recommendation of the Council of Ministers and on behalf of the State, confers titles, honors and decorations on the citizens of the country and foreign nationals who have made remarkable contributions by promoting the interests of the nation or enhancing the honor and fame of the country. It is to honor their contributions and motivate them for further remarkable contributions in future. Keeping this in view, the provision has been made that the Head of the State shall confer titles, honors and decorations on behalf of the State. It has been provisioned so that titles, honors and</p>
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		<i>the draft prepared by related thematic committees)</i>		decorations are not received from everyone, and the State is informed about the titles and honors received by the citizens of the country. Therefore, every citizen of Nepal shall seek the approval of the Government of Nepal prior to accepting any title, honor or decoration from the government of any foreign country.
10.	Transitional Provisions	<p><i>(The condition wherein the Interim Constitution of Nepal, 2063 (AD 2007) is not abrogated and the new Constitution is not enforced is called a transitional condition. Transitional provisions cannot be lent completion unless the issues about what changes are made into the existing constitutional mechanisms, what changes are effected in their works, duties and rights and how long it takes to form new mechanisms is clear. The Committee recommends that this Part is kept open until the end since there are conditions wherein other issues shall be added under the Transitional Provisions until the period when the constitutional Bill is prepared by integrating the drafts received from the thematic committees and the Constitutional Committee.)</i></p> <p>21. <u>Provisions Regarding the President and Vice President:</u> The President and Vice President holding office at the time of the commencement of this Constitution shall remain in their office until the election of the President and Vice President in accordance with this Constitution.</p> <p><i>(In case the positions of the</i></p>		<p>The constitutional bodies and systems existing in the country are transformed in the wake of replacing the existing constitution and issuing a new constitution. Moreover, the provisions in accordance with the changed system cannot be spontaneously made immediately after the implementation of the constitution. Therefore, it is constitutional and national necessity to continue the existing provisions so long as organizations, officials and systems, as envisaged by the new constitution, do not get completion. It has been made clear also through international experiences and our past experiences. Therefore, the transitional provisions are inevitable in the constitution since it is essential to continue the existing systems so long as all the prerequisites required by the constitution are created for complete implementation of the constitution. Therefore, following provisions have been made for transitional provisions.</p> <p>The provision is made that the President and Vice President shall remain in their office until the election of the President and Vice</p>

	<p><i>President and Vice President remain vacant during the transitional period, the procedure of fulfilling them shall be addressed on the basis of the report received from the Committee on the Determination of forms the governance of State</i></p> <p>22. <u>Provisions Regarding the Council of Ministers:</u> (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 according to clause (1), shall continue to work until the Council of Ministers is constituted under pursuant to this Constitution.</p> <p><i>(In case the Council of Ministers is dissolved during the transitional period, the procedure of reconstituting the Council of Ministers shall be addressed on the basis of the report received from the Committee on the Determination of forms the governance of State)</i></p> <p>23. <u>Provisions Regarding the Legislative Rights:</u> (1) The present Constituent Assembly shall exercise the legislative rights of Nepal in the capacity of the Legislature-Parliament until the first Session of the Federal Legislature convene under this Constitution. (2) The Legislature-Parliament Secretariat and officials and</p>	<p>President and the existing Council of Ministers shall remain until the Council of Ministers is constituted in accordance with this Constitution.</p> <p>The provision has been made that the present Constituent Assembly shall exercise the legislative rights of Nepal in the capacity of the Legislature-Parliament until the elections of the Federal Legislature are held and its first Session of convene. Likewise, the Legislature-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 Parliament and the officials and staff of the Secretariat shall be deemed to have been appointed under this Constitution.</p> <p>It has been provisioned that the Supreme Court, Appellate Court and District Courts subsisting at the time of the commencement of this Constitution shall remain until the structure of judiciary under this Constitution is made. This Constitution shall not hinder the making of the decisions by the concerned courts on cases filed prior to, and on cased to be filed after, the commencement of this Constitution. Moreover, the provision has been made that the Judges working in the Supreme Court, Appellate Courts and District Courts, at the time of the commencement of this Constitution, shall remain in their offices unless the provisions regarding the appointments under this Constitution are implemented.</p> <p>The constitutional bodies and officials thereof subsisting at the time of the commencement of this</p>
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	<p>the staff working in the Secretariat at the time of the commencement of this Constitution shall be deemed to be the Secretariat of the Parliament and the officials and the staff of the Secretariat shall be deemed to have been appointed under this Constitution.</p> <p>24. <u>Provisions Regarding the Judiciary:</u> (1) The Supreme Court, Appellate Court and District Courts subsisting at the time of the commencement of this Constitution shall remain until the structure of judiciary under this Constitution is made. This Constitution shall not hinder the making of the decisions by the concerned courts on cases filed prior to, and on cases to be filed after, the commencement of this Constitution.</p> <p>(2) The Judges working in the Supreme Court, Appellate Courts and District Courts, at the time of the commencement of this Constitution, shall remain in their offices unless the provisions regarding the appointments under this Constitution are implemented.</p> <p>25. <u>Provisions Regarding Constitutional Bodies and Officials Thereof:</u> (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</p>	<p>Constitution, but which are not to be re-established under this Constitution, shall cease to exist after the commencement of this Constitution. It has been provisioned that the constitutional bodies subsisting at the time of the commencement of this Constitution shall be deemed to have been constituted under this Constitution. Moreover, this Constitution shall not hinder such bodies in dealing with matters under consideration according to the existing laws. The provision has been made that the officials working in the constitutional bodies at the time of the commencement of this Constitution shall subsist unless the provisions regarding the appointments under this Constitution are implemented.</p> <p>It has been provisioned that the decisions made and work performed by the Constituent Assembly that are not inconsistent with this Constitution shall be deemed to have been made and performed in accordance with this Constitution. All the laws in force at the time of commencement of this Constitution shall remain in force until repealed or amended. However, laws inconsistent with this Constitution shall, to the extent of inconsistency, <i>ipso facto</i>, cease to operate a year after the first Sessions of the Legislature under this Constitution convene.</p> <p>It may take some time to form and operate the federal units and local bodies as provided for by this Constitution. However, the local bodies that remain close to people and provide utility services must continue to remain active. Therefore, the provision is made that the existing local bodies shall</p>
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	<p>to exist after the commencement of this Constitution.</p> <p>(2) The constitutional bodies subsisting at the time of the commencement of this Constitution shall be deemed to have been constituted under this Constitution, and this Constitution shall not hinder such bodies in dealing with matters under consideration according to the existing laws.</p> <p>(3) The officials working in the constitutional bodies at the time of the commencement of this Constitution shall subsist unless the provisions regarding the appointments under this Constitution are implemented.</p> <p>26. <u>Existing laws to continue to remain in effect:</u> (1) Decisions made and work performed by the Constituent Assembly that are not inconsistent with this Constitution shall be deemed to have been made and performed in accordance with this Constitution.</p> <p>(2) All the laws in force at the time of commencement of this Constitution shall remain in operation until repealed or amended.</p> <p>Provided that laws inconsistent with this Constitution shall, to the extent of inconsistency, <i>ipso facto</i>, cease to operate a year after the first Session of the Legislature under this Constitution convened.</p>	<p>remain <i>in situ</i> until the local bodies under this Constitution are formed.</p> <p>Difficulties may arise, during the transitional period, in connection with the implementation of any constitutional provision until the Legislature Sessions following the elections of the Legislature under this Constitution convene. Therefore, due provision has been made regarding removing difficulties with an aim to resolve them and cause the constitutional mechanism run effectively. It has been provisioned that necessary Orders shall be issued by the Head of the State, on the recommendation of the Council of Ministers. It is not deemed necessary to retain the right to remove difficulties after the formation of the Legislature in accordance with the Constitution since the Legislature can address all the difficulties through the medium of the amendment of the constitution.</p>
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11.	Definitions	<p>Definitions: (1) Unless the subject or context otherwise requires, in this Constitution:-</p> <p>a. “Article” means an Article of this Constitution;</p> <p>b. “citizen” means citizen of Nepal;</p> <p>c. “Bill” means a draft of a Constitution or an Act which has been introduced in the Federal or Regional Legislature.</p> <p>d. “remuneration” means and includes salary, allowances,</p>		<p>Since that the future Constitution also deals with the restructuring of the State, (accordingly) it is essential to have definitions of the new terms in order that they express uniform meanings. Thus, it is necessary to define the Articles, citizen, Bill, remuneration and other terms that are used in the Constitution and must express uniform meanings. These terms are defined in order to cater to this need.</p> <p>It is believed that the constitution must specify the standard that</p>

		<p>pension and any other forms of emoluments. <i>(At the moment only a few definitions have been proposed since the definable terms shall be ascertained only on the completion of the entire draft of the Constitution.)</i></p> <p>(2) Unless the subject or context otherwise requires, the prevailing law of Nepal relating to interpretation shall, subject to the provisions of this Constitution, apply to the interpretation of this Constitution in the same manner as that law applies to the interpretation of the laws of Nepal.</p>		<p>should be adopted to make proper and uniform interpretation of the constitution. It is appropriate that the future Constitution shall make provision to specify the standard for interpretation while causing to interpret the provisions of the constitution on the basis of the principles of existing laws in force with regard to interpretation of the laws of the nation. Thus, it has been provisioned that the prevailing law of Nepal relating to interpretation shall, subject to the provisions of this Constitution, apply to the interpretation of this Constitution in the same manner as applied to the interpretation of the laws of Nepal.</p>
12.	Short Title, Comment and Abrogation	<p>30. <u>Short Title and Commencement:</u> (1) This Constitution shall be called “The Constitution of Nepal, 2067 [2007]”.</p> <p>(2) Other provisions than Part ..., Article ... of this Constitution shall come into force from Jyestha ... of the year Two Thousand Sixty-seven (... May 2010). Part ... and Article ... shall come into force from ... (...).</p> <p>31. <u>Abrogation:</u> “The Interim Constitution of Nepal, 2063 (AD 2007)” has been abrogated.</p>		<p>While analyzing our past exercises as well as the global exercises, extensive discussions have been held regarding two alternatives to give name to the future Constitution: either to adopt a general and short title or to adopt a longer title in order to identify the form and nature of the country in the changed context through the title of the constitution. While holding a discussion on which of the two alternatives shall be appropriate to select, it was found that the characteristics of the State of Nepal has been clearly stated in Article 4 above. It has also made clear that the state with such characteristics shall be entitled in brief as Nepal. Moreover, it is not essential that the form and nature of the country are reflected in the title of the constitution. Therefore, the title for this Constitution has been proposed as “The Constitution of Nepal, 2067 [2007]” in accordance with the decision of the Committee.</p>

				With regard to the commencement of the Constitution, circumstances may arise that the federal units and all other structures as provisioned in this Constitution may not be constituted and all the Articles may not be simultaneously enforced on the day of the commencement of the Constitution. It, thereby, opens the theoretical path for phase-wise commencement of the Constitution after determining the Parts and Articles that shall commence immediately and those Parts and Articles that shall commence after a certain period of time.
13.	Schedule 1. Federal Units to be Included within the State of Nepal	Schedule 1 (Relating to Article 4, Clause (2)) Federal Units to be Included within the State of Nepal		
	2. National Flag of Nepal	Schedule 2 (Relating to Article 6, Clause (2)) National Flag (A) <u>Method of Making the Shape Inside the Border</u> (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		

		<p>FG equal to AB.</p> <p>(5) Join CG.</p> <p>(B) <u>Method of Making the Moon</u></p> <p>(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.</p> <p>(7) Bisect CF at J and draw a line JK parallel to AB touching CG at point K.</p> <p>(8) Let L be the point where lines JK and HI cut one another.</p> <p>(9) Join JG.</p> <p>(10) Let M be the point where line JG and HI cut one another.</p> <p>(11) With centre M and with a distance shortest from M to BD mark off N on the lower portion of line HI.</p> <p>(12) Touching M and starting from O, a point on AC, draw a line from left to right parallel to AB.</p> <p>(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.</p> <p>(14) With centre M and radius MQ draw a semi-circle on the lower portion touching P and Q.</p> <p>(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.</p> <p>(16) With centre T and radius TS draw a semi-circle on the upper portion of PNQ</p>		
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		<p>touching it at two points.</p> <p>(17) With centre T and radius TM draw an arc on the upper portion of PNQ touching at two points.</p> <p>(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.</p> <p>(C) <u>Method of Making the Sun</u></p> <p>(19) Bisect line AF at U, and draw a line UV parallel to AB line touching line BE at V.</p> <p>(20) With centre W, the point where HI and UV cut one another and radius MN draw a circle.</p> <p>(21) With centre W and radius LN draw a circle.</p> <p>(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.</p> <p>(D) <u>Method of Making the Border</u></p> <p>(23) The width of the border will be equal to the width TN. This will be of deep blue color 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.</p> <p>(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</p>		
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		<p>can be extended according to requirements.</p> <p>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.</p>		
	3. National Song of Nepal	<p>Schedule 3 (Relating to Article 7, Clause (1))</p> <p>National Song of Nepal</p> <p>Sayaun thunga phoolka hami eutai mala nepali Sarvabhaum bhai phailieka mechi-mahakali. Prakritika kotikoti sampadako anchal Veerharuka ragatle swatantra ra atal Gyanbhoomi shantibhoomi terai pahad himal Akhand yo pyaro hamro matribhoomi Nepal Bahul jati bhasa dharma sanskriti chhan vishal Aragami rastra hamro jaya jaya Nepal.</p>		
	4. Coat-of-Arms of Nepal	<p>Schedule 4 (Relating to Article 7, Clause (2))</p> <p>Coat-of-Arms of Nepal</p> <p>LOGO</p>		

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