

Themes	Proposed for the New Constitution	Where in the Constitution?	Reasons for Keeping Provisions or Interpretative Comments
Preamble	<p>“Accepting that democracy, the rule of law and long-lasting peace, stability and development is possible only through the building of a just, inclusive State that will ensure proportional representation of persons from all castes, tribes, religions, color, sex, class, and of dalits, of Tarai people, Madheshis, Muslims, the disabled and region at every level or agency in the system of government along with the full guarantee of rights of the minorities, marginalized communities, those that have been made backward or excluded...”</p>	Preamble	<p>Since it seems that democracy, the rule of law and long-lasting peace, stability and development is possible only through the building of a just, inclusive State that will ensure proportional representation of persons from all castes, tribes, religions, color, sex, class, and of dalits, of Tarai people, Madheshis, Muslims, the disabled and region at every level or agency in the system of government along with the full guarantee of basic human rights of the minorities, marginalized communities, those who have been made backward and excluded, it is proposed that these provisions be included in the new Constitution to be written by accepting them.”</p>
Definition of Nation	<p>Nepal is a multiethnic, multilingual, multi-religious, federal, democratic republic, secular, inclusive State with full proportionality based on equality, freedom and justice free of ethnic, linguistic and religious discriminations and of untouchability.</p>	Part 1 of the Constitution	<p>Nepal is a multiethnic, multilingual, multi-religious, federal, democratic republic, secular, inclusive State with full proportionality based on equality, freedom and justice free of ethnic, linguistic and religious discriminations and of untouchability. So, these provisions have been proposed with that in mind.</p>
Language of the Nation	<p>(1) The Nepali language in the Devanagari script shall be the language of official business of Nepal and a <i>lingua franca</i> between the provincial states.</p>	Part 1 of the Constitution	<p>Nepali is a multilingual country. Citizens speaking many languages reside here. Use, protection and promotion of one's own mother tongue is the basic</p>

Final Draft text of CA Committee on the Protection of the Rights of Minorities and Marginalized Communities (translation by OHCHR)

	<p>(2) All the languages spoken as mother tongues in different parts of Nepal are the languages of the nation and the State shall provide equal treatment to all mother tongues.</p> <p>(3) The Provincial or State Executive shall choose one or more languages spoken by a majority of people in the State as an official language of the Province or State.</p> <p>(4) English shall serve as an international contact language.</p> <p>(5) Deaf citizens shall have the right to use and communicate in the Nepali sign language.</p> <p>(6) Persons with no eye-sight shall have the right to use the Braille script.</p> <p>(7) There shall be a Commission on the Languages of Nation to identify, study, research, standardize, protect and promote all languages spoken within Nepal.</p> <p>(8) The formation, functions, rights, duties and procedures of the Commission formed as per Sub-Article (7) shall be as prescribed by law.</p>		<p>right of citizens. The State should treat all languages equally without discrimination. No one should be behaved with differently just on the ground of language. It looks like that the State should adopt a three-pronged language policy. According to this policy, by recognizing the international contact language, the federal official language and contact language, and the provincial official language and contact language including all other mother tongues as languages of the nation, special arrangements should be made for identification, research, investigation, standardization, protection and promotion of all the remaining languages. Also, deaf citizens have the right to use and communicate in the Nepali sign language and citizens with no eye-sight shall have the right to use the Braille script. So, all the points in question are proposed to be included in the new Constitution under the title of "Language of the Nation."</p>
<p>Citizenship</p>	<p>(1) All Nepali citizens shall have the right to receive citizenships in the name of their father or mother or both.</p> <p>(2) Any child who is born within the territory of Nepal but the whereabouts of whose parents are not known shall have the right to obtain citizenship as provided for in the laws.</p> <p>(3) All Nepali citizens shall have the right to obtain</p>	<p>Part II of the Constitution</p>	<p>Right to a nationality, and right to equality and non-discrimination are fundamental rights. In the past, citizens were deprived of the basic human right to obtain citizenship in the name of their father, mother or both as they wish. Taking into account different movements, people's war, <i>Janaaandolan</i> 2006, the Madhesh movement, agreements including the Comprehensive Peace</p>

	<p>citizenship by descent, caste or by providing details.</p> <p>(4) The State shall not subject any citizen to discrimination of any kind on the grounds of being indigenous peoples, dalits, Tarai people, Madheshis, Muslims or of castes, tribes, religion, color, language, sex, sexual and gender identity, political or other thoughts, national or social origin, property, birth or region or physical or mental incapacity or the state of disability or any other status in the acquisition, application and termination of citizenship.</p> <p>(5) Transgenders shall have the right to acquire citizenships describing them as transgenders along with their gender identity.</p> <p>(6) The acquisition and termination of citizenship and other arrangements regarding naturalized and honorary citizenship shall be as prescribed in the law.</p>		<p>Agreement reached between the government and different other representative organizations, institutions and political parties and also on the basis of suggestions forwarded by common citizens through different means, there is a need to provide for constitutional arrangements for citizens to obtain citizenships by descent, caste or by providing other details on the basis of equality and non-discrimination along with their original identity. There should also be a constitutional arrangement for any child who is born within the territory of Nepal but the whereabouts of whose parents are not known to enjoy the right to obtain citizenship as provided for in the laws. Thus, provisions regarding citizenship should be made in such a way as to fulfill the wishes all citizens.</p>
<p>Right to Equality</p>	<p>(1) All citizens shall be equal before the law.</p> <p>(2) There shall be no discrimination of any kind against any citizen in the application of general laws on grounds of being indigenous peoples, dalits, Tarai people, Madheshis, Muslims or of religion, color, caste, tribe, sexual and gender identity, language, political or other thoughts or social origin, property, birth or region or physical or mental incapacity or the state of disability or in any other state.</p> <p>(3) There shall be no discrimination by the State against any citizens on grounds of anything such as indigenous peoples, dalits, Tarai people, Madheshis, Muslims, religion, color, caste, tribe, sexual, sex, sexual and gender identity, language, political or other thoughts or social origin or ethnic discrimination and untouchability, property, birth or</p>	<p>Part III of the Constitution Fundamental Rights</p>	<p>Right to equality is an inalienable right. Most of the human rights instruments to which Nepal is a party including the UDHR 1948 have laid stress on the right to equality. The principle of equality emphasizes that all citizens are equal before the State and the law, and no one shall be deprived of the right to be protected. It also emphasizes equally that there shall be no discrimination of any kind against any citizens on grounds of indigenous peoples, dalits, Tarai people, Madheshis, Muslims, religion, color, caste, tribe, sexual and gender identity, language, political or other thoughts or social origin, property, birth or region or physical or mental incapacity or the state of disability. The modern principle of equality, in order to ensure</p>

	<p>region or physical or mental incapacity or the state of disability or in any other status.</p> <p>Provided that the State shall make special arrangements, along with a provision for compensation for victimization in the past, on the basis of positive discrimination for the protection, development and empowerment of those who are economically, socially, politically and educationally backward and those who are poor in health condition by identifying such communities or classes.</p> <p>(4) There shall be no discrimination of any kind against anyone on grounds of being indigenous peoples, dalits, Tarai people, Madheshis, Muslims, religion, color, caste, tribe, sex, sexual or gender identity, language, political or other thoughts or social origin, property, birth or physical or mental incapacity or the state of disability or any other status with regard to providing any facility including remuneration for the same work.</p>		<p>substantive equality, lays focus on the need of making special arrangements by laws for protection, empowerment and development of classes or communities of society which are socially, economically, educationally, politically and from the viewpoint of health are backward.</p>
<p>Right Against Discrimination and Untouchability</p>	<p>(1) No person shall, on grounds of indigenous peoples, dalits, Tarai people, Madheshis, Muslims, the disabled, religion, color, sex, region, caste, tribe, descent, community or occupation, be subject to discrimination and untouchability in any form.</p> <p>(2) No person shall, on grounds of indigenous peoples, dalits, Tarai people, Madheshis, Muslims, the disabled, religion, color, sex, region, caste, tribe, community or occupation, be deprived of the use of services, conveniences or utilities available to the public, or be denied access to any public place.</p>	<p>Part III of the Constitution Fundamental Rights</p>	<p>Non-discrimination is a basic principle of human rights. According to this principle, the State should provide equally fundamental human rights without any discrimination of any kind based on caste, ethnicity, color, sex, language, religion, region, political or other thought, national or social origin, property, physical or mental incapacity or disability, birth or any other capacity. All international human rights treaties, agreements and instruments to which Nepal is a party including the UDHR of 1948 prohibit such discriminations including untouchability and provide for</p>

	<p>(3) No indigenous peoples, dalits, Tarai people, Madheshis, Muslims, the disabled, or no person of any particular religion, color, sex, region, caste, tribe, descent, community, occupation shall, in relation to the production or making available any goods, services or conveniences, be prevented from purchasing or acquiring such goods, services or conveniences or no such goods or conveniences shall be sold or distributed only to members of a particular religion, color, region, caste, tribe, descent, community or state.</p> <p>(4) The State shall discourage discrimination or a feeling of superiority or ethnic intolerance, indignity or hatred to be taking place on ethnic, linguistic, religious, cultural, economic, social, educational, political, physical, health, sex, sexual and gender identity, origin or regional or any other grounds among citizens.</p> <p>(5) Acts contrary to Sub-Articles (1), (2), (3) and (4) shall be punished as heinous social crimes against humanity and the victim shall get due compensation as per the law.</p>		<p>fundamental human rights. Nepal has an obligation to ensure legal guarantee and implementation of these international instruments. Though the previous constitutions have provided for right to equality with priority as a fundamental right, discriminations that are in place for ages and practice of untouchability gave rise to various movements including people's war and the 2006 people movement, and the Madhesh movement. Agreements including CPA reached with the governmental and other representative bodies including political parties, and the suggestions received from the people should be taken into account. The country should be made untouchability-free.</p>
<p>Cultural and Educational Rights</p>	<p>(1) Every person, family or community residing in Nepal shall have the right to protect, promote and use his or her language, script and culture, customs, traditions, rituals and practices that are in consistent with universal norms and values of human rights.</p> <p>Provided that this shall not be deemed to have prevented from making laws for imposing reasonable restrictions on acts which are likely to disrupt public law and order or incite people to commit crimes or violent acts or undermine morality or jeopardize harmonious relations</p>	<p>Part III of the Constitution Fundamental Rights</p>	<p>Right to education and culture is an inborn fundamental right. Every person, family or community shall have the right to protect, promote and use his or her language, script and culture, customs, traditions, rituals and practices that are inconsistent with universal norms and values of human rights. Similarly, every person has the right to education. Also, religious, cultural and linguistic communities shall have the right to establish and operate educational institutions of their choice, and</p>

	<p>subsisting between communities or groups including different castes, tribes, religions, language, region, etc.</p> <p>(2) Every citizen shall have the right to receive education up to high level free of cost.</p> <p>(3) It shall be the duty of the State to ensure the right of all religious, cultural and linguistic communities to open and run educational institutions as desired by them.</p> <p>        Provided that this shall not be deemed to have prevented from making laws for imposing reasonable restrictions on acts that are likely to disrupt public law and order or incite to commit crimes or violent acts or undermine morality or jeopardize harmonious relations subsisting between communities or groups including different castes, tribes, religions, language, region, etc.</p> <p>(4) No educational institutions opened and run by a particular religious, cultural or linguistic community shall be deprived of receiving assistance due to be received from the State.</p> <p>(5) No person shall be deprived of the opportunity to get enrolled in or receive higher education from a public educational institution just by reason of having received education from an educational institution opened or run by a particular religious, cultural or linguistic community.</p> <p>(6) No person shall, on grounds of being, indigenous peoples, Tarai people, Muslims, Madheshi, religion or of sex, color, language, region or culture, be deprived of the opportunity to get enrolled in or receive education from educational institutions run by or receiving assistance from the State.</p>		<p>it is the government's duty to ensure these rights.</p> <p>No educational institutions opened and run by a particular religious, cultural or linguistic community shall be discriminated against in or deprived of receiving assistance due to be received from the State.</p> <p>No person shall be deprived of the opportunity to get enrolled in or receive higher education from a public educational institution just by reason of having received education from an educational institution opened or run by a particular religious, cultural or linguistic community.</p> <p>In the new Constitution to be framed, these rights should be fully guaranteed.</p>
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<p>Right to religion</p>	<p>(1) All persons shall have the freedom of religion as given below.</p> <ol style="list-style-type: none"> <li>a. To accept or not to accept a religion,</li> <li>b. To profess and practise religion according to one's own faith,</li> <li>c. To disseminate the religion of one's own faith and religious belief,</li> <li>d. To renounce or convert to another religion out of one's own accord,</li> <li>e. To open and run religious associations or organizations.</li> </ol> <p>(2) While exercising the freedom of religion mentioned in Sub-Article (1) (a), (b), (c), (d) and (e), it shall have to be done in a manner which shall not affect other religions or religious faith,</p> <p>(3) No one shall be allowed to convert another person from one religion to another against his or her desire.</p> <p>(4) Acts contrary to Sub-Articles (2) and (3) shall be punishable by laws.</p> <p>(5) Every religious denomination shall have the right to manage and protect religious places and religious trusts in accordance with the law by maintaining its independent existence and religious tolerance.</p>	<p>Part III of the Constitution Fundamental Rights</p>	<p>Right to religious is a fundamental right of man. All persons have the right to accept or not to accept a religion, to profess and practise religion according to one's own faith, to disseminate the religion of one's own faith and religious belief, to renounce or convert to another religion out of one's own accord and to open and run religious associations or organizations. But while exercising these rights, it should be done in a manner which shall not affect other religions or religious faith. No one shall be allowed to convert another person from one religion to another. Also, every religious denomination shall have the right to manage and protect religious places and religious trusts in accordance the law by maintaining its independent existence. Failure to achieve these freedoms in the past gave rise to different religious movements including the April movement. The right to religion should be made in the Constitution on the basis of the principle of secularism, keeping in mind the agreements including CPA reached with the governmental and other representative bodies including political parties, and the suggestions received from the people.</p>
<p>Right of the Minorities, Marginalized and Excluded Communities</p>	<p>(1) Persons of the minorities, marginalized and excluded communities are free and equal in dignity and right by birth. No discrimination shall be there by the State against them in the exercise of constitutional and legal rights.</p> <p>Explanation:</p> <p>(a) Minority community means the community which suffers from all forms of discrimination and</p>	<p>Part III of the Constitution Fundamental Rights</p>	<p>For human beings to live as human beings, they require some basic human rights. These rights are universal, inalienable, indivisible, interlinked, non-discriminatory and equal. They can use these rights on an equal basis no matter wherever they are and no one can be deprived of these rights. In addition,</p>

	<p>exploitation. The term also indicates ethnic, religious or linguistic community with less population suffering from such discrimination and exploitation.</p> <p>(b) Marginalized community means the community which is backward from the economic, social, educational, political, religious, linguistic, and gender, health and sexual viewpoints.</p> <p>(c) Excluded community means the community which has not been included into the State power because of caste, linguistic, economic, social, religious, cultural, sexual, regional discrimination and exploitation or because of physical or mental incapacity or disability.</p> <p>(2) The minorities, the marginalized and the excluded communities shall have the right to live with dignity, along with their original identity.</p> <p>Provided that,</p> <p>Anything contained in Sub-Article (3) shall not be deemed to have prevented from framing laws with reasonable restrictions on any act that will jeopardize the relationships subsisting between different castes, ethnicities, languages, religions or communities, or abet crimes or acts of violence or any act that is inconsistent with public morality.</p> <p>(3) The minorities, and marginalized and excluded communities shall have the right to use, protect and promote freely, and without any discrimination, their religion, culture, language or script.</p>		<p>ethnic, religious, linguistic and cultural rights are just as necessary. International instruments on human rights have also laid stress on this. Only with the attainment of these rights, one can live with one's own original identity as a human being. Thus, human beings are entitled to two rights – firstly, basic human rights; secondly, ethnic, religious, cultural or linguistic rights which a person is entitled to for being a member of an ethnic, religious, cultural or linguistic community. The rights of the second category are considered to be that of the minorities, and marginalized and excluded communities. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992 and other international human rights instruments have basically emphasized the following two kinds of rights when it comes to the minorities, and the marginalized and excluded communities:</p> <ol style="list-style-type: none"> <li>1. Right against discrimination</li> <li>2. Other special rights</li> </ol> <p>Under the first group, the State should provide basic human rights to all on an equal basis without any kind of discrimination on grounds of caste, tribe, color, gender, region, language, religion, political or other thought, national or social origin, property, birth or any other capacity.</p> <p>The second group of rights includes the rights mentioned in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992. This includes the</p>
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	<p>Provided that,</p> <p>Anything contained in Sub-Article (4) shall not be deemed to have prevented from framing laws with reasonable restrictions on any act that will jeopardize the relationships subsisting between different castes, ethnicities, languages, religions or communities, or abet crimes or acts of violence or any act that is inconsistent with public morality.</p> <p>(4) The minorities, and marginalized and excluded communities shall have the right to establish and operate organizations to protect and promote their original identity and to refuse to get affiliated under force with a community.</p> <p>(5) The minorities, and marginalized and excluded communities shall have the right to use, protect and promote their traditional art, knowledge, skills or expertise after registering them as intellectual property, and to put checks on their use or receive due compensation if anyone is found to have utilized them without permission.</p> <p>(6) The minorities, and marginalized and excluded communities shall have the right to establish relationships with a foreign community which has a similar identity and participate [in activities] in a manner that will not affect their national interests.</p> <p>(7) The minorities, and marginalized and excluded communities shall have the right to use rights related to their communities, individually or</p>		<p>right to live in the dignity and worth of the human person, to profess and practise their own religion, to enjoy their own culture, religion, script and language, to use, promote and protect their traditional art, knowledge, skills and expertise, to participate in public life, to set up and run organizations, to maintain independent and peaceful relations with other communities, to use rights individually or collectively. In addition to this, the State should provide for compensation to the minorities, and marginalized and excluded communities for the religious, cultural and other forms of exploitation they have suffered and make arrangements for proportional representation at every level and body of the State and for their empowerment and development, after identifying such communities. A commission should be formed to identify and study the situation of these communities that have been made backward culturally, educationally, socially, politically, etc. The functions, duties and procedures of the commission should be determined by laws.</p>
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	<p>collectively.</p> <p>(8) The minorities, and marginalized and excluded communities shall not be deemed to disqualify or be deprived of benefits due from the State for exercising or not exercising the rights associated with themselves.</p> <p>(9) Persons of the minorities, and marginalized and excluded communities shall have the right to get fully represented in a proportional way in the State's plans, projects and programs or their implementation or monitoring and evaluation.</p> <p>(10) The minorities, and the marginalized and excluded communities shall have the right o participate in State affairs by making arrangements in the laws.</p> <p>(11) The State shall identify the minorities, and marginalized and excluded communities or classes that are economically, socially, educationally, politically, administratively or regionally backward and make legal arrangements for their protection, development and empowerment for proportional representation at every level.</p> <p>(12) The State shall make arrangements to ensure more rights regarding proportionality in connection with providing compensation to the communities suffering from caste discrimination, untouchability and religious and cultural victimization.</p> <p>(13) The State shall form a Commission to identify the</p>		
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	<p>communities or classes as per Sub-Article (11) and make recommendations accordingly.</p> <p>(14) The functions, duties, powers and procedures of the Commission as per Sub-Article (13) shall be as provided for in the laws.</p>		
<p>Directive Principles of the State</p>	<p>(1) It shall be the main economic objective of the State to make the national economy independent and self-sufficient by prioritizing and protecting the domestic private and public businesses after establishing as a civil right the equal access to economic opportunities and achievements and just distribution thereof to indigenous peoples, dalits, Tarai people, Madheshi, Muslims, disabled and the people of all castes, religions, languages, sex, group, region and situation on the basis of the principles of economic and social justice, without letting the economic resources available in the country be centered among limited persons.</p> <p>(2) It shall be the social objective of the State to establish and develop healthy social life based on justice and morality by establishing a cordial and harmonious mutual relation among indigenous peoples, dalits, Tarai people, Madheshi, Muslims, disabled, citizens of different castes, religions, languages, color, sex, sexual and gender-based identities, communities, region and situation on the basis of unity and brotherhood by removing all forms of ethnic, religious, lingual, sexual or gender-based, economic, social, political, educational, administrative and regional discriminations and inequalities</p>	<p>Part IV of the Constituting Directive Principles of the State</p>	<p>In the past, indigenous peoples, dalits, Tarai people, Madheshis, Muslims, the disabled and those of different castes, color, gender, region and condition did not have their access to and control in economic opportunities and achievements available in the country. The nation failed to pay due attention to give priority to private and public entrepreneurship and make the national economy self-reliant. This resulted in the accumulation of available means and resources in the hands of a few. This in turn led to the deterioration of private and public industries. That's why, the new Constitution should pay attention to not concentrating all economic means and resources on limited people and the people of all castes, indigenous peoples, dalits, Tarai people, Madheshis, Muslims, the disabled should be brought within the access of economic opportunities and achievements made on the basis of economic and social justice. The State's main objective should be to make the country's national economy independent and self-reliant. As the State's social policy should be to establish a healthy social life based on justice and morality by maintaining mutual cordiality and coordination among the people, the new Constitution to be</p>

			framed should include the things discussed here under the “Directive Principles of the State.”
Policy of the State	(1) The State shall adopt a policy to ensure the citizens' right to live a humane life through just distribution of economic investment, production and relations of production and by fully utilizing the local labor, skills, capacity and expertise, and by providing basic things such as education, health, transport, housing, foodstuff and jobs to the people different castes, and indigenous peoples, Dalits, Tarai people, Madheshis, Muslims, the disabled and those of different religions, language, class, region and condition.	Part IV of the Constitution Policy of the State	As the State has to adopt a policy to ensure the citizens' right to live a humane life through just distribution of economic investment, production and relations of production and by fully utilizing the local labor, skills, capacity and expertise and by providing basic things such as education, health, transport, housing, foodstuff and jobs to different castes, indigenous peoples, Dalits, Tarai people, Madheshis, Muslims, the disabled and people of different religions, language, class, region and condition., the new Constitution to be framed must include these provisions.