

- (c) if a resolution is passed by a majority of two-thirds of the total number of the then members of the State Assembly to the effect that his or her conduct is not compatible with his or her office.

(7) The State Deputy Speaker shall preside over a meeting at which deliberations are to be held on a motion that the conduct of the Speaker of the State Assembly is not compatible with his or her office. The State Speaker shall be entitled to take part and vote in the deliberations on such motion.

183. Summoning and prorogation of session of State Assembly: (1) The Chief of State shall summon a session of the State Assembly within twenty days of the declaration of final results of the election to the State Assembly. Thereafter, the Chief of State shall, from time to time, summon other sessions pursuant to this Constitution.

Provided that the interval between the two consecutive sessions shall not exceed six months.

(2) The Chief of State may prorogue the sessions of the State Assembly.

(3) If, during the prorogation or recess of the session of the State Assembly, one-fourth of the total number of its members make a petition that it is expedient to convene a session or meeting, the Chief of State shall specify the date and time for such session or meeting. The State Assembly shall meet or commence its session at the date and time so specified.

184. Address by Chief of State: (1) The Chief of State may address a sitting of the State Assembly, and summon the members for that purpose.

(2) The Chief of State shall address the first session after an election to the State Assembly and a sitting of the State Assembly after the commencement of the first session of each year.

185. Quorum of State Assembly: Except as otherwise provided for in this Constitution, no question or motion shall be presented for decision in the State Assembly unless one-fourth of the total number of its members are present.
186. Voting in State Assembly: All questions submitted for decision in the State Assembly shall be decided by a majority vote of the members present and participate in voting. The member chairing the meeting shall not have the right to vote.

Provided that he or she may exercise his or her casting vote in the case of a tie.

187. Privileges of State Assembly: (1) There shall be full freedom of speech in the State Assembly, subject to this Constitution, and no member shall be arrested, detained or prosecuted in any court for anything expressed or any vote cast by him or her in the State Assembly.

(2) The State Assembly shall, subject to this Constitution, have full power to regulate and decide its internal business, and it shall be the exclusive right of the State Assembly to decide whether or not any of its proceedings is regular or irregular. No question shall be raised in any court in this behalf.

(3) No comment shall be made about the good faith concerning any proceeding of the State Assembly, and no publication and broadcasting of any kind shall be made about anything said by any member, intentionally distorting or misinterpreting the meaning of the speech.

(4) The provisions of clauses (1) and (3) shall also apply to other persons who are entitled to participate in the meetings of the State Assembly than the members of State Assembly.

(5) No proceedings shall be initiated in any court against any person in respect of the publication, under the authority granted by the State Assembly, of any document, report, vote or proceeding.

Explanation: For the purposes of this clause and clauses (1), (2), (3) and (4), "State Assembly" means and includes the meeting of a committee of the State Assembly.

(6) No member of the State Assembly may be arrested during the period from the issuance of a notice summoning the session to its prorogation.

Provided that nothing in this clause shall be deemed to prevent the arrest under the law of any member on a criminal charge. If any member is so arrested, the authority making such arrest shall forthwith give information thereof to the person presiding over the State Assembly.

(7) Any breach of the privileges shall be deemed to constitute contempt of the State Assembly, and the State Assembly shall have the exclusive right to decide whether any breach of its privileges has taken place.

(8) If any person is in contempt of the State Assembly, the person presiding over the State Assembly may, after a decision by the State Assembly to that effect, admonish, warn or impose a sentence of imprisonment for a term not exceeding three months or of a fine not exceeding ten thousand rupees on such person, and such fine shall be recovered as a government due.

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

(9) Other matters relating to privileges of the State Assembly shall be as provided in the State law.

188. Provisions relating to vote of confidence and motion of no-confidence: (1) The Chief Minister may, whenever he or she considers necessary or appropriate to show that he or she has confidence from the State Assembly, table a resolution to that effect in the State Assembly for the vote of confidence.

(2) If the political party which the Chief Minister represents is divided or a political party in coalition State Government withdraws its support, the Chief Minister shall table a resolution in the State Assembly for a vote of confidence within thirty days.

(3) If a resolution tabled under clauses (1) and (2) is not passed by a majority of the total number of then members of the State Assembly, the Chief Minister shall relieve of his or her office.

(4) One-fourth of the total number of then members of the State Assembly may table in writing a motion of no-confidence against the Chief Minister.

Provided that a motion of no confidence may not be tabled until the first two years after the appointment of the Chief Minister and until another one year after the date of failure of the motion of no confidence once tabled.

(5) A motion of no confidence to be tabled under clause (4) shall also indicate the name of a member proposed for Chief Minister.

(6) If a motion of no confidence tabled under clause (4) is passed by a majority of the total number of then members of the State Assembly, the Chief Minister shall relieve of his or her office.

(7) If the office of the Chief Minister falls vacant because of the passage of a vote of no-confidence under clause (6), the Chief of State shall, in accordance with Article 168, appoint as the Chief Minister the member of the State Assembly proposed under clause (5).

189. Minister, Minister of State and Assistant Minister entitled to take part in meetings of State Assembly: The Minister, Minister of State and Assistant Minister shall be entitled to attend, and take part in the proceedings and deliberations of, the State Assembly or its committees.

Provided that a Minister, Minister of State or Assistant Minister who is not a member of the State Assembly shall not be entitled to vote in a meeting of the State Assembly or its committee, and a Minister, Minister of State or Assistant Minister shall not be entitled to vote in a meeting of a committee of which he or she is not a member.

190. Penalty for unauthorized presence or voting in State Assembly: If a person who has not taken oath under Article 179 or who is not a member of the State Assembly is present or votes in a meeting of the State Assembly or of its committee as a member, the person shall, by order of the person chairing the meeting, be fined with a sum of five thousand rupees for each instance of such presence or voting, and such a fine shall be recovered as a government due.
191. Restriction on discussion: No discussion shall be held in the State Assembly on any matters that may cause adverse effect on the dispensation of justice on any cases which are *sub judice* in any courts of Nepal and on any judicial acts done by Judges in the course of performance of their duties.
192. Transaction of business in case of vacancy in seat of member: The State Assembly shall have the power to transact its business notwithstanding any vacancy in the seat of its member; and no proceedings of the State Assembly already conducted shall become invalid even if it is subsequently discovered that a person who was not so entitled took part in such proceedings.
193. Power of State Assembly to form committees: The State Assembly may, in accordance with its rules, form committees or special committees, as required, in order to manage its working procedures.
194. Procedures relating to conduct of business of State Assembly: The State Assembly shall frame rules to conduct its business, maintain order during its meetings and regulate the constitution, functions and procedures of, and other

matters relating to, its committees. Until such rules are framed, the State Assembly shall regulate its procedures on its own.

195. Secretary and Secretariat of State Assembly: (1) The Chief of State shall appoint the Secretary of the State Assembly on recommendation of the Speaker of State Assembly.

(2) There shall be a Secretariat for conducting and managing the business of the State Assembly. The establishment of such Secretariat and other matters related thereto shall be as provided for in the State law.

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

196. Remuneration: The remuneration and facilities of the Speaker and the Deputy Speaker of the State Assembly shall be as provided for in the State law, and as specified by the State Government until such law is made.

Part-15

State Legislative Procedures

197. Legislative powers of State Assembly: The legislative powers of the State Assembly shall be as contained in lists of Schedule-6, Schedule-7 and Schedule-9.
198. Procedures for introduction of Bills in State Assembly: (1) A Bill may, subject to this Constitution, be introduced in the State Assembly.
- (2) A Money Bill and a Bill concerning peace and security may be introduced only as a Government Bill.
- (3) "Money Bill" means a Bill concerning any or all of the following subjects:
- (a) the imposition, collection, abolition, remission, alteration or regulation of taxes in the State,
 - (b) the preservation of the State Consolidated Fund or any other State Government Fund, the deposit of moneys into and the appropriation or the withdrawal of moneys from such Funds, or the reduction, increment or cancellation of appropriations or of proposed expenditures from such Funds,
 - (c) the regulation of matters relating to the borrowing of money or the giving of guarantee by the State Government, or any matter pertaining to the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State Government,
 - (d) the custody and investment of all revenues received by any State Government Fund, moneys acquired through the

repayment of loans, and grant moneys; or audits of the accounts of the State Government, or

- (e) other incidental matters directly related to any of the subjects specified in clause (a), (b), (c) or (d).

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

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

199. Procedures for passage of Bills: (1) A Bill passed by the State Assembly shall be presented to the Chief of State for assent.

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

Provided that if the State Assembly is dissolved or its term expires when any Bill is under its consideration, such a Bill shall lapse.

200. Withdrawal of Bills: A member who has introduced a Bill may, with the approval of the State Assembly, withdraw the Bill.

201. Assent on Bills: (1) A Bill which is to be presented to the Chief of State for assent under Article 199 shall be so presented by the Speaker of State Assembly after it has been certified by him or her.

Provided that in the case of a Money Bill, the Speaker of State Assembly shall so certify.

(2) A Bill presented to the Chief of State for his or her assent shall be assented to within fifteen days, and the State Assembly shall be informed thereof as soon as possible.

(3) Except for a Money Bill, if the Chief of State is of the opinion that any Bill needs further deliberations, he or she may send back the Bill with his or her message to the State Assembly within fifteen days from the date of presentation of the Bill to him or her.

(4) If any Bill is sent back with his or her message by the Chief of State under clause (3), it shall be reconsidered by the State Assembly and if the Bill so reconsidered is again passed as it was or with amendments, and is again presented to him or her, the Chief of State shall give assent to that Bill within fifteen days of such presentation.

(5) A Bill shall become an Act after the Chief of State gives assent to it.

202. Ordinance: (1) If, at any time, except when the State Assembly is in session, a circumstance exists which renders it necessary to take immediate action, the Chief of State may, on the recommendation of the State Council of Ministers, promulgate an Ordinance.

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

Provided that every such Ordinance:

- (a) shall be tabled at the session of the State Assembly held after the promulgation, and if not passed by the State Assembly, it shall *ipso facto* cease to be effective,
- (b) may be repealed at any time by the Chief of State, and

- (c) shall, unless rendered ineffective or repealed under subclause (a) or (b), *ipso facto* cease to be effective at the expiration of sixty days after the day on which a meeting of the State Assembly is held.

Part -16

State Financial Procedures

203. No tax to be levied or loan to be raised: (1) No tax shall be levied and collected in a State except in accordance with law.

(2) No loan shall be raised and guarantee given by the State Government except as provided for in the Federal law.

204. State Consolidated Fund: Except for the revenues of trusts (*Guthi*), all revenues received by the State Government, all loans raised on the security of revenues, all moneys received in repayment of any loans made under the authority of any State Act and any mounts of grants or loans received from the Government of Nepal shall, except as otherwise provided for in the State Act, be credited to a State Government Fund to be known as the State Consolidated Fund.

205. Expenditures from State Consolidated Fund or State Government Fund: No expenditure shall be incurred out of the State Consolidated Fund or any other State Government Fund except the following:

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

Provided that matters relating to the State Contingency Fund shall be in accordance with Article 212.

206. Expenditures chargeable on State Consolidated Fund: The expenditures relating to the following matters shall be charged on the State Consolidated Fund, and approval of the State Assembly shall not be required for such expenditures:
- (a) the amount required as remuneration and facilities payable to the State Speaker and the State Deputy Speaker,
 - (b) the amount required as remuneration and facilities payable to the Chairperson and members of the State Public Service Commission,
 - (c) all charges relating to debts for which the State Government is liable,
 - (d) any sum required to satisfy any judgment or decree made by a court against the State Government, and
 - (e) any other sum specified by a State law to be chargeable on the State Consolidated Fund.
207. Estimates of revenues and expenditures: (1) The State Minister for Finance shall, in respect of every financial year, lay before the State Assembly an annual estimate setting out, *inter alia*, the following matters:
- (a) an estimate of revenues,
 - (b) the moneys required to meet the charges on the State Consolidated Fund, and
 - (c) the moneys required to meet the expenditure to be provided for by a State Appropriation Act.
- (2) The annual estimate to be laid pursuant to clause (1) shall also be accompanied by a statement of the expenses allocated to every Ministry in the

- previous financial year and particulars of whether the objectives of the expenses have been achieved.
208. State Appropriation Act: The moneys required to meet the expenditure to be provided for by any State Appropriation Act shall be specified under appropriate heads in an Appropriation Bill.
209. Supplementary estimates: (1) The State Minister for Finance may lay before the State Assembly a supplementary estimate if it is found in any financial year,-
- (a) that the sum authorized to be spent for a particular service by the State Appropriation Act for the current financial year is insufficient, or that a need has arisen for expenditures upon some new service not provided for in the State Appropriation Act for that year, or
 - (b) that the expenditures made during that financial year are in excess of the amount authorized by the State Appropriation Act.
- (2) The sums included in the supplementary estimates shall be specified under the heads in a Supplementary Appropriation Bill.
210. Votes on Account: (1) Notwithstanding anything contained elsewhere in this Part, a portion of the expenditure estimated for the financial year may, when a State Appropriation Bill is under consideration, be incurred in advance under a State Act.
- (2) A Vote on Account Bill shall not be introduced until the estimates of revenues and expenditures have been laid in accordance with Article 207, and the sums involved in the Vote on Account shall not exceed one-third of the estimate of expenditures for the financial year.
- (3) The expenditures incurred in accordance with the State Vote on Account Act shall be included in the State Appropriation Bill.

211. Votes of Credit: Notwithstanding anything contained elsewhere in this Part, if owing to an emergency due to natural causes or other reasons, it appears to be impractical or inexpedient in view of the security or interest of the State to specify the details required under clause (1) of Article 207, the State Minister for Finance may lay before the State Assembly a Vote of Credit Bill giving only a statement of expenditures.
212. State Contingency Fund: (1) A State Act may create a Fund to be known as the State Contingency Fund into which shall be paid from time to time such moneys as may be determined by the State Act.
- (2) The Fund under clause (1) shall be under the control of the State Government. Any unforeseen expenditure may be met out of such Fund by the State Government.
- (3) The amount of the expenditure under clause (2) shall be reimbursed as soon as possible by the State Act.
213. Act relating to financial procedures: Matters relating to the transfer of moneys appropriated by the State Act from one head to another and other financial procedures shall be as provided for in the State Act.

Part-17

Local Executive

214. Executive power of Local Level: (1) The executive power of the Local Level shall, pursuant to this Constitution and the Federal law, be vested in the Village Executive or the Municipal Executive.

(2) The local executive power shall be as mentioned in Schedule-8 and Schedule-9.

(3) The responsibility for issuing general directives, controlling and regulating the governance of the Village Body and the Municipality shall, subject to this Constitution and other laws, lie in the Village Executive and the Municipal Executive.

(4) The executive functions of the Village Body and the Municipality shall be performed in the name of the Village Executive and the Municipal Executive.

(5) Any decision or order to be issued in the name of the Village Executive and the Municipal Executive pursuant to clause (4) and other instruments of authorization pertaining thereto shall be authenticated as provided for in the Local law.

215. Provisions relating to Chairperson and Vice-Chairperson of Village Executive:

(1) There shall be a Chairperson of Village Executive in each Village Body. The Village Executive shall be formed under his or her chairpersonship.

(2) The Village Executive under clause (1) shall consist of one Vice-Chairperson, Ward Chairperson elected from each Ward and members elected pursuant to clause (4).

(3) The Chairperson and the Vice-Chairperson shall be elected by the voters residing within the concerned Village Body area by secret ballots on the

basis of one person one vote, in accordance with the first past the post electoral system.

Explanation: For the purposes of this Article, "Chairperson" and "Vice-Chairperson" mean the Chairperson and the Vice-Chairperson of the Village Executive.

(4) The members of the Village Executive shall also include four women members elected by the members of the Village Assembly from amongst themselves and two members elected by the Village Assembly from the *Dalit* or minority communities, in possession of the qualification under clause (5), no later than fifteen days after the final results of the election to the Village Assembly under Article 222.

(5) A person who has the following qualification shall be qualified to be elected to the office of the Chairperson, Vice-Chairperson, Ward Chairperson and member:

- (a) being a citizen of Nepal,
- (b) having completed the age of twenty one years,
- (c) being a voter whose name is included in the electoral rolls of the Village Body,
- (d) not being disqualified by any law.

(6) The term of office of the Chairperson, Vice-Chairperson, Ward Chairperson and member shall be five years after the date of being elected.

(7) A person who has been elected as the Chairperson for two terms shall not be eligible to be a candidate in an election to the Village Body.

(8) The office of the Chairperson, Vice-Chairperson, Ward Chairperson or member shall become vacant in any of the following circumstances:

- (a) if the Chairperson tenders resignation in writing to the Vice-Chairperson, and if the Vice-Chairperson tenders resignation before the Chairperson,
- (b) if his or her term of office expires,
- (c) if he or she dies.

(9) If the seat falls vacant under clause (7) while the term of office of the Chairperson or Vice-Chairperson still remains for more than one year, the vacancy shall be filled through by-election for the remainder of term.

216. Provisions relating to Mayor and Deputy Mayor of Municipal Executive: (1) Each Municipality shall have a Mayor. The Municipal Executive shall be formed under his or her chairpersonship.

(2) The Municipal Executive under clause (1) shall consist of one Deputy Mayor, Ward Chairperson elected from each Ward and members elected pursuant to clause (4).

(3) The Mayor and the Deputy Mayor shall be elected by the voters residing within the concerned Municipal area by secret ballots on the basis of one person one vote, in accordance with the first past the post electoral system.

Explanation: For the purposes of this Article, "Mayor" and "Deputy Mayor" mean the Mayor and the Deputy Mayor of the Municipal Executive.

(4) The members of the Municipal Executive shall also include five women members elected by the members of the Municipal Assembly from amongst themselves and three members elected by the Municipal Assembly from the *Dalit* or minority communities, in possession of the qualification under clause (5), no later than fifteen days after the final results of the election to the Municipal Assembly under Article 223.

(5) A person who has the following qualification shall be qualified to be elected to the office of the Mayor, Deputy Mayor, Ward Chairperson and member:

- (a) being a citizen of Nepal,
- (b) having completed the age of twenty one years,
- (c) being a voter whose name is included in the electoral rolls of the Municipality,
- (d) not being disqualified by any law.

(6) The term of office of the Mayor, Deputy Mayor, Ward Chairperson and member shall be five years after the date of being elected.

(7) A person who has been elected as the Mayor for two terms shall not be eligible to be a candidate in an election to the Municipality.

(8) The office of the Mayor, Deputy Mayor, Ward Chairperson or Member shall become vacant in any of the following circumstances:

- (a) if the Mayor tenders resignation in writing to the Deputy Mayor, and if the Deputy Mayor tenders resignation in writing before the Mayor,
- (b) if his or her term of office expires,
- (c) if he or she dies.

(9) If the seat falls vacant under clause (8) while the term of office of the Mayor or Deputy Mayor still remains for more than one year, the vacancy shall be filled through by-election for the remainder of term.

217. Judicial Committee: (1) There shall be a three-member judicial committee to be coordinated by its Vice-Chairperson in the case of a Village Body and by its Deputy Mayor in the case of a Municipality, in order to settle disputes under their respective jurisdictions in accordance with law.

(2) The judicial committee under clause (1) shall consist of two members elected by the members of the Village Assembly or the Municipal Assembly from amongst themselves.

218. Conduct of business of Village Executive and Municipal Executive: Allocation and conduct of business of the Village Executive and the Municipal Executive shall be carried out in accordance with the rules approved by the Village Executive and the Municipal Executive, respectively.
219. Other provisions relating to Local Level Executive: Other provisions relating to the Local Level Executive, except those contained in this Part, shall be as provided for in the Federal law, subject to this Constitution.
220. District Assembly and District Coordination Committee: (1) There shall be a District Assembly to make coordination between the Village Bodies and Municipalities within the district.

(2) The District Assembly shall consist of Chairpersons and Vice-Chairpersons of Village Executives, and Mayors and Deputy Mayors of Municipal Executives within the district. The first meeting of the District Assembly shall be held no later than thirty days of the date of final results of the election to the Village Assemblies and the Municipal Assemblies.

(3) The District Assembly shall elect the District Coordination Committee consisting of a maximum of nine Members including one Chief, one Deputy Chief, at least three women and at least one *Dalit* or minority. The District Coordination Committee shall discharge all functions required to be discharged by the District Assembly.

(4) A Member of a Village Assembly or Municipal Assembly within the concerned district shall be eligible to be a candidate for the office of Chief, Deputy Chief or Member of the District Coordination Committee. If elected to the office of Chief, Deputy Chief or Member of the District Coordination

Committee, his or her office of Member of Village Assembly or of Municipal Assembly shall *ipso facto* lapse.

(5) The term of office of the Chief, Deputy Chief and member of the District Coordination Committee shall be five years after the date of being elected.

(6) The office of the Chief, Deputy Chief and member of the District Coordination Committee shall become vacant in any of the following circumstances:

- (a) if the Chief tenders resignation in writing before the Deputy Chief, and if the Deputy Chief or member tenders resignation in writing before the Chief,
- (b) if his or her term of office expires,
- (c) if he or she dies.

(7) The functions, duties and powers of the District Assembly shall be as follows:

- (a) to make coordination between the Village Bodies and Municipalities within the district,
- (b) to monitor development and construction works to make balance of such works,
- (c) to make coordination between the Federal and the State Government offices and Village Bodies and Municipalities in the district,
- (d) to perform other functions as provided for in the State law.

(8) Provisions relating to the conduct of the District Assembly, facilities of Members of the District Coordination Committee and other matters relating to the District Assembly shall be as provided for in the State law.

Part-18

Local Legislature

221. Legislative powers of Local Level: (1) The legislative powers of the Local Level shall be vested in the Village Assembly and the Municipal Assembly, subject to this Constitution.

(2) The legislative powers of the Village Assembly and the Municipal Assembly shall be as mentioned in the lists contained in Schedule-8 and Schedule-9.

222. Composition of Village Assembly: (1) Each Village Body shall have a Village Assembly.

(2) A Village Assembly under clause (1) shall consist of the Chairperson and Vice-Chairperson of the Village Executive, Ward Chairpersons, and four members elected from each ward and Members of the Village Executive elected from *Dalit* and minority communities pursuant to clause (4) of Article 215.

(3) A Village Assembly to be formed under clause (1) shall have representation of at least two women from each ward.

(4) Each ward of a Village Body under the Federal law shall have a Ward Committee composed of the Ward Chairperson and four members. Such Ward Chairperson and Ward members shall be elected in accordance with the first past the post electoral system.

(5) Every person who has completed the age of eighteen years and whose name is included in the electoral rolls of the Village Body shall have a right to vote as provided for in the Federal law.

(6) A person who has the following qualification shall be qualified to become a candidate for the office of the Member of the Village Assembly:

- (a) being a citizen of Nepal,
- (b) having completed the age of twenty one years,
- (c) being his or her name included in the electoral rolls of the Village Body, and
- (d) not being disqualified by any law.

(7) Matters relating to the election to the Village Assembly and other matters pertaining thereto shall be as provided for in the Federal law.

223. Composition of Municipal Assembly: (1) Each Municipality shall have a Municipal Assembly.

(2) A Municipal Assembly under clause (1) shall consist of the Mayor and the Deputy Mayor of the Municipal Executive, Ward Chairpersons, and four members elected from each Ward and members of the Municipal Executive elected from *Dalit* or minority communities pursuant to clause (4) of Article 216.

(3) A Municipal Assembly to be formed under clause (1) shall have representation of at least two women from each Ward.

(4) Each ward of a Municipality shall have a Ward Committee composed of one Ward Chairperson and four members as provided for in the Federal law. Such Ward Chairperson and Ward members shall be elected in accordance with the first past the post electoral system.

(5) Every person who has completed the age of eighteen years and whose name is included in the electoral rolls of the Municipality shall have a right to vote as provided for in the Federal law.

(6) A person who has the following qualification shall be qualified to be a candidate for the office of member of the Municipal Assembly:

- (a) being a citizen of Nepal,

- (b) having completed the age of twenty one years,
- (c) being his or her name included in the electoral rolls of the Municipality, and
- (d) not being disqualified by any law.

(7) Matters relating to the election to the Municipal Assembly and other matters pertaining thereto shall be as provided for in the Federal law.

224. Chairperson and Vice-Chairperson of Village Assembly and Municipal Assembly: The Chairperson and Vice-Chairperson of a Village Executive and the Mayor and Deputy Mayor of a Municipal Executive shall *ipso facto* be the Chairperson and Vice-Chairperson of the Village Assembly and the Municipal Assembly, respectively, and perform functions as such.

225. Term of Village Assembly and Municipal Assembly: The term of a Village Assembly and of a Municipal Assembly shall be five years for the date of election. Another Village Assembly and Municipal Assembly shall be elected not later than six months of the expiration of such a term.

226. Powers to make law: (1) A Village Assembly and a Municipal Assembly may make necessary laws on the matters set forth in the Lists contained in Schedule-8 and Schedule-9.

(2) The process for making laws under clause (1) shall be as provided for in the State Law.

227. Other provisions relating to Village Assembly and Municipal Assembly: Other matters relating to the conduct of business of a Village Assembly and Municipal Assembly, rules of procedures of meetings, formation of committees, conditions in which the office of member falls vacant, facilities receivable by members of the Village Assembly and Municipal Assembly and employees and offices of the Village Body and Municipality shall be as provided for in the State law.

Part-19

Local Financial Procedures

228. No tax to be levied or loan to be raised: (1) No tax shall be levied and collected and no loan raised in the Local level except in accordance with law.

(2) The Local level may levy tax by law on matters falling within its domain without prejudice to national economic policies, carriage of goods and services, capital and labour market, and the neighbouring State or Local level.

229. Local Consolidated Fund: (1) Each Village Body and Municipality under the Local Level shall have one Local Consolidate Fund. All revenues received by the Village Body or Municipality, any amounts of grants received from the Government of Nepal and the State Government, all loans raised by the Village Body and Municipality, and amounts received from other sources shall be credited to such a Fund.

(2) Matters relating to expenditures from the Local Consolidated Fund under clause (1) shall be as provided for in the Local law.

230. Estimates of revenues and expenditures of Village Body and Municipality: (1) The Village Executive and the Municipal Executive shall, subject to this Constitution, lay an estimate of revenues and expenditures of every financial year before, and have the estimate passed by, the Village Assembly and the Municipal Assembly, respectively, as provided for in the Local law.

(2) If, in laying an estimate of revenues and expenditures under clause (1), the Village Executive or Municipal Executive is required to make a deficit budget, it must purpose also the sources to meet the deficit as provided for in the Federal law and the State law.

Part-20

Interrelations between Federation, State and Local Level

231. Legislative interrelations between Federation and States: (1) The Federal Law may be made to be applicable to the whole of, or, if required, to any part of, the territory of Nepal.

(2) A State law may be made to be applicable to the whole of, or as required, to any part of the territory of the State.

(3) If two or more States make a request to the Government of Nepal to make laws on any matter enumerated in Schedule-6, the Federal Parliament may make necessary laws. Such laws shall be applicable only to the concerned States.

232. Relations between Federation, State and Local level: (1) The relations between the Federation, States, and Local level shall be based on the principles of cooperation, co-existence and coordination.

(2) The Government of Nepal may, pursuant to this Constitution and the Federal Law, give necessary directions to any State Council of Ministers on matters of national importance and on matters to be coordinated between the States, and it shall be the duty of the concerned State Council of Ministers to abide by such directions.

(3) If any such type of act as may seriously undermine the sovereignty, territorial integrity, nationality or independence of Nepal is carried out in any State, the President may, as required, warn such State Council of Ministers, suspend or dissolve the State Council of Ministers and the State Assembly for a period not exceeding six months.

(4) Any suspension or dissolution of any State Council of Ministers and State Assembly made pursuant to clause (3) must get ratified by a two-

thirds majority of the total number of the then members of the Federal Parliament within thirty five days.

(5) If dissolution made pursuant to clause (3) is ratified by the Federal Parliament, election to the State Assembly shall be held in such State within six months.

Provided that such suspension or dissolution shall *ipso facto* be invalid if it is not ratified by the Federal Parliament.

(6) The Federal ruling shall apply to such State during the period of such suspension if the suspension made pursuant to clause (3) is ratified pursuant to clause (4) and until election to the State Assembly is held pursuant to clause (5).

(7) During the continuance of the Federal rule, the Federal Parliament may make laws with respect to any matter enumerated in the List contained in Schedule-6. Such laws shall continue to exist until repealed by other laws made by the concerned State Assembly.

(8) The Government of Nepal may, directly or through the State Government, render necessary assistance to, and give necessary directives to, any Village Executive or Municipal Executive, pursuant to this Constitution and the Federal law. It shall be the duty of the Village Executive or Municipal Executive to abide by such directives.

233. Relations between States: (1) One State shall render assistance in the execution of legal provisions or judicial and administrative decisions or orders of another State.

(2) A State may exchange information and consult with another State on matters of common concern and interest, coordinate each other on their activities and legislations and extend mutual assistance.

(3) A State shall, in accordance with its State law, provide equal security, treatment and facility to residents of another State.

234. Inter-State Council: (1) There shall be an Inter-State Council as follows to settle political disputes arising between the Federation and a State and between States:

- (a) Prime Minister - Chairperson
- (b) Minister for Home Affairs of the Government of Nepal - Member
- (c) Minister for Finance of the Government of Nepal - Member
- (d) Chief Ministers of the concerned States - Member

(2) The Inter-State Council may meet as required.

(3) The Inter-State Council may invite to its meeting a Minister of the Government of Nepal and a Minister of the concerned State who is responsible for the matter of dispute and a concerned expert.

(4) The rules of procedures of the meeting of the Inter-State Council shall be as determined by the Council itself.

235. Coordination between Federation, State and Local Level: (1) The Federal Parliament shall make necessary laws in order to maintain coordination between the Federation, State and Local level.

(2) The State Assembly may maintain coordination between the State and Village Bodies or Municipalities and settle political disputes, if any, that have arisen, in coordination with the concerned Village Body, Municipality and the District Coordination Committee.

(3) The processes and procedures for the settlement of disputes under clause (2) shall be as provided for in the State law.

236. Inter-State trade: Notwithstanding anything contained elsewhere in this Constitution, it is prohibited to make any kind of obstruction to the carriage of

goods or extension of services by a State or Local level to another State or Local level or to the carriage of goods or extension of services to any State or Local Level or to levy tax, fee or charge thereon or to make any kind of discrimination on the carriage or extension of such services or goods.

237. Not to affect jurisdiction of Constitutional Bench of Supreme Court: Nothing contained in this Part shall affect the jurisdiction of the Constitutional Bench of the Supreme Court under Article 137.

Part-21

Commission for the Investigation of Abuse of Authority

238. Commission for the Investigation of Abuse of Authority: (1) There shall be a Commission for the Investigation of Abuse of Authority of Nepal, consisting of the Chief Commissioner and four other Commissioners. The Chief Commissioner shall act as the Chairperson of the Commission for the Investigation of Abuse of Authority.

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

(3) The term of office of the Chief Commissioner and Commissioners shall be six years from the date of appointment.

(4) Notwithstanding anything contained in clause (3), the office of the Chief Commissioner or a Commissioner shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if he or she attains the age of sixty-five years,
- (c) if a motion of impeachment is passed against him or her under Article 101,
- (d) if he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness,
- (e) if he or she dies.

(5) The Chief Commissioner and Commissioners appointed under clause (2) shall not be eligible for reappointment.

Provided that a Commissioner may be appointed to the office of Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his or her term of office shall be so computed as to include his or her term as the Commissioner.

(6) A person shall be eligible to be appointed as the Chief Commissioner or a Commissioner of the Commission for the Investigation of Abuse of Authority if he or she possesses the following qualification:

- (a) holding a bachelor's degree from a recognized university,
- (b) not being a member of any political party at the time of appointment,
- (c) having gained at least twenty years of experiences in the field of either accounting, revenue, engineering, law, development or research and being a distinguished person,
- (d) having attained the age of forty five years, and
- (e) being of high moral character.

(7) The remuneration and other conditions of service of the Chief Commissioner and the Commissioners shall be as provided for in the Federal law. The remuneration and conditions of service of the Chief Commissioner and the Commissioners shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chief Commissioner or Commissioner shall not be eligible for appointment in other government service.

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

239. Functions, duties and powers of the Commission for the Investigation of Abuse of Authority: (1) The Commission for the Investigation of Abuse of Authority may, in accordance with law, conduct, or cause to be conducted, investigations of any abuse of authority committed through corruption by any person holding public office.

Provided that this clause shall not apply to any official in relation to whom this Constitution itself separately provides for such action and to any official in relation to whom other law provides for a separate special provision.

(2) In the case of the persons who can be removed from office by passing a motion of impeachment under Article 101, the Judges who can be removed by the Judicial Council and the persons who are liable to action under the Army Act, it may conduct, or cause to be conducted, investigations in accordance with the Federal law after they have been removed from office.

(3) If the Commission for the Investigation of Abuse of Authority finds, on investigation conducted pursuant to clause (1) or (2), that a person holding public office has committed an act which is defined by law as corruption, it may file, or cause to be filed, a case against that person and other person involved in that offense in the competent court in accordance with law.

(4) If, on investigation conducted pursuant to clause (1) or (2), any act or action done or taken by a person holding public office appears to be of such nature as to be falling under the jurisdiction of another official or body,

the Commission for the Investigation of Abuse of Authority may write to the concerned official or body for necessary action.

(5) The Commission for the Investigation of Abuse of Authority may delegate any of its functions, duties and powers on the conducting of investigations or filing cases, to the Chief Commissioner, a Commissioner or an officer employee of the Government of Nepal to be exercised and complied with subject to the specified conditions.

(6) Other functions, duties and powers and rules of procedure of the Commission for the Investigation of Abuse of Authority shall be as provided for in the Federal law.

Part-22

Auditor General

240. Auditor General: (1) There shall be an Auditor General of Nepal.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Auditor General.

(3) The term of office of the Auditor General shall be six years from the date of appointment.

(4) Notwithstanding anything contained in clause (3), the office of the Auditor General shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if he or she attains the age of sixty-five years,
- (c) if a motion of impeachment is passed against him or her under Article 101,
- (d) if he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness,
- (e) if he or she dies.

(5) The Auditor General appointed under clause (2) shall not be eligible for reappointment.

(6) A person shall be eligible to be appointed as the Auditor General if he or she possesses the following qualification:

- (a) having served in the Special Class of the Government of Nepal or having at least twenty years of experiences in audit related work, after having obtained a bachelor's

degree in management, commerce or accounting from a recognized university or having passed a chartered accountancy examination,

- (b) not being a member of any political party at the time of appointment,
- (c) having attained the age of forty five years, and
- (d) being of high moral character.

(7) The remuneration and conditions of service of the Auditor General shall be as provided for in the Federal law. The remuneration and conditions of service of the Auditor General shall not, so long as he or she holds office, be altered to his or her disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Auditor General shall not be eligible for appointment in another government service.

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

241. Functions, duties and powers of Auditor-General: (1) The accounts of all Federal and State Government Offices including the Office of the President, Office of the Vice-President, Supreme Court, Federal Parliament, State Assembly, State Government, Local level, Constitutional Bodies and Offices thereof, Courts, Office of the Attorney General, Nepal Army, Nepal Police and Armed Police Force, Nepal shall be audited by the Auditor-General in

accordance with law, having regard to, *inter alia*, the regularity, economy, efficiency, effectiveness and the propriety thereof.

(2) The Auditor General shall be consulted in the matter of appointment of an auditor to carry out the audit of a corporate body of which the Government of Nepal or State Government owns more than fifty percent of the shares or assets. The Auditor General may also issue necessary directives setting forth the principles for carrying out the audit of such corporate body.

(3) The Auditor General shall, at all times, have power to examine any books of accounts for the purpose of carrying out the functions under clause (1). It shall be the duty of the concerned chief of office to provide all such documents and information as may be demanded by the Auditor General or any of his or her employees.

(4) The accounts to be audited pursuant to clause (1) shall be maintained in the form prescribed by the Auditor General, as provided for in the Federal law.

(5) In addition to the accounts of the offices mentioned in clause (1), the Federal law may also require the accounts of any other offices or bodies to be audited by the Auditor General.

Public Service Commission

242. Public Service Commission: (1) There shall be a Public Service Commission of Nepal, consisting of the Chairperson and four other Members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and Members.

(3) At least fifty percent of the total number of Members of the Public Service Commission shall be appointed from amongst the persons who have worked for twenty or more in any government service, and the rest of the Members shall be appointed from amongst the persons who hold reputation after having done research, investigation, teaching or any other significant work in the field of science, technology, art, literature, law, public administration, sociology or other sphere of national life.

(4) The term of office of the Chairperson and Members of the Public Service Commission shall be six years from the date of appointment.

(5) The Chairperson and Members appointed under clause (2) shall not be eligible for reappointment.

Provided that a Member may be appointed to the office of Chairperson, and when a Member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the Member.

(6) Notwithstanding anything contained in clause (4), the office of the Chairperson or a Member of the Public Service Commission shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if he or she attains the age of sixty-five years,

- (c) if a motion of impeachment is passed against him or her under Article 101,
- (d) if he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness,
- (e) if he or she dies.

(7) A person shall be eligible to be appointed as the Chairperson or a member of the Public Service Commission if he or she possesses the following qualification:

- (a) holding a master's degree from a recognized university,
- (b) not being a member of any political party at the time of appointment,
- (c) having attained the age of forty five years, and
- (d) being of high moral character.

(8) The remuneration and other conditions of service of the Chairperson and the members of the Public Service Commission shall be as provided for in the Federal law. The remuneration and conditions of service of the Chairperson and the Members of the Public Service Commission shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(9) A person once appointed as the Chairperson and the members of the Public Service Commission shall not be eligible for appointment in other government service.

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

243. Functions, duties and powers of the Public Service Commission: (1) It shall be the duty of the Public Service Commission to conduct examinations for the selection of suitable candidates to be appointed to the positions in the Civil Service.

Explanation: For the purposes of this Article, "positions in the Civil Service" means all positions in the services of the Government of Nepal, other than the positions in the services of Army personnel, Nepal Police or Armed Police Force, Nepal and such other positions in the services as are excluded by an Act from the Civil Service.

(2) The Public Service Commission shall conduct written examinations to be given for appointment to the offices of the Nepal Army, Nepal Police, Armed Police Force, Nepal, other Federal governmental services and of bodies corporate, other than the positions in the Civil Service.

Explanation: For the purposes of this Article, "body corporate" means a corporation, company, bank or board of which more than fifty percent or more of the shares or assets is owned or controlled by the Government of Nepal, except a university or Education Service Commission, or a commission, corporation, authority, body, academy, board, centre, council and other body corporate of similar nature established under the Federal law or formed by the Government of Nepal.

(3) The Public Service Commission shall be consulted on the general principles to be followed in the course of making appointment and promotion

to any position of the Nepal army, Nepal Police, Armed Police Force, Nepal and other Federal government services.

(4) The Public Service Commission shall be consulted on the laws relating to the conditions of service of the employees in the service of a body corporate and on the general principles to be followed in the course of making promotion to any position of such service and taking departmental action against any such employee.

(5) No permanent appointment to any pensionable position chargeable on the Government of Nepal shall be made except in consultation with the Public Service Commission.

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

- (a) matters concerning the law relating to the conditions of service of the Federal Civil Service;
- (b) the principles to be followed in making appointments to, promotions to, the Federal Civil Service or positions thereof and taking departmental action;
- (c) matters concerning the suitability of any candidate for appointment to the Federal Civil Service position for a period of more than six months;
- (d) matters concerning the suitability of any candidate for transfer or promotion from a position in one type of Federal Civil Service to a position in other type of Federal Civil Service or transfer or promotion from other government service to the Federal Civil Service or for a change in service or transfer from a position in a State Civil Service to a

position in the Federal Civil Service or from a position in the Federal Civil Service to a State Civil Service,

- (e) matters concerning the permanent transfer or promotion of an employee working in any position which does not require consultation with the Public Service Commission to any position which requires consultation with the Public Service Commission; and
- (f) matters relating to departmental action against any employee of the Federal Civil Service.

(7) Notwithstanding anything contained in clause (6), matters falling within the jurisdiction of the Judicial Service Commission under Article 154 shall be governed by that Article.

(8) The Public Service Commission may so delegate any of its functions, duties and powers to its Chairperson or Member, an employee of the Government of Nepal as to be exercised and complied with subject to the specified conditions.

(9) Other functions, duties and powers and rules of procedure of the Public Service Commission shall be as provided for in the Federal law.

244. Provisions relating to State Public Service Commission: (1) Each State shall have a State Public Service Commission.

(2) The functions, duties and powers of the State Public Service Commission shall be as provided for in the State law.

(3) The Federal Parliament shall by law determine grounds and standards for the purposes of clause (2).

Part-24

Election Commission

245. Election Commission: (1) There shall be an Election Commission of Nepal, consisting of a Chief Commissioner and four other Commissioners. The Chief Commissioner shall act as the chairperson of the Election Commission.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chief Election Commissioner and Commissioners.

(3) The term of office of the Chief Election Commissioner and Commissioners of the Election Commission shall be six years from the date of appointment.

(4) Notwithstanding anything contained in clause (3), the office of the Chief Election Commissioner or Election Commissioner shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if he or she attains the age of sixty-five years,
- (c) if a motion of impeachment is passed against him or her under Article 101,
- (d) if he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness,
- (e) if he or she dies.

(5) The Chief Election Commissioner and Commissioners appointed under clause (2) shall not be eligible for reappointment.

Provided that a Commissioner may be appointed to the office of Chief Election Commissioner, and when a Commissioner is so appointed as the Chief

Election Commissioner, his or her term of office shall be so computed as to include his or her term as the Commissioner.

(6) A person shall be eligible to be appointed as the Chief Election Commissioner or an Election Commissioner if he or she possesses the following qualification:

- (a) holding a bachelor's degree from a recognized university,
- (b) not being a member of any political party at the time of appointment,
- (c) having attained the age of forty five years, and
- (d) being of high moral character.

(7) The remuneration and other conditions of service of the Chief Election Commissioner and Election Commissioners shall be as provided for in the Federal law. The remuneration and conditions of service of the Chief Election Commissioner and the Commissioners shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chief Election Commissioner and a Commissioner of the Election Commission shall not be eligible for appointment in other government service.

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

246. Functions, duties and powers of the Election Commission: (1) The Election Commission shall, subject to this Constitution and the Federal law, conduct, supervise, direct and control the election to the President, Vice-President, members of the Federal Parliament, members of State Assemblies and members of Local level. For these purposes, the Election Commission shall prepare electoral rolls.

(2) The Election Commission shall hold a referendum on a matter of national importance pursuant to this Constitution and the Federal law

(3) If, after nomination of candidacy for the President, Vice-President, member of the Federal Parliament, member of State Assemblies or member of Local level has been filed but before the election results are declared, a question arises about the qualification of a candidate, the Election Commission shall decide that question.

(4) The Election Commission may so delegate any of its functions, duties and powers to the Chief Election Commissioner, Election Commissioner or any government employee as to be exercised and complied with subject to the specified conditions.

(5) Other functions, duties and powers and rules of procedure of the Election Commission shall be as provided for in the Federal law.

247. To provide necessary assistance to Election Commission: The Government of Nepal, State Government and Local Government shall provide such employees and other assistance to the Election Commission as may be required to perform its functions pursuant to this Constitution.

Part-25

National Human Rights Commission

248. National Human Rights Commission: (1) There shall be a National Human Rights Commission of Nepal, consisting of a Chairperson and four other members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members.

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

(4) The Chairperson and members appointed under clause (2) shall not be eligible for reappointment.

Provided that a Member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the Member.

(5) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National Human Rights Commission shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if a motion of impeachment is passed against him or her under Article 101,
- (c) if he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness,
- (d) if he or she dies.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National Human Rights Commission if he or she possesses the following qualification:

- (a) in the case of the Chairperson, being a retired Chief Justice or retired Judge of the Supreme Court and having rendered outstanding contribution to the protection and promotion of human rights or being a renowned person having been active for at least twenty years in and rendered outstanding contribution to the protection and promotion of human rights or to various fields of national life,
- (b) in the case of a Member, being a person being involved in the field of the protection and promotion of human rights or rights and interests of the child or being a renowned person having been active for at least twenty years in and rendered outstanding contribution to various fields of national life,
- (c) holding a bachelor's degree from a recognized university,
- (d) having attained the age of forty five years,
- (e) not being a member of any political party at the time of appointment,
- (f) being of high moral character.

(7) The remuneration and other conditions of service of the Chairperson and members of the National Human Rights Commission shall be as provided for in the Federal law. The remuneration and conditions of service of the Chairperson and members of the National Human Rights Commission shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National Human Rights Commission shall not be eligible for appointment in other government service.

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

249. Functions, duties and powers of National Human Rights Commission: (1) It shall be the duty of the National Human Rights Commission to respect, protect and promote human rights and ensure effective enforcement thereof.

(2) For the accomplishment of the duty mentioned in clause (1), the National Human Rights Commission shall perform the following functions:

- (a) to inquire, on its own initiative or on petition or complaint presented in or sent to the Commission by a victim or any person on his or her behalf or on information received by the Commission from any source, into and investigate complaints of violations of human rights of an individual or group or abetment thereof, and make recommendation for action against the perpetrators,
- (b) if any official who has the responsibility or duty to prevent violations of human rights fails to fulfill or perform his or her responsibility or duty or shows reluctance in the fulfillment or performance of his or her responsibility or duty, to make recommendation to the concerned authority to take departmental action against such official,

- (c) if it is required to institute a case against any person or organization who has violated human rights, to make recommendation to file a case in the court in accordance with law;
- (d) to coordinate and collaborate with the civil society in order to enhance awareness on human rights,
- (e) to make recommendation, accompanied by the reasons and grounds, to the concerned body for taking departmental action against and imposing punishment on those who have violated human rights,
- (f) to carry out periodic reviews of the relevant laws relating to human rights and make recommendation to the Government of Nepal for necessary improvements in and amendments to such laws,
- (g) if Nepal has to become a party to any international treaty or agreement on human rights, to make recommendation, accompanied by the reasons therefor, to the Government of Nepal; and monitor whether any such treaty or agreement to which Nepal is already a party has been implemented, and if it is found not to have been implemented, to make recommendation to the Government of Nepal for its implementation,
- (h) to publish, in accordance with law, the names of the officials, persons or bodies who have failed to observe or implement any recommendations or directives made or given by the National Human Rights Commission in relation to the violations of human rights, and record them as violators of human rights.

(3) In discharging its functions or performing its duties, the National Human Rights Commission may exercise the following powers:

- (a) to exercise all such powers as of a court in respect of the summoning and enforcing the attendance of any person before the Commission and seeking and recording his or her information or statements or depositions, examining evidence and producing exhibits and proofs,
- (b) on receipt of information by the Commission in any manner that a serious violation of human rights has already been committed or is going to be committed, to search any person or his or her residence or office, enter such residence or office without notice, and, in the course of making such search, take possession of any document, evidence or proof related with the violation of human rights,
- (c) in the event of necessity to take action immediately on receipt of information that the human rights of any person are being violated, to enter any government office or any other place without notice and rescue such person,
- (d) to order for the provision of compensation in accordance with law to any person who is a victim of the violations of human rights;

(4) The National Human Rights Commission may so delegate any of its functions, duties and powers to the Chairperson of the Commission, any of its Members or a government employee as to be exercised and complied with subject to the specified conditions.

(5) Other functions, duties and powers and rules of procedure of the National Human Rights Commission shall be as provided for in the Federal law.

Part-26

National Natural Resources and Fiscal Commission

250. National Natural Resources and Fiscal Commission: (1) There shall be a National Natural Resources and Fiscal Commission of Nepal, consisting of a maximum of five members including a Chairperson.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the National Natural Resources and Fiscal Commission.

(3) The term of office of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be six years from the date of appointment.

(4) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National Natural Resources and Fiscal Commission shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if he or she attains the age of sixty-five years,
- (c) if a motion of impeachment is passed against him or her under Article 101,
- (d) if he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness,
- (e) if he or she dies.

(5) The Chairperson and members appointed under clause (2) shall not be eligible for reappointment.

Provided that a member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the member.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National Natural Resources and Fiscal Commission if he or she possesses the following qualification:

- (a) having gained expertise upon being active for at least twenty years in the field of natural resources or fiscal management, economics, law, management, after holding a bachelor's degree in the relevant subject from a recognized university,
- (b) not being a member of any political party at the time of appointment,
- (c) having attained the age of forty five years,
- (d) being of high moral character.

(7) The remuneration and other conditions of service of the Chairperson and members of the National Natural Resources and Fiscal Commission shall be as provided for in the Federal law, and their remuneration and conditions of service shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National Natural Resources and Fiscal Commission shall not be eligible for appointment in other government service.

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

251. Functions, duties and powers of National Natural Resources and Fiscal Commission: (1) The functions, duties and powers of the National Natural Resources and Fiscal Commission shall be as follows:

- (a) to determine detailed basis and modality for the distribution of revenues between the Federal, State and Local Governments out of the Federal Consolidated Fund in accordance with the Constitution and law,
- (b) to make recommendation about equalization grants to be provided to the State and Local Governments out of the Federal Consolidated Fund,
- (c) to conduct study and research work and prepare parameters as to conditional grants to be provided to the State and Local Governments in accordance with national policies and programs, norms/standards and situation of infrastructures,
- (d) to determine detailed basis and modality for the distribution of revenues between the State and Local Governments out of the State Consolidated Fund,
- (e) to recommend measures to meet expenditures of the Federal, State and Local Governments, and to reform revenue collection,
- (f) to analyze macro-economic indicators and recommend ceiling of internal loans that the Federal, State and Local Governments can borrow,

- (g) to review the bases for the distribution between the Federal and State Governments of revenues and recommend for revision,
- (h) to set bases for the determination of shares of the Government of Nepal, State Government and Local level in investments and returns, in the mobilization of natural resources,
- (i) to do study and research work on possible disputes that may arise between the Federation and the States, between States, between a State and a Local level, and between Local levels, and make suggestions to act in a coordinated manner for the prevention of such disputes.

(2) The National Natural Resources and Fiscal Commission shall carry out necessary study and research work about environmental impact assessment required in the course of distribution of natural resources, and make recommendations to the Government of Nepal.

(3) Other functions, duties and powers and rules of procedure of the National Natural Resources and Fiscal Commission, detailed bases required to be followed in the mobilization of natural resources or distribution of revenues, and other matters including conditions of service of the officials of the Commission shall be as provided for in the Federal law.

Part-27

Other Commissions

252. National Women Commission: (1) There shall be a National Women Commission of Nepal, consisting of a Chairperson and four other members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the National Women Commission.

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

(4) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National Women Commission shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if he or she attains the age of sixty-five years,
- (c) if a motion of impeachment is passed against him or her under Article 101,
- (d) if he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness,
- (e) if he or she dies.

(5) The Chairperson and members appointed under clause (2) shall not be eligible for reappointment.

Provided that a member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the member.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National Women Commission if he or she possesses the following qualification:

- (a) being a woman having rendered outstanding contribution, for at least ten years, to the field of rights and interests of women or gender justice or women development or human rights and law,
- (b) in the case of the Chairperson, holding a bachelor's degree from a recognized university,
- (c) having attained the age of forty five years,
- (d) not being a member of any political party at the time of appointment, and
- (e) being of high moral character.

(7) The remuneration and conditions of service of the Chairperson and members of the National Women Commission shall be as provided for in the Federal law, and their remuneration and conditions of service shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National Women Commission shall not be eligible for appointment in other government service.

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

253. Functions, duties and powers of National Women Commission: (1) The functions, duties and powers of the National Women Commission shall be as follows:

- (a) to formulate policies and programs concerning the rights and interests of the women and submit them to the Government of Nepal for implementation.
- (b) to monitor as to whether laws concerning the rights and interests of the women and obligations under the international treaties to which Nepal is a party have been implemented, and make suggestions, accompanied by the measures for their effective compliance and implementation to the Government of Nepal,
- (c) in order to have the women included in the mainstream of national development and ensure proportional participation in all organs of the State, to assess, monitor and evaluate the existing policies and programs, and make recommendation to the Government of Nepal for their effective implementation,
- (d) to carry out study and research work on the legal provisions relating to gender equality, empowerment of women and women, make recommendations to the concerned bodies on reforms to be made on such laws, and monitor the same.
- (e) to make suggestions to the Government of Nepal about the preparation of reports to be submitted by Nepal in accordance with the provisions contained in the international treaties or agreements concerning women's rights, to which Nepal is a party,
- (f) if it is necessary to file cases against any persons or bodies on matters of violence against women or being subjected to social ill-practices or infringement of or deprivation of enjoyment of women's

rights, to make recommendations to the concerned bodies to file such cases in courts in accordance with the law.

(2) The National Women Commission may so delegate any of its functions, duties and powers to the Chairperson of the Commission, any of its members or any employee of the Government of Nepal as to be exercised and complied with subject to the specified conditions.

(3) Other functions, duties and powers and other relevant matters of the National Women Commission shall be as provided for in the Federal law.

254. Powers to establish offices in States: The National Women Rights Commission may, as required, establish its offices in States.

255. National *Dalit* Commission: (1) There shall be a National *Dalit* Commission of Nepal, consisting of a Chairperson and four other members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the National *Dalit* Commission.

(3) The term of office of the Chairperson and members of the National *Dalit* Commission shall be six years from the date of appointment.

(4) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National *Dalit* Commission shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if he or she attains the age of sixty-five years,
- (c) if a motion of impeachment is passed against him or her under Article 101,
- (d) if he or she is removed from office by the President on recommendation of the Constitutional Council on grounds

of his or her inability to hold office and discharge the functions due to physical or mental illness,

(e) if he or she dies.

(5) The Chairperson and members appointed under clause (2) shall not be eligible for reappointment.

Provided that a member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the member.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National *Dalit* Commission if he or she possesses the following qualification:

- (a) being a person having rendered outstanding contribution to the field of rights and interests of the *Dalit* community or human rights and law, for at least ten years,
- (b) in the case of the Chairperson, holding at least a bachelor's degree from a recognized university,
- (c) having attained the age of forty five years,
- (d) not being a member of any political party at the time of appointment, and
- (e) being of high moral character.

(7) The remuneration and conditions of service of the Chairperson and members of the National *Dalit* Commission shall be as provided for in the Federal law, and their remuneration and conditions of service shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National *Dalit* Commission shall not be eligible for appointment in other government service.

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

256. Functions, duties and powers of National *Dalit* Commission: (1) The functions, duties and powers of the National *Dalit* Commission shall be as follows:

- (a) to conduct study and exploration as to the overall situation of the *Dalit* community, identify areas of necessary policy, legal and institutional reforms in that field, and make recommendations to the Government of Nepal,
- (b) to formulate national policies and programs concerning the interests of the *Dalit* for the upliftment and development of the Dalit, putting an end to caste-based discrimination, oppression and discrimination, and submit such policies and programs to the Government of Nepal for their implementation,
- (c) to monitor as to whether laws concerning the interests of the *Dalit*, including the special provisions made for the upliftment and interests of the *Dalit* community have been effectively implemented, and in the event of absence of observance or implementation, to make suggestions to the Government of Nepal for the observance or implementation thereof,
- (d) to make suggestions to the Government of Nepal about the preparation of reports to be submitted by Nepal in accordance with

the provisions contained in the international treaties or agreements concerning the rights of the *Dalit* community, to which Nepal is a party,

- (e) in order to have the *Dalit* community included in the mainstream of national development and ensure proportional participation in all organs of the State, to assess, monitor and evaluate the existing policies and programs, and make recommendation to the Government of Nepal for their effective implementation,
- (f) if it is necessary to file cases against any persons or bodies on matters of being victims of caste-based discrimination and untouchability or social ill-practices or infringement of or deprivation of enjoyment of the rights of the *Dalit*, to make recommendations to the concerned bodies to file such cases in courts in accordance with the law.

(2) The National *Dalit* Commission may so delegate any of its functions, duties and powers to the Chairperson of the Commission, any of its members or any employee of the Government of Nepal as to be exercised and complied with subject to the specified conditions.

(3) Other functions, duties and powers and other relevant matters of the National *Dalit* Commission shall be as provided for in the Federal law.

257. Powers to establish offices in States: The National *Dalit* Commission may, as required, establish its offices in States.

258. National Inclusion Commission: (1) There shall be a National Inclusion Commission of Nepal, consisting of a Chairperson and four other members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the National Inclusion Commission.

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

(4) Notwithstanding anything contained in clause (3), the office of the Chairperson or member of the National Inclusion Commission shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if he or she attains the age of sixty-five years,
- (c) if a motion of impeachment is passed against him or her under Article 101,
- (d) if he or she is removed from office by the President on recommendation of the Constitutional Council on grounds of his or her inability to hold office and discharge the functions due to physical or mental illness,
- (e) if he or she dies.

(5) The Chairperson and members appointed under clause (2) shall not be eligible for reappointment.

Provided that a member may be appointed to the office of Chairperson, and when a member is so appointed as the Chairperson, his or her term of office shall be so computed as to include his or her term as the member.

(6) A person shall be eligible to be appointed as the Chairperson or a member of the National Inclusion Commission if he or she possesses the following qualification:

- (a) being a person having rendered outstanding contribution, for at least ten years, to the field of social inclusion, rights and interests or development of persons with disabilities, minority and

marginalized communities and backward areas and classes or human rights,

- (b) in the case of the Chairperson, holding a bachelor's degree from a recognized university,
- (c) having attained the age of forty five years,
- (d) not being a member of any political party at the time of appointment, and
- (e) being of high moral character.

(7) The remuneration and conditions of service of the Chairperson and members of the National Inclusion Commission shall be as provided for in the Federal law, and their remuneration and conditions of service shall not, so long as they hold office, be altered to their disadvantage.

Provided that this provision shall not apply in cases where a state of emergency is declared because of extreme economic disarrays.

(8) A person once appointed as the Chairperson or a member of the National Inclusion Commission shall not be eligible for appointment in other government service.

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

259. Functions, duties and powers of National Inclusion Commission: (1) The functions, duties and powers of the National Inclusion Commission shall be as follows:

- (a) to conduct study and research works for the protection of the rights and interests of the communities, including *Khas Arya*, *Pichhada* class, persons with disabilities, senior citizens, labours, peasants, minorities and marginalized community, backward class, people of Karnali and the indigent class,
- (b) to study the status of implementation of the policies and laws adopted by the Government of Nepal for the inclusion of the community, class and region mentioned in clause (a) and make suggestions to the Government for reforms,
- (c) to study as to whether there has been appropriate representation of the community, class and region mentioned in clause (a) in the organs of the State and make suggestions to the Government of Nepal to review the special provisions made for the representation of such community, class and region,
- (d) to study as to whether the protection, empowerment and development of the community, class and region mentioned in clause (a) has been satisfactory and make recommendations to the Government of Nepal about policies to be pursued in the future,
- (e) to make suggestions to the Government of Nepal about policies and programs to be pursued for the development and prosperity of the *Karnali* and backward regions,
- (f) to make recommendations for timely revisions of laws concerning minority and marginalized communities,
- (g) to monitor the status of implementation of rights and interests guaranteed for minority and marginalized communities and make recommendations for revision upon necessary review on the basis of periodic national census and human development index.

(2) The National Inclusion Commission may so delegate any of its functions, duties and powers to the Chairperson of the Commission, any of its members or any employee of the Government of Nepal as to be exercised and complied with subject to the specified conditions.

(3) Other functions, duties and powers and other relevant matters of the National Inclusion Commission shall be as provided for in the Federal law.

260. Powers to establish offices in States: The National Inclusion Rights Commission may, as required, establish its offices in States.

261. Indigenous Nationalities Commission: (1) There shall be an Indigenous Nationalities Commission of Nepal, consisting of a Chairperson and a maximum of four other members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the Indigenous Nationalities Commission.

(3) The term of office of the Chairperson and members of the Indigenous Nationalities Commission shall be six years from the date of appointment.

(4) Other matters relating to the qualification for the Chairperson and members of the Indigenous Nationalities Commission, circumstances in which their offices fall vacant, their remuneration and conditions of service and the functions, duties and powers of this Commission shall be as provided for in the Federal law.

262. Madhesi Commission: (1) There shall be a *Madhesi* Commission of Nepal, consisting of a Chairperson and a maximum of four other members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the *Madhesi* Commission.

(3) The term of office of the Chairperson and members of the *Madhesi* Commission shall be six years from the date of appointment.

(4) Other matters relating to the qualification for the Chairperson and members of the *Madhesi* Commission, circumstances in which their offices fall vacant, their remuneration and conditions of service and the functions, duties and powers of this Commission shall be as provided for in the Federal law.

263. Tharu Commission: (1) There shall be a *Tharu* Commission of Nepal, consisting of a Chairperson and a maximum of four other members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the *Tharu* Commission.

(3) The term of office of the Chairperson and members of the *Tharu* Commission shall be six years from the date of appointment.

(4) Other matters relating to the qualification for the Chairperson and members of the *Tharu* Commission, circumstances in which their offices fall vacant, their remuneration and conditions of service and the functions, duties and powers of this Commission shall be as provided for in the Federal law.

264. Muslim Commission: (1) There shall be a Muslim Commission of Nepal, consisting of a Chairperson and a maximum of four other members.

(2) The President shall, on the recommendation of the Constitutional Council, appoint the Chairperson and members of the Muslim Commission.

(3) The term of office of the Chairperson and members of the Muslim Commission shall be six years from the date of appointment.

(4) Other matters relating to the qualification for the Chairperson and members of the Muslim Commission, circumstances in which their offices fall vacant, their remuneration and conditions of service and the functions, duties and powers of this Commission shall be as provided for in the Federal law.

265. Review of Commissions: The Federal Parliament shall, after ten years of the commencement of this Constitution, review the Commissions formed under this Part.

Provisions Relating to National Security

266. National Security Council: (1) There shall be a National Security Council for making recommendation to the Government of Nepal, Council of Ministers for the formulation of a policy on overall national interest, security and defence of Nepal, and for the mobilization and control of the Nepal Army, which shall consist of the following as the Chairperson and members:

- | | | |
|-----|---|--------------|
| (a) | The Prime Minister | -Chairperson |
| (b) | Minister for Defence, Government of Nepal | -Member |
| (c) | Minister for Home, Government of Nepal | -Member |
| (d) | Minister for Foreign Affairs, Government of Nepal | -Member |
| (e) | Minister for Finance, Government of Nepal | -Member |
| (f) | Chief Secretary of Government of Nepal | -Member |
| (g) | Commander-in-Chief, Nepal Army | -Member |

(2) The secretary at the Ministry of Defence shall act as the member secretary of the National Security Council.

(3) The National Security Council shall submit its annual report to the President, and the President shall cause the report to be laid through the Prime Minister before the Federal Parliament.

(4) Other matters relating to the National Security Council shall be as provided by the Federal law.

267. Provisions relating to Nepal Army: (1) There shall be an organization of the Nepal Army in Nepal, which is inclusive and committed to this Constitution, for the safeguarding of independence, sovereignty, territorial integrity and national unity of Nepal.

(2) The President shall be the supreme commander-in-chief of the Nepal Army.

(3) Entry of women, *Dalit*, indigenous people, indigenous nationalities, *Khas Arya*, *Madhesi*, *Tharu*, *Pichhada* class and backward region citizens into the Nepal Army shall, on the basis of principles of equality and inclusion, be ensured by the Federal law.

(4) The Government of Nepal may also mobilize the Nepal Army in other works including development, construction and disaster management works, as provided for in the Federal law.

(5) The President shall, on recommendation of the Council of Ministers, appoint the Commander-in-Chief and remove him or her from office.

(6) The President shall, on recommendation of the National Security Council and pursuant to a decision of the Government of Nepal, Council of Ministers, declare the mobilization of the Nepal Army in cases where a grave emergency arises in regard to the sovereignty or territorial integrity of Nepal or the security of any part thereof, by war, external aggression, armed rebellion or extreme economic disarray. A declaration of the mobilization of the Nepal Army must be ratified by the House of Representatives within one month after the date of such declaration.

(7) Other matters pertaining to the Nepal Army shall be in accordance with law.

268. Provisions Relating to Nepal Police, Armed Police Force, Nepal and National Investigation Department: (1) The Federation shall have Nepal Police, Armed Police Force, Nepal and National Investigation Department.

(2) Each State shall have a State police organization.

(3) Matters relating to the Operation, supervision and coordination of functions to be discharged by the Nepal Police and the State police shall be as provided for in the Federal law.

(4) Other matters relating to the Nepal Police, Armed Police Force, Nepal and National Investigation Department shall be as provided by the Federal law.

Provisions Relating to Political Parties

269. Formation, registration and operation of political parties: (1) Persons who are committed to common political ideology, philosophy and program may, subject to laws made under sub-clause (c) of clause (2) of Article 17, form and operate political parties, and generate, or cause to be generated, publicity in order to secure support and cooperation from the general public for their ideology, philosophy and program or carry out other necessary activity for this purpose.

(2) A political party formed in accordance with clause (1) must register the party with the Election Commission upon fulfilment of the procedures established by law.

(3) A petition to be made for the purpose of registration of a party in accordance with clause (2) must be accompanied by the constitution and manifesto of the concerned political party and such other documents as required by the Federal law.

(4) For a petition to be made for the registration of a party in accordance with clause (2), the political party must fulfil the following conditions:

- (a) its constitution and rules must be democratic,
- (b) its constitution must provide for election of each of the office-bearers of the party at the Federal and State levels at least once in every five years;

provided that nothing shall bar the making of provision by the constitution of a political party to hold such election within six months in the event of failure to hold election of its office-bearers within five years because of a special circumstance.

(c) there must be a provision of such inclusive representation in its executive committees at various levels as may be reflecting the diversity of Nepal.

(5) If the name, objective, insignia or flag of a political party is of such a nature as to jeopardize the religious and communal unity of the country or to fragment the country, that party shall not be registered.

270. Prohibition on imposition of restrictions on political parties: (1) Any law, arrangement or decision so made as to impose any restriction on the formation and operation of a political party and on the generation of publicity in order to secure support and cooperation from the general public for the ideology, philosophy and program of the party in accordance with Article 269 shall be deemed to be inconsistent with this Constitution and shall, *ipso facto*, be void.

(2) Any law, arrangement or decision so made as to allow for participation or involvement of only a single political party or persons having similar political ideology, philosophy or program in the elections or in the political system of, or in the conduct of governance of, the country shall be deemed to be inconsistent with this Constitution and shall, *ipso facto*, be void.

271. Registration required for securing recognition for the purpose of contesting elections as political party: (1) Every political party that is registered in accordance with Article 269 and intends to secure recognition from the Election Commission for the purposes of elections must be registered with the Election Commission in fulfilment of the procedures set forth in the Federal law.

(2) The political party must submit a yearly audit report in addition to the matters set forth in clause (3) of Article 269 along with an application to be made for the purpose of clause (1) and also fulfil the terms set forth in clause (4) of that Article.

272. Other provisions relating to political parties: Provisions relating to the formation, registration, operation and facilities of political parties and other matters pertaining thereto shall be as provided for in the Federal law.

Part-30

Emergency Power

273. Emergency power: (1) If a grave emergency arises in regard to the sovereignty, territorial integrity of Nepal or the security of any part thereof, by war, external aggression, armed rebellion, extreme economic disarray, natural calamity or epidemic, the President may declare or order a state of emergency in respect of the whole of Nepal or of any specified part thereof.

(2) Notwithstanding anything contained in clause (1), if there arises a grave emergency in a State by a natural calamity or epidemic, the concerned State Government may request the Government of Nepal to declare or order a state of emergency in respect of the whole of the State or of any specified part thereof, in accordance with this Article.

(3) Every declaration or order made in accordance with clause (1) shall be laid before both Houses of the Federal Parliament for approval within one month after the date of issuance of such proclamation or order.

(4) If a declaration or order laid for approval in accordance with clause (3) is approved by at least two-thirds majority of the total number of the then members of both Houses of the Federal Parliament, the declaration or order shall continue in force for a period of three months from the date of its issuance.

(5) If a declaration or order laid for approval in accordance with clause (3) is not approved in accordance with clause (3), the declaration or order shall *ipso facto* be inoperative.

(6) Notwithstanding anything contained elsewhere in this Article, prior to expiration of the period mentioned in clause (4), a motion to extend the period of the declaration or order of state of emergency for another period not exceeding three months may be submitted to the Federal Parliament.

(7) If a motion mentioned in clause (6) is passed by at least two-thirds majority of the total number of the then members of both Houses of the Federal Parliament, the declaration or order shall continue in force for the period mentioned in that motion.

(8) In the event of dissolution of the House of Representatives, the powers exercisable by the Federal Parliament in accordance with clauses (3), (4), (6) and (7) shall be exercised by the National Assembly.

(9) After the making of a declaration or order of a state of emergency in accordance with clause (1), the President may issue such orders as are necessary to meet the exigencies. Orders so issued shall apply as of law so long as the state of emergency is in operation.

(10) At the time of making a declaration or order of a state of emergency in accordance with clause (1), the fundamental rights as provided in Part-3 may be suspended until the declaration or order is in operation.

Provided that Article 16, sub-clauses (c) and (d) of clause (2) of Article 17, Article 18, clause (2) of Article 19, Articles 20, 21, 22 and 24, clause (1) of Article 26, Articles 29, 30, 31, 32, 35, clauses (1) and (2) of Article 36, Articles 38 and 39, clauses (2) and (3) of Article 40, Articles 41, 42, 43 and 45, the right to constitutional remedy in relation to such Articles pursuant to Article 46 and the right to the remedy of *habeas corpus* shall not be suspended.

(11) If any Article of this Constitution is suspended pursuant to clause (10), no petition may lie in any court for the enforcement of the fundamental right conferred by that Article nor may a question be raised in any Court in that respect.

(12) If, during the continuance of a declaration or order under this Article, any injury is caused to a person from any act done by any official in bad faith, the victim may, within three months from the date of termination of

that declaration or order, file a petition for compensation for such injury. If such petition is made, the court may order for compensation by, and punish, the perpetrator as provided for in the Federal law.

(13) The President may, at any time, withdraw a declaration or order of a state of emergency made in accordance with this Article.

Part-31

Amendment to the Constitution

274. Amendment to Constitution: (1) No amendment shall be made to this Constitution in manner to be prejudicial to the sovereignty, territorial integrity, independence of Nepal and sovereignty vested in the people.

(2) Subject to clause (1) and other Articles of this Constitution, a Bill to amend or repeal any Article of this Constitution may be introduced in either House of the Federal Parliament.

Provided that clause (1) shall not be amended.

(3) A Bill introduced pursuant to clause (1) shall be publicly published for information to the general public within thirty days of its introduction in the concerned House.

(4) If a Bill introduced pursuant to clause (1) is related with the alteration in the borders of any State or matters set forth in Schedule-6, the Speaker or the Chairperson of the concerned House must send that Bill to the State Assembly for its consent, within thirty days after its introduction in the Federal Parliament.

(5) The concerned State Assembly must, by a majority of the total number of its then members, accept or reject the Bill presented for its consent pursuant to clause (4) and give information thereof to the Federal Parliament within three months.

Provided that if any State Assembly is not in existence, such Bill must be either accepted or rejected within three months after the date of holding of the first meeting following the formation of that State Assembly.

(6) In the event of failure to give information of acceptance or rejection of such Bill within the period set forth in clause (5), nothing shall

prevent the House of the Federal Parliament in which the Bill was originated from proceeding with the Bill.

(7) If the State Assembly, by its majority, gives a notice of rejection of such Bill to the concerned House of the Federal Parliament within the period under clause (5), the Bill shall be inoperative.

(8) A Bill which does not require the consent of the State Assembly or a Bill accepted by a majority of the State Assembly under clause (5) must be passed by at least two-thirds majority of the total number of the then members of both Houses of the Federal Parliament.

(9) A Bill passed under clause (8) shall be presented to the President for assent.

(10) The President shall give assent to a Bill presented under clause (5), within fifteen days from the date of its receipt, and the Constitution shall get amended from the date of assent.

Part-32

Miscellaneous

275. Provisions relating to referendum: (1) If a decision is made by a two-thirds majority of the total number of the then members of the Federal Parliament that it is necessary to hold a referendum with respect to any matter of national importance, decision on that matter may be taken by way of referendum.

(2) Matters relating to referendum and other relevant matters shall be as provided for in the Federal law.

276. Pardons: The President may, in accordance with law, grant pardons, suspend, commute or remit any sentence passed by any Court, judicial or quasi-judicial body or administrative authority or body.

277. Titles, honours and decorations: (1) The President shall confer titles, honours and decorations to be conferred on behalf of the State.

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

278. Power to make treaties: (1) The Federation shall have the power to make treaties or agreements.

(2) In making a treaty or agreement on a matter falling within the list of State power, the Government of Nepal must consult the concerned State.

(3) A State Council of Ministers may, with the consent of the Government of Nepal, make contractual agreements on financial and industrial matters.

279. Ratification of, accession to, acceptance of, or approval of, treaties or agreements: (1) The ratification of, accession to, acceptance of, or approval of, treaties or agreements to which Nepal or the Government of Nepal is to become a party shall be as provided for in the Federal law.

(2) Any law to be made pursuant to clause (1) shall, *inter alia*, require that the ratification of, accession to, acceptance of, or approval of, treaties or agreements on the following subjects must be made by a majority of two-thirds of the total number of the then members of both Houses of the Federal Parliament:

- (a) peace and friendship,
- (b) defence and strategic alliance,
- (c) boundaries of the State of Nepal, and
- (d) natural resources, and the distribution of their uses.

Provided that, out of the treaties or agreements under sub-clauses (a) and (d), if any treaty or agreement is of an ordinary nature, which does not affect the nation extensively, seriously or in the long term, the ratification of, accession to, acceptance of, or approval of, such treaty or agreement may be made by a simple majority of the members present in a meeting of the House of Representatives.

(3) After the commencement of this Constitution, unless a treaty or agreement is ratified, acceded to, accepted or approved in accordance with this Article, such treaty or agreement shall not apply to the Government of Nepal or Nepal.

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

280. Special provision relating to discharge of functions of President: If the offices of both the President and the Vice-President fall vacant in accordance with this Constitution, the Speaker of the House of Representatives shall discharge the functions required to be performed by the President under this Constitution

until election to the President or Vice-President is held and he or she assumes office.

281. Appraisal and review of special rights: The Government of Nepal shall make appraisal and review of the implementation of special rights of the women and *Dalit* community and impacts thereof, on the basis of human development index, concurrently with a national census to be held in every ten years.

282. Ambassadors and special emissaries: (1) The President may, on the basis of the principle of inclusion, appoint Nepalese ambassadors, and special emissaries for any specific purposes.

(2) The President shall receive letters of credentials from foreign ambassadors and diplomatic representatives.

283. Appointments to be made in accordance with inclusive principle: Appointments to offices of Constitutional Organs and Bodies shall be made in accordance with the inclusive principle.

284. Provisions relating to Constitutional Council: (1) There shall be a Constitutional Council for making recommendations for appointment of the Chief Justice and Chiefs and officials of the Constitutional Bodies in accordance with this Constitution, which shall consist of the following as the Chairperson and members:

- | | | |
|-----|--|--------------|
| (a) | The Prime Minister | -Chairperson |
| (b) | The Chief Justice | -Member |
| (c) | The Speaker of the House of Representatives | -Member |
| (d) | The Chairperson of the National Assembly | -Member |
| (e) | Leader of Opposition Party in the House of Representatives | -Member |
| (f) | Deputy Speaker of the House of Representatives | -Member |

(2) While making a recommendation for appointment to the office of the Chief Justice, the Constitutional Council shall include the Minister for Law and Justice of the Government of Nepal, as its member.

(3) The Constitutional Council must make a recommendation for appointment under this Constitution before one month of the vacation of the office of the Chief Justice or a chief or official of a Constitutional Body.

Provided that if such office falls vacant because of death or resignation, it may so make recommendation for appointment that the office is fulfilled within one month after the date of vacancy.

(4) Other functions, duties and powers of the Constitutional Council and rules of procedures on the appointment of the Chief Justice or chiefs or officials of Constitutional Bodies shall be as provided for in the Federal law.

(5) The Chief Secretary of the Government of Nepal shall act as the secretary of the Constitutional Council.

285. Constitution of government service: (1) The Government of Nepal may, in order to run the administration of the country, constitute the Federal civil service and such other Federal government services as may be required. The constitution, operation and conditions of service of such services shall be as provided for in the Federal Act.

(2) Positions in the Federal civil service as well as all Federal government services shall be filled through competitive examinations, on the basis of open and proportional inclusive principle.

(3) The State Council of Ministers, Village Executives and Municipal Executives may by law constitute and operate various government services as required for the operation of their administration.

286. Election Constituency Delimitation Commission: (1) The Government of Nepal may constitute an Election Constituency Delimitation Commission, to

determine election constituencies for the purpose of election to the members of the Federal Parliament and members of the State Assemblies in accordance with this Constitution, which shall consist of the following as the Chairperson and members:

- | | | |
|-----|---|-------------------|
| (a) | Retired Judge of the Supreme Court | -Chairperson |
| (b) | One Geographer | -Member |
| (c) | One sociologist or demographer | -Member |
| (d) | One administration expert or jurist | -Member |
| (e) | Gazetted special class officer of the Government of Nepal | -Member-secretary |

(2) The term of office of the Election Constituency Delimitation Commission shall be as prescribed at the time of its constitution.

(3) A person shall be qualified to be appointed as the Chairperson or a member of the Election Constituency Delimitation Commission if he or she possesses the following qualification:

- (a) holding at least bachelor's degree in related subject from a recognized university,
- (b) having attained the age of forty-five years, and
- (c) having high moral character.

(4) The office of the Chairperson or a member of the Election Constituency Delimitation Commission shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing,
- (b) if he or she is removed by the Government of Nepal, Council of Ministers,
- (c) if he or she dies.

(5) While determining election constituencies pursuant to this Article, the Election Constituency Delimitation Commission shall so determine the constituencies, having regard to population and geography as the basis of representation, and as to ensure that the ratio between the geography, population and number of members of such election constituencies is equal, so far as practicable.

(6) While delimitating election constituencies pursuant to clause (5), regard must be had to, *inter alia*, the density of population, geographical specificity, administrative and transportation convenience, community and cultural aspects of the constituencies.

(7) No question may be raised in any court on any matter of the determination, or review, of election constituencies made by the Election Constituency Delimitation Commission.

(8) The Election Constituency Delimitation Commission shall submit a report on the works it has performed to the Government of Nepal.

(9) The Government of Nepal, Council of Ministers, shall lay the report received pursuant to clause (8) before the Federal Parliament and send it to the Election Commission for implementation.

(10) The Election Constituency Delimitation Commission shall determine its rules of procedures itself.

(11) The remuneration and facilities of the Chairperson and the members of the Election Constituency Delimitation Commission shall be similar to those of the Chief Election Commissioner and the Election Commissioners of the Election Commission, respectively.

(12) The election constituencies delimited in accordance with clause (5) must be reviewed in every twenty years.

(13) The Government of Nepal shall provide such employees as may be required for the Election Constituency Delimitation Commission.

287. Language Commission: (1) The Government of Nepal shall, no later than one year of the commencement of this Constitution, constitute a Language Commission comprising representation of States.

(2) The Language Commission shall consist of one Chairperson and a required number of members.

(3) The term of office of the Chairperson and members of the Language Commission shall be six years from the date of their appointment. They may not be reappointed.

(4) A person shall be qualified to be appointed as the Chairperson or a member of the Language Commission if he or she possesses the following qualification:

- (a) holding master's degree in related subject from a recognized university,
- (b) having gained at least twenty years of experience in the fields of study, teaching and research on various languages of Nepal,
- (c) having completed the age of forty-five years, and

(d) having high moral character.

(5) The office of the Chairperson or a member of the Language Commission shall be vacant in any of the following circumstances:

(a) if he or she tenders resignation in writing,

(b) if he or she is removed by the Government of Nepal, Council of Ministers,

(c) if he completes the age of sixty five years,

(d) if he or she dies.

(6) The functions, duties and powers of the Language Commission shall be as follows:

(a) to determine the criteria to be fulfilled for the recognition of the official language and make recommendations on languages to the Government of Nepal,

(b) to make recommendations to the Government of Nepal, on the measures to be adopted for the protection, promotion and development of languages,

(c) to measure the levels of development of mother tongues and make suggestions to the Government of Nepal, on the potentiality of their use in education,

(d) to study, research and monitor languages.

(7) The Language Commission shall complete its task under sub-clause (a) of clause (6) no later than five years after the date of its constitution.

(8) The Government of Nepal may, in coordination with a State Government, establish a branch of the Language Commission in that State.

(9) The other functions, duties, powers and rules of procedures of the Language Commission shall be as provided for in the Federal law.

288. Capital: (1) The capital of Nepal shall be situated in Kathmandu.

(2) The capital of a State under this Constitution shall be as decided by a two-thirds majority of the number of the then members of the concerned State Assembly.

(3) The business of a State shall be conducted through the place as specified by the Government of Nepal until decision is made in accordance with clause (2).

289. Special provision relating to citizenship of officials: (1) In order for a person to be elected, nominated or appointed to the office of President, Vice-President, Prime Minister, Chief Justice, Speaker of the House of Representatives, Chief of State, Chief Minister, Speaker of a State Assembly and chief of a security body, the person must have obtained the citizenship of Nepal by descent.

(2) A person who has obtained the citizenship of Nepal by descent, a person who has obtained the naturalized citizenship of Nepal or a person who has obtained the citizenship of Nepal by birth shall also be qualified for the office of a constitutional body other than that mentioned in clause (1).

Provided that the person must have resided in Nepal for at least ten years in the case of a person who has obtained the naturalized citizenship of Nepal, and for at least five years in the case of a person who has obtained the citizenship of Nepal by birth or who has obtained the naturalized citizenship of Nepal in accordance with clause (6) of Article 11.

290. Provisions relating to Guthi (trusts): (1) The Federal Parliament shall make necessary laws in relation to the rights of the trust and the farmers enjoying possessory rights over trust lands in a manner not to be prejudicial to the basic norms of the trusts.

(2) Other matters relating to trusts shall be as provided by the federal law.

291. Not to be qualified for appointment: (1) Notwithstanding anything contained elsewhere in this Constitution, a citizen of Nepal who has obtained a foreign permanent residence permit shall not be qualified for election, nomination or appointment to an office to be elected, nominated or appointed pursuant to this Constitution.

Provided that nothing shall prevent electing, nominating or appointing a person who has renounced such foreign permanent residence permit to such office after the expiry of a period of at least three months.

(2) Other matters relating to the citizens of Nepal who have obtained foreign permanent residence permits as mentioned in clause (1) shall be as provided for in the Federal law.

292. Provisions relating to parliamentary hearings: (1) Parliamentary hearings shall be conducted as to appointments to the offices of the Chief Justice and Judges of the Supreme Court, members of the Judicial Council, chiefs and members of Constitutional Bodies, who are appointed on the recommendation of the Constitutional Council under this Constitution, and to the offices of ambassadors, as provided for in the Federal law.

(2) For the purposes of clause (1), there shall be formed a fifteen-member joint committee consisting of members of both Houses of the Federal Parliament, in accordance with the Federal law.

(3) No member of the joint committee under clause (2) shall practice law in the Supreme Court during that term of the Federal Parliament.

293. Monitoring of functioning of Constitutional Bodies: The chiefs and officials of the Constitutional Bodies must be accountable and responsible to the Federal Parliament. The committees of the House of Representatives may monitor and evaluate the functioning, including reports, of the Constitutional Bodies, other than the National Human Rights Commission, and give necessary direction or advice.

294. Annual reports of Constitutional Bodies: (1) Every Constitutional Body under this Constitution shall submit an annual report of its functioning to the President, and the President shall cause that report to be laid through the Prime Minister before the Federal Parliament.

(2) The matters to be set out in the annual report under clause (1) shall be as provided for in the Federal law.

(3) Notwithstanding anything contained in clause (1), a Constitutional Body may prepare a separate report in relation to the functioning of each State and submit it to the Chief of State.

Part-33

Transitional Provisions

295. Constitution of Federal Commission: (1) The Government of Nepal may constitute a Federal Commission for making suggestions on matters relating to the boundaries of States.

(2) The names of the States under clause (3) of Article 56 shall be set by a two thirds majority of the total number of members of the concerned State Assemblies.

(3) The Government of Nepal shall constitute a commission for the determination of the number and boundaries of Village Bodies, Municipalities and Special, Protected or Autonomous Regions to be formed under clauses (4) and (5) of Article 56. The commission must determine the number and boundaries of the Village Bodies, Municipalities and Special, Protected or Autonomous Regions in accordance with the criteria set by the Government of Nepal.

(4) The commission under clause (3) shall be constituted no later than six months of the date of commencement of this Constitution. Its term shall be one year.

296. Constituent Assembly to be converted into Legislature-Parliament: (1) The Constituent Assembly existing at the time of commencement of this Constitution shall *ipso facto* be converted into the Legislature-Parliament after the commencement of this Constitution, and the term of such Legislature-Parliament shall exist until 7 Magha 2074.

Provided that if an election is held to the House of Representatives set forth in this Constitution prior to the expiration of that term, the Legislature-Parliament shall continue to exist until the day before the day specified for the filing of nominations of candidates for that election.

(2) The Bills under consideration of the Legislature-Parliament at the time of commencement of this Constitution shall *ipso facto* be transferred to the Legislature-Parliament set forth in clause (1).

(3) The Legislature-Parliament set forth in clause (1) shall perform the business required to be performed by the Federal Parliament in accordance with this Constitution until election to the House of Representatives is held pursuant to this Constitution.

(4) The legislative power of the State Assembly with respect of matters set forth in Schedule-6 shall, upon the commencement of this Constitution, be vested in the Legislature-Parliament set forth in clause (1) until the State Assembly is formed. Any law so made shall be inoperative in relation to that State after one year of the date of formation of the State Assembly set forth in this Constitution.

(5) The Legislature-Parliament Secretariat, its Secretary General, Secretary and employees existing at the time of commencement of this Constitution shall, subject to the conditions of service in force at the time of their appointment, exist in the Federal Parliament Secretariat set forth in this Constitution.

(6) Where the Legislature-Parliament is in recess at the time of commencement of this Constitution, the President shall summon its session no later than seven days after the date of commencement of this Constitution. The President shall thereafter summon a session of the Legislature-Parliament from time to time.

297. Provisions relating to the President and the Vice-President: (1) The President and the Vice-President existing at the time of commencement of this Constitution shall continue to hold their respective offices until other President and Vice-President are elected in accordance with this Article.

(2) The Legislature-Parliament set forth in clause (1) of Article 296 shall, on the basis of political understanding, elect the President and the Vice-President, no later than one month after the date of the commencement of this Constitution where the Legislature-Parliament is not in recess at the time of commencement of this Constitution and after the date on which the session is summoned in accordance with clause (6) of Article 296 where the Legislature-Parliament is in recess.

(3) In the event of failure to have an understanding under clause (2), the President and the Vice-President must be elected by a majority of all the then members of the Legislature-Parliament.

(4) If the office of the President or Vice-President elected in accordance with clause (2) or (3) falls vacant for any reason, the President or Vice-President shall be elected by the Legislature-Parliament in accordance with this Article until the Federal Parliament is formed.

(5) The term of office of the President or Vice-President elected in accordance with this Article shall continue to exist until another President or Vice-President elected by an electoral college set forth in Article 62 assumes office.

(6) The office of the President or Vice-President elected in accordance with this Article shall become vacant in any of the following circumstances:

- (a) if the President tenders resignation in writing to the Vice-President and the Vice-President, before the President,
- (b) if a motion of impeachment against him or her is passed in accordance with clause (7),
- (c) if another President or Vice-President elected by an electoral college set forth in Article 62 assumes office,

(d) if he or she dies.

(7) At least one fourth of the total number of the then members of the Legislature-Parliament set forth in clause (1) of Article 296 may move a motion of impeachment against the President or Vice-President elected in accordance with this Article on the ground of serious violation of this Constitution and law. If the motion is passed by at least two thirds majority of the total number of the then members of the Legislature-Parliament, he or she shall relive of his or her office

298. Provisions relating to formation of Council of Ministers: (1) The Council of Ministers existing at the time of commencement of this Constitution shall continue to exist until the Council of Ministers set forth in clause (2) is formed.

(2) The Prime Minister shall, on the basis of political understanding, be elected no later than seven days after the date of the commencement of this Constitution where the Legislature-Parliament is not in recess at the time of commencement of this Constitution, and after the date on which the session of the Legislature-Parliament summoned in accordance with clause (6) of Article 286 commences where the Legislature-Parliament is in recess, and a Council of Ministers shall be formed under his or her chairpersonship.

(3) In the event of failure to have an understanding under clause (2), the Prime Minister shall be elected by a majority of all the then members of the Legislature-Parliament.

(4) The composition and allocation of portfolios of the Council of Ministers to be formed in accordance with this Article shall be made through mutual understanding.

(5) The Council of Ministers to be formed in accordance with this Article shall consist of a Deputy Prime Minister and other Ministers, as required.

(6) The Prime Minister appointed in accordance with this Article shall, in appointing Ministers in accordance with clause (5), appoint Ministers from amongst the members of the Legislature-Parliament, on the recommendation of the concerned party.

(7) The Prime Minister and other Ministers appointed in accordance with this Article shall be collectively responsible to the Legislature-Parliament, and the Ministers shall be individually responsible to the Prime Minister and the Legislature- Parliament for the work of their respective Ministries.

(8) The office of the Prime Minister appointed in accordance with this Article shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the President,
- (b) if a vote of no-confidence is passed against him or her or a vote of confidence is not passed in accordance with clause (14),
- (c) if he or she ceases to be a member of the Legislature-Parliament,
- (d) if he or she dies.

(9) The office of the Deputy Prime Minister, Minister, Minister of State and Assistance Minister appointed in accordance with this Article shall be vacant in any of the following circumstances:

- (a) if he or she tenders resignation in writing to the Prime Minister,
- (b) if the Prime Minister is removed from office in accordance with clause (8),
- (c) if he or she is removed from office by the Prime Minister on the recommendation or advice of the concerned party,
- (d) if he or she dies.

(10) Even though the office of the Prime Minister falls vacant under clause (8), the same Council of Ministers shall continue to act until another Council of Ministers is constituted.

(11) If the Prime Minister appointed in accordance with this Article dies, the Deputy Prime Minister or senior-most Minister shall act as the Prime Minister until another Prime Minister is appointed.

(12) The Prime Minister appointed in accordance with this Article may, whenever he or she considers necessary or appropriate to show/clarify that he or she has confidence from the Legislature-Parliament, table a resolution to that effect in the Legislature-Parliament for the vote of confidence.

(13) At least one-fourth of the total number of the then members of the Legislature-Parliament may table in writing a motion of no-confidence against the Prime Minister appointed in accordance with this Article.

Provided that a motion of no confidence shall not be tabled more than once in six months' period against the same Prime Minister appointed in accordance with this Article.

(14) A motion tabled under clauses (12) and (13) shall be decided by a majority of the total number of the then members of the Legislature Parliament.

(15) The Government of Nepal shall, after the commencement of this Constitution, exercise the powers of a State until the Council of Ministers of the State set forth in this Constitution is formed.

299. Provisions relating to Speaker and Deputy Speaker: (1) The Speaker and Deputy Speaker existing at the time of commencement of this Constitution shall continue to hold their respective offices until another Speaker and Deputy Speaker is elected pursuant to this Constitution.

(2) The members of the Legislature-Parliament shall, on the basis of political understanding, elect one Speaker and one Deputy Speaker from themselves no later than twenty days after the date of the commencement of this Constitution where the Legislature-Parliament is not in recess at the time of commencement of this Constitution, and after the date on which the session of the Legislature-Parliament is summoned in accordance with clause (6) of Article 296 where the Legislature-Parliament is in recess.

(3) In the event of failure to have an understanding under clause (2), a member of the Legislature-Parliament who commands a majority of all the then members of the Legislature-Parliament shall be deemed to be elected as the Speaker or Deputy Speaker.

(4) In holding electing in accordance with clause (2) or (3), the Speaker and the Deputy Speaker shall be members representing different political parties in the Legislature-Parliament.

(5) In discharging his or her functions in accordance with this Constitution, the Speaker or Deputy Speaker shall so discharge functions in the capacity of a neutral person without standing for or against any political party whatsoever.

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

- (a) if he or she resigns in writing,
- (b) if he or she ceases to be a member of the Legislature-Parliament,
- (c) if a resolution is passed by a majority of at least two-thirds of the total number of the members of the Legislature-Parliament to the effect that his or her conduct is not compatible with his or her office,
- (d) if he or she dies.

(7) The Deputy Speaker or another member shall preside over a meeting at which deliberations are to be held on a resolution that the conduct of the Speaker of the Legislature-Parliament is not compatible with his or her office, and the Speaker may take part and vote in the deliberations on such resolution.

(8) Other procedures on the election to the Speaker and Deputy Speaker and procedures on the moving and passage of a motion that the Speaker or Deputy Speaker has committed conduct not compatible with his or her office shall be as provided by the then prevailing rules of the Legislature-Parliament.

300. Provisions relating to Judiciary: (1) The Supreme Court, Constituent Assembly Court, Appellate Courts and District Courts existing at the time of commencement of this Constitution shall continue to exist until the structure of Judiciary set forth in this Constitution is set up. Nothing in this Constitution shall be deemed to bar the settlement by respective Courts of the cases already filed in such Courts prior to the commencement of this Constitution and of the cases to be filed after the commencement of this Constitution.

(2) The Chief Justice and Judges of the Supreme Court, Chief Judges and Judges of the Appellate Courts and Judges of the Districts Courts shall be deemed to have been appointed under this Constitution.

(3) The High Courts set forth in Article 139 shall be established no later than one year after the date of commencement of this Constitution. The Appellate Courts existing at the time of commencement of this Constitution shall be dissolved after the establishment of such Courts.

(4) After the establishment of the High Courts in accordance with clause (3), the cases *sub judice* in the Appellate Courts shall be transferred to such High Courts as specified by the Government of Nepal, in consultation with the Judicial Council, by notification in the Nepal Gazette.

(5) After the establishment of the High Courts in accordance with clause (3), the Chief Justice shall, on recommendation of the Judicial Council, post the Chief Judges and Judges of the Appellate Courts who are holding office at the time of commencement of this Constitution to the offices of the Chief Judges and Judges of the High Courts.

(6) The Additional Judges of the Appellate Courts who are holding office at the time of commencement of this Constitution may continue to hold office until the term specified at the time of their appointment.

(7) The cases on criminal offences punishable by imprisonment for a term of more than one year and *sub judice* in any body other than a Court at the time of commencement of this Constitution shall, after the commencement of this Constitution, be transferred to the concerned District Court.

301. Provisions relating to Constitutional Bodies and officials thereof: (1) The Constitutional Bodies which are existing at the time of commencement of this Constitution and provided in this Constitution shall be deemed to have been formed under this Constitution, and nothing shall be deemed to bar the settlement of the matters under consideration of such Bodies subject to this Constitution.

(2) The chiefs or officials of the Constitutional Bodies holding office at the time of commencement of this Constitution shall be deemed to have been appointed in accordance with this Constitution and shall continue to hold their respective offices subject to the conditions of services at the time of their appointments.

(3) The officials holding office in the Commission for the Investigation of the Abuse of Authority and the Public Service Commission, at the time of commencement of this Constitution, in excess of the number specified in this Constitution, shall continue to hold their respective offices subject to the conditions of services at the time of their appointments.

302. Formation and operation of government services at State and Local levels: (1)

The Government of Nepal shall make necessary provisions for the delivery of services at the State and Local levels.

(2) The Government of Nepal may, in making provisions under clause (1), arrange for the delivery of services by making adjustment of the employees serving in the government services at the time of commencement of this Constitution with the Federal, State and Local levels in accordance with law.

303. Provisions relating to Local Bodies: (1) The Local Bodies existing at the time of Commencement of this Constitution shall continue to exist until the determination of the number and areas of the Local level in accordance with this Constitution.

(2) Election to the officials of the Local Bodies existing under clause (1) shall be held in accordance with law.

(3) The officials of the Local Bodies elected in accordance with clause (2) shall continue to hold office until election to the Local level is held in accordance with this Constitution.

304. Existing laws to remain in force: (1) The Nepal laws in force at the time of commencement of this Constitution shall continue to be in force until such laws are repealed or amended.

Provided that any law which is inconsistent with this Constitution shall *ipso facto* be invalid to the extent of such inconsistency, after one year of the date on which the first session of the Federal Parliament set forth in this Constitution is held.

(2) Acts relating to peace process under the Interim Constitution of Nepal, 2007 (2063) shall be deemed to have been done under this Constitution.

305. Power to remove difficulties: If any difficulty arises in connection with the implementation of this Constitution until the commencement of the first session of the Federal Parliament, upon being elected in accordance with this Constitution, the President may, on the recommendation of the Government of Nepal, Council of Ministers, issue necessary orders to remove such difficulty; and such orders must be submitted to the Legislature-Parliament or Federal Parliament, held immediately after the issue such orders, for approval.

Part-34

Definitions and Interpretations

306. Definitions and interpretations: (1) Unless the subject or the context otherwise requires, in this Constitution,-

- (a) "minorities" means ethnic, linguistic and religious groups whose population is less than the percentage specified by the Federal law, and includes groups that have their distinct ethnic, religious or linguistic characteristics, aspirations to protect such features and subjected to discrimination and oppression,
- (b) "law" means a Federal law, State law and Local law,
- (c) "Article" means an article of this Constitution,
- (d) "Municipality" means and includes a Municipal Corporation and Sub-municipal Corporation.
- (e) "citizen" means a citizen of Nepal,
- (f) "State" means the area and form of a federal unit of Nepal divided into the Federal units in accordance with this Constitution,
- (g) "remuneration" means and includes salary, allowance, pension and any other form of emolument and facility,
- (h) "state power" means the power relating to the Executive, Legislative and Judiciary of the state, and includes residual power.
- (i) "Bill" means a draft of amendment to the Constitution or of an Act which has been introduced in the Federal Parliament or a State Assembly,

- (j) "Federation" means the federal level that is the apex unit of the federal structure,
- (k) "Federal Units" means the Federation, State and Local levels,
- (l) "Constitutional Bodies" means the Commission for the Investigation of Abuse of Authority, Auditor General, Public Service Commission, Election Commission, National Human Rights Commission, National Natural Resources and Fiscal Commission, National Women Commission, National *Dalit* Commission, National Inclusion Commission, Indigenous Nationalities Commission, *Madhesi* Commission, *Tharu* Commission and Muslim Commission,
- (m) "marginalized" means communities that are made politically, economically and socially backward, are unable to enjoy services and facilities because of discrimination and oppression and of geographical remoteness or deprived thereof and are in lower status than the human development standards mentioned in Federal law, and includes highly marginalized groups and groups on the verge of extinction,
- (n) "Local level" means the Village Bodies, Municipalities and District Assemblies to be established in accordance with this Constitution.

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

Part-35

Short Title, Commencement and Repeal

307. Short title and commencement: (1) This Constitution may be cited as the "Constitution of Nepal".

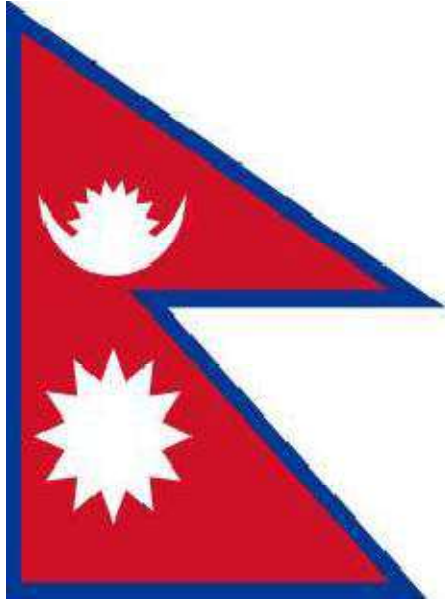
(2) This Constitution shall commence on 20 September 2015 (3rd day of the month of Ashwin of the year 2072 Bikram Sambat).

308. Repeal: The Interim Constitution of Nepal, 2007 (2063) is hereby repealed.

Schedule-1

(Relating to clause (2) of Article 8)

National Flag of Nepal



The method of making the National Flag of Nepal

(a) Method of making the shape inside the border

- (1) On the lower portion of a crimson cloth draw a line AB of the required length from left to right.
- (2) From A draw a line AC perpendicular to AB making AC equal to AB plus one third AB. From AC mark off D making line AD equal to line AB. Join B and D.
- (3) From BD mark off E making BE equal to AB.
- (4) Touching E draw a line FG, starting from the point F on line AC, parallel to AB to the right hand-side. Mark off FG equal to AB.
- (5) Join C and G.

(b) Method of making the moon

- (6) From AB mark off AH making AH equal to one-fourth of line AB and starting from H draw a line HI parallel to line AC touching line CG at point I.
- (7) Bisect CF at J and draw a line JK parallel to AB touching CG at point K.
- (8) Let L be the point where lines JK and HI cut one another.
- (9) Join J and G.
- (10) Let M be the point where line JG and HI cut one another.
- (11) With centre M and with a distance shortest from M to BD mark off N on the lower portion of line HI.
- (12) Touching M and starting from O, a point on AC, draw a line from left to right parallel to AB.
- (13) With centre L and radius LN draw a semi-circle on the lower portion and let P and Q be the points where it touches the line OM respectively.
- (14) With centre M and radius MQ draw a semi-circle on the lower portion touching P and Q.
- (15) With centre N and radius NM draw an arc touching PNQ at R and S. Join RS. Let T be the point where RS and HI cut one another.
- (16) With centre T and radius TS draw a semi-circle on the upper portion of PNQ touching it at two points.
- (17) With centre T and radius TM draw an arc on the upper portion of PNQ touching at two points.
- (18) Eight equal and similar triangles of the moon are to be made in the space lying inside the semi-circle of No. (16) and outside the arc of No. (17) of this Schedule.

(c) Method of making the sun

- (19) Bisect line AF at U, and draw a line UV parallel to AB line touching line BE at V.
- (20) With centre W, the point where HI and UV cut one another and radius MN draw a circle.
- (21) With centre W and radius LN draw a circle.
- (22) Twelve equal and similar triangles of the sun are to be made in the space enclosed by the circles of No. (20) and of No. (21) with the two apexes of two triangles touching line HI.

(d) Method of making the border

- (23) The width of the border will be equal to the width TN. This will be of deep blue colour and will be provided on all the side of the flag. However, on the five angles of the flag the external angles will be equal to the internal angles.
- (24) The above mentioned border will be provided if the flag is to be used with a rope. On the other hand, if it is to be hoisted on a pole, the hole on the border on the side AC can be extended according to requirements.

Explanation: The lines HI, RS, FE, ED, JG, OQ, JK and UV are imaginary. Similarly, the external and internal circles of the sun and the other arcs except the crescent moon are also imaginary. These are not shown on the flag.

Note bene: The size of the National Flag of Nepal shall be as determined by the Government of Nepal.

Schedule-2

(Relating to clause (1) of Article 9)

National Anthem of Nepal

Sayaun Thunga Phool Ka Hami Eutai Mala Nepali

Sarvavhaum Vai Failiyeka Mechi Mahakali

Prakitika Koti Koti Sampada Ko Aanchala

Bir Haruka Ragata Le Swatantra Ra Atala

Gyana Bhumi Shanti Bhumi Terai Pahad Himala

Akhanda Yo Pyaro Hamro Matri Bhumi Nepal

Bahul Jati Bhasa Dharma Sanskriti Chan Bishala

Aragami Rastra Hamro Jaya Jaya Nepal.

Schedule-3

(Relating to clause (2) of Article 9)

Coat of Arms of Nepal



Note bene: This Coat of Arms may be made in larger or smaller size as per necessity. The colour determined by the Government of Nepal shall be used on it.

Schedule-4

(Relating to clause (3) of Article 56)

States, and Districts to be included in the concerned States

State No. 1	State No. 2
1. Taplejung	1. Saptari
2. Panchthar	2. Siraha
3. Ilam	3. Dhanusa
4. Sankhuwasabha	4. Mahottari
5. Tehrathum	5. Sarlahi
6. Dhankuta	6. Rautahat
7. Bhojpur	7. Bara
8. Khotang	8. Parsa
9. Solukhumbu	
10. Okhaldhunga	
11. Udayapur	
12. Jhapa	
13. Morang	
14. Sunsari	

State No. 3	State No. 4
1. Dolakha	1. Gorkha
2. Ramechhap	2. Lamjung
3. Sindhuli	3. Tanahun
4. Kavrepalanchok	4. Kaski
5. Sindhupalchok	5. Manang
6. Rasuwa	6. Mustang
7. Nuwakot	7. Parbat
8. Dhading	8. Syangja
9. Chitwan	9. Myagdi
10. Makawanpur	10. Baglung
11. Bhaktapur	11. Nawalparasi (East of Bardaghat Susta)
12. Lalitpur	
13. Kathmandu	

State No. 5	State No. 6	State No. 7
1. Nawalparasi (West of Bardaghat Susta)	1.Rukum (Western Part)	1.Bajura
2. Rupandehi	2. Salyan	2.Bajhang
3. Kapilbastu	3. Dolpa	3. Doti
4. Palpa	4. Jumla	4. Achham
5. Arghakhanchi	5. Mugu	5. Darchula
6. Gulmi	6. Humla	6. Baitadi
7.Rukun (Eastern Part)	7. Kalikot	7. Dadeldhura
8. Rolpa	8. Jajarkot	8. Kanchanpur
9. Pyuthan	9. Dailekh	9. Kailali
10. Daang	10. Surkhet	
11. Banke		
12. Bardiya		

Schedule-5

(Relating to clause (1) of Article 57, and Article 109)

List of Federal Power

SN	<u>Matters</u>	
1.	Relating to defence and military	
	(a)	Protection of national unity and territorial integrity
	(b)	Relating to national security
2.	War and defence	
3.	Arms and ammunitions factories and production thereof	
4.	Central Police, Armed Police Force, national intelligence and investigation, peace, security	
5.	Central planning, central bank, finance policies, monetary and banking, monetary policies, foreign grants, aid and loans	
6.	Foreign and diplomatic affairs, international relations and United Nations related matters	
7.	International treaties or agreements, extradition, mutual legal assistance and international borders, international boundary rivers	
8.	Telecommunications, allocation of radio frequency, radio, television and postal matters	
9.	Customs, excise-duty, value-added tax, corporate income tax, individual income tax, remuneration tax, passport fee, visa fee, tourism fee, service charge and fee, penalty	

10.	Federal civil service, judicial service and other government services
11.	Policies relating to conservation and multiple uses of water resources
12.	Inland and inter-State electricity transmission lines
13.	Central statistics (national and international standards and quality)
14.	Central level large electricity, irrigation and other projects
15.	Central universities, central level academies, universities standards and regulation, central libraries
16.	Health policies, health services, health standards, quality and monitoring, national or specialised service providing hospitals, traditional treatment services and communicable disease control
17.	Federal Parliament, Federal Executive, Local Level related affairs, special structure
18.	International trade, exchange, port, quarantine
19.	Civil aviation, international airports
20.	National transportation policies, management of railways and national highways
21.	Laws relating to the Supreme Court, High Courts, District Courts and administration of justice
22.	Citizenship, passport, visa, immigration
23.	Atomic energy, air space and astronomy
24.	Intellectual property (including patents, designs, trademarks and

	copyrights)
25.	Measurement
26.	Mines excavation
27.	National and international environment management, national parks, wildlife reserves and wetlands, national forest policies, carbon services
28.	Insurance policies, securities, cooperatives regulation
29.	Land use policies, human settlement development policies, tourism policies, environment adaptation
30.	Criminal and civil laws making
31.	Security printing
32.	Social security and poverty alleviation
33.	Constitutional Bodies, commissions of national importance
34.	Sites of archaeological importance and ancient monuments
35.	Any matter not enumerated in the Lists of Federal Powers, State Powers and Local Level Powers or in the Concurrent List and any matter not specified in this Constitution and in the Federal laws

Schedule-6

(Relating to clause (2) of Article 57, clause (4) of Article 162, Article 197, clause (3) of Article 231, clause (7) of Article 232, clause (4) of Article 274 and clause (4) of Article 296)

List of State Power

SN	Matters
1.	State police administration and peace and order
2.	Operation of banks and financial institutions in accordance with the policies of Nepal Rastra Bank, cooperative institutions, foreign grants and assistance with the consent of the Centre
3.	Operation of Radio, F.M., television
4.	House and land registration fee, motor vehicle tax, entertainment tax, advertisement tax, tourism, agro-income tax, service charge, fee, penalty
5.	State civil service and other government services
6.	State statistics
7.	State level electricity, irrigation and water supply services, navigation
8.	State universities, higher education, libraries, museums
9.	Health services
10.	Matters relating to the State Assembly, State Council of Ministers
11.	Intra-State trade
12.	State highways

13.	State bureau of investigation
14.	Physical management and other necessary matters of State governmental offices
15.	State Public Service Commission
16.	Management of lands, land records
17.	Exploration and management of mines
18.	Protection and use of languages, scripts, cultures, fine arts and religions
19.	Use of forests and waters and management of environment within the State
20.	Agriculture and livestock development, factories, industrialization, trade, business, transportation
21.	Management of trusts (<i>Guthi</i>)

Schedule-7

(Relating to clause (3) of Articles 57, Article 109, clause (4) of Article 162, and Article 197)

List of Concurrent Powers of Federation and State

SN	Matters
1.	Civil and criminal procedure, evidence and oaths (legal recognition, public acts and records, and judicial proceedings)
2.	Supply, distribution, price control, quality and monitoring of essential goods and services
3.	Preventive detention for reasons connected with the security of the country, prison and detention management, and maintenance of peace and order
4.	Transfer of accused persons, detainees and prisoners from one State to another State
5.	Laws relating to family affairs (marriage, transfer of property, divorce, persons on the verge of extinction, orphan, adoption, succession and joint family)
6.	Acquisition, requisitioning of property and creation of right in property
7.	Contracts, cooperatives, partnership and agency related matters
8.	Matters relating to bankruptcy and insolvency
9.	Drugs and pesticides
10.	Planning, family planning and population management

11.	Social security and employment, trade unions, settlement of industrial disputes, and labour rights and disputes related matters
12.	Legal profession, auditing, engineering, medicines, <i>Ayurvedic</i> medicines, veterinary, <i>Amchi</i> and other professions
13.	State boundary river, waterways, environment protection, biological diversity
14.	Matters related to means of communication
15.	Industries and mines and physical infrastructures
16.	Casino, lottery
17.	Early preparedness for, rescue, relief and rehabilitation from, natural and man made calamities
18.	Tourism, water supply and sanitation
19.	Motion pictures, cinema halls and sports
20.	Insurance business operation and management
21.	Poverty alleviation and industrialization
22.	Scientific research, science and technology and human resources development
23.	Utilization of forests, mountains, forest conservation areas and waters stretching in inter-State form
24.	Land policies and laws relating thereto
25.	Employment and unemployment aid

Schedule-8

(Relating to clause (4) of Article 57, clause (2) of Article 214,
clause (2) of Article 221 and clause (1) of Article 226)

List of Local Level Power

SN	Matters
1.	Town police
2.	Cooperative institutions
3.	Operation of F.M.
4.	Local taxes (wealth tax, house rent tax, land and building registration fee, motor vehicle tax), service charge, fee, tourism fee, advertisement tax, business tax, land tax (land revenue), penalty, entertainment tax, land revenue collection
5.	Management of the Local services
6.	Collection of local statistics and records
7.	Local level development plans and projects
8.	Basic and secondary education
9.	Basic health and sanitation
10.	Local market management, environment protection and bio-diversity
11.	Local roads, rural roads, agro-roads, irrigation

12.	Management of Village Assembly, Municipal Assembly, District Assembly, local courts, mediation and arbitration
13.	Local records management
14.	Distribution of house and land ownership certificates
15.	Agriculture and animal husbandry, agro-products management, animal health, cooperatives
16.	Management of senior citizens, persons with disabilities and the incapacitated
17.	Collection of statistics of the unemployed
18.	Management, operation and control of agricultural extension
19.	Water supply, small hydropower projects, alternative energy
20.	Disaster management
21.	Protection of watersheds, wildlife, mines and minerals
22.	Protection and development of languages, cultures and fine arts

Schedule-9

(Relating to clause (5) of Article 57, Article 109, clause (4) of Article 162, Article 197, clause (2) of Article 214, clause (2) of Article 221, and clause (1) of Article 226)

List of Concurrent Powers of Federation, State and Local Level

SN	Matters
1.	Cooperatives
2.	Education, health and newspapers
3.	Health
4.	Agriculture
5.	Services such as electricity, water supply, irrigation
6.	Service fee, charge, penalty and royalty from natural resources, tourism fee
7.	Forests, wildlife, birds, water uses, environment, ecology and bio-diversity
8.	Mines and minerals
9.	Disaster management
10.	Social security and poverty alleviation
11.	Personal events, births, deaths, marriages and statistics
12.	Archaeology, ancient monuments and museums

13.	Landless squatters management
14.	Royalty from natural resources
15.	Motor vehicle permits