

Nepal's Constitution: Key Features and Highlights (HPPF PACS)

This constitution is a result of seven decades of aspirations, hard work, and the culmination of efforts through seven constitutions. The Constitution was drafted and promulgated by the Second Constituent Assembly and it categorizes Nepal as a secular state, upholding rights for diverse communities and establishing a three-tiered federal government system.

- a. First constitution to be drafted by a Constituent Assembly. (Preamble)
- b. Commitment to socialism, ensuring a prosperous nation. (Preamble)
- c. Any conduct and act contrary to the national interest shall be punishable in accordance with the federal law. (Article 5)
- d. Provinces can determine their own official languages. (Article 7)
- e. Introduction of Non-Resident Nepali Citizenship. (Article 14)
- f. Discrimination based on caste and untouchability is criminalized. (Article 40)
- g. Fundamental rights have been extended and provisioned in 31 sections (Articles 16 to 46). This is an expansion from 13 in 2047 B.S. and 21 in 2063 B.S.
- h. Necessary laws for the enforcement of fundamental rights must be enacted within three years of the commencement of the Constitution. (Article 47).
- i. Provision for civic responsibility. (Article 48)
- j. Federal governance system with three levels: federal, provincial, and local. (Article 56)
- k. Defines both specific and shared jurisdictions. In case of ambiguity, jurisdiction defaults to the federation (Article 58).
- l. The President and Vice President should belong to different genders or communities (Article 70).
- m. Government formation at the federal level is based on multi-party principles (Article 74).
- n. The federal parliament is bicameral, consisting of the House of Representatives (Article 84) and the National Assembly (Article 86). Provinces have unicameral parliaments (Article 176).
- o. The Prime Minister can only be impeached within the first two years, and if a vote of no confidence fails once, another can't be proposed for a year (Article 100).
- p. Every province has a Chief who represents the government of Nepal (Article 163).
- q. 8 new constitutional bodies out of a total of 13 autonomous constitutional bodies. (Part 21 to 27; Article 238 to 265)
- r. Special provisions are made for women, Dalit, National Inclusion, Indigenous, Madhesi, Tharu, and Muslim communities under the Other Commission. (Part 27)
- s. Each Province shall have a Provincial Public Service Commission(Article 244) and a Provincial Police Organization (Article 268).
- t. The Constitution can be amended by a two-thirds majority. (Article 274)
- u. Nepal's sovereignty, geographical integrity, independence, and power vested in the people are unalterable and can't be amended in the constitution (Article 274).
- v. The power to make international treaties lies with the federation (Article 278).
- w. Only Nepalese by descent can hold the ten chief positions of the state (Article 289).

Question: What is the difference between human rights and Fundamental civil rights? What civil rights has the current constitution of Nepal provided to individuals? Please list at least 10 of them. (10 marks)

Answer: Fundamental civil rights are the rights provided by the Constitution, including constitutional remedies to safeguard individuals from discrimination and government intrusion, encompassing freedoms such as speech, religion, and equal treatment. On the other hand, human rights are inalienable rights inherent to all human beings, regardless of where they come from, recognized by international law.

Differences:	
Human Rights	Civil Rights
Declaration by the Constitution.	An international treaty created or declared by agreement..
Nationwide.	Universal.
Applies only to persons and citizens specified by the Constitution.	Applies equally to all persons without any discrimination.
Subject to national law.	Subject of international law, its treatment from national courts to international courts and human rights committees
Provision for remedy by courts prescribed by the constitution.	Provision of remedies from national courts to international courts and human rights committees.

Given these differences, the execution of these rights can vary, especially when one nation's constitutional provision conflicts with an international agreement on human rights.

Because civil rights are a reflection of human rights in the national context, they must be granted to every citizen without any discrimination. It is widely accepted globally that when a state recognizes human rights as civil rights, it is adhering to a universal standard, a sentiment echoed by the current constitution of Nepal.

Article 20: Rights relating to justice:

- 1. Individuals cannot be detained without being informed of the reasons for their arrest.
- 2. Arrested persons have the right to consult a legal practitioner of their choice, with confidentiality.
- 3. The case must be presented before court within twenty-four hours of the arrest, excluding travel time. It doesn't apply to citizens of an enemy state..
- 4. Non-retroactive Punishment: Punishment is limited to what is prescribed by law.
- 5. Presumption of innocence until proven guilty.

Fundamental Rights in Nepal's Constitution (2072 B.S)

16. Right to Live with Dignity (Article 16) 17. Right to Freedom (Article 17) 18. Right to Equality (Article 18) 19. Right to Communication (Article 19) 20. Rights relating to Justice (Article 20) 21. Right of Victim of Crime (Article 21) 22. Right against Torture (Article 22) 23. Right against Preventive Detention (Article 23) 24. Right against Untouchability and Discrimination (Article 24) 25. Right relating to Property (Article 25) 26. Right to Freedom of Religion (Article 26) 27. Right to Information (Article 27) 28. Right to Privacy (Article 28) 29. Right against Exploitation (Article 29) 30. Right to Clean Environment (Article 30)	31. Right relating to Education (Article 31) 32. Right to Language and Culture (Article 32) 33. Right to Employment (Article 33) 34. Right to Labour (Article 34) 35. Right relating to Health (Article 35) 36. Right relating to Food (Article 36) 37. Right to Housing (Article 37) 38. Rights of Women (Article 38) 39. Rights of the Child (Article 39) 40. Rights of Dalit (Article 40) 41. Rights of Senior Citizens (Article 41) 42. Right to Social Justice (Article 42) 43. Right to Social Security (Article 43) 44. Right of the Consumer (Article 44) 45. Right against Exile (Article 45) 46. Right to Constitutional Remedies (Article 46)
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The present constitution has extended the provision of fundamental rights in 10 more articles than the previous Constitution of 2063 B.S. This expansion signifies the evolution and importance of individual rights in Nepal. Necessary laws must be enacted within 3 years of the issuance of this constitution to actualize these rights.

Provisions for Fundamental Rights in Nepal:

- 1. Addressed in Articles 16 to 46 of the Constitution.
- 2. Applicable to individuals, citizens, and groups of citizens.
- 3. Legislation to enforce the fundamental rights should be enacted within 3 years (Article 47).
- 4. Citizen duties are interrelated with fundamental rights (Article 48).
- 5. Protection of fundamental rights is an obligation of state (Article 52).
- 6. Protection of fundamental rights under extraordinary jurisdiction of supreme court such as habeas corpus (Article 133)
- 7. Allows suspension of 13 fundamental rights during Emergency(Article 273).

Fundamental rights applicable to everyone besides citizens: 16,20,24,28,32, 23, 26, 29, 17(1), and 22.

- 6. Double Jeopardy Protection: No one can be prosecuted and punished more than once for the same offense.
- 7. Right to Silence: An accused person cannot be compelled to be a witness against themselves.
- 8. Everyone has the right to be informed of proceedings against them.
- 9. Every person has the right to a fair trial.
- 10. Indigent parties have the right to free legal aid

Question: Write 13 constitutional bodies.

Answer: Parts 21 to 27 of the Constitution of Nepal outline 13 autonomous and independent constitutional bodies(8 new) that operate without interference or intervention from the state's three main organs. Their functions, formation procedures, roles, and authorities are described in detail in each part of the constitution. This ensures their independence and autonomy. The 13 bodies include:

- 1. Commission for the Investigation of Abuse of Authority (अधिकार दुरुपयोग अनुसन्धान आयोग)
- 2. Auditor General (महालेखा परिसक)
- 3. Public Service Commission (लोक सेवा आयोग)
- 4. Election Commission (निर्वाचन आयोग)
- 5. National Human Rights Commission (राष्ट्रिय मानव अधिकार आयोग)
- 6. National Natural Resources and Fiscal Commission (राष्ट्रिय प्राकृतिक श्रोत तथा वित्त आयोग)
- 7. National Women Commission (राष्ट्रिय महिला आयोग)
- 8. National Dalit Commission (राष्ट्रिय दलित आयोग)
- 9. National Inclusion Commission (राष्ट्रिय समावेशी आयोग)
- 10. Indigenous Nationalities Commission (आदिवासी जनजाती आयोग)
- 11. Madhesi Commission (मधेशी आयोग)
- 12. Tharu Commission (थारु आयोग)
- 13. Muslim Commission (मुस्लिम आयोग)

Role and Authority of the National Human Rights Commission:

The National Human Rights Commission (NHRC) of Nepal is an independent and autonomous constitutional body responsible for ensuring the promotion and protection of human rights within the country. It is provisioned under Part 25(Articles 248 and 249) of the constitution of Nepal and operates without interference or intervention from the state's three main organs. It was established in the year 2057, under the Human Rights Commission Act 2053, and later, its status was elevated to a constitutional body by the Interim Constitution of 2063 and continues under the Constitution of Nepal 2072, Article 249.

Its main roles include:

- 1. Promoting, protecting, and ensuring human rights.
- 2. Investigating human rights violations through self-initiated actions or based on complaints, with recommendations for action against culprits.
- 3. Recommending departmental actions against officials neglecting their responsibilities in preventing human rights violations.
- 4. Advising the government to pursue legal action against human rights violators.
- 5. Collaborating with civil society to enhance awareness of human rights.

6. Recommending revisions or amendments to human rights-related laws to the Nepali government.
7. Advising the Nepali government on the implementation of international treaties or agreements related to human rights.
8. Maintaining records of human rights violations.
9. Publicly listing and recording non-compliant entities or individuals involved in human rights violations.

In summary, the National Human Rights Commission of Nepal is a crucial institution in Nepal's governance structure, acting as a watchdog and advocate for human rights, and working towards the creation of a society where human rights are respected, protected, and fulfilled.

Question: Discuss the composition of the National Security Council. (5 marks)

Answer: The Constitution of Nepal, 2072, recognizing the significance of national security in preserving the nation's sovereignty, territorial integrity, and maintaining peace, has dedicated a particular section to Part 28, Article 266 of the Constitution of Nepal titled "Provisions Relating to National Security".

Composition of the National Security Council(8 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 to Government of Nepal - Member
- (g) Chief of the Army Staff, Nepal Army - Member
- (h) Secretary of the Ministry of Defence - Member Secretary

Any recommendations made by this council are submitted to the President of Nepal, and the President causes the report to be laid through the Prime Minister before the Federal Parliament. Other provisions related to the council are determined by federal laws.

Functions:

1. Policy Recommendation: Advises the Government of Nepal on national interest, security, and defense(NSD).
2. Army Mobilization: Advises on the mobilization or control of the Nepal Army.
3. Annual Reporting: Submits an annual report to the President, which is then presented to the Federal Parliament.

Contribution(BLIND)

1. Balanced Decision-making: The Council's composition, including both civilian and military leadership, ensures that decisions are balanced and considers both strategic and civilian implications.
2. Article 51 (A) (5): To make all security organs, including the Nepal Police competent, strong, professional, inclusive, and accountable to people, on the basis of national security policies;
3. Article 51 (A) (7): To make proper use, in nations' interest, of knowledge, skills, and experiences of former public employees including former employees, military, and police.
4. Article 110: Bills related to Nepal police shall only be introduced as Government Bill.
5. Article 241: The accounts of the Nepal Police will be audited by the Auditor General.
6. Article 243: The recruitment for positions in the Nepal Police will be overseen by the Public Service Commission.
7. Article 243: For the promotion or appointment to any position in Nepal Police the general principle of the Public Service Commission will be followed.
8. Article 268 (1): The Federation shall have Nepal Police.
9. Article 268 (2): Each Province shall have a Provincial Police Organization.
10. Article 268 (3 and 4): Matters relating to the operation, supervision and coordination of Nepal Police and the Provincial police shall be as provided for in federal law. Other matters shall also be as provided by federal power.
11. Schedule 5: Central police falls under Schedule 5 as federal power.
12. Schedule 6: Provincial police fall under Schedule 6 as provincial power.
13. Schedule 8: Municipal police fall under Schedule 8 as local-level power.

Question: What is a constitution? Discuss. (5 marks)

A constitution represents the highest set of principles and rules that guide a country's governance, being the supreme law from which other laws draw authority.

It can be further clarified by the following points (SPROGS + DM):

1. State Legality Source: It serves as the primary source and reference for legality in the state's operation, outlining the legal roadmap and framework for the functioning of the state.
2. Power Source: It emphasizes that the ultimate power resides with the people.
3. Rule of Law: It ensures that every individual, regardless of their status or background, is subject to the law, maintaining equality and justice.
4. Organizational Blueprint: It outlines the organizational structure of government, detailing the separation and distribution of powers among different branches to prevent the abuse of power.
5. Guiding Principles: Provides foundational guidelines and values for governance while allowing flexibility for interpretation and amendments to adapt to societal changes.
6. Sovereignty: It establishes the sovereignty and the foundational legal authority of the state.
7. Democracy Indicator: It serves as a critical benchmark for measuring the level of democracy and the effectiveness of governance within a state.
8. Multidimensional Document: It is a multifaceted text reflecting contemporary political thought and values, combining legal, political, and societal aspects to guide state conduct.
9. Stability & Peace Provider: A constitution plays a crucial role in maintaining stability, peace, and order within a country by providing a clear framework for conflict resolution.

In conclusion, a constitution is a collection of rules made by the sovereign or supreme political power that determines the legality of all laws and actions of the state.

2. Legislative Oversight:Presents activities and recommendations to the Federal Parliament, ensuring democratic scrutiny and transparency in security mechanisms.
3. Interdisciplinary Approach: Promotes comprehensive security policy-making by considering defense, diplomacy, internal security, and economic factors, ensuring resilience and adaptability.
4. Defense Strategies: NSC shapes Nepal's defense strategies by advising on security matters, safeguarding sovereignty and territorial integrity.

Question: What provisions have been made by the Constitution of Nepal regarding national security? Please explain.

Answer: The Constitution of Nepal, specifically Parts 4 and 28 and various other articles and clauses provide different provisions related to national security. These include the following key points:

Part 4(Directive Principles, Policies and Obligations of the State):

1. Article 51 (A): National unity and National security recognized as one of the fundamental policies of the state.
2. Article 51 (A) (1): To maintain national unity intact.
3. Article 51 (A) (3): Maintain law and order by developing a national security system.
4. Article 51 (A) (5): To make all security organs competent, strong, professional, inclusive, and accountable to people.

Part 28(Provisions Relating to National Security):

1. Article 266: Formulation of National Security Council.
2. Article 267: Provisions of the Nepal Army.
3. Article 268 (1): Provision of Nepal Police, Armed Police Force, Nepal and National Investigation Department.
4. Article 268 (2): Each Province shall have a Provincial Police Organization.
5. Article 268 (3 and 4): All matters relating to the Nepal Police and the Provincial police shall be as provided for in federal law.

Other Provisions:

1. Article 5: Protection of National interest.
2. Article 273: Emergency power.
3. Schedule 5: The powers related to national security, Central police, Armed Police Force, Nepal, and NID are kept under clause 5 of the powers of the federation.

Through these provisions, Nepal emphasizes building a robust security structure to protect its sovereignty, territorial integrity, and peace in the state.

Question: What arrangements has the Constitution of Nepal made in relation to the police? Explain.

Answer: The Constitution of Nepal, primarily under Article 268 and various other sections and articles, has made the following provisions regarding the police:

1. Article 39: Children won't be recruited or used in the police.

Article 76: Formation of the council of ministers/Appointment of Prime minister:

1. President appoints the majority party leader in the House of Representatives as Prime Minister.
2. If no majority, President appoints a member with majority support from two or more parties.
3. Prime Minister must be appointed within thirty days after the final election results.
4. In case of no clear majority, president appoints the leader of the party with the highest House members. Such appointed Prime Minister must secure vote of confidence within thirty days.
5. If no vote of confidence can be secured, a member who can prove a ground to get a vote of confidence may be appointed as prime minister.
6. If the appointed Prime Minister fails to secure the vote of confidence then the President, on PM's recommendation, dissolves the House. New House election is conducted within six months and the entire Prime Minister appointment process must be completed within thirty-five days after election results or PM's office vacancy.
7. President, on PM's recommendation, forms the Council of Ministers following the principles of inclusion with a maximum twenty-five members.

Article 100: Vote of Confidence and Motion of No Confidence:(This isn't Mahabhiyog, it's Abiswas Ko Prastab)

1. The Prime Minister can call for a confidence vote in the House of Representatives as needed.
2. A confidence vote is mandatory within thirty days if the Prime Minister's party is divided or a coalition partner withdraws support.
3. One-fourth of House members can initiate a no-confidence motion.
4. No-confidence motions are restricted within the first two years of the Prime Minister's term or within one year after a failed attempt.
5. A proposed member for the Prime Minister position must be specified in a no-confidence motion.
6. If a majority supports the no-confidence motion, the Prime Minister is removed from office. The President then appoints a new Prime Minister from the proposed member, following Article 76 procedures.

Article 101: Mahaabhiyog is called Impeachment.

Who can be impeached: President, Vice-President, Chief Justice, Justices of the Supreme Court, members of the Judicial Council, and chiefs or officials of Constitutional Bodies.

1. Impeachment motions can be initiated by one-fourth of the total members of the House of Representatives for serious violations of the Constitution and laws.
2. A two-thirds majority in the Houses of the Representative is required for impeachment, however for president and vice president two thirds majority of the members of both Houses of the Federal Parliament is required.
3. To assess the grounds for impeachment, there is an impeachment recommendation committee consisting of eleven members of the House of Representatives.
4. If at least three members certify admissible complaints based on serious violations, the committee recommends impeachment proceedings.
5. During impeachment proceedings, the accused individuals cannot perform their official duties.

- 6. Individuals facing impeachment have the right to defend themselves.
- 7. Federal law can be applied for actions related to offenses committed while in office, even after impeachment.
- 8. Those impeached are not entitled to benefits from their former office or future public appointments.

Provisions regarding the Supreme Court of Nepal:

- 1. There would be one Supreme Court in Nepal.
- 2. The Supreme Court is the court of record.
- 3. All courts and judicial bodies, except as otherwise provided, are subordinate to the Supreme Court.
- 4. The Supreme Court is granted the ultimate authority to interpret the constitution and laws.
- 5. The Supreme Court can inspect, supervise, and provide instructions to judicial bodies within its jurisdiction.
- 6. Everyone must comply with legal principles interpreted or rendered by the Supreme Court.
- 7. The Supreme Court is authorized to prosecute and punish for contempt against the court.
- 8. The Supreme Court has ordinary and extraordinary jurisdiction.
- 9. A constitutional bench is established within the Supreme Court.
- 10. The Supreme Court is required to submit an annual report to the President, who then presents the report to the Federal Parliament through the Prime Minister.
- 11. Additional powers and procedures for the Supreme Court are determined in accordance with federal law.

Constitutional Bench: Formulation and area of work(Sambaidhanik Ijlas)

Formation:

- 1. The Constitutional Bench remains under the Supreme Court.
- 2. It comprises the Chief Justice and four judges.
- 3. Four additional judges are appointed by the Chief Justice on the Judicial Council's recommendation.

Area of Work:

- 1. The Constitutional Bench hears cases under Article 133(1) of the Constitution.
- 2. It resolves jurisdictional disputes between federal units.
- 3. It addresses disputes related to the federal and provincial election
- 4. It addresses cases related to the disqualification of members of the Federal or Provincial Assembly.
- 5. It takes on cases involving serious constitutional questions, as determined by the Chief Justice.

Purpose:

- 1. Aimed at reducing jurisdictional disputes between federal units.
- 2. Interdependently connected with safeguarding citizens' fundamental rights.

- 2. State's powers (Schedule-6): Exercised per the Constitution and State law.
- 3. Concurrent powers (Schedule-7): Shared by Federation and State, exercised per Constitution, Federal law, and State law.
- 4. Local level powers (Schedule-8): Exercised per the Constitution and law by Village or Municipal Assembly.
- 5. Concurrent powers (Schedule-9): Shared by Federation, State, and Local levels, exercised per Constitution, Federal law, State law, and law by Village or Municipal Assembly.
- 6. Laws by State or Local levels must align with higher-level laws to avoid inconsistency.
- 7. Residual powers (Article 58): Federation has authority over matters not listed in Federal, State, Local, or Concurrent Lists, unless specified otherwise in the Constitution.

Article 51: Policies of State

- 13 policies of state under article 15(a to m)
- Government submits an annual report on implementing directive principles, policies, and state obligations to the President.

(a): National Unity and Security:

- 1. Preserve national unity and safeguard freedom, sovereignty, and territorial integrity.
- 2. Foster cohesion among Federal Units, promoting harmony across diverse groups.
- 3. Maintain law and order through the development of a national security system.
- 4. Ensure overall human security.
- 5. Enhance competency, professionalism, and inclusivity of security organs(NID not included).
- 6. Prepare citizens to serve the nation when necessary.
- 7. Utilize the expertise of former public employees for the nation's benefit.

Article 52: Obligations of the State:

- 1. Make Nepal prosperous and affluent
- 2. Implement Directive Principles and Policies of state
- 3. Protect and Promote Fundamental Rights and Human Rights
- 4. Safeguard Freedom, Sovereignty, Territorial Integrity, and Independence of Nepal

Article 239. Functions, duties and powers of Commission for the Investigation of Abuse of Authority

- 1. Conducts investigations into abuse of authority through corruption by public officials. Exclusions: Does not apply to officials covered separately by the Constitution or other laws.
- 2. Files cases in a special court if corruption is established.
- 3. Transfers cases falling under other bodies' jurisdiction in writing.
- 4. Authority can delegate investigative functions, duties, and powers to specified individuals under defined conditions.

243: Functions, duties and powers of Public Service Commission:

- 1. Exam Conduct:
 - a. Conducts entire exams for appointment of civil service employees

Article 153: Judicial Council: Judicial Council makes recommendation or gives advice on the appointment of, transfer of, disciplinary action against, and dismissal of Judges, and other matters relating to the administration of justice.

Composition(5 Members):

- 1. Chairperson: Chief Justice
- 2. Member: Federal Minister for Law and Justice
- 3. Member: Senior-most Justice of the Supreme Court
- 4. Member: Jurist appointed by the President on the Prime Minister's recommendation
- 5. Member: Senior advocate or advocate with at least twenty years of experience, appointed by the President on Nepal Bar Association's recommendation

Article 273: Emergency Powers

- 1. The President can declare a state of emergency for Nepal or any part thereof due to war, external aggression, armed rebellion, economic disarray, natural disaster, or epidemic.
- 2. In case of a natural disaster or epidemic in a Province, the Provincial Government can request a state of emergency for the entire Province or a specified part from the Government of Nepal.
- 3. Proclamations or orders must be presented to both Houses of the Federal Parliament for approval within one month.
- 4. If approved by a two-thirds majority, it remains in force for three months.
- 5. If the House of Representatives is dissolved, the National Assembly exercises the powers of Parliament regarding emergencies.
- 6. The President can issue necessary orders during an emergency, effective as law.
- 7. 13 fundamental rights(8 completely and 5 partially) may be suspended during the emergency, with exceptions for specific rights.
- 8. Certain rights, including habeas corpus, remain suspended during emergencies.
- 9. No petition or question can be raised in court for the suspended rights.
- 10. Victims of damage caused by officials in bad faith can seek compensation within three months of the end of the emergency.
- 11. The President can withdraw the emergency proclamation at any time.

Part 5: Structure of State and Distribution of State Power

Article 56: Structure of state:

- 1. Three-tier structure: Federation, Provinces, and Local Levels.
- 2. Exercise of state power in line with the Constitution and law.
- 3. Provinces based on districts in Schedule-4 at the Constitution's commencement.
- 4. Local Level includes Rural Municipalities, Municipalities, and District Assemblies.
- 5. Federal law may establish Special, Protected, or Autonomous Regions.
- 6. All three entities must ensure the protection of key values: freedom, sovereignty, democracy, human rights, and equality.

Distribution of State Power(Article 57) and Residual Power(Article 58)

- 1. Federation's powers (Schedule-5): Exercised per the Constitution and Federal law.

- b. Conducts written exams for Nepal Army, Nepal Police, Armed Police Force, and Public agencies.
- 2. Counseling:
 - a. Advises on general principles for promoting personnel in Nepal Police, Armed Police, and Nepal Army.
 - b. Assesses suitability of candidates for transfer or promotion in the Federal Civil Service.
 - c. Offers consultation on legislation concerning conditions of Federal civil service.
 - d. Provides guidance on laws related to service conditions, promotion, and departmental action in Public agencies.
 - e. Guides on principles for appointment, promotion, and departmental action in the Federal Civil Service.
 - f. Evaluates suitability of candidates transitioning between State and Federal Civil Service or between different government agencies.

Article 246. Functions, duties and powers of the Election Commission:

- 1. 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
- 2. Prepares voter lists for election purposes.
- 3. Hold a referendum on a matter of national importance
- 4. Resolves questions regarding the eligibility of a candidate if election results are pending.
- 5. Delegate its authority to the Chief Election Commissioner, Election Commissioner or any government employee as needed.

प्रश्न. संवैधानिक निकायको गठन बारेमा उल्लेख गर्दै कस्तो अवस्थामा संवैधानिक निकायका पदाधिकारी पदमुक्त हुन्छन् ? उल्लेख गर्नुहोस् ।

- १ जना अध्यक्ष र ३ जना सदस्य हुने ।
- महालेखापरीक्षक पदमा मात्र हुने ।
- अख्तियार दुरुपयोग अनुसन्धान आयोग र निर्वाचन आयोगको हकमा प्रमुख आयुक्त र आयुक्त भनिने ।
- संवैधानिक परिषदको सिफारिसमा राष्ट्रपतिबाट नियुक्ति हुने ।
- अध्यक्ष र सदस्यको कार्यकाल ६ वर्ष हुने ।
- ६५ वर्षको उमेर सम्म पदमा रहने (राष्ट्रिय मानव अधिकार आयोग बाहेक)

पदमुक्त हुने अवस्था

- निजले राष्ट्रपति समक्ष लिखित राजीनामा दिएमा,
- निजको उमेर पसंती वर्ष पूरा भएमा, (राष्ट्रिय मानव अधिकार आयोग बाहेक)
- निजको विरुद्ध थप १०१ बमोजिम महासम्मेलनको प्रस्ताव पारित भएमा,
- शासिक वा मानसिक अस्वस्थताको कारण संवैधानिक परिषदको सिफारिसमा राष्ट्रपतिले पदमुक्त गरेमा,
- निजको मृत्यु भएमा ।
- आदिवासी जनजाति आयोग, मधेशी आयोग, थारु आयोग र मुस्लिम आयोगको हकमा नतोकेको ।

प्रश्न. संवैधानिक निकायका पदाधिकारी नियुक्तिका लागि आवश्यक पर्ने योग्यता बारे चर्चा गर्नुहोस् । (अङ्क ५)

- मान्यताप्राप्त विश्वविद्यालयबाट स्नातक उपाधि प्राप्त गरेको,
- लोक सेवा आयोगको हकमा स्नातकोत्तर
- महालेखापरीक्षक र प्राकृतिक श्रोत तथा बिल्ट आयोगको हकमा सम्बन्धित विषयमा स्नातक
- राष्ट्रिय महिला आयोग, राष्ट्रिय दलित आयोग र राष्ट्रिय समावेशी आयोगको हकमा अध्यक्ष मात्र स्नातक
- नियुक्ति हुँदाका बखत कुनै राजनीतिक दलको सदस्य नरहेको,
- पैंतलिस वर्ष उमेर पूरा भएको,
- उच्च नैतिक चरित्र भएको ।
- अख्तियार दुरुपयोग अनुसन्धान आयोग, लोक सेवा आयोग, महालेखापरीक्षक, राष्ट्रिय मानव अधिकार आयोग र राष्ट्रिय प्राकृतिक श्रोत तथा वित्त आयोगको हकमा लोकसेवामा २० वर्ष अनुभव ।
- राष्ट्रिय महिला आयोग, राष्ट्रिय दलित आयोग र राष्ट्रिय समावेशी आयोगको हकमा १० वर्षको अनुभव
- आदिवासी जनजाति आयोग, मधेशी आयोग, थारु आयोग र मुस्लिम आयोगको हकमा नतोकेको