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CONSTITUTION OF THE KINGDOM OF NEPAL

2047 (1990)

PREAMBLE

WHEREAS, We are convinced that the source of sovereign authority of the independent and sovereign Nepal is inherent in the people, and, therefore, We have, from time to time, made known our desire to conduct the government of the country in consonance with the popular will;

AND WHEREAS, in keeping with the desire of the Nepalese people expressed through the recent people's movement to bring about constitutional changes, we are further inspired by the objective of securing to the Nepalese people social, political and economic justice long into the future;

AND WHEREAS, it is expedient to promulgate and enforce this Constitution, made with the widest possible participation of the Nepalese people, to guarantee basic human rights to every citizen of Nepal; and also to consolidate Adult Franchise, the Parliamentary System of Government, Constitutional Monarchy and the System of Multi Party Democracy by promoting amongst the people of Nepal the spirit of fraternity and the bond of unity on the basis of liberty and equality; and also to establish an independent and competent system of justice with a view to transforming the concept of the Rule of Law into a living reality;

NOW, THEREFORE, keeping in view the desire of the people that the State authority and sovereign powers shall, after the commencement of this Constitution, be exercised in accordance with the provisions of this Constitution, I, KING BIRENDRA BIR BIKRAM SHAH DEVA, by virtue of the State authority as exercised by Us, do hereby promulgate and enforce this CONSTITUTION OF THE KINGDOM OF NEPAL on the recommendation and advice, and with the consent of the Council of Ministers.

PART 1

PRELIMINARY

1. Constitution as the Fundamental Law:

- (1) This Constitution is the fundamental law of Nepal and all laws inconsistent with it shall, to the extent of such inconsistency, be void.
- (2) It shall be the duty of every person to uphold the provisions of this Constitution.

2. The Nation:

Having common aspirations and united by a bond of allegiance to national independence and integrity of Nepal, the Nepalese people irrespective of religion, race, caste or tribe, collectively constitute the nation.

3. The Sovereignty:

The sovereignty of Nepal is vested in the Nepalese people and shall be exercised in accordance with the provisions of this Constitution.

4. The Kingdom:

- (1) Nepal is a multiethnic¹ multilingual, democratic, independent, indivisible, sovereign, Hindu and Constitutional Monarchical Kingdom.
- (2) The territory of Nepal shall comprise:
 - (a) the territory existing at the commencement of this Constitution; and
 - (b) such other territory as may be acquired after the commencement of this Constitution.

5. National Flag:

The national flag of Nepal, as handed down by tradition, consists of two juxtaposed triangular figures with a crimson-coloured base and deep blue borders, there being a white emblem of the crescent moon with eight rays visible out of sixteen in the upper part and a white emblem of a twelve rayed sun in the lower part. The method of drawing out the flag and other particulars relating thereto shall be as set forth in Schedule 1.

6. Language of the Nation:²

- (1) The Nepali language in the Devanagari script is the language of the nation of Nepal. The Nepali language shall be the official language.
- (2) All the languages spoken as the mother tongue in the various parts of Nepal are the national languages of Nepal.

7. National Anthem etc.:

- (1) The national anthem of Nepal shall be as provided in Schedule 2.
- (2) The Rhododendron Arboreum shall be the national flower, Crimson Colour shall be the national colour, the Cow shall be the national animal and the Lophophorus shall be the national bird of Nepal.
- (3) The coat-of-arms of Nepal shall be as set forth in Schedule 3. The coat-of-arms may be enlarged or reduced as required, and such colour shall be used therein as specified by His Majesty's Government.

PART 2 CITIZENSHIP

8. Citizenship at the commencement of the Constitution:

At the commencement of this Constitution, the following persons who have their domicile in Nepal shall be deemed to be citizens of Nepal:

- (a) any person who is a citizen of Nepal by virtue of Article 7 of the Constitution of Nepal (1962) or section 3 of the Nepal Citizenship Act, 1964.
- (b) any person who has acquired naturalised citizenship of Nepal by virtue of section 6 of the Nepal Citizenship Act, 1964.

9. Acquisition and Termination of Citizenship after the Commencement of the Constitution:

- (1) A person who is born after the commencement of this Constitution and whose father is a citizen of Nepal at the birth of the child shall be a citizen of Nepal by descent.
- (2) Every child who is found within the Kingdom of Nepal and the whereabouts of whose parents are not known shall, until the father of the child is traced, be deemed to be a citizen of Nepal by descent.
- (3) Whenever any territory is acquired by way of incorporation into the Kingdom of Nepal, every person having his domicile within such territory shall become a citizen of Nepal, subject to the provisions of existing laws.
- (4) After the commencement of this Constitution, the acquisition of citizenship of Nepal by a foreigner may be regulated by law which may, *inter alia*, require the fulfillment of the following conditions:
 - (a) that he can speak and write the language of the nation of Nepal;
 - (b) that he is engaged in any occupation in Nepal;
 - (c) that he has renounced his citizenship of another country; and
 - (d) that he has resided in Nepal for at least fifteen years.
- (5) Notwithstanding anything contained in clause (4), a woman of foreign nationality who has a matrimonial relationship with a Nepalese citizen and who has initiated proceedings for renunciation of her foreign citizenship, and any other person, who, has renounced the citizenship of Nepal had gone to a foreign country but who has renounced his foreign citizenship, may acquire the citizenship of Nepal.
- (6) Notwithstanding anything contained in sub-clauses (b) and (d) of clause (4), the son or daughter or descendant of a citizen of Nepal and who has resided in Nepal for a period of at least two years may acquire the citizenship of Nepal on such terms and conditions as may be prescribed by law.

Provided that this clause shall not be applicable in the case of descendants of naturalized citizens.
- (7) The termination of the citizenship of Nepal shall be as determined by law.

10. Conferment of Honorary Citizenship:

Notwithstanding anything contained in Article 9, honorary citizenship may be granted to an internationally renowned person.

PART 3 FUNDAMENTAL RIGHTS

11. Right to Equality:

- (1) All citizens shall be equal before the law. No person shall be denied the equal protection of the laws.
- (2) No discrimination shall be made against any citizen in the application of general laws on grounds of religion (dharma), race (varna), sex (liṅga), caste (jāt), tribe (jāti) or ideological conviction (vaicārik) or any of these.
- (3) The State shall not discriminate among citizens on grounds of religion, race, sex, caste, tribe, or ideological conviction or any of these.
Provided that special provisions may be made by law for the protection and advancement of the interests of women, children, the aged or those who are physically or mentally incapacitated or those who belong to a class which is economically, socially or educationally backward.
- (4) No person shall, on the basis of caste, be discriminated against as untouchable, be denied access to any public place, or be deprived of the use of public utilities. Any contravention of this provision shall be punishable by law.
- (5) No discrimination in regard to remuneration shall be made between men and women for the same work.

12. Right to Freedom:

- (1) No person shall be deprived of his personal liberty save in accordance with law, and no law shall be made which provides for capital punishment.
- (2) All citizens shall have the following freedoms:
 - (a) freedom of opinion and expression;
 - (b) freedom to assemble peaceably and without arms;
 - (c) freedom to form unions and associations;
 - (d) freedom to move throughout the Kingdom and reside in any part thereof; and
 - (e) freedom to practise any profession, or to carry on any occupation, industry, or trade.

Provided that -

- (1) nothing in sub-clause (a) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities, or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act which may be contrary to decent public behaviour or morality;
- (2) nothing in sub-clause (b) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty, integrity or law and order situation of the Kingdom of Nepal;
- (3) nothing in sub-clause (c) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities, which may instigate violence, or which may be contrary to public morality;

(4) nothing in sub-clause (d) shall be deemed to prevent the making of laws which are in the interest of the general public, or which are made to impose reasonable restrictions on any act which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities;

(5) nothing in sub-clause (e) shall be deemed to prevent the making of laws to impose restriction on any act which may be contrary to public health or morality, to confer on the State the exclusive right to undertake specified industries, businesses or services; or to impose any condition or qualification for carrying on any industry, trade, profession or occupation.

13. Press and Publication Right:

- (1) No news item, article or any other reading material shall be censored.

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

- (2) No press shall be closed or seized for printing any news item, article or other reading material.
- (3) The registration of a newspaper or periodical shall not be canceled merely for publishing any news item, article or other reading material.

14. Right Regarding Criminal Justice:

- (1) No person shall be punished for an act which was not punishable by law when the act was committed, nor shall any person be subjected to a punishment greater than that prescribed by the law in force at the time of the commission of the offence.
- (2) No person shall be prosecuted or punished for the same offence in a court of law more than once.
- (3) No person accused of any offence shall be compelled to be a witness against himself.
- (4) No person who is detained during investigation or for trial or for any other reason shall be subjected to physical or mental torture, nor shall be given any cruel, inhuman or degrading treatment. Any person so treated shall be compensated in a manner as determined by law.
- (5) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall be denied the right to consult and be defended by a legal practitioner of his choice.

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

- (6) Every person who is arrested and detained in custody shall be produced before a judicial authority within a period of twenty-four hours after such arrest, excluding the time necessary for the journey from the place of arrest to such authority, and no such person shall be detained in custody beyond the said period except on the order of such authority.
- (7) Nothing in clauses (5) and (6) shall apply to a citizen of an enemy state, and nothing in clause (6) shall apply to any person who is arrested or detained under any law providing for preventive detention.

15. Right against Preventive Detention:

- (1) No person shall be held under preventive detention unless there is a sufficient ground of existence of an immediate threat to the sovereignty, integrity or law and order situation of the Kingdom of Nepal.
- (2) Any person held under preventive detention shall, if his detention was contrary to law or in bad faith, have the right to be compensated in a manner as prescribed by law.

16. Right to Information:

Every citizen shall have the right to demand and receive information on any matter of public importance;

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

17. Right to Property:

- (1) All citizens shall, subject to the existing laws, have the right to acquire, own, sell and otherwise dispose of, property.
- (2) The State shall not, except in the public interest, requisition, acquire or create any encumbrance on, the property of any person.
- (3) The basis of compensation and procedure for giving compensation for any property requisitioned, acquired or encumbered by the State for in the public interest, shall be as prescribed by law.

18. Cultural and Educational Right:

- (1) Each community residing within the Kingdom of Nepal shall have the right to preserve and promote its language, script and culture.
- (2) Each community shall have the right to operate schools up to the primary level in its own mother tongue for imparting education to its children.

19. Right to Religion:

- (1) Every person shall have the freedom to profess and practise his own religion as handed down to him from ancient times having due regard to traditional practices;
provided that no person shall be entitled to convert another person from one religion to another.³
- (2) Every religious denomination shall have the right to maintain its independent existence and for this purpose to manage and protect its religious places and trusts.

20. Right against Exploitation:

- (1) Traffic in human beings, slavery, serfdom or forced labour in any form is prohibited. Any contravention of this provision shall be punishable by law;

Provided that nothing herein shall be a bar to providing by law for compulsory service for public purposes.

- (2) No minor shall be employed in work in any factory or mine, or be engaged in any other hazardous work.

21. Right against Exile:

No citizen shall be exiled.

22. Right to Privacy:

Except as provided by law, the privacy of the person, house, property, document, correspondence or information of anyone is inviolable.

23. Right to Constitutional Remedy:

The right to proceed in the manner set forth in Article 88 for the enforcement of the rights conferred by this Part is guaranteed.

PART 4

DIRECTIVE PRINCIPLES AND POLICIES OF THE STATE

24. Application of Directive Principles and Policies:

- (1) The principles and policies contained in this Part shall not be enforceable in any court.
- (2) The principles and policies contained in this part shall be fundamental to the activities and governance of the State and shall be implemented in stages through laws within the limits of the resources and the means available in the country.

25. Directive Principles of the State:

- (1) It shall be the chief objective of the State to promote conditions of welfare on the basis of the principles of an open society, by establishing a just system in all aspects of national life, including social, economic and political life, while at the same time protecting the lives, property and liberty of the people.
- (2) The fundamental economic objective of the State shall be to transform the national economy into an independent and self-reliant system by preventing the available means and resources of the country from being concentrated within a limited section of society, by making arrangements for the equitable distribution of economic gains on the basis of social justice, by making such provisions as will prevent economic exploitation of any class or individual, and by giving preferential treatment and encouragement to national enterprises, both private and public .
- (3) The social objective of the State shall be to establish and develop, on the foundation of justice and morality, a healthy social life, by eliminating all types of economic and social inequalities and by establishing harmony amongst the various castes, tribes, religions, languages, races and communities.
- (4) It shall be the chief responsibility of the State to maintain conditions suitable to the enjoyment of the fruits of democracy through wider participation of the people in the governance of the country and by way of decentralisation, and to promote general welfare by making provisions for the protection and promotion of human rights, by maintaining tranquility and order in the society.
- (5) The State, in its international relations, shall be guided by the objective of enhancing the dignity of the nation in the international arena by maintaining the sovereignty, integrity and independence of the country.

26. State Policies:

- (1) The State shall pursue a policy of raising the standard of living of the general public through the development of infrastructures such as education, health, housing and employment of the people of all regions by equitably distributing o investment of economic resources for balanced development in the various geographical regions of the country.
- (2) The State shall, while maintaining the cultural diversity of the country, pursue a policy of strengthening the national unity by promoting healthy and cordial social relations amongst the various religions, castes, tribes, communities and linguistic groups, and by helping in the promotion of their languages, literatures, scripts, arts and cultures.
- (3) The State shall pursue a policy of mobilising the natural resources and heritage of the country in a manner which might be useful and beneficial to the interest of the nation.
- (4) The State shall give priority to the protection of the environment and also to the prevention of its further damage due to physical development activities by increasing the awareness of the general public about environmental cleanliness, and the State shall also make arrangements for the protection of the rare wildlife, the forests and the vegetation.
- (5) The State shall create conditions for the economic progress of the majority of the people, who are dependent on agriculture, by introducing measures which will help in raising productivity in the agricultural sector and develop the agricultural sector on the principles of industrial growth by launching land reform programmes.
- (6) The State shall pursue a policy of increasing the participation of the labour force, the chief socio-economic force of the country, in the management of enterprises by gradually securing employment opportunities to it, ensuring the right to work, and thus protecting its rights and interests.
- (7) The State shall pursue a policy of making the female population participate, to a greater extent, in the task of national development by making special provisions for their education, health and employment.
- (8) The State shall make necessary arrangements to safeguard the rights and interests of children and shall ensure that they are not exploited, and shall make gradual arrangements for free education.
- (9) The State shall pursue such policies in matters of education, health and social security of orphans, helpless women, the aged, the disabled and incapacitated persons, as well as ensure their protection and welfare.
- (10) The State shall pursue a policy which will help promote the interests of the economically and socially backward groups and communities by making special provisions with regard to their education, health, and employment.
- (11) The State shall, with a view to bringing about prosperity in the country, pursue a policy of giving priority to the development of science and technology and shall also give due consideration to the development of local technology.
- (12) The State shall, for the purposes of national development, pursue a policy of taking measures necessary for the attraction of foreign capital and technology, while at the same time promoting indigenous investment.
- (13) The State shall pursue a policy of creating conditions for the acceleration of the speed of rural development, keeping in view the welfare of the majority of the rural population.
- (14) The State shall, in order to secure justice for all, pursue a policy of providing free legal aid to indigent persons for their legal representation in keeping with the principle of the Rule of Law.

- (15) The foreign policy of Nepal shall be guided by the principles of the United Nations Charter, nonalignment, Panchsheel, international law and the value of world peace.
- (16) The State shall pursue a policy of making continuous efforts to institutionalise peace for Nepal through international recognition, by promoting cooperative and good relations in the economic, social and other spheres on the basis of equality with neighbouring and all other countries of the world.

PART 5 HIS MAJESTY

27. His Majesty:

- (1) In this Constitution, the words "His Majesty" mean His Majesty the King for the time being reigning, being a descendant of the Great King Prithvi Narayan Shah and an adherent of Aryan Culture and the Hindu Religion.
- (2) His Majesty is the symbol of the Nepalese nationality and the unity of the Nepalese people.
- (3) His Majesty is to preserve¹ and protect this Constitution by keeping in view the best interests and welfare of the people of Nepal.

28. Provision Relating to Succession to the Throne:

- (1) Nothing in this Constitution shall affect the custom, usage and tradition relating to the order of succession to the Throne by the descendants of His Majesty.
- (2) His Majesty shall have the exclusive power of enacting, amending and repealing the law relating to the succession to the Throne by His descendants.

29. Expenditures and Privileges relating to His Majesty and the Royal Family:

Expenditures and privileges relating to His Majesty and the Royal Family shall be as determined by law:

Provided that no law shall be made having the effect of reducing the expenditures and privileges being provided by the existing law.

30. Income and Property of His Majesty to be Exempt from Tax and Inviolable:

- (1) The income and personal property of His Majesty shall be exempt from all kinds of tax, fee or other similar charge.
- (2) The property of His Majesty shall be inviolable.

31. Question not to be Raised in Courts:

No question shall be raised in any court about any act performed by His Majesty:

Provided that nothing in this Article shall be deemed to restrict any right under law to initiate proceedings against His Majesty's Government or any employee of His Majesty.

32. Royal Representative, Council of Royal Representatives, Regency and Council of Regency:

- (1) In this Constitution, any reference to His Majesty shall, unless the subject or context otherwise requires, include reference to a Royal Representative or Council of Royal Representatives exercising powers pursuant to clause (2), and to a Regent or Council of Regency empowered pursuant to Article 34.
- (2) His Majesty may, by warrant under His Royal Seal, appoint any person or council as His Royal Representative to exercise, subject to such conditions as may be specified in the warrant, such functions as His Majesty is to perform pursuant to this Constitution or the existing law during His Majesty's absence from Nepal or during any specified period. The functions exercised by such Royal Representative within the terms and limits specified in the warrant shall, for the purposes of this Constitution and existing laws, be deemed to have been exercised by His Majesty.

33. Royal Standard and Salute:

- (1) Square in shape and crimson in colour having borders in white, the Royal standard is traditionally comprised of a crescent moon, in the upper corner near the flagstaff with eight out of sixteen rays shown in white colour, and a white sun with twelve white rays in the upper corner opposite to the flagstaff, and a white flag showing a six-angled figure and a sword in the middle of the standard with an upright white lion facing the flag with both its paws holding, and the right hind leg supporting, the flagstaff.
- (2) The national anthem of Nepal is the Royal salute.

**PART 6
RAJ PARISHAD**

34. Raj Parishad:⁵

- (1) His Majesty shall constitute a Raj Parishad, the functions of which shall be as set forth in this Constitution.
- (2) The Raj Parishad shall consist of the following members:
 - (a) Members of the Royal Family as designated by His Majesty;
 - (b) Prime Minister *Ex-officio* Member;
 - (c) Chief Justice *Ex-officio* Member;
 - (d) Speaker of the House of Representatives *Ex-officio* Member;
 - (e) Chairman of the National Assembly *Ex-officio* Member;
 - (f) Chairman of the Standing Committee of the Raj Parishad *Ex-officio* Member;
 - (g) Deputy Prime Minister *Ex-officio* Member;
 - (h) Ministers *Ex-officio* Member
 - (i) Leader of the opposition in the House of Representatives *Ex-officio* Member;
 - (j) Field Marshal *Ex-officio* Member;
 - (k) Bada Gurujyu *Ex-officio* Member;
 - (l) Commander-in-Chief *Ex-officio* Member;

- (m) Mukhya Shahebjyu *Ex-officio* Member;
 - (n) Chief Commissioner of the Commission for the Investigation of Abuse of Authority *Ex-officio* Member;
 - (o) Auditor-General *Ex-officio* Member;
 - (p) Chairman of the Public Service Commission *Ex-officio* Member;
 - (q) Chief Election Commissioner *Ex-officio* Member;
 - (r) Attorney-General *Ex-officio* Member;
 - (s) Mukhya Chautariya *Ex-officio* Member;
 - (t) Principal Secretary or Secretary of His Majesty *Ex-officio* Member;
 - (u) Chief Secretary of His Majesty's Government *Ex-officio* Member;
 - (v) Inspector General of Police *Ex-officio* Member; and
 - (w) Such other members as His Majesty may designate from among persons who, being renowned in different fields of national life, or who, having rendered distinguished service, are considered fit to be members of the Raj Parishad.
- (3) Persons designated by His Majesty pursuant to sub-clause (a) and (w) of clause (2) shall remain members during the pleasure of His Majesty.
- (4) A meeting of the Raj Parishad shall be summoned by the command of His Majesty, and shall be presided over by Him if present at the meeting. If His Majesty is not present at the meeting, and if the Crown Prince has attained the age of eighteen years, the meeting shall be presided over by the Crown Prince, such, and if the Crown Prince has not attained the age of eighteen years, or if He is not present, the meeting shall be presided over by such person as is designated by His Majesty shall so preside, and if no such person has been designated, by the Chairman of the Standing Committee of the Raj Parishad.
- (5) The Chairman of the Standing Committee of the Raj Parishad shall summon a meeting of the Raj Parishad in the following circumstances and such meeting shall be conducted under his Chairmanship:
- (a) on the demise of His Majesty or if His Majesty proclaims His abdication.
 - (b) if at least one-fourth of the total number of members of the Raj Parishad sign a requisition declaring that His Majesty is unable, by reason of mental or physical infirmity, to perform his functions.
- (6) A meeting summoned under the circumstances mentioned in sub-clause (a) of clause (5) shall proclaim the accession to the Throne of the heir-apparent to His Majesty in accordance with the law, custom and usage relating to the succession to the Throne. It shall also proclaim the appointment of a Regent or Council of Regency, subject to rules made by His Majesty, in case His Majesty is below the age of eighteen years:

Provided that the Regency or Council of Regency proclaimed under this clause shall dissolve on His Majesty attaining the age of eighteen years.

- (7) If a meeting of the Raj Parishad, summoned under sub-clause (b) of Clause (5) with the object of deciding whether His Majesty is mentally or physically incapacitated, passes a resolution confirming such incapacity by a majority of two-thirds of its total membership, the meeting of the Raj Parishad shall proclaim the Crown Prince to be the Regent if He has attained the age of eighteen years, and in other circumstances, it shall, subject to rules made by His Majesty, proclaim a Regent or Council of Regency:

Provided that the Regency or Council of Regency proclaimed under this clause shall, subject to rules made by His Majesty, dissolve on the demise of or abdication by His Majesty, or on His Majesty informing the Raj Parishad that he is fit to resume the Royal functions.

- (8) A Regent or Council of Regency proclaimed under clauses (6) or (7) shall not have any power to decide or to give approval to anything which shall be prejudicial to the interest of His Majesty or His successor.
- (9) Nothing in clauses (6) and (7) shall prevent the heir apparent to His Majesty from exercising the powers of the Throne pending a proclamation to that effect.
- (10) The Raj Parishad shall transact its business notwithstanding the absence of any of its members at any meeting if: -
 - (a) notice of such meeting has been sent to all persons who were members on the date of issuance of the notice; and
 - (b) at least one-third of the total number of members are present.
- (11) The Raj Parishad may make necessary rules to regulate its business. Until such rules are made, its business shall be regulated by rules made by His Majesty.
- (12) Members of the Raj Parishad shall take an oath in the manner as specified by His Majesty.
- (13) His Majesty shall appoint the Secretary of the Raj Parishad.
- (14) His Majesty may, from among the members of the Raj Parishad, constitute a Standing Committee of the Raj Parishad, consisting of a maximum of fifteen members including a Chairman and the following *ex-officio* members:
 - (a) Prime Minister;
 - (b) Chief Justice;
 - (c) Speaker of the House of Representatives;
 - (d) Chairman of the National Assembly;
 - (e) Bada Gurujyu; and
 - (f) Commander-in-Chief.
- (15) The tenure of office of the Chairman and the members of the Standing Committee of the Raj Parishad other than the *ex-officio* members shall be four years from the date of appointment. Such members shall be eligible for reappointment.
- (16) The office of the Chairman or a member of the Standing Committee of the Raj Parishad shall be deemed vacant under the following circumstances: -
 - (a) if he dies; or
 - (b) if he is relieved of office by His Majesty;
 - (c) if his resignation submitted to His Majesty in writing is accepted by Him;
 - (d) if his term of office expires pursuant to clause (15).
- (17) In order to be eligible for appointment as the Chairman or a member of the Standing Committee of the Raj Parishad, a person must meet the following requirements: -
 - (a) he has reached the age of fifty years;
 - (b) he is not disqualified under any law.
- (18) The functions, duties and power of the Standing Committee of the Raj Parishad shall be as follows: -
 - (a) to submit recommendations on matters referred to it by His Majesty; and
 - (b) to carry out the functions relating to the Royal Family as specified by His Majesty.

- (19) The Standing Committee of the Raj Parishad may, subject to the provisions of this Article, frame necessary rules to regulate its business. Until such time as these rules are approved by His Majesty, this business shall be regulated by rules made by His Majesty.
- (20) The remuneration of the Chairman and the members of the Standing Committee of the Raj Parishad shall be as fixed by His Majesty.
- (21) The meetings of the Standing Committee of the Raj Parishad shall be summoned by its Chairman. During discussions on any issue at such meetings, any other member of the Raj Parishad may also be invited.
- (22) The Secretary of the Raj Parishad shall also act as the Secretary of its Standing Committee.
- (23) The members of the Standing Committee of the Raj Parishad shall take an oath in the manner as specified by His Majesty.

PART 7 EXECUTIVE

35. Executive Power:

- (1) The executive power of the Kingdom of Nepal shall, pursuant to this Constitution and other laws, be vested in His Majesty and the Council of Ministers.
- (2) Except as otherwise expressly provided as to be exercised exclusively by His Majesty or at His discretion or on the recommendation of any institution or official, the powers of His Majesty under this Constitution shall be exercised upon the recommendation and advice and with the consent of the Council of Ministers. Such recommendation, advice and consent shall be submitted through the Prime Minister.
- (3) The responsibility of issuing general directives, controlling and regulating the administration of the Kingdom of Nepal shall, subject to this Constitution and other laws, lie in the Council of Ministers.
- (4) Except in so far as any action is to be taken in the name of His Majesty pursuant to this Constitution and other laws, all other executive actions shall be expressed to be taken in the name of His Majesty's Government.
- (5) Any decision, order or implementation warrant to be issued in the name of His Majesty pursuant to this Constitution and other laws shall be authenticated in such manner as may be set forth in rules made by His Majesty at His discretion. All other decisions, orders and implementation warrants to be issued in the name of the Council of Ministers pursuant to clause (4) above shall be authenticated in such manner as may be set forth in rules approved by His Majesty.
- (6) No question shall be raised in any court as to whether or not any recommendation or advice has been given to His Majesty pursuant to this Constitution by the Council of Ministers or any other institution or official, nor shall any question be raised in any court about what recommendation or advice has been given.

36. Constitution of Council of Ministers:

- (1) His Majesty shall appoint the leader of the party which commands a majority in the House of Representatives as the Prime Minister, and shall constitute the Council of Ministers under his chairmanship.

- (2) The Council of Ministers, in addition to the Prime Minister, shall consist of a Deputy-Prime Minister if required and such other Ministers as may be required.
- (3) His Majesty shall, upon the recommendation of the Prime Minister, appoint from among the members of the Parliament, a Deputy-Prime Minister if required and such other Ministers as may be required.
- (4) The Prime Minister and other Ministers shall be collectively responsible to the House of Representatives, and the Ministers shall be individually responsible for the work of their respective Ministries to the Prime Minister and the House of Representatives.
- (5) The Prime Minister shall be relieved of his office in the following circumstances:
 - (a) if his resignation submitted to His Majesty in writing is accepted by Him; or
 - (b) if His Majesty relieves him of office in accordance with a no confidence resolution passed by a majority of the total number of members of the House of Representatives pursuant to Article 59; or
 - (c) if he ceases to be a member of the House of Representatives; or
 - (d) if he dies.
- (6) The Deputy-Prime Minister or a Minister shall be relieved of his office in the following circumstances:
 - (a) if his resignation submitted to His Majesty in writing through the Prime Minister is accepted by Him; or
 - (b) if the Prime Minister is relieved of his office pursuant to the provisions of clause (5) above; or
 - (c) if he ceases to be a member of Parliament; or
 - (d) if he is relieved of office by His Majesty on the recommendation of the Prime Minister; or
 - (e) if he dies.
- (7) If the Prime Minister is relieved of his office pursuant to clause (5), the existing Council of Ministers shall continue to function until a new Council of Ministers is constituted.
 Provided that His Majesty shall, upon the death of the Prime Minister, designate either the Deputy-Prime Minister or the seniormost Minister to act as the Prime Minister until a new Prime Minister is appointed.

37. State Ministers and Assistant Ministers:

- (1) His Majesty shall, on the recommendation of the Prime Minister, appoint State Ministers from amongst the members of Parliament.
- (2) His Majesty shall, upon the recommendation of the Prime Minister, appoint Assistant Ministers from amongst the members of Parliament to assist any Minister in carrying out his responsibilities.
- (3) The provisions of clause (6) of Article 36 relating to Ministers shall also be applicable to State Ministers and Assistant Ministers.

38. Appointment of Non-Member of Parliament as Minister:

Notwithstanding anything contained in Articles 36 and 37, any person who is not a member of either House of Parliament may be appointed Deputy-Prime Minister, Minister, State Minister or Assistant-Minister:

Provided that such Deputy-Prime Minister, Minister, State Minister or Assistant-Minister shall be required to become a member of Parliament within six months from the date of his appointment.

39. Remuneration and Other Privileges:

The remuneration and other privileges of the Prime Minister, Deputy-Prime Minister, Ministers, State Ministers and Assistant-Ministers shall be as determined by an Act, and until so determined, shall be as specified in rules made by His Majesty.

40. Oath:

The Prime Minister, Deputy-Prime Minister, and other Ministers shall take their oaths of office and secrecy before His Majesty, and the State Ministers and Assistant-Ministers before the Prime Minister.

41. Conduct of Government Business:

- (1) The allocation and transaction of business of His Majesty's Government shall be carried out as set forth in rules approved by His Majesty.
- (2) No question shall be raised in any court as to whether or not rules made pursuant to clause (1) above have been observed.

42. Special Provisions Concerning the Council of Ministers:

- (1) If no one party has a clear-majority in the House of Representatives, His Majesty shall appoint as Prime Minister a member who is able to command a majority with the support of two or more parties represented in the House.
- (2) If no member is able to command a majority in the House of Representatives even pursuant to clause (1) above, His Majesty shall appoint as Prime Minister the leader of the parliamentary party that holds the largest number of seats in the House of Representatives.
- (3) A Prime Minister appointed pursuant to clause (1) or (2) above shall be required to obtain a vote of confidence from the House of Representatives within thirty days.
- (4) If a Council of Ministers appointed pursuant to the provisions of clause (2) above fails to obtain a vote of confidence from the House of Representatives, His Majesty shall dissolve the House of Representatives and issue an order for holding elections within six months.

43. Information to be submitted to and Recommendations to be made by His Majesty:

- (1) It shall be the duty of the Prime Minister to inform His Majesty of the following matters:
 - (a) decisions of the Council of Ministers regarding the administration of the Kingdom of Nepal,
 - (b) Bills to be introduced in Parliament,
 - (c) such other information as commanded by His Majesty on matters mentioned in sub-clauses (a) and (b), and
 - (d) the current general state of affairs of the country, matters concerning peace and security in the country, matters of political, social and administrative concerns, and matters concerning international relations.
- (2) His Majesty may make recommendations to, or appreciations of, or admonitions to, the Council of Ministers on matters of national importance.

PART 8 LEGISLATURE

44. Constitution of Legislature:

There shall be a Legislature, to be called Parliament, which shall consist of His Majesty and two Houses, namely the House of Representatives and the National Assembly.

45. Constitution of the House of Representatives:

- (1) The House of Representatives shall consist of two hundred and five members.
- (2) For the purpose of election of members to the House of Representatives, administrative districts shall be treated as election districts, and the ratio of the number of seats allocated to any district shall be, so far as practicable, equal to the ratio of the population of that district to the national population as determined by the last census preceding the concerned election; and the number of election constituencies shall be equal to the number of seats so allocated; and one member shall be elected from each election constituency.

Provided that the number of members to be elected from the districts shall be so determined and election constituency so delimited as to be elected [sic] at least one member from each district irrespective of its population.

- (3) Unless dissolved earlier pursuant to the provisions of this Constitution, the term of the House of Representatives shall be five years.

Provided that the term of the House of Representative may be extended by an Act for a period not exceeding one year during the operation of a proclamation of a State of Emergency.

- (4) The term of the House of Representatives as extended in pursuance of the proviso clause of clause (3) shall *ipso facto* stand terminated after the expiry of six months from the date on which the proclamation of the State of Emergency is withdrawn.
- (5) Subject to the provisions of this Constitution, election to membership in the House of Representatives shall be held on the basis of one man-one vote through secret ballots in accordance with the provisions of law.
- (6) Every Nepali citizen who has attained the age of eighteen shall be entitled to vote in one of the election constituencies in accordance with the provisions of law.
- (7) Every person who is entitled to vote in the elections for the House of Representatives may, subject to the provisions of Article 47 and other existing laws, be a candidate from any of the election constituencies.
- (8) Any vacancy in a seat occurring in the House of Representatives, while a portion of its term still remains, shall be filled through a by-election.
- (9) Subject to the provisions of this Article, elections for the House of Representatives and other matters pertaining thereto shall be regulated in accordance with law.

46. Constitution of the National Assembly and the Tenure of Office of Members:

- (1) The National Assembly shall consist of sixty members as follows: -
 - (a) ten members to be nominated by His Majesty from amongst persons of high reputation who have rendered prominent service in various fields of national life,

- (b) thirty five members, including at least three women members, to be elected by the House of Representatives in accordance with the provisions of law, on the basis of the system of proportional representation by means of the single transferable vote, and
 - (c) fifteen members, three from each of the Development Regions, to be elected in accordance with law on the basis of the system of single transferable vote by an electoral college consisting of the Chief and the Deputy-Chief of the Village and Town level Local-Authorities and the Chief, Deputy-Chief, and the members of the District level Local-Authorities:
 Provided that until elections are held for the Local Authorities, such electoral college shall, for the first time, consist of the members of the House of Representatives elected from the concerned Development Region.
- (2) The National Assembly shall be a permanent House. The tenure of office of one-third of its members shall expire every two years.
 - (3) The tenure of office of the members of the National Assembly shall be six years:
 Provided that, for the first time, after the commencement of this Constitution, arrangements shall be made by drawing lots to retire one-third of the members on the expiry of two years, another one-third on the expiry of four years, and the final one-third on the expiry of six years.
 - (4) The term of office of the members, including any unfilled seats, shall be deemed to have started on the date on which National Assembly commences its first session.
 - (5) Vacancies of seats in the National Assembly shall be filled in the same manner of election or nomination through which the seat of the vacating member was filled.
 - (6) If any seat of a member of the National Assembly falls vacant during his tenure of office, the vacancy shall be filled in accordance with Clause (5), by election or nomination, as the case may be, for the remainder of the term.

47. Qualifications for Membership:

- (1) In order to become a member of Parliament any person -
 - (a) must be a citizen of Nepal;
 - (b) must have attained twenty five years of age for the House of Representatives and thirty five years for the National Assembly;
 - (c) should not be disqualified under any law; and
 - (d) should not hold an office of profit.

Explanation: For the purpose of this sub-clause, "office of profit" means any position, other than a political position, to be filled by election or nomination for which a remuneration or economic benefit is paid out of a Government Fund.

- (2) No person shall be a member of both Houses simultaneously.

48. Decision as to Disqualifications [sic] of Members:

If a question arises as to whether a member of Parliament is disqualified or has ceased to possess any of the qualifications set forth in Article 47, the final decision shall be made by the Chief Justice of Nepal or any other Judge of the Supreme Court designated by him.

49. Vacation of seat:

- (1) The seat of a member of Parliament shall become vacant in the following circumstances:
 - (a) if he dies; or
 - (b) if he resigns in writing; or
 - (c) if he does not or has ceased to possess the qualifications referred to in Article 47; or
 - (d) if his term of office expires, or if the term of the House in accordance with this Constitution; or
 - (e) if he, without the leave of the concerned House, absents himself from thirty consecutive meetings of the House; or
 - (f) if the party of which he was a member when elected provides notification in the manner set forth by law that he has abandoned the party.

50. Oath:

The members of each House of Parliament shall, before taking part for the first time in a meeting of that House or any of its committees, take an oath in the specified form.

51. Speaker and Deputy-Speaker of the House of Representatives:

- (1) The House of Representatives shall, as soon as possible, elect a Speaker and a Deputy-Speaker from among its members. If the office of the Speaker or the Deputy-Speaker falls vacant, the House of Representatives shall fill the vacancy through election from among its members.
- (2) The Deputy-Speaker shall, in the absence of the Speaker of the House of Representatives, chair the House of Representatives.
- (3) If the election of the Speaker and Deputy-Speaker has not taken place, or if both the positions have become vacant, the member of the House of Representatives who is by age the seniormost shall preside over the meeting of the House of Representatives.
- (4) The Office of the Speaker or the Deputy-Speaker shall become vacant in the following circumstances:
 - (a) if he ceases to be a member of House of Representatives:
Provided that, after the dissolution of the House of Representatives, the Speaker and Deputy-Speaker shall continue in office until the date of the filing of nominations for election to the House of Representatives; or
 - (b) he submits a written resignation; or
 - (c) if a resolution is passed by a majority of two-thirds of the total number of members in the House of Representatives to the effect that his conduct is not compatible with his position.
- (5) The Deputy-Speaker shall preside over a meeting at which deliberations are to be held on a resolution that the conduct of the Speaker of the House of Representatives is not compatible with his position. The Speaker shall be entitled to take part and vote in the deliberations on such resolution.

52. Chairman and Vice Chairman of the National Assembly:

- (1) After the commencement of its first session, the National Assembly shall, as soon as possible, elect a Chairman and Vice Chairman from among its members. If the office of the Chairman or the Vice-Chairman falls vacant, the National Assembly shall fill the vacancy through election from among its members.
- (2) The Vice-Chairman shall, in the absence of the Chairman of the National Assembly, chair the National Assembly.
- (3) If the election of the Chairman and Vice-Chairman has not taken place, or if both the positions have become vacant, the member of the National Assembly who is by age the seniormost shall preside over the meeting of the National Assembly.
- (4) The office of the Chairman or the Vice-Chairman shall become vacant in the following circumstances:
 - (a) if he ceases to be a member of the National Assembly; or
 - (b) if he submits a written resignation; or
 - (c) if a resolution is passed by a majority of two-thirds of the total number of members of the National Assembly to the effect that his conduct is not compatible with his position.
- (5) The Vice-Chairman shall preside over a meeting at which deliberations are to be held on a resolution that the conduct of the Chairman of the National Assembly is not compatible with his position. The Chairman shall be entitled to take part and vote in the deliberations on such resolution.

53. Summoning and Prorogation of Sessions and Dissolution of the House of Representatives:

- (1) His Majesty shall summon a session of parliament within one month after the elections to the House of Representatives are held. Thereafter, His Majesty shall summon other sessions from time to time in accordance with this Constitution.

Provided that the interval between two consecutive sessions shall not be more than six months.

- (2) His Majesty may prorogue the session of both or either of the Houses of Parliament.
- (3) If, during the prorogation or recess of the House of Representatives, one-fourth of its members make a representation that it is appropriate to convene a session or meeting, His Majesty shall specify the date and time for such session or meeting, and the House of Representatives shall meet or commence its session on the date and time thus fixed.
- (4) His Majesty may dissolve the House of Representatives on the recommendation of the Prime Minister. His Majesty shall, when so dissolving the House of Representatives, specify a date, to be within six months, for new elections to the House of Representatives.

54. Address and Message by His Majesty:

- (1) His Majesty may address either House or a joint sitting of both the Houses of Parliament, and He may summon the Members for that purpose.
- (2) His Majesty shall address the first session after an election to the House of Representatives, and a joint sitting of both the Houses of Parliament after the commencement of the first session of each year.

- (3) His Majesty may send messages to either or both the Houses of Parliament. The House receiving such message shall, as early as possible, consider the matter mentioned in the message and submit its opinion to His Majesty.

55. Quorum:

Except as otherwise provided in this Constitution, no resolution shall be presented for decision in either House of Parliament unless one-fourth of the total number of members of the concerned House are present.

56. Restriction on Discussion:

- (1) No discussion shall be held in either House of Parliament on the conduct of His Majesty, Her Majesty the Queen and the heir apparent to His Majesty:

Provided that nothing in this Article shall be deemed to bar criticism of His Majesty's Government.

- (2) No discussion shall be held in either House of Parliament on a matter which is under consideration in any court of Nepal.
- (3) No discussion shall be held in either House of Parliament about anything done by a Judge in course of performance of his duties:

Provided that nothing in this clause shall be deemed to bar the expression of opinion about the conduct of a Judge during deliberations on a resolution held pursuant to clause (7) of Article 87.

57. Transaction of Business in case of Vacancy of Members:

Either House of Parliament shall have the power to transact its business notwithstanding any vacancies in the seats of its members; and no proceedings shall become invalid even if it is subsequently discovered that a person not entitled to take part in the proceedings of either House had participated therein.

58. Voting:

Except as otherwise provided in this Constitution, all questions submitted for decision in either House of Parliament shall be decided by a majority vote of the members present and voting. Normally the member presiding shall not have the right to vote, but he may exercise his casting vote in the case of tie.

59. Vote of Confidence:

- (1) The Prime Minister, while he holds office, may, whenever he is of the opinion that it is necessary or appropriate to obtain a vote of confidence from the members of the House of Representatives, table⁶ [sic] a resolution to that effect in the House of Representatives.
- (2) One-fourth of the total number of members of the House of Representatives may table⁶ in writing a no-confidence motion against the Prime Minister:
Provided that a no-confidence motion shall not be presented more than once in the same session.
- (3) A decision on a resolution tabled [sic] pursuant to clauses (1) and (2) shall be made by a majority of the total number of members of the House of Representatives.

60. Minister Entitled to Take Part in Both Houses:

A Minister shall be entitled to attend and take part in the proceedings and deliberations of either House of the Parliament and its committees:

Provided that he shall not be entitled to vote in a House or committee of which he is not a member.

61. Penalty for Unauthorized Presence or Voting:

If a person sits or votes in a meeting of either House of Parliament as a member without taking an oath pursuant to Article 50, or knowing that he is not qualified for membership in the House, he shall, on order of the person chairing the House, be liable to a fine of one thousand rupees for each day of such presence or voting. The fine shall be recovered as government dues.

62. Privileges:

- (1) Subject to the provisions of this Constitution, there shall be full freedom of speech in both Houses of Parliament and no member shall be arrested, detained or prosecuted in any court for anything said or any vote cast in the House.
- (2) Subject to the provisions of this Constitution, each House of Parliament shall have full power to regulate its internal business, and it shall be the exclusive right of the House concerned to decide whether or not any proceeding of the House is regular. No question shall be raised in any court in this behalf [sic].
- (3) Subject to the provisions of this Constitution, no comment shall be made about the good faith concerning any proceeding of either House of Parliament and no publication of any kind shall be made about anything said by any member which intentionally distorts or misinterprets the meaning of the speech.
- (4) Subject to the provisions of this Constitution, the provisions of clauses (1) and (3) shall also apply to any person, other than a member, who is entitled to take part in a meeting of the House.
- (5) No proceedings shall be initiated in any court against any person for publication of any document, report, vote or proceeding which is made under authority given, subject to the provisions of this Constitution, by a House of Parliament.

Explanation: For the purposes of this clause and clauses (1), (2), (3) and (4), the word "House" shall mean and include the committees of a House and shall also mean a joint sitting of Parliament or a meeting of the Joint Committee.

- (6) No member of Parliament shall be arrested between the date of issuance of the summons for a session and the date on which that session closes:
Provided that nothing in this clause shall be deemed to prevent the arrest under any law of any member on a criminal charge. If any member is so arrested, the official making such arrest shall forthwith inform the person chairing the concerned House.
- (7) Any breach of privilege of either House of Parliament shall be deemed to constitute contempt of Parliament and the concerned House shall have the exclusive right to decide whether or not any breach of privilege has taken place.
- (8) If a person is in contempt of either House of Parliament, the Chairperson of the concerned House may, after a decision by the House to that effect, admonish, warn or impose a sentence of imprisonment not exceeding three months, to remain effective only during the current session of the House, or impose a fine of up to five thousand rupees on such person. The fine shall be recovered as government dues.

Provided that if the person so accused submits an apology to the satisfaction of the House, it may either pardon him or remit or commute the sentence imposed on him.

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

63. Procedures relating to the Conduct of Business:

- (1) Each House of Parliament shall, subject to the provisions of this Constitution, frame rules for conducting its business, maintaining order during its meetings and regulating the constitution, functions and procedures of the committees or any other matter of the House or the committees. Such rules shall come into effect upon approval by His Majesty.
- (2) Matters relating to the conduct of business of a joint sitting of Parliament and the constitution of its Joint Committee, and the functions and procedures thereof shall be in accordance with rules made by His Majesty on the recommendation of the Speaker of the House of Representatives and the Chairman of the National Assembly.
- (3) Until such time as rules mentioned in clauses (1) and (2) are made, matters mentioned in those clauses shall be governed by rules made by His Majesty.

64. Committees:

The House of Representatives may, by rules, regulate the constitution and management of Committees on Finance, Public Account, Human Rights, Foreign Relations, Natural Resources, Protection of the Environment, Population and such committees on other subjects as required.

65. Joint-Committee:

- (1) If a resolution is passed by either House demanding that of both the Houses be constituted for the purpose of managing the working procedure between the two Houses, resolving disagreements on any Bill, or for any other specified function, a Joint-Committee thereon shall be constituted.
- (2) The Joint-Committee shall consist of up to a maximum of fifteen members in the ratio of two-members from the House of Representatives to-one-member from the National Assembly.

66. Secretariat of Parliament:

- (1) His Majesty shall appoint the Secretary of the House of Representatives on the recommendation of its Speaker, and the Secretary of the National Assembly on the recommendation of its Chairman and the Secretary-General of Parliament in consultation with both the Speaker and the Chairman.
- (2) The establishment of a Secretariat for the purpose of conducting the business of Parliament and other matters related thereto shall be as determined by law.

67. Remuneration:

The remuneration and privileges of the Speaker and Deputy Speaker of the House of Representatives, the Chairman and Vice-Chairman of the National Assembly and members of Parliament shall be determined by law, and until so determined, shall be as specified by His Majesty.

PART 9 LEGISLATIVE PROCEDURE

68. Procedure for Introducing a Bill:

- (1) A bill may be introduced in either House of Parliament:

Provided that a Finance Bills shall be introduced only in the House of Representatives.

- (2) A Finance Bill or a Bill concerning the Royal Nepal Army or the Armed Police Force shall be introduced only as a Government Bill. Any amendment to such Bill may be introduced only upon the prior approval of His Majesty. Such approval shall be obtained through the person chairing the House.
- (3) "Finance Bill" means a Bill concerning any or all of the following subjects:
 - (a) the imposition, collection, abolition, remission, alteration or regulation of taxes;
 - (b) the preservation of the Consolidated Fund or any other Government Fund, the deposit of 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 raising of loans or the giving of guarantees by His Majesty's Government or any matter pertaining to amendment of the laws concerning the financial liabilities undertaken or to be undertaken by His Majesty's Government;
 - (d) the custody and investment of all revenues received by any Government Fund, moneys acquired through the repayment of loans, and grant moneys; or audits of the accounts of His Majesty's Government; or
 - (e) matters directly related to the above subjects.
- (4) If any question arises whether a Bill is a Finance Bill or not, the decision of the Speaker shall be final.

69. Procedure for Passage of Bills:

- (1) A Bill passed by one House of Parliament shall be transmitted to the other House as soon as possible and such Bill, if passed by the receiving House, shall be presented to His Majesty for assent.
- (2) A Finance Bill passed by the House of Representatives shall be transmitted to the National Assembly. The National Assembly shall, after deliberations on such a Bill, send back the Bill to the House of Representatives within fifteen days from the date of receipt of the Bill with recommendations, if any.
- (3) The House of Representatives shall, upon deliberations on a Bill returned with recommendations pursuant to clause (2), present it to His Majesty for assent along with such recommendations as it may deem appropriate.
- (4) If the National Assembly does not return a Bill received pursuant to Clause (2) for more than fifteen days, the House of Representatives may present the Bill to His Majesty for assent.
- (5) Any Bill, except for a Finance Bill, passed by the House of Representatives and transmitted to the National Assembly shall be sent back with approval or recommendations within two months from the date of receipt. If the National Assembly does not return the Bill within that period, the House of Representatives may, by a resolution passed by a majority of more than fifty percent of the sitting members, present the Bill to His Majesty for assent.

- (6) If any Bill passed by one House is rejected or is passed with amendments by the other House, the Bill shall be transmitted back to the House where it originated.
- (7) If the House of Representatives, in considering a Bill which has been rejected or amended by the National Assembly pursuant to clause (6), passes it again as it was or with amendments, by a majority of more than fifty percent of its sitting members, the Bill shall be presented to His Majesty for assent.
- (8) A Bill for which amendments have been recommended and which has been transmitted to the National Assembly by the House of Representatives pursuant to clause (6) shall be presented to His Majesty for assent if the National Assembly also passes a resolution to adopt the Bill with such amendments.
- (9) The following Bills shall be referred to a joint sitting of the two Houses and if the joint sitting passes the Bill as it was or with amendments, the House in which the Bill originated shall present it to His Majesty for assent: -
 - (a) Bills which, though being passed by the National Assembly, have been rejected by the House of Representatives; or
 - (b) Bills which have been returned to the National Assembly with amendments by the House of Representatives, but which the National Assembly fails to pass with such amendments.
- (10) If a session of a House terminates while a Bill is under consideration, deliberations on the Bill may continue at the succeeding session:

Provided that if any Bill introduced in the House of Representatives is under consideration, or if a Bill, having been passed by that House and transmitted to the National Assembly, is under consideration in the National Assembly, when the House of Representatives is dissolved or its term expires, such Bill shall be deemed to have lapsed.

70. Withdrawal of Bills:

A Bill may be withdrawn by the member introducing it with the approval of the House.

71. Assent on Bills:

- (1) A Bill which is to be presented to His Majesty for assent pursuant to Article 69 shall be so presented by the Speaker or the Chairman of the House in which the Bill originated after it has been duly certified by him under his hand:
Provided that in the case of a Finance Bill, the Speaker shall so certify.
- (2) Upon His Majesty's assent to any Bill that has been presented to Him pursuant to this Article, both Houses shall be informed as soon as possible.
- (3) Except for a Finance Bill, if His Majesty is of the opinion that any Bill needs further deliberations, he may send back the Bill with His message to the House of origin of the Bill within one month from the date of presentation of the Bill to Him.
- (4) If any Bill is sent back with a message from His Majesty, it shall be reconsidered by a joint sitting of the two Houses and if the Bill so reconsidered is again passed as it was or with amendments, and it is again presented to him, His Majesty shall give assent to that Bill within thirty days of such presentation.
- (5) A Bill shall become an Act after His Majesty grants his assent to it in accordance with this Article, and such assent shall be deemed to have been granted after the Royal Seal has been affixed thereon.

72. Ordinance:

- (1) If at any time, except when both Houses of Parliament are in session, His Majesty is satisfied that circumstances exist which render it necessary for him to take immediate action, He may, without prejudicing the provisions set forth in this Constitution, promulgate any Ordinance as He may deem necessary.
- (2) An Ordinance promulgated under clause (1) shall have the same force and effect as an Act: Provided that every such Ordinance:
 - (a) shall be tabled⁸ at the next session of both Houses of Parliament, and if not passed by both Houses, it shall *ipso facto* cease to be effective;
 - (b) may be repealed at any time by His Majesty; and
 - (c) shall, unless rendered ineffective or repealed under sub-clause (a) or (b), *ipso-facto* cease to have effect at the expiration of six months from its promulgation or sixty days from the commencement of a session of both the Houses.

Explanation: If the two Houses of Parliament meet on different dates, the latter date on which a House commences its session shall be deemed to be the date of commencement of session for the purpose of computation of time under this clause.

**PART 10
FINANCIAL PROCEDURE**

73. No Tax to be Levied or Loan to be Raised Except in Accordance with Law:

- (1) No tax shall be levied and collected except in accordance with law.
- (2) No loan shall be raised or guarantee be given by His Majesty's Government except in accordance with law.

74. Consolidated Fund:

Except the revenues of religious endowments⁹, all revenues received by His Majesty's Government, all loans raised on the security of revenues and all moneys received in repayment of any loan made under the authority of any Act shall, unless otherwise provided by an Act, be credited to a Government Fund to be known as the Consolidated Fund.

75. Expenditures From the Consolidated Fund or a Government Fund:

No expenditure shall be incurred out of the Consolidated Fund or any other Government Fund except the following: -

- (a) moneys charged on the Consolidated Fund;
- (b) moneys required to meet the expenditure under an Appropriation Act;
- (c) advance moneys authorised 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 Contingency Fund shall be governed in accordance with the provisions of Article 82.

76. Expenditure Chargeable on the Consolidated Fund:

The expenditures related to the following matters shall be charged on the Consolidated Fund and yearly approval of Parliament for these expenditures shall not be required: -

- (a) the amount provided by the Act relating to expenditures on the Royal Family;
- (b) the amount required as remuneration, privileges and pension payable to the Chief Justice of Nepal and other Judges of the Supreme Court;
- (c) the amount required as remuneration and privileges payable to the following officials: -
 - (1) the Speaker and Deputy-Speaker of the House of Representatives;
 - (2) the Chairman and Vice-Chairman of the National Assembly;
 - (3) the Chairman and members of the Standing Committee of the Raj Parishad;
 - (4) the Chief Commissioner and other Commissioners of the Commission for the Investigation of the Abuse of Authority;
 - (5) the Auditor-General;
 - (6) the Chairman and members of the Public Service Commission; and
 - (7) the Chief Election Commissioner and other Election Commissioners.
- (d) the administrative expenses of the Supreme Court, the Raj Parishad, the Commission for the Investigation of the Abuse of Authority, the Department of the Auditor-General, the Public Service Commission and the Election Commission;
- (e) all charges relating to debts for which His Majesty's Government is liable;
- (f) any sum required to satisfy any judgment or decree of a court against His Majesty's Government; and
- (g) any sum declared by law to be chargeable on the Consolidated Fund.

77. Estimates of Revenues and Expenditures:

- (1) His Majesty shall, in respect of every financial year, cause to be laid before a joint sitting of Parliament an annual estimate including the following matters: -
 - (a) an-estimate of revenues;
 - (b) the moneys required to meet the charges on the Consolidated Fund; and
 - (c) the moneys required to meet the expenditure to be provided for by an Appropriation Act.
- (2) The annual estimate to be presented pursuant to clause (1) above should accompany [sic] by a statement of the expenses allocated to each Ministry in the previous financial year and particulars of whether the objectives of the expenses have been achieved.

78. Appropriation Act:

The moneys required to meet the expenditure-to be provided for by any Appropriation Act shall be specified under appropriate heads in an Appropriation Bill.

79. Supplementary Estimates:

- (1) His Majesty shall, in respect of any financial year, cause to be laid before the House of Representatives a supplementary estimate if it is found -
 - (a) that the sum authorised to be spent for a particular service by the Appropriation Act for the current financial year is insufficient, or that a need has arisen for expenditures upon new services not provided for by the Appropriation Act for that year; or

(b) that the expenditures made during that financial year are in excess of the amount authorised by the Appropriation Act.

- (2) The sums included in the supplementary estimates shall be specified under separate heads in a Supplementary Appropriations Bill.

80. Votes of Credit:

- (1) Notwithstanding anything contained in this Part, a portion of the expenditure estimated for the financial year may, when an Appropriation Bill is under consideration, be incurred in advance by an Act.
- (2) A Vote on Account Bill shall not be submitted until the estimates of revenues and expenditures have been presented in accordance with the provisions of Article 77 and the amounts 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 Vote on Account Act shall be included in the Appropriation Bill.

81. Votes of Credit:

Notwithstanding anything contained in this Part, if owing a local or national emergency due to either natural cause, a threat of external aggression or internal disturbances, or other reasons, His Majesty is of the opinion that it is impractical or inexpedient in view of the security or interest of the State to specify the details required under Article 77, He may cause to be laid before the House of Representatives a Vote of Credit Bill giving only a description of the proposed expenditures.

82. Contingency Fund:

An Act may create a Contingency Fund into which shall be paid from time to time such moneys as may be determined by law. Such Fund shall be under the control of His Majesty's Government, and any unforeseen expenditures shall be met out of such Fund by His Majesty's Government. The amount of the expenditures so met shall be reimbursed as soon as possible by an Act.

83. Act Relating to Financial Procedure:

Matters relating to the transfer of moneys appropriated from one head to another and other financial procedures shall be regulated by an Act.

PART 11 JUDICIARY

84. Courts to Exercise Powers Related to Justice:

Powers relating to Justice in the Kingdom of Nepal shall be exercised by courts and other judicial institutions in accordance with the provisions of this Constitution, the laws and the recognized principles of justice.

85. Courts of Kingdom of Nepal:

- (1) Courts in the Kingdom of Nepal shall consist of the following three tiers:
 - (a) Supreme Court,
 - (b) Appellate Court; and
 - (c) District Court.
- (2) In addition to the Courts referred to in clause (1) above, the law may also establish special types of courts or tribunals for the purpose of hearing special types of cases:
Provided that no special court or tribunal shall be constituted for the purpose of hearing a particular case.

86. Supreme Court:

- (1) The Supreme Court shall be the highest court in the judicial hierarchy. All other courts and judicial institutions of Nepal, other than the Military Court, shall be under the Supreme Court. The Supreme Court may inspect, supervise and give directives to its subordinate courts and other judicial institutions.
- (2) The Supreme Court shall be a Court of Record. It may initiate proceedings and impose punishment in accordance with law for contempt of itself and of its subordinate courts or judicial institutions.
- (3) The Supreme Court shall, in addition to the Chief Justice of Nepal, consist of up to a maximum of fourteen other Judges. If at any time, the number of existing Judges becomes insufficient due to an increase in the number of cases in the Supreme Court, ad hoc Judges may be appointed for a fixed term.

87. Appointment, Qualifications and conditions of Service of Judges of the Supreme Court:

- (1) His Majesty shall appoint the Chief Justice of Nepal on the recommendation of the Constitutional Council, and other Judges of the Supreme Court on the recommendation of the Judicial Council. The tenure of office of the Chief Justice shall be seven years from the date of appointment.
- (2) the Supreme Court for at least five years is eligible for appointment as Chief Justice.
- (3) Any person who has worked as a Judge of an Appellate Court or in any equivalent post of the Judicial Service for at least ten years, or has practised law for at least fifteen years as a law graduate advocate or senior advocate, or who is a distinguished jurist who has worked for at least fifteen years in the judicial or legal field is eligible for appointment as a Judge of the Supreme Court.

Explanation. For the purpose of this clause, services rendered prior to the commencement of this Constitution as a Judge of a Regional Court or Zonal Court shall be deemed as service rendered in an Appellate Court.

- (4) If the office of the Chief Justice becomes vacant, or the Chief Justice is unable to carry out the duties of his office due to illness or any other reason, or he cannot be present in office due to a leave of absence or his being outside of Nepal, His Majesty may designate the seniormost Judge to act as the Acting-Chief Justice.
- (5) The Chief Justice or any other Judge of the Supreme Court shall hold office until he attains the age of sixty five years.

- (6) The Chief Justice or any other Judge of the Supreme Court may, by submitting to His Majesty his resignation in writing, resign his office at any time.
- (7) The Chief Justice or any other Judge of the Supreme Court shall be removed from his office if, for reasons of incompetence, misbehaviour or failure to discharge the duties of his office in good faith, the House of Representatives, by a two-thirds majority of the total number of its members, passes a resolution for his removal and the resolution is approved by His Majesty.
- (8) The Chief Justice or any other Judge of the Supreme Court charged pursuant to clause (7) shall be given a reasonable opportunity to defend himself, and for this purpose, the House of Representatives may constitute a Committee of Inquiry consisting of its members and legal experts for the purposes of recording the statement of the Judge, collecting evidence and submitting its findings. The working procedure of the Committee shall be determined by law.
- (9) The Chief Justice or the Judge of the Supreme Court against whom impeachment proceedings are being initiated pursuant to clause (7) shall not perform his duties until the proceedings are final.
- (10) Except as otherwise provided for in this Constitution, the remuneration, allowances, leave, pension, gratuities and other conditions of service of the Chief Justice and other Judges of the Supreme Court shall be regulated by law.
- (11) The remuneration, privileges and other conditions of service of Chief Justice and other Judges of the Supreme Court shall not be altered to their disadvantage.
- (12) Any person once who has once held the office of Chief Justice or Judge of the Supreme Court shall not be eligible for appointment in any Government Service, nor shall he be entitled to practice law before any office or court.
 Provided that nothing in this clause shall be deemed to be a bar to his appointment to a political position, to a position concerning judiciary inquiry or to a position in which his responsibility extends to giving his advice, opinions and recommendations on the basis of study, research and investigation in the field of justice or law.
- (13) The Chief Justice may, on the recommendation of the Judicial Council, appoint a retired-Judge of the Supreme Court or any person who is qualified to be appointed Judge of the Supreme Court pursuant to this Article, as an *ad hoc* Judge for a fixed term. The *ad hoc* Judge thus appointed shall, in carrying out his duties in the capacity of Judge, be entitled to remuneration, allowances, leave and transportation facilities similar to that of a Judge of the Supreme Court.
 Provided that the Chief Justice shall obtain prior approval from His Majesty before making an appointment under this clause.

88. Jurisdiction of the Supreme Court:

- (1) Any Nepali citizen may file a petition in the Supreme Court to have any law or any part thereof declared void on the ground of inconsistency with this Constitution because it imposes an unreasonable restriction on the enjoyment of the fundamental rights conferred by this Constitution or on any other ground, and extraordinary power shall rest with the Supreme Court to declare that law as void either *ab initio* or from the date of its decision if it appears that the law in question is inconsistent with the Constitution.
- (2) The Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal right for which no other remedy has been provided or for which the remedy even though provided appears to be inadequate or

ineffective, or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern, have the extraordinary power to issue necessary and appropriate orders to enforce such rights or to settle the dispute. For these purposes the Supreme Court may, with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders and writs including *habeas corpus*, *mandamus*, *certiorari*, Prohibition and *quo warranto*; -

Provided that:

- (a) the Supreme Court shall not be deemed to have power under this clause to interfere with the proceedings and decisions of the Military Court except on the ground of absence of jurisdiction or on the ground that a proceeding has been initiated against, or punishment given to, a non-military person for an act other than an offence relating to the Army;
- (b) except on the ground of absence of jurisdiction, the Supreme Court shall not interfere under this clause with the proceedings and decisions of Parliament concerning penalties imposed by virtue of its Privileges.
- (3) The Supreme Court shall have original and appellate jurisdiction as defined by law.
- (4) The Supreme Court may review its own judgment or final orders subject to the conditions and in the circumstances prescribed by law.
- (5) If His Majesty wishes to have an opinion of the Supreme Court on any complicated legal question of interpretation of this Constitution or of any other law, the Court shall, upon consideration on the question, report to His Majesty its opinion thereon.
- (6) Other powers and procedures of the Supreme Court shall be as prescribed by law.

89. Establishment and Management of Appellate Courts and District Courts:

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

90. Qualifications for Judges of Appellate Courts and Districts [sic] Courts:

- (1) Any person who is a Nepali citizen shall be eligible for appointment as Chief Judge or other Judge of an Appellate Court if he, having a Bachelor's Degree in law, has worked as a District Judge or worked in any other equivalent post for a period of at least seven years; or has practised law for a least ten years as a law graduate advocate or senior advocate, or has taught law or done research thereon or has worked in any other field of law or justice for at least ten years.
- (2) A person who is a Nepali citizen, who has a Bachelor's Degree in law, and has worked for at least four years as a second class gazetted officer in the Judicial Service is eligible for appointment as a District Judge.
Provided that nothing herein shall prevent the continuance or the reappointment of the Judges who at the commencement of this Constitution are working as Judges.
- (3) Unless the subject or context otherwise requires, the word "Judge" as mentioned in this Article and ensuing Articles, shall mean and include an Additional Judge.

91. Appointment and Conditions of Service of the Judges of Appellate Courts and District Courts:

- (1) His Majesty shall, on the recommendation of the Judicial Council, appoint any Chief Judge and Judges of the Appellate Courts and any Judges of the District Courts:

Provided that His Majesty may delegate His authority to the Chief Justice for the appointment of the District Judges to be made on the recommendation of the Judicial Council.

- (2) The Chief Justice may transfer a Judge of an Appellate or District Court from one court to another on the recommendation of the Judicial Council.
- (3) If the Judicial Council recommends that a Chief Judge or any other Judge of an Appellate Court or any Judge of a District Courts be removed from his office for reasons of incompetence, misbehaviour or failure to carry out the duties of his office in good faith, or if it recommends that it is necessary and expedient to initiate proceedings against such Judge in accordance with law for reasons of misbehaviour, and if such recommendation is accepted by His Majesty, such Chief Judge or Judge shall be so removed from his office or proceedings will be initiated against him in accordance with law:

Provided that the Chief Judge or any other Judge who is facing such charge shall be given a reasonable opportunity to defend himself before the said recommendation is made and for this purpose, the Judicial Council shall cause an investigation to be made by a Committee of Inquiry under the Chairmanship of Judge of the Supreme Court for the purposes of recording the statement of the Judge, collecting evidence and submitting its findings.

- (4) A Chief Judge or a Judge of an Appellate Court, or a Judge of a District Court may, by submitting to His Majesty his resignation in writing, resign his office.
- (5) A Chief Judge and other Judges of an Appellate or District Court shall continue to hold office until the age of sixty-three.
- (6) The remuneration, allowances, leave, pension, gratuities or other privileges and other conditions of service of a Chief Judge and other Judges of an Appellate or District Court shall be as determined by law.
- (7) The remuneration, privileges and conditions of service of a Chief Judge and other Judges of an Appellate Court or District Court shall not be altered to their disadvantage.

92. Judges not to be Transferred to, or Engaged in, any other Assignment:

A Judge shall not be transferred to, or engaged in, or deputed to, any work except that of a Judge.

Provided that His Majesty may, in consultation with the Judicial Council, depute for a specified period a Judge of the Supreme Court or a Chief Judge of any Appellate Court to work concerning judicial inquiry, to legal or judicial investigation or research, or to any other work of national concern. With regard to other Judges of the Appellate Courts and District Courts, the Chief Justice may, in consultation with the Judicial Council, depute them to the above works, including election works.

93. Judicial Council:

- (1) There shall be a Judicial Council to make recommendations and give advice in accordance with this Constitution concerning the appointment of, transfer of, disciplinary action against, and dismissal of Judges, and other matters relating to judicial administration, which shall consist of the following as its Chairman and members: -
 - (a) the Chief Justice, *ex-officio* Chairman,
 - (b) the Minister of Justice, *ex-officio* member,
 - (c) the two seniormost Judges of the Supreme Court, *ex-officio* members; and
 - (d) one distinguished jurist to be nominated by His Majesty.

- (2) Notwithstanding anything contained in clause (1) above, if it becomes necessary for the Judicial Council to consider any matter relating to a Judge who is a member of the Council or to make a recommendation to His Majesty about such Judge, the Judge next in seniority shall take part as a member.
- (3) The term of office and privileges of the member referred to in sub-clause (d) of clause (1) shall be as prescribed by His Majesty.
- (4) The powers and duties of the Judicial Council other than those referred to in clause (1) shall be as prescribed by law.
- (5) The Judicial Council may frame rules to regulate its business. Such rules shall become effective upon approval by His Majesty.

94. Judicial Service Commission:

- (1) In appointing, transferring or promoting Gazetted Officers of the Judicial Service or taking departmental action concerning such officer in accordance with law, His Majesty's Government shall act on the recommendation of the Judicial Service Commission.
Provided that His Majesty's Government shall consult the Public Service Commission for the purpose of permanent recruitment to gazetted posts of the Judicial Service from persons who are not already in the Government Service or from persons being promoted from non-gazetted to gazetted posts within the Judicial Service.
- (2) The Judicial Service Commission shall consist of the following as its Chairman and members: -
 - (a) the Chief Justice, *ex-officio* Chairman;
 - (b) the Minister of Justice, *ex-officio* member;
 - (c) the Senior most Judge of the Supreme Court, *ex-officio* member;
 - (d) the Chairman of the Public Service Commission, *ex-officio* member; and
 - (e) the Attorney-General, *ex-officio* member.
- (3) Other powers, duties and procedures of the Judicial Service Commission shall be as determined by law.

95. Duty to Extend Cooperation:

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

96. Orders and Decisions of the Courts to be Binding:

- (1) All shall abide by the orders and decisions made in the course of hearing of a suit by courts.
- (2) Any interpretation given to a law or any legal principle laid down by the Supreme Court in the course of hearing of a suit shall be binding on His Majesty's Government and all offices and courts.

PART 12
COMMISSION FOR THE INVESTIGATION OF ABUSE OF AUTHORITY

97. Commission for the Investigation of Abuse of Authority:

- (1) There shall be a commission to be called the Commission for the Investigation of Abuse of Authority of the Kingdom of Nepal consisting of a Chief Commissioner and such other Commissioners as may be required. If apart from the Chief Commissioner other Commissioners are appointed, the Chief Commissioner shall act as Chairman of the Commission for the Investigation of Abuse of Authority.
- (2) His Majesty shall, on the recommendation of the Constitutional Council, appoint the Chief Commissioner and other Commissioners.
- (3) The term of office of the Chief Commissioner and other Commissioners shall be six years from the date of appointment. They shall be eligible for reappointment:
Provided that: -
 - (a) if before the expiry of his term, the Chief Commissioner or a Commissioner attains the age of sixty five, he shall retire.
 - (b) The Chief Commissioner or a Commissioner may be removed from his office on the same grounds and in the same manner as has been set forth for the removal of a Judge of the Supreme Court.
- (4) The office of the Chief Commissioner or a Commissioner shall be deemed vacant under the following circumstances:
 - (a) if he dies; or
 - (b) if his resignation submitted to His Majesty in writing is accepted by Him; or
 - (c) if pursuant to clause (3) his term expires or he is removed from his office.
- (5) No person shall be eligible to be appointed as the Chief Commissioner or a Commissioner unless he:
 - (a) holds a Bachelor's Degree from a university recognised by His Majesty's Government;
 - (b) is not a member of any political party immediately before appointment;
 - (c) has at least ten years experience in the field of either law, accounting, revenue, construction, development or research, and is a distinguished person; and
 - (d) has attained the age of forty five.
- (6) The remuneration and other conditions of service of the Chief Commissioner and the Commissioners shall be as determined by law. The remuneration and other conditions of service of the Chief Commissioner and the Commissioners shall not, so long as they hold office, be altered to their disadvantage.
- (7) A person once appointed as the Chief Commissioner or Commissioner shall not be eligible for appointment in other Government Service:
Provided that: -
 - (a) nothing in this clause shall be deemed to be a bar to appointment of a Commissioner of the Commission for the Investigation of Abuse of Authority as its Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his term of office shall be computed as to include his term as Commissioner.

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

98. Functions, Duties and Powers of the Commission for the Investigation of Abuse of Authority.

- (1) the Commission for the Investigation of Abuse of Authority may, in accordance with law, conduct or cause to be conducted inquiries into, and investigations of, improper conduct or corruption by a person holding any public office:
Provided that the Commission for the Investigation of Abuse of Authority shall not have jurisdiction over the following officials: -
 - (a) any official in relation to whom this Constitution itself separately provides for such action; and
 - (b) any official to be prosecuted under the Army Act.
- (2) If the Commission for the Investigation of Abuse of Authority finds, upon inquiry or investigation carried-out pursuant to clause (1), that any person holding any public office has misused his authority by improper conduct, it may admonish such person, or forward a recommendation to the concerned authority in writing for taking departmental or any other necessary action.
- (3) If the Commission for the Investigation of Abuse of Authority finds, upon inquiry or investigation carried-out pursuant to clause (1), that a person holding any public office has committed an act which is defined by law as corrupt, it may bring or cause to be brought an action against such person or any other person involved therein in a court with jurisdiction in accordance with law.
- (4) Subject to this Constitution, other functions, duties, powers and procedures of the Commission for the Investigation of Abuse of Authority shall be as determined by law.
- (5) The Commission for the Investigation of Abuse of Authority may delegate any of its powers, functions and duties relating to the inquiry, investigation or bringing actions, to the Chief Commissioner, a Commissioner or any employee of His Majesty's Government to be exercised and complied with subject to the specified conditions.
- (6) The Commission for the Investigation of Abuse of Authority shall submit an annual report to His Majesty on the works it has performed in accordance with this Constitution. His Majesty shall cause such report to be laid before Parliament.

PART 13 AUDITOR-GENERAL

99. Auditor-General:

- (1) There shall be an Auditor-General of the Kingdom of Nepal who shall be appointed by His Majesty on the recommendation of the Constitutional Council.
- (2) The term of office of the Auditor-General shall be six years from the date of appointment. He shall be eligible for reappointment:
Provided that: -

- (a) if before the expiry of his term, the Auditor-General attains the age of sixty five, he shall retire.
- (b) he may be removed from his office on the same grounds and in the same manner as has been set forth for the removal of a Judge of the Supreme Court.
- (3) The office of the Auditor-General shall be deemed vacant in the following circumstances:
 - (a) if he dies; or
 - (b) if his resignation submitted to His Majesty in writing is accepted by Him; or
 - (c) if pursuant to clause (2) his term expires or he is removed from his office.
- (4) No person shall be eligible to be appointed as the Auditor-General unless he: -
 - (a) holds a Bachelor's Degree from a university recognized by His Majesty's Government;
 - (b) has worked for at least five years as a special class officer of His Majesty's government or has-experience in the field of accounting of not less than fifteen years;
 - (c) is not a member of any political party immediately before appointment; and
 - (d) has attained the age of forty five.
- (5) The remuneration and other conditions of service of the Auditor-General shall be as determined by law. The remuneration and other conditions of service of the Auditor-General shall not, so long as he holds office, be altered to his disadvantage.
- (6) A person once appointed to the office of the Auditor-General shall not be eligible for appointment in other Government Service:
 Provided that nothing in this Clause shall be a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

100. Functions, Duties and Powers of the Auditor-General:

- (1) The accounts of the Supreme Court, the Parliament, the Raj Parishad, the Commission for the Investigation of Abuse of Authority, the Office of the Auditor-General, the Public Service Commission, the Election Commission, other offices of the Constitutional Bodies, the Royal Nepal Army and the Nepal Police, and all other government offices and courts shall be audited by the Auditor-General in the manner as determined by law, with due consideration given to the regularity, economy, efficiency, effectiveness and the propriety thereof.
- (2) The Auditor-General shall be consulted in the matter of appointment of auditors for carrying out the audit of any corporate body of which His Majesty's Government owns more than fifty percent of the shares or the assets. The Auditor-General may also issue necessary directives setting forth the principles for carrying out the audit of such corporate bodies.
- (3) The Auditor-General and his assistants shall, at all times, have access to documents concerning the accounts for the purpose of carrying out the functions stipulated in clause (1) above. It shall be the duty of the concerned office to provide all such documents or information which may be demanded by the Auditor-General or his assistants.
- (4) The accounts to be audited pursuant to clause (1) above shall, subject to the relevant law, be maintained in such form as prescribed by the Auditor-General.
- (5) In addition to the accounts of the offices referred to in clause (1) above, the law may also require that the accounts of any other office or institution be audited by the Auditor-General.
- (6) The Auditor-General shall submit an annual report to His Majesty on the works he has performed. His Majesty shall cause such report to be laid before Parliament.

PART 14
PUBLIC SERVICE COMMISSION

101. Public Service Commission:

- (1) There shall be a Public Service Commission of the Kingdom of Nepal consisting of a Chairman and such number of other members as may be required.
- (2) His Majesty shall, on the recommendation of the Constitutional Council, appoint the Chairman and other members of the Public Service Commission.
- (3) At least fifty percent of the total number of the members of the Public Service Commission shall be appointed from persons who have worked for ten or more than ten years in any government office, and the rest of the members shall be appointed from persons, who have done research, investigation, teaching or any other significant work in such as like science, art, literature, law or any other sphere of national life and who hold a high reputation.
- (4) The term of office of the Chairman and the members of the Public Service Commission shall be six years from the date of appointment. They shall be eligible for reappointment:
Provided that: -
 - (a) if before the expiry of his term, the Chairman or a member of the Public Service Commission attains the age of sixty five, he shall retire.
 - (b) the Chairman and the members of the Public Service Commission may be removed from their offices on the same grounds and in the same manner as has been set forth for removal of a Judge of the Supreme Court.
- (5) The office of the Chairman or a member of the Public Service Commission shall be deemed vacant in the following circumstances: -
 - (a) if he dies; or
 - (b) if his resignation submitted to His Majesty in writing is accepted by Him; or
 - (c) if pursuant to clause (4) his term expires or he is removed from his office.
- (6) No person shall be eligible to be appointed as the Chairman or a member of the Public Service Commission unless he:
 - (a) holds a Post Graduate Degree from a university recognised by His Majesty's Government;
 - (b) is not a member of any political party immediately before appointment; and
 - (c) has attained the age of forty five.
- (7) The remuneration and other conditions of service of the Chairman and the members of the Public Service Commission shall be as determined by law. The remuneration and other conditions of service of the Chairman and the members of the Public Service Commission shall not, so long as they hold office, be altered to their disadvantage.
- (8) Any person once appointed to the office of the Chairman or a member of the Public Service Commission shall not be eligible for appointment in other Government Service:
Provided that: -
 - (a) nothing in this clause shall be a bar to appointment of a member of the Public Service Commission as Chairman thereof, and when a member is so appointed as the Chairman, his term of office shall be computed as to include his term as member; and

- (b) nothing in this clause shall be a bar to appointment to any position of a political nature, or to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

102. Functions, Duties and Powers of the Public Service Commission:

- (1) It shall be the duty of the Public Service Commission to conduct examinations for the selection of suitable candidates to be appointed to Civil Service posts.
Explanation: For the purposes of this Article, all services and positions in His Majesty's Government shall be deemed included within the Civil Service, except Army Officers and Soldiers, the service and positions of Police Personnel, and such other services and positions as are excluded from the Civil Service or positions [sic] by any law.
- (2) Permanent appointment to any position in the Civil Service which carries the benefit of pension shall not be made except in consultation with the Public Service Commission.
- (3) The Public Service Commission shall be consulted on the following subjects: -
 - (a) matters concerning the law relating to the conditions of service of the Civil Service;
 - (b) the general principles to be followed in the course of appointment to, promotion to, and departmental action concerning the Civil Service or positions;
 - (c) matters concerning the suitability of any candidate for appointment to a Civil Service position for a period of more than six months;
 - (d) matters concerning the suitability of any candidate for transfer or promotion from one service to another within the Civil Service or from any other Government Service to the Civil Service;
 - (e) matters concerning the permanent transfer or promotion of any employee, working in any position of an organisation which is not required to consult with the Public Service Commission on matters of appointment, to any position for which consultation with the Public Service Commission is required; and
 - (f) matters relating to departmental actions proposed against any Civil Servant.
- (4) Notwithstanding anything contained in clause (3), matters falling within the purview of the Judicial Service Commission pursuant to Article 94 of this Constitution shall be governed by that Article.
- (5) The Public Service Commission may delegate any of its functions, duties and powers to any of its members, a committee of such members or any employee of His Majesty's Government, to be exercised and complied with subject to the specified conditions.
- (6) Subject to this Constitution, other functions, duties and working procedures of the Public Service Commission shall be as regulated by law.
- (7) Each year, the Public Service Commission shall submit to His Majesty an annual report on the works it has performed. His Majesty shall cause such report to be laid before Parliament.

PART 15
ELECTION COMMISSION

103. Election Commission:

- (1) There shall be an Election Commission of the Kingdom of Nepal consisting of a Chief Election Commissioner and such number of other Commissioners as may be required. If apart from the Chief Election Commissioner other Election Commissioners are appointed, the Chief Election Commissioner shall act as the Chairman of the Election Commission.
- (2) His Majesty shall, on the recommendation of the Constitutional Council, appoint the Chief Election Commissioner and other Election Commissioners.
- (3) The term of office of the Chief Election Commissioner and other Election commissioners shall be six years from the date of appointment. They shall be eligible for reappointment: Provided that: -
 - (a) if before the expiry of his term, the Chief Election Commissioner or an Election Commissioner attains the age of sixty five, he shall retire.
 - (b) The Chief Election Commissioner and other Election Commissioners may be removed from their offices on the same grounds and in the same manner as has been set forth for removal of a Judge of the Supreme Court.
- (4) The office of the Chief Election Commissioner or an Election Commissioner shall be deemed vacant in the following circumstances: -
 - (a) if he dies; or
 - (b) if his resignation submitted to His Majesty in writing is accepted by Him; or
 - (c) if pursuant to clause (3) his term expires or he is removed from his office.
- (5) No person shall be eligible to be appointed as the Chief Election Commissioner or an Election Commissioner unless he:
 - (a) holds a Bachelor's Degree from a university recognised by His Majesty's Government;
 - (b) is not a member of any political party immediately before appointment; and
 - (c) has attained the age of forty five.
- (6) The remuneration and other conditions of service of the Chief Election Commissioner and the Election Commissioners shall be as determined by law. The remuneration and other conditions of service of the Chief Election Commissioner and the Election Commissioners shall not, so long as they hold office, be altered to their disadvantage.
- (7) A person once appointed to the office of the Chief Election Commissioner or an Election Commissioner shall not be eligible for appointment in other Government Service: Provided that: -
 - (a) nothing in this clause shall be a bar to appointment of an Election Commissioner as Chief Commissioner, and when a Commissioner is so appointed as the Chief Commissioner, his term of office shall be computed as to include his term as Commissioner.
 - (b) nothing in this clause shall be a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

104. Functions, Duties and Powers of the Election Commission:

- (1) The Election Commission shall, subject to the provisions of this Constitution and other laws, conduct, supervise, direct and control the elections to Parliament and Local Authorities at the village, town and district levels. For these purposes, the Election Commission shall prepare the electoral rolls of voters.
- (2) If, after nominations for election to Parliament have been filed but before the election is completed, a question arises whether a candidate is disqualified or has ceased to possess the qualifications set forth in Article 47, final decision thereon shall be made by the Election Commission.
- (3) The Election Commission may delegate any of its functions, duties and powers to the Chief Election Commissioner, a Commissioner or any employee of His Majesty's Government to be exercised and complied with subject to the specified conditions.
- (4) Subject to this Constitution, other functions, duties and working procedures of the Election Commission shall be as regulated by law.

105. Election Constituency Delimitation Commission:

- (1) His Majesty shall, on the recommendation of the Constitutional Council, constitute an Election Constituency Delimitation Commission. The tenure of the Commission shall be as specified by His Majesty.
- (2) After determining the number of seats in the House of Representatives for each district pursuant to Article 45, The Election Constituency Delimitation Commission shall delimitate the constituencies in districts having more than one seat; and in so delimitating the constituencies, the Commission shall give due consideration to the boundaries, the geographical conditions, the density of population, the transportation facilities, and the communal homogeneity or heterogeneity of the local residents in the administrative districts.
- (3) No question shall be raised in any court on matters of allocation of seats to a district and the delimitation of constituencies made by the Election Constituency Delimitation Commission pursuant to clause (2).
- (4) The remuneration and privileges of the Chairman and the members of the Election Constituency Delimitation Commission shall be similar to those of the Chief Election Commissioner and the Election Commissioners respectively.
- (5) Subject to this Constitution, other functions, duties and working procedures of the Election Constituency Delimitation Commission shall be as regulated by law.

106. Election Court:

Petitions concerning elections shall be entertained by a court prescribed by law.

107. Restriction on Court Interference in Matters Relating to Elections:

Notwithstanding anything contained in other Articles of this Constitution, unless a petition is filed in the manner prescribed by law in the court prescribed under Article 106, no question shall be raised in any court regarding any election to the membership of Parliament.

108. His Majesty's Government to Provide Necessary Employees to the Election Commission:

His Majesty's Government shall provide such necessary employees and other things as may be required to carry out the functions of the Election Commission in accordance with this Constitution.

**PART 16
ATTORNEY-GENERAL**

109. Appointment of Attorney-General:

- (1) There shall be an Attorney-General of the Kingdom of Nepal to be appointed by His Majesty on the recommendation of the Prime Minister. The Attorney-General shall hold office during the pleasure of His Majesty.
- (2) No person shall be eligible to appointment [sic] as Attorney-General unless he is qualified to be appointed as a Judge of the Supreme Court.
- (3) The office of the Attorney-General shall be deemed vacant under the following circumstances:
 - (a) if he dies; or
 - (b) if his resignation submitted to His Majesty in writing is accepted by Him; or
 - (c) if he is relieved of his office by His Majesty on the recommendation of the Prime Minister.
- (4) The remuneration and other conditions of service of the Attorney-General shall be as determined by law.

110. Functions, Duties and Powers of the Attorney-General:

- (1) The Attorney-General shall be the Chief Legal Advisor to His Majesty's Government. It shall be the duty of the Attorney-General to give opinions and advice on constitutional and legal matters to His Majesty's Government and such other authorities as His Majesty's Government may specify.
- (2) The Attorney-General or officers subordinate to him shall represent His Majesty's Government in suits wherein the rights, interests or concerns of His Majesty's Government are involved. The Attorney-General shall have the right to make the final decision as to whether or not to initiate proceedings in any case on behalf of His Majesty's Government in any court or judicial authority.
- (3) In addition to the functions, duties and powers referred to in clauses (1) and (2), other functions, duties and powers of the Attorney-General shall be as specified in this Constitution or other laws.
- (4) In the course of discharging his official duties, the Attorney-General shall have the right to appear in any court, office or authority of the Kingdom of Nepal.
- (5) The Attorney-General may delegate his functions, duties and powers under this Article to his subordinates, to be exercised and complied with subject to the specified conditions.
- (6) Each year, the Attorney-General shall submit an annual report to His Majesty's Government on the works performed by him in accordance with this Constitution and other laws, including a statement about crimes committed in the Kingdom of Nepal and His Majesty's Government shall cause the report to be laid before Parliament.

111. Right to Appear in Parliament:

The Attorney-General shall have the right to appear and express his opinion on any legal question in either House, any of their committees or the Joint Session of Parliament:

Provided that he shall not have the right to vote.

**PART 17
POLITICAL ORGANISATIONS**

112. Prohibition on the Imposition of Restrictions on Political Organisations or Parties:

- (1) Persons who are committed to common political objectives and programmes shall, subject to laws made under proviso (3) of clause (2) of Article 12 of this Constitution, be entitled to form and operate political organisations or parties of their choice and to generate or cause to be generated publicity in order to secure support and cooperation from the general public for their objectives and programmes, and to carry out any other activity for this purpose. Any law, arrangement or decision which restricts any of such activities shall be inconsistent with this Constitution and shall be void.
- (2) Any law, arrangement or decision which allows for participation or involvement of only a single political organisation or party or persons having a single political ideology in the elections or in the political system of the country shall be inconsistent with this Constitution and shall be void.
- (3) The Election Commission shall withhold recognition from any political organisation or any party formed either with the objectives mentioned in clause (2) above or on the basis of religion, community, caste, tribe or region.

113. Registration Required for Securing Recognition for the purpose of Contesting Elections as a Political Organisation or Party:

- (1) Any political organisation or party wishing to secure recognition from the Election Commission for the purposes of elections, shall be required to register its name with the office of the Election Commission in accordance with the procedure as determined by the Commission. A petition so submitted for registration shall contain clear information about the name of the concerned political organisation or party, the names and addresses of the members of its executive committee or any such other committee and such petition shall be accompanied by the rules and manifesto of the organisation or the party.
- (2) Political organisations and parties shall be required to fulfill, in addition to the matters contained in this Part, the following conditions in order to qualify for registration pursuant to clause (1) above:
 - (a) the constitution and rules of the political organisation or party must be democratic;
 - (b) the constitution or the rules of the organisation or party must provide for election of office bearers of the organisation or party at least once every five years;
 - (c) must have complied with the provisions of Article 114; and
 - (d) must have secured a minimum of three percent of the total votes cast in the election to the House of Representatives:
Provided that the terms and conditions mentioned in this sub-clause shall not apply to the contesting of the first election to the House of Representatives held pursuant to this Constitution.

Explanation: If any candidate belonging to a party which has secured less than three percent of the total votes cast is elected to the House of Representatives, such person shall be deemed to be an independent not belonging to an organisation or party.

- (3) The Election Commission shall not register any political organisation or party if any Nepali citizen of is discriminated against in becoming a member on the basis of religion, caste, tribe, language or sex or if the name, objectives, insignia or flag is of such a nature that it is religious or communal or tends to fragment the country.

114. Woman Candidates:

For the purposes of elections to the House of Representatives, at least five percent of the total number of candidates contesting an election from any organization or party must be women candidates.

PART 18 EMERGENCY POWER

115. Emergency Power:

- (1) If a grave crisis arises in regard to the sovereignty or integrity of the Kingdom of Nepal or the security of any part thereof, whether by war, external aggression, armed rebellion or extreme economic disarray, His Majesty may, by Proclamation, declare or order a State of Emergency in respect of the whole of the Kingdom of Nepal or of any specified part thereof.
- (2) Every Proclamation or Order issued under clause (1) above shall be laid before a meeting of the House of Representatives for approval within three months from the date of issuance.
- (3) If a Proclamation or Order laid for approval pursuant to clause (2) is approved by a two-thirds majority of the House of Representatives present at that meeting, such Proclamation or Order shall continue in force for a period of six months from the date of issuance.
- (4) If a Proclamation or Order laid for approval pursuant to clause (2) is not approved pursuant to clause (3), such Proclamation or Order shall be deemed *ipso facto* to cease to operate.
- (5) Before the expiration of the period referred to in clause (3), if a meeting of the House of Representatives, by a majority of two-thirds of the members present, passes a resolution to the effect that circumstances referred to in clause (1) above continue to exist, it may extend the period of the Proclamation or Order of the State of Emergency for one other period, not exceeding six months as specified in such resolution, and the Speaker shall inform His Majesty of such extension.
- (6) During a dissolution of the House of Representatives, the National Assembly shall exercise the powers of the House of Representatives for the purposes of clauses (2), (3), (4) and (5) above.
- (7) After the State of Emergency has been declared pursuant to clause (1), His Majesty may issue such Orders as are necessary to meet the exigencies. Orders so issued shall be operative with the same force and effect as law so long as the State of Emergency is in operation.
- (8) His Majesty may, at the time of making a Proclamation or Order of a State of Emergency pursuant to clause (1), suspend sub-clauses (a), (b), (d) and (e) of clause (2) of Article 12, clause (1) of Article 13 and Articles 15, 16, 17, 22 and 23 of this Constitution for as long as the Proclamation is in operation:

Provided that the right to the remedy of *habeas corpus* under Article 23 shall not be suspended.

- (9) In circumstances where His Majesty has suspended any Article of this Constitution pursuant to clause (8), no petition may lie, nor question be raised in any court for the enforcement of the fundamental right conferred by such Article.
- (10) If, during the continuance of a Proclamation or Order under clause (1), any damage is inflicted upon any person by an act of any official which was done in contravention of law or in bad faith, the affected person may, within three months from the date of termination of the Proclamation or Order, file a petition for compensation for the said damage and if the court finds the claim valid, it shall cause compensation to be delivered.
- (11) A Proclamation or Order of a State of Emergency issued pursuant to clause (1) may be revoked by His Majesty at any time during its continuance.

PART 19 AMENDMENT OF THE CONSTITUTION

116. Amendment of the Constitution:

- (1) A bill to amend or repeal any Article of this Constitution, without prejudicing the spirit of the Preamble of this Constitution, may be introduced in either House of Parliament:

Provided that this Article shall not be subject to amendment.

- (2) If each House, with a two-thirds majority of its total membership attending, passes a Bill introduced pursuant to clause (1) by a majority of at least two-thirds of the members present, the Bill shall be submitted to His Majesty for assent; and His Majesty may, within thirty days from the date of submission, either grant assent to such Bill or send the Bill back for reconsideration with His message to the House where the Bill originated.
- (3) A Bill sent back by His Majesty pursuant to clause (2) above shall be reconsidered by both Houses of Parliament; and if both the Houses, upon following the procedures referred to in clause (2), resubmit the Bill in its original or amended form to His Majesty for assent, His Majesty shall grant assent to such Bill within thirty days of such submission.

PART 20 MISCELLANEOUS

117. Constitutional Council:

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

(a) the Prime Minister	Chairman;
(b) the Chief Justice	Member;
(c) the Speaker of the House of Representatives	Member;
(d) the Chairman of the National Assembly	Member; and
(e) the Leader of the Opposition in the House of Representatives	Member.

- (2) For the purpose of recommendation of an appointment of the Chief Justice, the Constitutional Council shall include among its members the Minister of Justice and a Judge of the Supreme Court.
- (3) The functions, duties and powers of the Constitutional Council shall be as determined by this Constitution and other laws.
- (4) The Constitutional Council constituted pursuant to clause (1) shall have the power to regulate its working procedures on its own.

118. Provisions Regarding the Royal Nepal Army:

- (1) There shall be a National Defence Council of Nepal consisting of the following as Chairman and members: -
 - (a) the Prime Minister Chairman;
 - (b) the Defence Minister Member, and
 - (c) the Commander-in-Chief Member.
- (2) His Majesty shall operate and use the Royal Nepal Army on the recommendation of the National Defence Council.
- (3) The establishment and management of the Royal Nepal Army, and other matters relating thereto, shall be as determined by law.
- (4) The National Defence Council shall have the power to regulate its working procedures on its own.

119. Supreme Command of the Royal Nepal Army and Appointment of the Commander-in-Chief:

- (1) His Majesty is the Supreme Commander of the Royal Nepal Army.
- (2) His Majesty shall appoint the Commander-in-Chief of the Royal Nepal Army on the recommendation of the Prime Minister.

120. Royal Nepalese Ambassadors and Emissaries:

- (1) His Majesty shall appoint the Royal Nepalese Ambassadors.
- (2) His Majesty may designate a Royal Representative for representing Him on special occasion, and may appoint a Special Emissary for a specified purpose.

121. Provisions Regarding Employees of the Royal Palace:

Matters relating to the conditions of service of the employees of the Royal Palace including those of appointment, dismissal, salary, allowances, leave and pension shall be as determined by rules made by His Majesty at his discretion.

122. Pardons:

His Majesty shall have the power to grant pardons and to suspend, commute or remit any sentence passed by any court, special court, military court or by any other judicial, quasi-judicial or administrative authority or institution.

123. Titles, Honours and Decorations:

- (1) The titles, honours or decorations to be conferred on behalf of the state shall be conferred by His Majesty.
- (2) No citizen of Nepal shall, without the approval of His Majesty, accept any title, honour or decoration from the government of any country.

124. Constitution of the Civil Service:

His Majesty's Government may, in order to run the administration of the country, constitute services as may be required. The constitution, operation and conditions of service thereof shall be as determined by an Act.

125. Provisions Regarding Citizenship of Officials of the Constitutional Bodies:

In order to be eligible for appointment to constitutional positions under this Constitution, a person must either be a citizen of Nepal by birth or descent, or be a person who, as a naturalised citizen, has resided in Nepal for at least ten years.

126. Ratification of, Accession to, Acceptance of or Approval of Treaty or Agreements:

- (1) The ratification of, accession to, acceptance of or approval of treaties or agreements to which the Kingdom of Nepal or His Majesty's Government is to become a party shall be as determined by law.
- (2) The laws to be made pursuant to clause (1) shall, *inter alia*, require that the ratification of, accession to, acceptance of or approval of treaties or agreements on the following subjects be done by a majority of two-thirds of the members present at a joint sitting of both Houses of Parliament: -
 - (a) peace and friendship;
 - (b) defence and strategic alliance;
 - (c) boundaries of the Kingdom of Nepal; and
 - (d) natural resources, and the distribution of their uses.

Provided that out of the treaties and agreements referred to in 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 done at a meeting of the House of Representatives by a simple majority of the members present.
- (3) After the commencement of this Constitution, unless a treaty or agreement is ratified, acceded to, accepted or approved in accordance with this Article, it shall not be binding on His Majesty's Government or the Kingdom of Nepal.
- (4) Notwithstanding anything contained in clauses (1) and (2), no treaty or agreement shall be concluded in [sic] detrimental to the territorial integrity of the Kingdom of Nepal.

127. Power to Remove Difficulties:

If any difficulty arises in connection with the implementation of this Constitution, His Majesty may issue necessary Orders to remove such difficulty and such Orders shall be laid before Parliament.

PART 21 TRANSITIONAL PROVISIONS

128. Provisions Regarding The Council of Ministers:

- (1) The Council of Ministers existing at the commencement of this Constitution shall be deemed to have been constituted under this Constitution.
- (2) If, for any reason the Council of Ministers referred to in clause (1) is dissolved, His Majesty shall constitute a new Council of Ministers consisting of representatives from the main political parties.
- (3) A Council of Ministers constituted under clause (2) above shall consist of a Prime Minister and, on his recommendation, other Ministers, State Ministers and Assistant Ministers as may be required.

129. Making of Laws until the First Session of Parliament:

After the commencement of this Constitution, His Majesty shall have the power to enact laws as required on the recommendation and advice, and with the consent of the Council of Ministers until the commencement of the first session of Parliament.

130. Provisions Regarding Constitutional Bodies and Officials thereof Appointed Pursuant to the Constitution of Nepal (1962):

- (1) The Constitutional Bodies and officials thereof subsisting at the commencement of this Constitution, but which are not reestablished under this Constitution, shall cease to subsist after the commencement of this Constitution; and the officials working in the Constitutional Bodies which continue to subsist in accordance with this Constitution shall stand relieved of their offices if not reappointed within nine months of the commencement of this Constitution:
Provided that His Majesty may, if necessary, relieve any constitutional official before the expiry of the said period.
- (2) The Council of Ministers shall exercise the functions, duties and powers of the Constitutional Council until the commencement of the first session of Parliament after the elections held in accordance with this Constitution.
- (3) Pending the making of arrangements as to the Appellate Courts pursuant to Article 89, the Zonal Courts and Regional Courts constituted under the Judicial Administration Reforms Act, 1975 shall remain in operation as they were, and the Judges working in those courts shall continue to hold their positions.
- (4) The District Courts existing at the commencement of this Constitution shall, until otherwise provided by law, continue to subsist, and the Judges working in those Courts shall continue to hold their positions until a different arrangement is made.
- (5) Petitions and complaints pending in the Prevention of Abuse of Authority Commission shall be transferred to the Commission for the Investigation of Abuse of Authority.
- (6) Cases which are pending in the Prevention of Abuse of Authority Commission shall be transferred to the Central Regional Court existing under clause (3), and the Regional Court shall decide those cases in accordance with the existing law.

- (7) Appeals, and petitions relating thereto pending in the Prevention of Abuse of Authority Appellate Court shall be transferred to the Supreme Court and the Supreme Court shall decide those appeals and petitions in accordance with the existing law.
- (8) Petitions registered with the Judicial Committee in accordance with law and pending therein shall be transferred to the Supreme Court after the commencement of the Constitution, and if the Supreme Court deem appropriate, it shall, in exercising its power of review, decide those petitions.

131. Existing Laws to Remain in Operation:

All laws in force at the commencement of this Constitution shall remain in operation until repealed or amended:

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

PART 22 DEFINITIONS AND INTERPRETATION

132. Definitions and Interpretation:

- (1) Unless the subject or context otherwise requires, in this Constitution: -
 - (a) "Article" means an Article of this Constitution;
 - (b) "Nepal" means the Kingdom of Nepal;
 - (c) "Citizen" means a citizen of Nepal;
 - (d) "Bill" means a draft of an Act which has been introduced in Parliament;
 - (e) "Petition" means a document bearing the signature of the petitioner;
 - (f) "Remuneration" means and includes salary, allowances, pension and any other forms of emoluments.
- (2) Unless the subject or context otherwise requires, the Nepal Law Interpretation Act, 1953 shall, subject to the provisions of this Constitution, apply to the interpretation of this Constitution in the same manner as that law applies to the interpretation of the laws of Nepal.

PART 23 SHORT TITLE AND COMMENCEMENT

133. Short Title and Commencement:

- (1) This Constitution may be called "The Constitution of The Kingdom of Nepal, 2047 (1990)."
- (2) This Constitution shall come into force on Friday the twenty-third day of the month of Kartik of the year 2047 Bikram Sambat (November 9, 1990).

SCHEDULE 1

(Relating to Article 5)

NATIONAL FLAG

- (A) Method of Making the Shape inside the Border
- (1) On the lower portion of a crimson cloth draw a line AB of the required length from left to right.
 - (2) From A draw a line AC perpendicular to AB making AC equal to AB plus one third AB. From AC mark off D making line AD equal to line AB. Join BD.
 - (3) From BD mark off E making BE equal to AB.
 - (4) Touching E draw a line FG, starting from the point F on line AC, parallel to AB to the right hand-side. Mark off FG equal to AB.
 - (5) Join CG.
- (B) Method of Making the Moon
- (6) From AB mark off AH making AH equal to one-fourth of line AB and starting from H draw a line HI parallel to line AC touching line CG at point I.
 - (7) Bisect CF at J and draw a line JK parallel to AB touching CG at point K.
 - (8) Let L be the point where lines JK and HI cut one another.
 - (9) Join JG.
 - (10) Let M be the point where line JG and HI cut one another.
 - (11) With centre M and with a distance shortest from M to BD mark off N on the lower portion of line HI.
 - (12) Touching M and starting from O, a point on AC, draw a line from left to right parallel to AB.
 - (13) With centre L and radius LN draw a semi-circle on the lower portion and let P and Q be the points where it touches the line OM respectively.
 - (14) With centre M and radius MQ draw a semi-circle on the lower portion touching P and Q.
 - (15) With centre N and radius NM draw an arc touching PNQ [sic] 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 line AB 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 sides of the flag. However, on the five angles of the flag the external angles will be equal to the internal angles.

(24) The above mentioned border will be provided if the flag is to be used with a rope. On the other hand, if it is to be hoisted on a pole, the hole on the border on the side AC can be extended according to requirements.

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

SCHEDULE 2

(Relating to Clause (1) of Article 7)

[NATIONAL ANTHEM]

SHRIMAN GAMBHIRA NEPALI PRACHANDA PRATAPI BHUPATI
SHREE PANCH SARKAR MAHARAJADHIRAJAKO SADA RAHOS UNNATI
RAKHUN CHIRAYU EESHALE. PRAJA FAALIYOS PUKARAUN JAYA PREMALE
HAMI NEPALI SARALE.
BAIRI SARA HARAUN SHANT HOUN SABAI BIGHNA VYATHA.
GAUN SARA DUNIYALE SAHARSHA NATHIKO SUKIRTI-KATHA
RAKHAUN SHASANA. BHARI BEERTALE. NEPAL MATHI SANDHAI NATHKO
SHRI HOS THULO HAMI NEPALIKO

SCHEDULE 3

(Relating to clause (3) of Article 7)

THE COAT-OF-ARMS OF NEPAL

EDITOR'S NOTES

- 1 Bahujātiya; the 1990 English draft translation had "multicaste." Cf. Article 11 (2) *et. seq.*
- 2 In earlier, unofficial translations of the Constitution, Nepali was defined as the "national languages", and the other languages as "languages of the Nation."
- 3 Dharma parivartana garāuna, cause the other person's religion to be changed or converted to one's own. This prohibition was added after the draft constitution, in conformity with earlier anti-proselytizing and anti-missionary laws. In the past, such prohibitions were sometimes interpreted broadly enough to justify action against those who changed their own religious affiliations to another religion.
- 4 In earlier unofficial translations, "His Majesty shall abide by and protect this Constitution...".
- 5 In earlier unofficial translations, the State Council.
- 6 Earlier unofficial translations had "move".
- 7 Unofficial translations had "certified by his signature."
- 8 Cf. Article 59 above and accompanying note.
- 9 *Guthi*.

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