



## Statement of Purpose

It is evident that the Constitutional Assembly of Nepal is failing to concur on designing a new constitution and is prolonging the political stalemate in the country. To end this ongoing political impasse, it is imperative that someone from civil society steps up and suggests a possible governing document that would inevitably succeed in forming an effective and stable government.

Realizing the political stalemate that our country is currently in, we - a group of individuals from civil society - propose a new constitution on behalf of all Nepalese citizens residing within and outside Nepal. We name it “The Constitution of Nepal”. We would like to inform all our readers that we are neither professional writers nor members of the constitutional assembly. Also, there might be several flaws in the proposed constitution that we are unaware of. Our intention is to suggest a model of a new constitution to respective authorities and we strongly believe that they will improve it, if necessary, without changing its essence.

If we look back and analyze, the political impasse that has been infecting the country can be attributed to the way Constitution of Nepal (1990) was structured. The following two provisions in the constitution mainly provide room for political instability:

- a. The provision of selecting a leader of the party, with the majority of seats in parliament, as the Prime Minister.
- b. The provision that requires a coalition government to gain the vote of confidence from the parliament.

With the intention of not repeating these and other similar flaws, we provide alternatives which, we believe, will foster effective governance.

The major change in the proposed constitution is the selection procedure of the Prime Minister. Unlike the previous system, the Prime Minister will be elected via universal suffrage by a two-round voting system. In case the first round of election fails to elect the Prime Minister with simple majority, the second round will be held. We believe the direct election of the Prime Minister will minimize the role of political parties and, unlike before, avoid any situation that might arise in a power struggle within/among them. Consequently, the formation of a coalition government and the requirement of vote of confidence for newly appointed ministers will come to an end. However, in the proposed constitution, the House of Representatives could still pass a vote of no confidence, with at least two-third of its total members, upon which the Prime Minister will be required to form a new Cabinet.

Although the procedural details of the presidential election are not mentioned in the proposed constitution, we suggest that this election be conducted via an instant runoff voting by the members of the House of Representatives. The proposed constitution permits the House of Representatives to pass a bill on this issue and determine its method. In addition, the proposed constitution also allows the House of Representatives to choose a method of election for its members. To get the new system started, we suggest the following procedures be adopted. The Election commission, with the approval of the President, shall determine the number of constituencies and the number of seats for Juniors of the House of Representatives. The election of Juniors of the House of Representatives shall be done directly by universal suffrage via first-



past-the- post voting system. Seniors of the House of Representatives shall consist of two members from each political party registered in the existing Election Commission of Nepal. After the establishment of the House of Representatives, a new law could be passed regarding the number of constituencies and the number of seats in the House of Representatives.

The government of Nepal consists of the President, the Legislative, the Executive, the Judiciary, and the Election Commission. The president is the symbolic figure of peace and unity of Nepal. Under the president's authority, various offices like Commission for the Investigation of Abuse of Authority and National Intelligence Agency, work with other government bodies in order to prevent the abuse of authority and to maintain peace and harmony in the country. The legislative body is unicameral and can impeach any government official for moral and ethical misconduct and/or abuse of authority. The executive role is officiated by the cabinet. The Judiciary is composed of a hierarchy of courts and ensures the constitutionality of the proposed and imposed laws. The courts determine penalty for abuse of law and order. The Election Commission conducts, supervises, directs, and controls the election of the Prime Minister, members of the House of Representatives, and other public officials.

Nepal is a democratic republic. The proposed constitution creates a unitary central system of government but it permits administrative subdivision for the ease of governance. However, this document does not allow federalism of any kind. Therefore, we believe any individual or group/sect that attempts to divide Nepal into autonomous regions should be punished. We strongly advocate unity in diversity.

We have witnessed that political turmoil has hindered the peace process and the overall development of Nepal. Any visionary leader should see that merely ending an undemocratic regime will not benefit the country, but leading it wisely will. Leaders should work to unite people, not to divide them. However, we have seen many cases showcasing the opposite in our country. Today, the Nepalese people want peace and prosperity; they want to secure their future and the future of the upcoming generations. Therefore, we propose this constitution with the aim of establishing a stable and effective government. We appeal to all Nepalese people to unite in order to create a peaceful and prosperous Nepal.



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## References:

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2. The Constitution of Nepal 1962.
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11. The Constitution of the Republic of Turkey 1982.
12. Constitution of the Federative Republic of Brazil 1988.



# **THE CONSTITUTION OF NEPAL**

**2068 B.S.**



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- Election Commission
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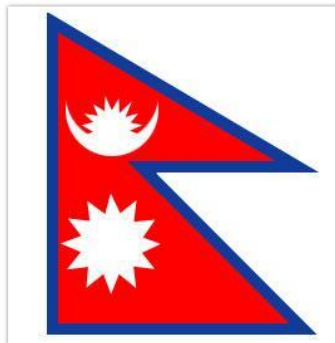
## **PREAMBLE**

We, the Nepalese, proclaim that the sovereign power of democratic republic of Nepal resides within the people of Nepal who shall exercise it through freely elected representatives and by means of a referendum. Based on our experiences with numerous political and historical challenges that include the decade long insurgency, 104 years of Rana regime, and more importantly, the end of the 240 years of monarchical system, we have drafted this supreme law to maintain peace and establish a stable form of government in Nepal. We reject and revoke all constitutions, laws and rules, in conflict herewith. We invest our resources to create a peaceful and secure society and to preserve the rights of Nepalese citizens.

## **CHAPTER I: NATIONAL IDENTITY**

Nepal is a country consisting people of various religions, ethnicities, and cultures with the notion of unity in diversity and respect for each other. Nepalese national identities reflect this notion of unity and represent the nature and belief of the entire Nepalese people.

The national flag of Nepal shall be the one shown in figure below:



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

The official language of Nepal shall be Nepali and the official script shall be Devnagari. All other languages spoken as mother tongue in Nepal shall be regarded as the national language of Nepal.

All other national identities shall be provided by law.



## **CHAPTER II: RIGHTS AND RESPONSIBILITIES**

### **A. Rights:**

#### **Article 1:**

1. A child born to Nepalese father and Nepalese mother shall be a Nepalese citizen.
2. Other conditions necessary for being a Nepalese citizen shall be determined by law.

#### **Article 2:**

Each citizen is equal under this constitution and there shall be no discrimination in any regard.

#### **Article 3:**

Citizens shall not be prevented from enjoying any of the fundamental human rights guaranteed by this constitution and it is the responsibility of public officials to protect these rights.

#### **Article 4:**

Right to life, liberty, and the pursuit of happiness shall, to the extent that it does not affect public welfare, be protected and be the supreme consideration in all legislations and governmental affairs.

#### **Article 5:**

Every person shall have the right to health care, food, water and shelter. No citizen shall be denied from emergency medical treatment. The state must use its available resources to achieve this right.

#### **Article 6:**

No citizen shall be exiled.

#### **Article 7:**

Privacy of a person is inviolable.

#### **Article 8:**

1. Universal adult suffrage shall be the medium of election of public officials.



2. In all elections, secrecy of ballot shall not be violated. A voter shall not be answerable for the choice he/she has made.
3. Every citizen shall have the right to choose their public officials. The minimum age required to be able to vote shall be provided by law.
4. All public officials are servant of the whole community and not of any individual or group thereof.

### **Article 9:**

1. Every person shall have the right to petition in court for compensation to any personal damage and violation of their rights. No person shall be punished for filing such a petition.
2. Every citizen shall have the right to petition in court for the amendment of laws and regulations. No citizen shall be punished for filing such a petition.
3. Every citizen has the right to file a complaint about the member of the House of Representatives, the Executive, the Judiciary, and the Election Commission to the House of Representatives in writing. The House of Representatives shall investigate the issue and reply in a reasonable time. If the complaint is of public interest, then the result shall be made public.

### **Article 10:**

Bondage of any kind and involuntary servitude, except as punishment for crimes, is prohibited. Human trafficking is prohibited.

### **Article 11:**

Freedom of thought and conscience shall not be violated.

### **Article 12:**

1. Every person shall have the right to follow the religion of his/her choice.
2. No person shall be compelled to participate in any religious acts, celebration, rite or practice.

### **Article 13:**

1. Every citizen shall have the right to form a political party or join any political party of his/her choice.
2. Every person shall have the right to form an association and assemble peacefully.
3. Every person shall have the right to demonstrate peacefully.

### **Article 14:**

Freedom of speech, press and all other forms of expression are guaranteed. No censorship shall be maintained in any means of communication.



### **Article 15:**

1. Every citizen shall have the right to move and reside in any part of Nepal and choose his/her occupation.
2. Every citizen shall be allowed to move to a foreign country and change the nationality if he/she wants.
3. No citizen shall be deprived of citizenship and a passport.

### **Article 16:**

Every citizen shall have the right to education and it shall be considered unlawful to discriminate and remove anyone from an educational institution in any circumstances except for academic and moral misconduct.

### **Article 17:**

1. Every person shall have the right to work and all types of work shall be respected by law.

Explanation: For the purpose of this constitution, “work” means all work approved by the law. And “person” means all person that are authorized to work in Nepal.

2. Standards for wages, hours, and other working conditions shall be fixed by law.
3. Every person shall have the right against exploitation. Obligations regarding children employment shall be regulated by law.

### **Article 18:**

The right of workers to organize and to bargain collectively shall be guaranteed.

### **Article 19:**

1. Every person shall have the right to own and sell his/her property.
2. If necessary, private property may be taken for public use by the government upon compensation.

### **Article 20:**

No person shall be denied the right of access to a court of justice.

### **Article 21:**

No person shall be arrested except upon warrant, unless caught performing unlawful act, issued by a judicial officer who specifies the offense with which the person is charged.



### **Article 22:**

Every person shall have the right to counsel with his/her lawyer. State is liable to provide a lawyer at public expense if he/she does not have one. Upon the request of the arrested person, the case must be prosecuted in open court in his/her presence.

### **Article 23:**

Every person shall have the right to be secure in their property. Entries, searches, and seizure of property shall be done only upon warrant issued by judicial officer. The warrant must describe the cause and, particularly, the place to be searched and things to be seized.

### **Article 24:**

Penalty for a crime shall be established by law. Suspects shall be prosecuted at court and, if found guilty, shall be penalized according to the court order. Any additional penalty or punishment, except the one imposed by the court, is prohibited and shall be considered unlawful. No person shall be prosecuted or punished for the same offense in a court of law more than once.

### **Article 25:**

In all criminal cases, the accused shall enjoy the right to a speedy public trial by an impartial tribunal. He/she shall be permitted full opportunity to examine all witnesses, and he/she shall have the right of a compulsory process for obtaining witnesses on his behalf at public expense.

### **Article 26:**

No person shall be compelled to testify against himself/herself. No person shall be convicted or punished in cases where the only proof against him/her is his/her own confession.

### **Article 27:**

No person shall be held criminally liable for an act which was lawful at the time it was committed or of which he/she had been acquitted. Nor shall he/she be placed in another trial.

### **Article 28:**

Every person shall have the right to sue the state for redress, as provided by law, in case he/she has been acquitted after being arrested or detained.



### **Article 29:**

The Government shall have the right to impose temporary restrictions, if necessary, on the rights. However, the right to life is not impaired. The Supreme Court shall decide on the validity of these restrictions.

## **B. Responsibilities:**

### **Article 30:**

It is the responsibility of every person to pay tax.

### **Article 31:**

It is the responsibility of every person to follow the law.

### **Article 32:**

It is the responsibility of every person to protect their own life, liberty, and property.

### **Article 33:**

It is the responsibility of every citizen to protect the sovereignty of Nepal and join government service when called.

### **Article 34:**

It is the responsibility of every person to support themselves and their immediate family members.

### **Article 35:**

It is the responsibility of every person to stay informed.

### **Article 36:**

It is the responsibility of every citizen to educate themselves about elections and its candidates. Every citizen, therefore, is responsible to vote eligible person to any public offices.

### **Article 37:**

It is the responsibility of every person to protect public property and natural resources.



**Article 38:**

It is the responsibility of every person to support scientific achievements and discoveries that shall be used for the benefit of the entire state.

**Article 39:**

It is the responsibility of every person to establish harmony among them and to create a peaceful society.



## **CHAPTER III: THE PRESIDENT**

### **Article 40:**

The President shall be elected by at least a simple majority of votes of the members of the House of Representatives.

### **Article 41:**

Qualifications of the President:

1. Must be a natural born citizen of Nepal.
2. Other qualifications shall be determined by law.

### **Article 42:**

The President shall perform the following acts in matters of state on behalf of the people:

1. Appoint the following personals
  - a. Prime Minister as elected from an election with at least a simple majority.
  - b. Judges of the Supreme Court and Subordinate Court as approved by the House of Representatives. The list of the candidates for the post of judges shall be recommended to the House of Representatives by the Judicial Council. Provided that the President may delegate his/her authority to the Chief Judge of the Supreme Court for the appointment of the Subordinate Court's judges.
  - c. Chief Election Commissioner and other officials of the Election Commission as approved by the House of Representatives.
  - d. Chief of offices under the House of President.
  - e. Vice President and other members of the House of President. Number of members of the House of President shall be determined by law.
  - f. Ambassadors as recommended by the Cabinet.
2. Promulgate the amendments to the constitution, laws, cabinet orders, and treaties.
3. Attestation of general and special amnesty.
4. Awarding honors.
5. Attestation of instruments of ratification and other diplomatic documents as provided by law. No new treaty shall be signed without the approval of the Prime Minister and the House of Representatives.
6. Approve the resignation of his/her appointee. Unless otherwise mentioned by the law, he/she shall appoint the new one following the procedure mentioned in Section 1 of Article 42.



### **Article 43:**

All public officials appointed by the President and serving under the House of President shall be a natural born citizen of Nepal.

### **Article 44:**

The president shall focus on the national security and unity. He/she shall have the right to establish offices as required to fulfill these purposes. Also, the President, and the offices under the House of President, is obliged to confer with the Cabinet regarding the issue on national security.

#### A. Offices under the House of Presidents are:

1. National Intelligence Agency of Nepal
2. Commission for the Investigation of Abuse of Authority

#### B. Terms and conditions of the offices under the House of Presidents:

1. Chief of these offices shall be appointed by the President.
2. All other required officers shall be appointed by the chief.
3. The term of office of chief shall be 6 years with the possibility of re-election.
4. All officers of these offices must be natural born citizens of Nepal.
5. Other qualifications shall be determined by law.
6. Once appointed, the President shall be able to remove the chief from his/her office only if the chief is incapable of holding his/her office due to medical reason or declared guilty by the Supreme Court for moral or ethical misconduct or abuse of authority.
7. Rules regarding actions and limitations of the offices under the House of President shall be determined by law.
8. These offices shall work mutually with the Cabinet and the Judiciary to create secure and corruption free society.

### **Article 45:**

If there is a vacancy in the post of President, then the House of Representatives shall elect a new President with a simple majority of votes. Meanwhile, the Vice President shall act as acting President of the state. If there is vacancy in the post of both President and Vice President simultaneously, then the presiding officer of the House of Representative shall act as the acting President of the state until a new President is elected.

### **Article 46:**

1. The President will receive the compensation, as provided by law, for his/her contribution that shall not decrease during his/her presidency.
2. All the expenses, as provided by law, required for the House of President and the offices under the House of President shall be provided from the national treasury.



## **CHAPTER IV: THE HOUSE OF REPRESENTATIVES**

### **Article 47:**

The House of Representatives shall be the law-making organ of the State.

### **Article 48:**

1. The members of the House of Representatives shall belong to one of the two co-equal categories: Juniors and Seniors.
2. The number of electoral districts shall be fixed by law. One member shall be elected from each electoral district.

### **Article 49:**

The term of office of members of the House of Representatives shall be six years and election of half the members shall take place every three years. Newly elected half shall be Juniors of the House of Representatives. On the same day when new Juniors of the House of Representatives are elected, Seniors of the House of Representatives shall be replaced by existing Juniors of the House of Representatives and they are then regarded as the Seniors of the House of Representatives.

### **Article 50:**

1. The House of Representatives shall consist of elected representatives of the people.
2. Members must be Nepalese citizen.
3. Other qualifications of members of the House of Representatives shall be fixed by law.

### **Article 51:**

Electoral districts, method of voting, and other matters pertaining to the method of election of members of the House of Representatives shall be provided by law.

### **Article 52:**

The House of Representatives shall select officials from its members required to run the house. The House shall establish its rules pertaining to meetings, proceedings, and internal discipline and shall punish members for disorderly conduct. However, in order to expel a member, unless otherwise mentioned in this constitution, a majority of at least two-thirds of the members present must pass a resolution.



### **Article 53:**

If there is a vacancy in the House of Representatives, the vacancy shall be filled by the candidate who bore an immediate loss in the recent House of Representatives election to the member who caused the vacancy.

### **Article 54:**

Members of the House of Representatives shall receive appropriate compensation, as provided by law, which shall not be decreased during their term of office.

### **Article 55:**

Member of the House of Representatives shall be exempt from apprehension while he/she is in session, and any member apprehended before the opening of the session shall be freed during the term of the session upon demand of the House.

### **Article 56:**

Member of the House shall not be held liable outside the House for speeches, debates, or vote cast inside the House.

### **Article 57:**

1. Business shall not be transacted in the House unless two-third or more of the total members are present.
2. If a member of the House is absent for three or more meetings in a period of one month without an acceptable excuse, he/she shall be put in trial for removal from the House. In this case, the member shall be removed from the House with a simple majority of votes of the members present.
3. All matters shall be decided by a majority of those present, except mentioned elsewhere in this Constitution, and in case of a tie, the presiding officer shall decide the issue.

### **Article 58:**

1. Deliberation in the House shall be made public. However, a secret meeting may be held where a majority of at least one-third of the members present passes a resolution.
2. House shall keep a record of proceedings. This record shall be published and given general circulation, except in the case of a secret session as may be deemed to require secrecy.
3. Upon demand of at least one-fifth of the members present, votes of the members on any matter shall be recorded in the minutes and be made public.



## **Article 59:**

Following procedure shall be followed to enact a bill

1. If the House of Representatives and the Prime Minister pass a bill, that bill becomes a law.
2. A bill, which is passed by the House of Representatives, and upon which the Prime Minister makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives with a majority of at least two-third of the total members in the House of Representatives.
3. The provision of the preceding paragraph does not prohibit the House of Representatives from calling for the meeting of a joint committee of the Cabinet and the House of Representatives in order to reach the common ground.
4. In case of a failure by the Prime Minister to take final action within thirty days after receiving a bill passed by the House of Representatives, it shall be automatically considered as the law.

## **Article 60:**

Following procedure shall be followed to pass a budget plan

1. The budget must first be submitted to the House of Representatives by the Cabinet.
2. Upon consideration of the budget, when the House of Representatives disagrees with the Cabinet, and when no agreement can be reached even through a joint committee formed by the selected members of the House of Representatives and the Cabinet, the decision of the Cabinet shall be final unless two-third of the total members in the House of Representatives agreed to follow their form of budget plan.
3. If the House of Representatives become unable to present a budget passed by at least two-third of the total members within 10 days from the day of the failure of the process mention in Section 2 of Article 60, then the budget presented by the Cabinet shall be final budget plan for that fiscal year.

## **Article 61:**

1. The House of Representatives may conduct investigations in relation to the government and may demand the presence and testimony of witnesses and the production of records.
2. The House of Representatives may block spending from national treasury with the majority of at least two-third votes of the total members in the House of Representatives in all cases except
  - a. Wage of public employees
  - b. Medical expenses of citizens
  - c. Expenses required for basic needs



## **Article 62:**

Impeachment of the President, the Prime Minister, judges of the Supreme Court, and the Election Commissioner, who have been accused of moral and ethical misconduct or abuse of authority, shall be done in the following way.

1. Impeachment of the President
  - a. The House of Representatives shall set up an impeachment court from among the members of House and the judges of the Supreme Court for the purpose of trying the President against whom removal proceedings have been instituted.
  - b. With 75% or more votes of the total members of the House of Representatives, the President shall be removed from his/her office.
2. Impeachment of the Prime Minister
  - a. The House of Representatives shall set up an impeachment court from among the members of House and judges of Supreme Court for the purpose of trying the Prime Minister against whom removal proceedings have been instituted.
  - b. With 75% or more votes of the total members of the House of Representatives, the Prime Minister shall be removed from his/her office.
3. Impeachment of the Judges
  - a. The House of Representatives shall set up an impeachment court from among the members of House and judges of Supreme Court for the purposes of trying those judges against whom removal proceedings have been instituted.
  - b. With at least the majority of votes of the members of the House of Representatives, the judge shall be removed from his/her office.
4. Impeachment of the Election Commissioner
  - a. The House of Representatives shall set up an impeachment court from among the members of House and judges of Supreme Court for the purposes of trying the Election Commissioner against whom removal proceedings have been instituted.
  - b. With the at least the majority of votes of the members of the House of Representatives, the Election Commissioner shall be removed from his/her office.

## **Article 63:**

The House of Representatives shall have the right to decide what shall be done in all situations that has not been mentioned in the Constitution.



## **CHAPTER V: THE CABINET**

### **Article 64:**

Executive power shall be vested in the Cabinet, and it is its responsibility to make sure that the law and order is maintained in the state.

### **Article 65:**

All the administrative actions shall be carried out in the name of “The Government of Nepal”.

### **Article 66:**

1. The Cabinet shall consist of the Prime Minister, who shall be its head, Deputy Prime Minister, and other Ministers of State.
2. The members of the Cabinet must be natural born citizens of Nepal.
3. Other qualifications shall be determined by the law.

### **Article 67:**

1. The Prime Minister shall be elected for a four year term by a simple majority of votes polled by voters.
2. He/she can run for reelection for successive term no more than once.

### **Article 68:**

The candidates, approved by Election Commission, for the post of Prime Minister shall declare their candidacy officially.

### **Article 69:**

Election of the Prime Minister shall be done in following way:

1. The Prime Minister shall be elected by a simple majority of votes of qualified voters.
2. If none of the candidates acquire a majority of votes in first round election, then there shall be a second round election within 10 days after the announcement of the result of first round election.
3. Two candidates who received the greatest number of votes in the first round election shall participate in the second round election. The candidate who receives the greatest number of votes in second round election shall be appointed as the Prime Minister.
4. If one of the candidates running for second round election withdraws, then the remaining candidate shall be appointed as the Prime Minister.



Following procedures shall be followed in given situations:

1. If the number of candidates is more than two due to equal number of votes in the first round election, then the House of Representatives shall vote on who, among the candidates with equal number of votes in the first round election, shall run for second round election. The President shall vote as a tie-breaker, if needed.
2. If the candidates running for second round election die or be otherwise prevented prior to any withdrawals, then the Election Commission shall declare that the election be repeated in full. If one of the candidates running for second round election dies or be otherwise prevented prior to any withdrawal, then the consecutive candidate with the greatest number of votes shall run for the second round election.
3. If none of the candidates running for the second round election acquire a majority of vote, then the President, with the approval of the House of Representatives, shall appoint one of them as the Prime Minister.

#### **Article 70:**

The election for Prime Minister shall take place not before 30 days and no later than 10 days before the end of term of the existing Prime Minister. The existing Prime Minister shall hold his/her office until his/her term expires.

#### **Article 71:**

The Prime Minister shall take oath in public, in presence of the President, the members of the House of Representatives, the Chief Judge, and the general public.

#### **Article 72:**

Electoral districts, method of voting and other matters pertaining to the method of election of the Prime Minister shall be provided by law.

#### **Article 73:**

##### **Appointment of Ministers**

1. The Prime Minister shall appoint the Deputy Prime Minister and all other Cabinet Ministers.
2. The number of ministers in the Cabinet shall be fixed by law.
3. The Prime Minister may remove the Cabinet Ministers as he/she chooses.



### **Article 74:**

If the House of Representatives pass a no-confidence resolution with at least two-third of total members against a cabinet minister, the Cabinet minister shall resign, and Prime Minister shall appoint a new minister.

### **Article 75:**

Resignation

1. Resignation of the Prime Minister shall be presented by the Prime Minister to the President in writing. The President has to approve his/her resignation before he/she can leave the office. Until the resignation has been approved, existing Prime Minister is not allowed to leave his/her office.
2. Resignation of the Cabinet Minister shall be submitted by the Cabinet Minister to the Prime Minister in writing. New Cabinet Minister shall be appointed by the Prime Minister.

### **Article 76:**

1. When there is a vacancy in the post of the Prime Minister, Deputy prime minister shall automatically be the Prime Minister for the remaining period.
2. The Prime Ministerial Line of Succession shall be determined by law. The acting Prime Minister shall be appointed according to the Line of Succession if there is a vacancy in the post of Prime Minister and Deputy Prime Minister simultaneously.
3. The acting Prime Minister cannot remove the existing ministers who were appointed by the elected Prime Minister.
4. If there is a vacancy in the post of Cabinet Minister, Prime Minister shall appoint a new Cabinet Minister.

### **Article 77:**

The Prime Minister, representing the Cabinet, shall have the following responsibilities:

1. Approve, in writing, all the planned proposals submitted by cabinet ministers before implementing them.
2. Submit bill to the House of Representatives.
3. Report national and foreign affairs to the House of Representatives.
4. Exercise, control, and supervise over all administrative branches.

### **Article 78:**

The Prime Minister shall be the chief of all armed forces under the Government of Nepal.



### **Article 79:**

The Prime Minister and other Ministers of State may, at any time, appear in the House of Representatives for the purpose of speaking on bills, regardless of whether they are members of the House or not. They must appear when their presence is required in order to give answers or explanations upon request of the House of Representatives.

### **Article 80:**

The Cabinet shall, in addition to other general administrative functions, shall have the following responsibilities:

1. Utilize the resources for development of Nepal and Nepalese citizens.
2. Administer the law faithfully; conduct affairs of state.
3. Manage foreign affairs.
4. Conclude treaties.
5. Administer civil service, in accordance with the standards established by law.
6. Prepare the budget and present it to the House of Representatives for approval.
7. Issue a cabinet order to execute the provisions of this Constitution and of the law.
8. Decide on general amnesty and special amnesty and recommend it to the President.
9. Decide on commutation of punishment or issue a pardon.
10. Receive foreign ambassadors and ministers.

### **Article 81:**

All laws and cabinet orders shall be signed by the designated cabinet Minister and countersigned by the Prime Minister.

### **Article 82:**

No legal actions shall be taken against the cabinet ministers, during their term of office, without the consent of the Prime Minister. However, the right to take legal action is not impaired.



## **CHAPTER VI: JUDICIARY**

### **Article 83:**

The judicial power is vested in the Supreme Court. Subordinate courts shall be established by law.

### **Article 84:**

1. No extraordinary tribunal shall be established; nor shall any organ or agency of the Executive be given final judicial power.
2. If necessary, Court-Martial shall be established, as provided by law, only to try war crimes.

### **Article 85:**

All judges shall be independent in exercising their conscience and shall be bound only by this Constitution and the laws.

### **Article 86:**

Judges shall not be removed except by impeachment (Article 61 Section 3) unless judicially declared mentally or physically incompetent to perform official duties. No disciplinary action against judges shall be administered by any executive organ or agency.

## **A. Supreme Court**

### **Article 87:**

The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation, or official act.

### **Article 88:**

1. Judge of the Supreme Court shall be a natural born citizen of Nepal.
2. Qualifications of the judge of the Supreme Court shall be determined by law.

### **Article 89:**

1. The Supreme Court shall consist of a Chief Judge and number of judges as determined by law.
2. The President, with the approval of the House of Representatives, shall appoint the judges of the Supreme Court. The list of the Candidates for the post of judges of the Supreme Court shall be recommended to the House of Representatives by the Judicial Council.



3. Candidate for Chief Judge is liable to answer in front of the House of Representatives upon request before he/she has been elected as Chief Judge.
4. All the judges of the Supreme Court shall hold office for a term of six years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law.
5. The judges of the Supreme Courts shall receive, at regular stated intervals, adequate compensation, which shall not be decreased during their terms of office.

#### **Article 90:**

1. The Supreme Court shall have the rule-making power regarding the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts, and the administration of judicial affairs.
2. The Supreme Court may delegate the power to make rules for Subordinate courts.

### **B. Subordinate Court**

#### **Article 91:**

1. Judge of the Subordinate Court shall be a Nepalese citizen.
2. Qualifications of the judge of the Subordinate Court shall be determined by law.

#### **Article 92:**

1. The President, with the approval of the House of Representatives, shall appoint the judges of the Subordinate courts. The list of the Candidates for the post of judges of the Subordinate Court shall be recommended to the House of Representatives by the Judicial Council. Provided that the President may delegate his/her authority to the Chief Judge of the Supreme Court for the appointment of the Subordinate Court's Judges.
2. All such judges shall hold office for a term of six years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law.
3. The judges of the subordinate courts shall receive, at regular stated intervals, adequate compensation, which shall not be decreased during their terms of office.

#### **Article 93:**

Trials in Supreme Court and Subordinate Court shall follow the following procedures:

1. Trials shall be conducted and judgment be declared publicly.
2. Where a court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offenses, offenses involving the press or cases wherein the rights of people as guaranteed in CHAPTER II of this Constitution are in question shall always be conducted publicly.
3. If a person is not satisfied with the judgment of any Subordinate court, he/she shall have right to appeal for the judgment in the Supreme Court.



## **C. Judicial Council**

### **Article 94:**

1. Members of the Judicial Council shall be determined by law.
2. Must be a natural born citizen or Nepal.
3. Other qualifications of the member of the Judicial Council shall be determined by law.

### **Article 95:**

The Judicial Council shall, in addition to other general administrative functions, perform the following functions:

1. Recommend the House of Representatives for approval of Supreme Court and Subordinate Court judges.
2. Transfer and/or promote officials under Judiciary.
3. Establish rules pertaining to meetings, proceedings, and discipline and punish officials under Judiciary for disorderly conduct.



## **CHAPTER VII: ELECTION COMMISSION**

### **Article 96:**

There shall be an Election Commission consisting of a chief commissioner and other commissioners as required.

### **Article 97:**

The President, on the confirmation of the House of Representatives, shall appoint the chief Election Commissioner and other Election Commissioners.

### **Article 98:**

Qualifications of the members of the Election Commission

1. None of the member of Election Commission shall be a member of any political party or interest group.
2. Must be a natural born citizen of Nepal.
3. Other qualifications shall be provided by law.

### **Article 99:**

The term of office of chief Election Commissioner and other commissioners shall be 6 years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law.

### **Article 100:**

The Election Commission shall perform the following functions:

1. The Election Commission shall conduct, supervise, direct, and control the election of the Prime Minister, members of the House of Representatives, and other public officials.
2. The Election Commission shall check the qualifications, as provided by law, of the candidates running for offices.
3. The Election Commission shall delimit the electoral districts. No question shall be raised in any court on matters of boundary delimitation made by the Election Commission. However, unbalanced or discriminatory delimitation is forbidden.

### **Article 101:**

Subject to this constitution, other functions, duties, and working procedures of the Election Commission shall be regulated by law.



**Article 102:**

Members of Election Commission shall receive compensation from national treasury, which shall not be decreased during their period of service.



## **CHAPTER VIII: LOCAL PUBLIC ENTITY**

### **Article 103:**

Regulations concerning allocation, organization, and operations of local public entities shall be provided by law.

### **Article 104:**

1. The local public entities shall establish assemblies as their deliberative organs, in accordance with law.
2. The chief executive officer of all local public entities, the members of their assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their communities.

### **Article 105:**

Local public entities shall have the right to manage their property, affairs, and administration and to enact their own regulations in accordance with law.

### **Article 106:**

1. Tax collected on each local public entity shall be distributed on the percentile basis between that local public entity and the central government.
2. Percentage of tax distribution shall be provided by law.

### **Article 107:**

A special law, applicable only to one local public entity, cannot be enacted without the consent of the majority of the voters of the local public entity.



## **CHAPTER IX: STATE OF EMERGENCY**

### **Article 108:**

The Prime Minister, with the approval of the House of Representatives, shall declare the state of emergency only if:

1. The sovereignty of the state is threatened by foreign invasion.
2. Peace and order of the state has been disturbed due to a natural disaster, an epidemic, or any other public emergency.

### **Article 109:**

The duration of the state of emergency shall be determined by the Cabinet with the approval of the House of Representatives.

### **Article 110:**

The Supreme Court shall have the right to determine the validity of state of emergency and has the right to issue a court order to end it, if necessary.

### **Article 111:**

During the period of the State of Emergency, the right of people shall be protected, at least, to the extent that the people shall not be deprived from basic needs for living.



## **CHAPTER X: FINANCE**

### **Article 112:**

The rights to administer and use national treasury shall be under the Cabinet. The House of Representatives shall block government expenditures, with the majority of at least two-third of its total members, unless otherwise stated in this constitution.

### **Article 113:**

No new taxes shall be imposed or existing ones be modified except by law or under such conditions as law may prescribe.

### **Article 114:**

No money shall be expended from national treasury except as provided by the law.

### **Article 115:**

The Cabinet shall prepare, present, and submit a budget each fiscal year to the House of Representatives for its consideration and approval.

### **Article 116:**

In order to provide for unforeseen deficiencies in the budget, a reserve fund may be authorized by the House of Representatives to be expended upon the responsibility of the Cabinet.

### **Article 117:**

No public money or other property shall be expended for the use, benefit, or maintenance of any institution, association, or any charitable, educational, or benevolent enterprises not under the control of government.

### **Article 118:**

Final accounts of the expenditures and revenues of the State shall be audited annually by a Board of Audit and submitted to the House of Representatives, together with the statement of audit, during the fiscal year immediately following the period covered. The organization and the functions of the Board of Audit shall be provided by law.



## **CHAPTER XI: FOREIGN POLICY**

### **Article 119:**

Nepal is a peaceful country and we, the Nepalese, always support global peace. The right of belligerency of the state shall not be recognized. However, if our sovereignty has been challenged and our people have been threatened with forces by any international community, then we may use forces for self-defense with the sole purpose of maintaining justice and preserving order.

### **Article 120:**

Any agreement signed by any authority which results in foreign control over our land, people, natural resources, economy, plants and animals, army, and culture is invalid.

### **Article 121:**

All forms of foreign domination are unacceptable.

## **CHAPTER XII: SUPREME LAW**

### **Article 122:**

This Constitution shall be the supreme law of the nation and no law, ordinance, act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

### **Article 123:**

This Constitution must be made public and it is the responsibility of all Nepalese citizens to respect and follow this Constitution. It is also the responsibility of aliens visiting or residing in Nepal to respect and follow this Constitution during their stay.



## **CHAPTER XIII: AMENDMENTS**

### **Article 124:**

Amendments to this Constitution shall be initiated by the House of Representatives, through a concurring vote of at least two-thirds members of House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the House of Representatives shall specify. Amendments when so ratified shall immediately be promulgated by the President in the name of the people, as an integral part of this Constitution.

## **CHAPTER XIV: SUPPLEMENTARY PROVISIONS**

### **Article 125:**

This Constitution shall be enforced on the day when the period of one year will have elapsed counting from the day of its promulgation. The enactment of laws necessary for the enforcement of this Constitution, the election of Juniors of the House of Representatives, the election of the Prime Minister, selection of Cabinet Ministers and the procedure for their convocation, and other preparatory procedures necessary for the enforcement of this Constitution shall be executed within the one-year period of its promulgation.

### **Article 126:**

Seniors of the House of Representatives shall be nominated with equal number of members from each political party registered in the Election Commission of Nepal. The term of Seniors of the House of Representatives shall be three years.

### **Article 127:**

1. There shall be an election for Juniors of the House of Representatives and the Prime Minister.
2. Election Commission shall allocate electoral districts, method of voting, and other matters pertaining to the election.
3. The president, judges in office, and all other public officials on the effective date of this Constitution, corresponding to such positions as recognized by this Constitution, shall not forfeit their positions automatically on account of the enforcement of this Constitution unless otherwise specified. When, however, successors are elected or appointed under the provisions of this Constitution, they shall forfeit their positions as a matter of course.



# SCHEDULE

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 at R and S. Join RS. Let T be the point where RS and HI cut one another.
16. With Centre T and radius TS draw a semi-circle on the upper portion of PNQ touching it at two points.
17. With centre T and radius TM draw an arc on the upper portion of PNQ touching at two points.
18. Eight equal and similar triangles of the moon are to be made in the space lying inside the semi-circle of No. 16 and outside the arc of No. 17 of this schedule.

## C. Method of Making the Sun

19. Bisect line AF at U, and draw a line UV parallel to AB line touching line BE at V.
20. With centre W, the point where HI and UV cut one another and radius MN draw a circle.
21. With centre W and radius LN draw a circle.
22. Twelve equal and similar triangles of the sun are to be made in the space enclosed by the circles of No. 20 and 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 color and will be provided on all the sides of the flag. However, on the five angles of the flag the external angles will be equal to the internal angles.
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.



# **THE CONSTITUTION OF NEPAL**

I declare that I have considered the consequences this Constitution can have to all Nepalese citizens living now and to all our descendents. This Constitution creates the unicameral democratic republic system and preserves the rights of Nepalese citizens. To the best of my knowledge, it reflects the will of Nepalese people. I will respect and follow this Constitution of Nepal hereafter.