



निर्वाचन आयोग, नेपाल
ELECTION COMMISSION, NEPAL

ELECTORAL PROVISIONS IN THE CONSTITUTION OF NEPAL & SOME RELEVANT INFORMATION



(UNOFFICIAL ENGLISH TRANSLATION)

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Foreword



The Constitution of Nepal has established the Election Commission as an independent constitutional body and has placed it in a dignified position. The Commission has been entrusted with the responsibilities of operating, supervising, directing and controlling the elections of the President, Vice-President, Federal Parliament, State Assembly and members of Local Level. Collecting voters' list for the purpose of election and conducting referendum on the matters of national importance and registration and regulation of political parties are also within the purview of the Commission.

The Constitution has declared the country as a federal democratic republic and restructured it into Federal, State and Local levels. Structures like legislature, executive and judiciary or judicial committee have been provisioned for the operation of the State affairs from the local level. Periodic elections have been ensured accepting the supremacy of the adult franchise. The legislatures at all levels have been made more inclusive ensuring representation of various classes and communities of the country in the system of governance.

The image of the Commission remains high only if it could perform the responsibilities entrusted by the Constitution with full professional competence in a dignified manner as per expectation of citizens. For this, it is necessary for the Commission and its staff and those directly or indirectly engaged in election to have an updated knowledge on operation and management of elections. In this connection, this handbook has been prepared and published to make available the necessary information to the Commission and the staff thereof and individuals who are interested in the matters of elections, the formation of Election Commission, its functions, duties and powers of the Commission as envisaged by the Constitution; the

electoral systems adopted for various elections to be conducted by the Commission; the election of the President and Vice-President; formation of the Local level, State Assembly, the Federal Parliament; registration of political party and so on.

I am fully confident that the present handbook prepared in question & answer format titled as "Electoral Provisions in the Constitution of Nepal and Some Relevant Information" will be equally useful for the staff engaged in the Commission and offices thereunder, the voter's education workers, political parties, voters, students, teachers, and other stakeholders.

The Commission always welcomes the verbal and written suggestions to be received from all stakeholders and well-wishers having interest on matter of elections in order to make the handbook more useful and informative. I would like to specially appreciate the efforts of Basudev Guragain, Joint Secretary and Deshbandhu Adhikari, Under Secretary of the Commission to bring this handbook in the present form.

Finally, on behalf of Commission, I would like to express my sincere thanks to the officials of the Commission, secretary and all other employees of the Commission who are directly or indirectly involved in preparing this handbook.



April, 2016

Dr. Ayodhee Prasad Yadav
Chief Election Commissioner
Election Commission, Nepal

Acknowledgement



The Electoral Support Project is pleased to present English translation of “Electoral Provisions in the Constitution of Nepal and Some Relevant Information” which was originally published in Nepali by the Election Commission of Nepal in April 2016. The Handbook in Nepali was well received by a wide range of Nepalese readers. It is because various electoral provisions reflected in the Constitution of Nepal (2015) were presented in question and answer form in simple and clear terms. Having received positive feedback from various stakeholders, the Election Commission now intends to publish it in other local languages for the benefit of people of Nepal.

This Handbook in English is published for the use of international community who are directly or indirectly involved in strengthening democratic governance in Nepal. This also could be an informative document for organizations and people outside Nepal for example, officials of Electoral Management Bodies, civic & voter educators, lawyers, academia, development partners and other electoral stakeholders at international level.

Finally, on behalf of the Electoral Support Project, I would like to express my sincere thanks to Krishna Man Pradhan, Executive Director of Nepal Law Society, Navaraj Dhakal, Joint Secretary of the ECN, Kundan Das Shrestha, Deputy Project Manager and Mukunda Raj Pandeya, Training Specialist of UNDP Electoral Support Project for their contribution in translation/editing and Rochan Kadariya for designing of the Handbook.

August, 2016

A handwritten signature in black ink, appearing to read 'Andres del Castillo'. The signature is written in a cursive style with a horizontal line underneath.

Andres del Castillo
Chief Technical Advisor/Project Manager
Electoral Support Project, UNDP Nepal

ACRONYMS

AV	Alternative Vote
BC	Borda Count
BV	Block Vote
FPTP	First Past the Post
List PR	List Proportional Representation
LV	Limited Vote
MMP	Mixed Member Proportional
PBV	Party Block Vote
PR	Proportional Representation
SNTV	Single Non-Transferable Vote
STV	Single Transferable Vote
TRS	Two-Round System

QUESTIONS-ANSWERS

1. On which date was the Constitution of Nepal promulgated?

- The Constitution of Nepal was promulgated on Sunday, the 20th of September, 2015 (Asoj 3, 2072).

2. What subjects concerning election have been dealt within the preamble to the Constitution?

- Adult franchise and periodic election have been categorically stated in the preamble to the Constitution.

3. What is democracy?

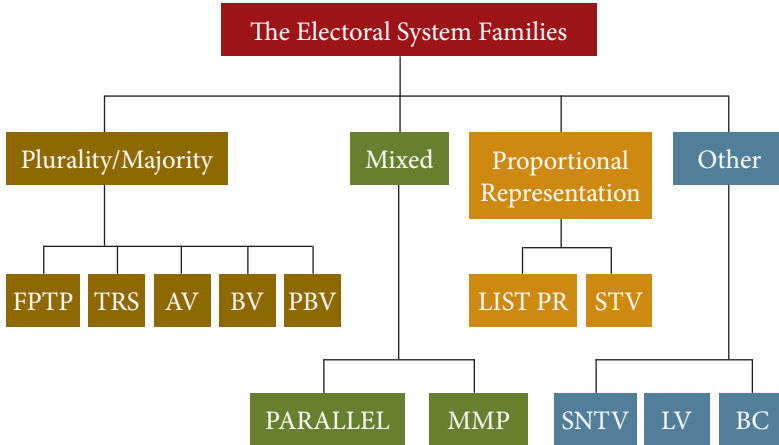
- The prevalence of supremacy of popular will in overall affairs of the state and operation of the State affairs based on peoples' will is democracy.
- In democracy, even the head of the state is directly or indirectly elected through popular will. Democracy has various forms. Representative democracy has been accepted all over the world.

4. What is an election?

- It is not possible for all citizens to directly take part in the system of governance.
- They are involved in the system of governance through their representatives who are elected through their secret ballot.
- The rule and procedure of selection of representatives of peoples is election.

- It is necessary to have a free, fair and credible election procedure and process.

5. What is an electoral system?



- The representatives of peoples are elected through their secret ballot based on adult franchise. It is necessary to convert the votes into seats. The rule of converting “votes into seats” is electoral system.
- There are altogether 12 electoral systems within the four major electoral system families namely: plurality/majority, proportional representation, mixed and others.
- All electoral systems have their own features. Because of the special features of each of these systems, there appear different results in the number of representation and its form even though the number of votes remain the same.

- In order to achieve peace, stability and prosperity and to address special circumstances of political change or specific issues recognized by the state most of the countries in the world have chosen new electoral system instead of the electoral system being used in the past.
- After the people's movement of 2005/2006, we (Nepal) have opted for the mixed electoral system instead of the plurality/majority electoral system in order to manage the political conflict and to address the religious, cultural and social diversity of the country. The elections of the Constituent Assembly held in 2008 and 2013 were held adopting the mixed electoral system.

6. What are the provisions in the Constitution on electoral system?

- The Constitution have provided various forms of electoral systems for the election of Local Level, State Assembly, Federal Parliament, President and Vice-President.
- The Constitution of Nepal has adopted the supremacy of the adult franchise and the principle of inclusive representation.
- The Constitution provisioned first past the post system for the election of Local Level, and the mixed electoral system of first past the post and proportional representation for the election of State Assembly and House of Representatives.
- It is provisioned that the President, Vice-President and members of the National Assembly are to be elected through an Electoral College.
- At the Local Level, representatives are elected through

the secret ballot based on the adult franchise. The elected representatives will elect office-bearers from among themselves. To ensure the representation of particular class or community, there are provisions to elect among candidates from those class or community only.

- Provisions of election through an Electoral College comprising of the representatives elected on the basis of adult franchise has been made for the election of the President, Vice-President and members of National Assembly and there is also a provision of nomination of members on the recommendations of the government for the National Assembly.

7. What is understood by an Electoral College?

- The group of persons elected through general voters for election of the President, Vice-President or other persons holding important position is called the Electoral College.
- In case of Nepal, provisions have been made that the election of the President, Vice-President and members of the National Assembly would be held through the Electoral College.

8. What is mixed electoral system?

- The use of two different electoral systems at the same time is known as mixed electoral system.
- This system has mixed the merits of plurality/majority or other electoral systems and proportional representation electoral system.
- The mixed family of electoral system comprises of two

systems: mixed member proportional and parallel systems.

- Nepal has adopted the parallel system.
- In the parallel system, the candidates are selected through plurality /majority and list-based proportional electoral systems. The results derived from both systems are not affected by each other.
- In Nepal, the first past the post electoral system within plurality/majority electoral system and list-based proportional electoral system within the proportional electoral system are practiced.
- The parallel system was used in the elections of the Constituent Assembly Members in Nepal.
- The Constitution has adopted this system for the election of the House of Representatives and the State Assembly.

9. What type of electoral system is the first past the post system?

- This is one of the systems of the plurality/majority electoral family.
- This is the oldest system amongst the electoral systems prevailing all over the world.
- In this system, the candidate who secures the highest valid votes will be elected.
- Single member electoral constituency and candidate-centric ballot paper are used in this system.
- In this system, a voter casts one vote to one candidate.
- The representatives will have accountability in terms

of geographical constituency. Popular candidates will be elected. It is more likely to form single party government. The opposition would be strong. These are the merits of this system.

- It has some demerits as well. This system discourages the representation of fringe parties. There will be no balance between the votes secured and seats allocated. Votes go wasted. Sometimes minority may rule over majority. There will be no proportional representation. It does not ensure representation of women, marginalized and backward communities.

10. What is the two-round electoral system?

- This is the electoral system where election could be held in two rounds. If no candidate or party could secure majority of the total votes in the first round of election then competition is held between the first and second candidates who secure the highest number of votes in the first round of election.
- This system is used for the election of President in many countries.
- The Constitution of Nepal has adopted this system for the elections of the President and Vice-President.
- Since this system requires majority even in the second round. It is provisioned that after the second round, the candidate who secures highest vote out of the total votes cast is elected.
- The voters will have opportunity to cast votes for two times in this electoral system.
- This system increases the winning of popular party or candidate.

11. What is the proportional electoral system?

- The system of allocation of seats on the basis of the votes secured by political parties is the proportional electoral system.
- Since multi-member electoral constituencies are mandatory for this electoral system, entire country is regarded to be one electoral constituency or constituencies are created based on State.
- Some of the countries have set minimum threshold required for representation.
- Within proportional electoral system, there are two systems: List-based proportional and single transferable voting. Again, there are three types of lists: closed, open and free within list-based proportional system.
- In the context of Nepal, the close list system within the proportional representation system has been adopted for the election of House of Representatives and State Assembly.

12. What is a closed-list?

- Political parties submit the list of candidates to the election management body (the Election Commission in case of Nepal).
- Once the final list is prepared, it can not be changed.
- That is why it is called closed list.
- Political parties select the winning candidates based on the number of seats secured by them.
- The formula such as Sainte-Laguë and modified Sainte-Laguë have been used to allocate seats to be obtained by political parties. In the election of the Constituent

Assembly, the modified Sainte-Laguë formula was used (The method is to divide the votes by odd numbers 1, 3, 5, 7..... and so on and allocate the seat to the one with the highest remainder).

13. What provision has been made in the Constitution with regard to formation of the Election Commission?

- The Election Commission is a Constitutional Body. Articles 245, 246 and 247 of the Constitution has provisioned about the Election Commission.
- There will be one Chief Election Commissioner and four Election Commissioners in the Commission. The Chief Election Commissioner shall act as the Chief of the Commission.
- Appointment of the Chief Election Commissioner and Election Commissioners shall be made by the President on the recommendation of the Constitutional Council upon parliamentary hearing.
- The term of office of the Chief Election Commissioner and Election Commissioners shall be of six years.
- The Chief Election Commissioner and Election Commissioners are not eligible for reappointment.

However, a person working as Election Commissioner may be appointed to the office of Chief Election Commissioner.

14. What are the qualifications for the appointment to the office of Chief Election Commissioner/Election Commissioner?

The following qualifications are necessary to be appointed as Chief Election Commissioner/Election Commissioner:-

- Holding a bachelor's degree from a recognized university;
- Having attained the age of 45 years;
- Not being a member of any political party at the time of the appointment; and
- Being of high moral character.

15. On what circumstances are Chief Election Commissioner and Election Commissioners relieved from the office?

- Having submitted written resignation to the President;
- Having attained the age of 65 years;
- Having been impeached by the parliament by passing the impeachment motion pursuant to Article 101;
- Having been dismissed by the President on the recommendation of the Constitutional Council for being unable to perform works of the office due to physical or mental ill-health;
- If he or she dies

16. What are the main functions of the Election Commission?

- The following are the major functions of the Election Commission:-
- To conduct, supervise, direct and control the elections for the President, Vice President, Federal Parliament, State Assemblies and Local Bodies.
- To prepare voters' list for the purpose of election
- To conduct referendum on the subjects of national

importance

- To decide on the question of qualification of any candidate that arises after the filing of candidacy for the election of President, Vice-President, member of Federal Parliament, member of State Assembly and member of Local Levels but before the result of the election is declared;
- To register parties and to regulate them pursuant to Articles 269, 270, 271, 272 of Part 29 of the Constitution

17. Who are the voters for the election of the President and Vice-President?

- Article 62 of the Constitution provides for election of the President.
- There shall be an Electoral College comprising of the members of Federal Parliament (House of Representatives and National Assembly) and members of State Assembly for the election of the President and Vice-President.
- The Constitution states that lack of election of State Assembly in any State shall not be the sole ground to stop the formation of the Electoral College for the election of the President.
- Members of the Electoral College shall elect the President and Vice-President through a secret ballot.
- The weightage of the vote of member of Federal Parliament and of the State Assembly would be different as per the Federal Law.

18. What is the procedure of election of the President and Vice-President?

- The President and Vice-President will be elected by absolute majority of the then existing members of the Electoral College.
- In case any candidate could not secure absolute majority of the total votes in the first round, second round election shall be held between the two candidates securing the highest number of votes in the first round of election and the candidate securing more than fifty percent of the total votes shall be elected.
- In case none of the candidates is able to secure more than fifty percent of the total votes even in the second round, third round of election shall be held. In such election, the candidate who secures majority of the valid casted votes shall be elected as President and Vice-President.

19. What are the qualifications to become President and Vice-President?

- Qualified for being a member of the Federal Parliament;
- Having attained at least the age of 45 years; and
- Not disqualified by any law.

(The qualifications required for being a member of the Federal Parliament is given in Question No. 23 of this handbook)

20. What are other main provisions relating to President and Vice-President?

- The term of office of the President and Vice-President shall be of five years.

- Persons who has served as President for two terms shall not be eligible for the candidate of Presidential election.
- The election of President and Vice-President shall be held ensuring representation of different gender or community.

21. What is Federal Parliament?

- Article 83 of the Constitution has provisioned about the Federal Parliament.
- There shall be one Federal Parliament comprising of two houses named as House of Representatives and National Assembly, which shall be called as the Federal Parliament.

22. How many members are there in the Federal Parliament?

- The Federal Parliament shall be bicameral.
- There shall be a total of 334 members in the Federal Parliament, out of which the House of Representatives will have 275 members and the National Assembly will have 59 members.

23. What types of qualifications are required to become a member of Federal Parliament?

As per the Constitution, the following qualifications shall have to be met to become a member of the Federal Parliament:-

- Nepali citizen;
- Having attained the age of 25 years in case of the House of Representatives and 35 years in case of the National

Assembly;

- Not convicted in any criminal offence involving moral turpitude;
- Not disqualified by any Federal Law;
- Not holding any office of profit.

24. How is the House of Representatives formed?

- Article 84 of the Constitution has provisioned about the formation of House of Representatives.
- The House of Representatives shall consist of 275 members to be elected as follows: -
 - One hundred sixty-five members are elected through the first past the post electoral system, with one member from each of the 165 electoral constituencies delimited based on population and geographic convenience and specialty;
 - One hundred ten members to be elected from political parties through a proportional representation electoral system that considers the whole country as one single electoral constituency;
 - In this way, 60% of the members of the House of Representatives will be elected through the first past the post and 40% members shall be elected through the proportional electoral system.

25. What are the groups to be included and matters to be taken into account while filing candidacy by political party in an election under the proportional electoral system in order to make the House of Representatives inclusive?

- While filing candidacy for the election to be held as per the proportional electoral system, political party shall have to prepare the close-list having ensured representation of the following eight groups based on population. Similarly, while filing candidacy, balance between geography and States must be taken into account and representation of the persons with disability shall also have to be made:-
 - Women;
 - Dalit;
 - Indigenous people;
 - Khas Arya (Chhetri, Brahmin, Thakuri, Sanyasi-Dasnami community);
 - Madhesi;
 - Tharu;
 - Muslim;
 - Backward region.

26. What is the term of the office of the House of Representatives?

- The term of the office of the House of Representatives shall be of five years.
- The term of office may be extended not exceeding one year in case of state of emergency.
- In case of extension of the term of the office, it shall be *ipso facto* ended upon the completion of six months from the date of revocation of the state of emergency situation.

27. What provision has the Constitution made as to fulfillment of vacant office of any member while the term of office of the House of Representatives still remains?

- In case the seat of any member of the House of Representatives falls vacant during the period when the remaining term of office of the House of Representatives is more than six months, such seat shall be fulfilled by the same procedure by which electoral system such seat was fulfilled, for the remaining period.

28. In how many electoral constituencies may one candidate file candidacy in an election under the first past the post electoral system to be conducted for the members of the House of Representatives?

- A candidate may file candidacy from only one of the electoral constituencies in an election under the first past the post electoral system for the members of the House of Representatives.
- Candidacy is not allowed for more than one electoral constituency.

29. How is the National Assembly formed?

The Constitution has provisioned the National Assembly shall be formed comprising of the following members:-

- Fifty six members – eight from each State. Among the eight members at least three have to be women, one Dalit, and one member with a disability or from a minority group from each State.
- Three persons including one woman, nominated by the President on the recommendation of Government of Nepal;

- There shall be altogether 59 (fifty nine) members in the National Assembly.

30. Who are the voters for the election of members of National Assembly?

- An Electoral College shall be formed to elect the members of the National Assembly.
- The members of the Electoral College shall comprise of members of the State Assembly, the Chairpersons and Vice-Chairpersons of the Village Bodies and Mayors and Deputy Mayors of Municipalities.
- The weightage of the vote of members of the State Assembly, the Chairpersons and Vice-Chairpersons of the Village Bodies and Mayors and Deputy Mayors of Municipalities shall differ as per the Federal Law.

31. What is the term of office of members of the National Assembly?

- The National Assembly is a Permanent House. The term of office of its members is six years.
- Being a Permanent House, the term of all members shall not expire at one time, rather it expires on a rotational basis whereby one-third of the members are replaced in every two years.
- Therefore, one third of the members of National Assembly are elected in every two years.
- For the first time, a lottery system is adopted to decide the first one-third to retire in two years, the second one-third to retire in four years and the remaining one-third to retire in six years.

32. How is the vacant office of member of the National Assembly fulfilled?

- In case any seat becomes vacant in the National Assembly, such seat shall be fulfilled, for the remaining period, in the same manner of election or nomination by which the seat was fulfilled earlier.

33. What type of provision has been made as to women's representation on the Federal Parliament?

- At least one third of the total number of members elected from each political party to the Federal Parliament (the collective form of the House of Representatives and National Assembly) shall be women.
- Similarly, one out of the three members to be nominated by the President has to be woman.
- As such, out of total 334 members of the Federal Parliament, at least one third members or 112 members have to be women.

34. How is the representation of women ensured in the Federal Parliament?

- In case one third women could not be elected from a political party in the election to the House of Representatives through the first past the post and in the election to the National Assembly, such party shall have to ensure one third women representation in Federal House by ensuring enough women candidates are elected from the close-list of proportional representation for the election to the House of Representatives.

35. What are the provisions (made in the Constitution) to ensure gender inclusion and multi-party participation in the leading positions of the House?

The following provisions have been made in the Constitution to ascertain gender inclusion and multi-party participation in the leading positions of the House:-

- Either of the Speaker or Deputy-Speaker of the House of Representative must be woman;
- Either of the Chairperson or Deputy-Chairperson of the National Assembly must be woman;
- The Speaker and Deputy-Speaker of the House of Representatives must be elected from different political parties (except in case when there is representation of only one party in the House of Representatives or in case candidacy from only one party is filed)

36. What is the State Assembly?

- The State legislature formed to formulate State laws and carry out legislative functions is the State Assembly. Such State Assembly shall be unicameral.

37. How is the State Assembly formed?

- The mixed electoral system has been applied in case of formation of the State Assembly as well.
- Out of the total members in a State Assembly, sixty percent shall be elected through the first past the post and 40 percent shall be elected through proportional representation electoral system.

38. What is the total number of members in the State Assembly?

Each State Assembly shall have the members as follows:-

- The members double in number of the members to be elected to the House of Representatives from the concerned State through the first past the post electoral system.
- The number of members elected in such a manner shall be regarded as 60 percent and remaining 40 percent shall be elected through the proportional electoral system.

For example: In case 30 members are elected to the House of Representatives from any State, double of that number, or 60 members, shall be elected through the first past the post in that State (which number is regarded as 60%), and 40 persons (or 40%) shall be elected from the proportional electoral system; thereby total number of members will be 100.

39. What are the qualifications required to become a member of State Assembly?

- Nepali citizen;
- One must be a voter of the concerned State;
- Having attained the age of 25 years;
- Not convicted in any criminal offence involving moral turpitude;
- Not disqualified by any Federal Law;
- Not holding any office of profit.

40. What is the total number of members in seven States Assemblies?

- The number of members to the State Assembly is directly linked to the number of members of the House

of Representatives to be elected through the first past the post.

- Double of the number of members to be elected to the House of Representatives through the first past the post shall be regarded as 60 percent for the purpose of the State Assembly.
- As a total of 165 members elected to the House of Representatives from the seven States, the State Assembly shall have double of that number or 330 members elected through the first past the post. This number is 60 percent of the total number of members in the States.
- Remaining 40 percent or 220 members shall be elected from the proportional electoral system.
- Therefore, there shall be a total of 550 members in the State Assembly of seven States.
- As the electoral constituencies are yet to be delineated, it cannot be presently stated which State will have how many members.

41. What are the groups to be included and matters to be taken into account while filing candidacy by political party in an election under the proportional electoral system in order to make the State Assembly inclusive?

- While filing candidacy by political party for the election to be held as per the proportional electoral system, the closed list shall be prepared with the representation of various nine groups based on population.
- This group shall include the various eight groups specified for the House of Representatives (as referred to in Question No. 25) and minority groups.

- While filing candidacy, attention has to be paid to geography and State balance and provision has to be made for representation of the persons with disability.

42. What are the provisions for women's participation in the State Assembly?

- The provision which the Constitution has made for representation of women to the House of Representatives has also been made for the State Assembly.
- Therefore, at least one third of the total number of members to be elected from each political party representing the State Assembly shall have to be women.
- Accordingly, out of 550 members in the seven States, at least 184 members shall be women.
- In case one third women could not be elected from a political party in the election to the State Assembly through the first past the post, such party shall have to ensure one third women representation by electing enough women candidates from the close-list of proportional representation for the election to the State Assembly.

43. What is the term of office of the State Assembly?

- The term of office of the State Assembly shall be of five years.
- In case the state of emergency is declared in the concerned State or in case of special order prevailing in the State, the term of office of the State Assembly may be extended for a period of not exceeding one year as per State Law.

- In case the term of office is extended in such a manner, it shall be terminated after expiry of six months from the date of revocation of the state of emergency.

44. What are the provisions (made in the Constitution) to ensure gender inclusion and multi-party participation in the leading positions of the State Assembly?

- Either of the Speaker or Deputy-Speaker of the State Assembly must be woman;
- The Speaker and Deputy-Speaker must be elected from different political parties (except in case there is representation of only one party in the State Assembly or in case the candidacy is filed by only one party)
- As such, gender inclusion and multi-party participation has been ensured in the State Assembly just like in the case of Federal Parliament

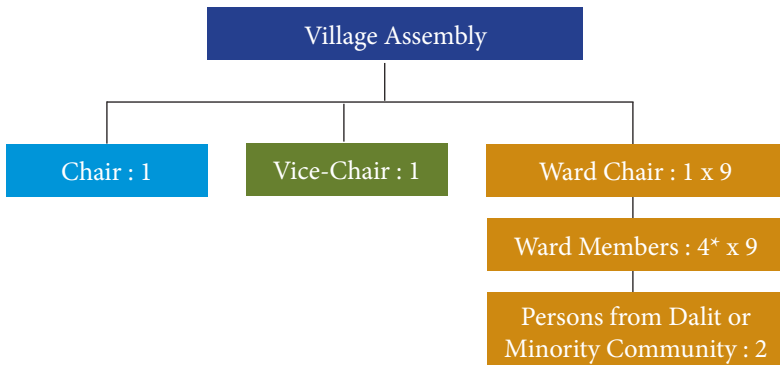
45. What are the bodies under the Local Level?

- Local Level comprises of Village Body, Municipality and District Assembly.
- The Village Body and Municipality are geographical and administrative units.
- There shall be local legislature for legislative functions of these bodies.
- The local legislature shall be called Village Assembly and Municipal Assembly.
- For executive functions, there shall be a local executives - which are Village Executive and Municipal Executive.

46. How is the Village Assembly formed?

- The Ward Committee is the lowest level of the Village Body.
- Each Ward Committee shall have a Ward Chair and four ward members, of which at least two shall be women.
- For the formation of the Village Assembly, the voters of each Ward elect one Ward Chairperson, four members, and Chairperson and Vice-Chairperson of the Village Executive using secret ballot based on adult franchise through the first past the post system.
- The Chairperson and Vice-Chairperson of the Village Executive shall be the *ex-officio* Chairperson and Vice-Chairperson of the Village Assembly
- The two persons elected by Village Assembly members from the Dalit community and marginalized group for Village Executive shall also be the member of Village Assembly.

For example: as per this provision, if there are nine Wards in any Village Body, the number of members of the Village Assembly shall be 49.

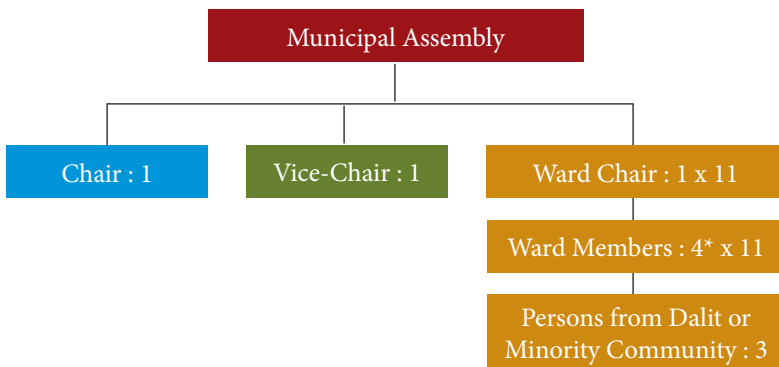


* Note: Each Ward should represent at least 2 Women

47. How is the Municipal Assembly formed?

- The process of formation of Village Assembly and Municipal Assembly is similar.
- A Ward Committee shall be formed comprising of a Ward Chairperson and four Ward Members including at least two women.
- For the formation of Municipal Assembly, voters of each Ward of the Municipality elect one Ward Chairperson, four Ward Members and Mayor and Deputy Mayor of the Municipal Executive.
- The Mayor and Deputy Mayor of the Municipal Executive shall be the *ex-officio* Chairperson and Vice-Chairperson of the Municipal Assembly.
- The three persons belonging to Dalit or minority who are elected by members of Municipal Assembly shall also be the members of the Municipal Assembly.

For example: as per this provision, if there are eleven Wards in any Municipality, the number of members of the Municipality Assembly shall be 60.



* Note: Each Ward should represent at least 2 Women

48. How is the District Assembly formed?

- The District Assembly is formed to forge coordination between the Village Bodies and Municipalities within the district; to balance development and construction work of the district; and to forge coordination between the Federal and the State level Government offices and Village Bodies and Municipalities in the district.
- The District Assembly is comprised of the Chairperson and Vice Chairperson of every Village Executive and the Mayor and Deputy Mayor of every Municipal Executive within the district.

Composition of District Assembly	District Coordination Committee	Number
Village Assembly Chairpersons	Chief	1
Municipality Mayors	Deputy Chief	1
Village Assembly Vice-Chairpersons	Female (<i>at least 3</i>)	3
Municipality Deputy Mayors	Dalit or Minority Community (<i>at least 1</i>)	1
	Maximum 9 Members	

49. What are the provisions with regard to the District Coordination Committee?

- The District Assembly shall elect the District Coordination Committee comprising of nine Members including one Chief, one Deputy Chief, at least three women and at least one Dalit or minority from the Village and Municipal Assemblies in order to carry out

all functions required to be discharged by the District Assembly.

- The members of the Village Assembly and Municipal Assembly may file candidacy for the District Coordination Committee.
- The office of the member of the Village Assembly and Municipal Assembly who gets elected to the District Coordination Committee shall be *ipso facto* fall vacant.
- The Constitution does not provide way out for the fulfillment of the position that falls vacant in such a manner.

50. How is the Judicial Committee in the Village Body and Municipality formed?

- There shall be a three-member Judicial Committee under the coordination of the Vice-Chairperson in the case of a Village Body and Deputy Mayor in the case of a Municipality, in order to settle disputes under their respective jurisdictions.
- Other two members of the Judicial Committee are elected by the members of the Village Assembly or the Municipal Assembly from amongst themselves, as the case may be.

51. What is the minimum representation of women in the Ward Level Local Legislature?

- Out of five members (one Ward Chairperson and four members) in the Ward Committee of the Village Body or Municipality of the Local Level, there shall be at least two women members.
- Representation of at least 40% of women has been

ensured at the Ward level.

52. What is the term of the office of Village Assembly and Municipal Assembly?

- The term of office of the Village Assembly and Municipal Assembly shall be of five years from the date of election.
- The election of the next Village Assembly and Municipal Assembly shall be completed within six months from the date of completion of the term of office.

53. How is Local Executive formed?

- The executive powers of Local Level shall be vested in the Village Executive and Municipal Executive.
- These bodies are entrusted with the responsibilities of general direction, control and operation of the system of governance in their respective areas.
- There shall be the members elected from local voters and elected by local legislature (Village Assembly and Municipal Assembly) in the Village Executive and Municipal Executive.
- Adopting adult franchise for the election of the executive heads of Local Level, the Constitution has accorded supremacy to the popular votes.

54. Who are the office-bearers in the Village Executive?

The Village Executive shall have the following officials:-

- One Chairperson;
- One Vice-Chairperson;
- One Ward Chairperson elected from each Ward of a

Village Body;

- Four women members elected by the Village Assembly members from among themselves;
- Two members elected by the Village Assembly members from Dalit or minority communities;
- In this way, if a Village Body has nine Wards, the number of members of the Village Executive will be 17.

Elected Member	Number
Chairperson	1
Vice-Chairperson	1
Ward Chairpersons <i>(Assuming 9 Wards)</i>	9
Female	4
Dalit or Minority Community	2
Total Members	17

55. Who are the office-bearers in the Municipal Executive?

The Municipal Executive shall have the following officials:-

- One Mayor;
- One Deputy-Mayor;
- One Ward Chairperson elected from each Ward of a Municipality;
- Five women members elected by the Municipal Assembly members from among themselves;
- Three members elected by the Municipal Assembly members from Dalit or minority communities;

- In this way, if a Municipality having 11 Wards, the number of members of the Municipal Executive will be 21.

Elected Member	Number
Mayor	1
Deputy-Mayor	1
Ward Chairpersons <i>(Assuming 11 Wards)</i>	11
Female	5
Dalit or Minority Community	3
Total Members	21

56. What is the term of the office of the Local Executive and for how many times may one stand as candidate?

- The term of the office of the Local Executive shall be of five years.
- In case the office of the Chairperson or Vice-Chairperson of the Village Executive and of the Mayor or Deputy-Mayor of the Municipal Executive falls vacant with the remaining term of office more than one year, such vacant office shall be fulfilled through a by-election.
- The person who has been elected to the office of Chairperson of the Village Executive and of the Mayor of the Municipal Executive for two terms shall not be eligible to become candidate again in the election of Village Executive and Municipal Executive.

57. What are the provisions to ensure that the Local Executives are inclusive?

- In order to make Local Executive inclusive, representation of women, Dalit or minority has been ensured.
- Four and five women members shall be elected by the Village Assembly or Municipal Assembly respectively.
- For representation of Dalit or minority communities, the Village Assembly or Municipal Assembly shall elect two members in the Village Executive and three members in the Municipal Executive respectively.

58. What are the provisions (in the Constitution) for conducting the election of Local Body as per the existing set up?

- Article 303 of the Constitution states that the currently existing Local Bodies shall remain until the number and area of Local Body is determined as per this Constitution.
- At present, there are 3,157 Village Development Committees and 217 Municipalities in the country.
- The Constitution provides that the election of officials of these bodies will be held as per the laws and elected officials will hold their respective positions until the election of Local Level is held as per this Constitution.

59. How many times does a voter cast vote to how many officials in the election of Local Body as per the existing provision?

- In the election, one voter shall cast his/her vote to elect one Ward Chairperson, four Ward Members including at least one Woman, Chairperson and Vice-Chairperson of the Village Body or Mayor and Deputy Mayor of Municipality - thereby altogether for election of seven representatives.

60. What are the provisions for the delineation of electoral constituency?

The Constitution provides that Government of Nepal may constitute an Electoral Constituency Delineation Commission to determine electoral constituencies for the purpose of election to the members of the Federal Parliament and members of the State Assemblies. The Commission shall have the following Chairperson and member:-

- A retired Judge of the Supreme Court *Chairperson*
- One Geographer *Member*
- One sociologist or demographer *Member*
- One administration expert or jurist *Member*
- Gazetted special class officer
of the Government of Nepal *Member-secretary*

61. What are the bases of delineation of electoral constituency?

The following are the bases of delineation of electoral constituency:-

- While determining electoral constituencies pursuant to Article 286 of the Constitution, the Electoral Constituency Delineation Commission shall, subject to sub-clause (a) of clause (1) of Article 84, determine the constituencies having regard to population as the main and geography as secondary basis of representation as per the Federal Law.

(Sub-clause (a) of clause (1) of Article 84 has been mentioned in Question No. 24 of this handbook).

- For each of the district within a State, there shall be at

least one electoral constituency;

- While delineating electoral constituencies, considerations must be made for population and geographical appropriateness, population density of the region, geographical specificity, administrative and transportation convenience, community and cultural aspects of the constituencies.

62. When the electoral constituencies reviewed and what are other provisions in this regard?

- Review of the electoral constituencies is conducted in every 20 years.
- It is also stated that no question may be raised in any court with regard to delineation of electoral constituencies or its review.

63. What are the provisions for the annual report of Constitutional Body?

- A Constitutional Body has to submit its annual report to the President.
- The President shall forward the report to the Federal Parliament through the Prime Minister.
- It is also provided that a Constitutional Body may submit separate report on its functions carried out in each State to the Head of State.

64. What are the provisions in the Constitution with regard to monitoring and direction of functioning of Constitutional Bodies?

- Article 293 of the Constitution provides that the Chief and other office-bearers of a Constitutional Body shall

be responsible and accountable to the Parliament.

- The Committees in the House of Representatives may monitor and evaluate the functions and reports of the Constitutional Bodies including the Election Commission - other than National Human Rights Commission - and issue directive and furnish suggestions.

65. Against which of the office-bearers may the motion of impeachment be introduced as per the Constitution of Nepal?

Article 101 of the Constitution of Nepal provides for impeachment. As per the article, impeachment motion may be introduced against the following office-holders:-

- President, Vice-President;
- Chief Justice of Nepal;
- Justice of Supreme Court;
- Member of the Judicial Council;
- Chief or office-bearer of a Constitutional Body.

66. On what grounds may an impeachment motion be introduced against the Chief Justice of Nepal, a justice of Supreme Court, a member of the Judicial Council, Chief or office-bearer of a Constitutional Body?

An impeachment motion may be introduced in any of the following circumstances:-

- Serious violation of the Constitution and law;
- Lack of working competency;
- Having gross misconduct;
- Failure to discharge duty of office honestly ;

- Unable to discharge duty of the office due to serious violation of code of conduct.

67. What is the process of introducing the motion of impeachment against the Chief Justice of Nepal, a justice of Supreme Court, a member of the Judicial Council, Chief or office-bearer of a Constitutional Body?

- At least three members of the House of Representatives certify and introduce to the Impeachment Recommendation Committee stating that a notice, information or complaint filed against any of the aforesaid office-bearers is admissible.
- There shall be an Eleven-member Impeachment Recommendation Committee in the House of Representatives for the purpose of making recommendation after inquiring into whether there exist the ground and reason for moving a motion of impeachment against any person in case of whom the complaint is admissible.
- In case the Impeachment Recommendation Committee submits recommendation to the House of Representatives for initiation of the impeachment upon conducting inquiry on the complaint, one fourth of the total number of the then members of the House of Representatives may move a motion of impeachment.

68. What is required for adopting a motion of impeachment? What are the other related provisions?

- Two third majority of the then existing members in the House of Representatives is required for passing of the impeachment motion submitted to the House of Representatives.

- The person accused of impeachment shall be provided with an opportunity of submitting his/her explanation.
- Once the impeachment proceeding is initiated such office-bearer shall not be allowed to discharge the functions of his/her office until such proceedings are over.
- After the impeachment motion is passed, such office-holder shall be removed from the office.

69. What does the Constitution provide as to the formation of Constitutional Bench?

- Article 137 of the Constitution provides for Constitutional Bench.
- The Constitution provides that the Constitutional Bench comprises of the Chief Justice and other four justices designated by the Chief Justice on the recommendation of the Judicial Council.

70. Which types of the electoral disputes does the Constitutional Bench try and decide?

- The Constitutional Bench shall conduct initial proceedings and decide cases relating to election of the Federal Parliament or State Assembly and disqualification of the members of the Federal Parliament or of the State Assembly, in addition to other cases determined by law.

71. What are the provisions in the Constitution as to the formation, registration and operation of a political party?

- The right to open political party has been guaranteed as right to civil liberty.

- The persons with commitment to common political thought, philosophy, and programs may form and operate political party.
- A political party may propagate and publicize its thought, philosophy, and programs for soliciting support of general public.
- There is prohibition on banning political party.
- A political party has to be registered with the Election Commission having fulfilled the procedures set by the law.

72. What are the conditions to be fulfilled by political party while filing application for registration?

- A political party shall have to submit the statute of the party, manifesto, and other documents prescribed by Federal Law.
- The statute and by-laws of political party must be democratic.
- There must be the provision in the statute of political party that election of each of the officials of Federal and State level (of the party) will be held at least once in every five years. Provided that in case no election could be held within the period of five years due to special circumstance, the statute may provide that the election may be held within six months after the five years.
- The Executive Committees of various levels of the party must have inclusive participation reflecting the diversity of Nepal as envisaged in the Constitution.
- The name, objective, symbol or flag of the party must not undermine the religious and communal integrity of the country or must not be of divisive nature.

73. What are the provisions for getting a political party registered for the purpose of recognition for election?

- A political party willing to seek recognition for the purpose of election shall have to get its name registered with the Election Commission having fulfilled the necessary procedures.
- A political party shall have to submit the statute of the party, manifesto and annual audit report.
- While filing application for registration of the party, in addition to the matters referred to above, the terms and conditions referred in Question No. 72 of this handbook, also have to be fulfilled.

SOME INFORMATION ON VOTERS LIST

- » There are five Regional Election Offices in Morang, Kathmandu, Kaski, Banke and Kailali and 70 District Election Offices in the remaining districts under the Commission.
- » The Regional Election Offices and the District Election Offices play supportive and coordinating roles in all activities relating to elections including voters registration, review of polling stations, contact and coordination with political parties at district level and operation of electoral and voter education programs.
- » Collection and updating of voters list for the purpose of election is one of the main functions of the Commission. The functions of voters' registration are carried out in the Regional Election Offices and the District Election Offices throughout the year.
- » Submission of Nepali Citizenship Certificate is mandatory in order to be registered in the voters list. If the permanent address stated in the Citizenship Certificate and current residence are different, the evidence showing the cause of the difference in address (migration certificate, marriage registration or any other evidence) required to be submitted.
- » One should attend 18 years of age to be eligible for casting vote. However, the Commission collects name (bio-metric data) from the age of 16 years, who have obtained Citizenship Certificate. This registration automatically updates voters list when s/he attends 18 years.

- » While registering in the voters list, photograph and thumb impressions of the voters are also collected. Therefore, concerned person himself/herself has to be present.
- » For easy access of voter registration, a voter registration desk has been opened in all District Administration Offices and designated Area Administration Offices. This has helped to get registered in the voters list immediately after obtaining Citizenship Certificate.
- » Voter registration are also carried out from time to time by deputing ECN staff through an integrated mobile camp. Based on the office records, Special Programmes are also launched in the areas where high number of voters have yet to be registered and in the areas with settlements of Dalit, marginalized communities and in the backward regions.
- » The acts of collecting and updating details of voters list for preparing final voters list are fully based on information technology. Therefore, in case a person with his/her name registered in one place but wishes his/her name to be transferred to another place, he/she does not need to have his/her photograph to be taken or thumb-impressions to be recorded again. The name may easily be transferred by filling designated form with specified details.
- » A person who is living temporarily in one place may also get registered his/her name as voter of his/her permanent residence by being present in person in the Regional Election Office or the District Election Office located in the district where he/she is currently living. The Commission will transfer information to the concerned District Election Office of his/her permanent residence.
- » However, in case somebody is found registered twice, the latest registration will be maintained and the name from

the earlier location shall be erased.

- » The final voter list contains important details of voter including colour photograph, voter number, name, gender, address, date of birth, name of father/mother, name of husband in case of married woman and name of polling station.
- » The voter may check his/her details visiting the concerned Regional Election Office or District Election Office or by logging-in the website of the Commission: www.election.gov.np.
- » The voters list with photographs has made the identification of the voter easier in the Election Day and it has significantly assisted in conducting the election in free, fair and credible manner.

SOME INFORMATION & SOME REQUESTS

- » The right to choose a representative of one's choice is the fundamental right of citizen.
- » Let us register in the voters list in order to choose own favorite candidate through voting.
- » A person, who is not registered in the voters list is neither eligible to present candidacy in elections nor to cast vote.
- » It is mandatory to have name registered in the voters list either for candidacy in any election or to cast vote to a candidate of one's choice. Hence, let us secure own right (voting) by registering name in the voters list.
- » The history of election began in Nepal with an election of Local Body.
- » The election of Kathmandu Municipality was held on 29 Jestha 2004 B.S. (11 June 1947) for the first time in Nepal.
- » Nepalese Women obtained right to vote in the election of the Kathmandu Municipality held in 2010 B.S. (1953).
- » The very first elected woman people's representative in the country was Sadhana Devi Pradhan. She was elected as the Ward Chairperson of Ward No 8 in the election of the Kathmandu Municipality held in 2010 B.S. (1953).
- » The first Chief Election Commissioner of Nepal was Subarna Sumsher Rana.
- » The first Woman Election Commissioner of Nepal was Usha Nepal.
- » The First Parliamentary Election of Nepal was held in 7

Falgun 2015 B.S. (18 February 1958).

- » The National Referendum was held in 20 Baishak 2037 B.S. (2 May 1980)
- » In order to conduct National Referendum, Bhagawati Prasad Singh was appointed as Chairperson of the National Election Commission formed in 2036 B.S. (1979).
- » Free, fair and credible election: Our Vision, Our Mission.
- » Free, fair and credible election is the mission of all elections.
- » Your vote is your right, your vote is your choice.
- » The ballot is stronger than the bullet.
- » Learn from the voters.
- » Exercise your right to vote, shape tomorrow by voting today.
- » Your vote is a invaluable.
- » The roll right, the poll right.
- » Free and fair election: Pride of nations.
- » Who do not vote, have no right to complain.
- » In election one voter one vote and one vote one value.
- » Your vote is your voice- be heard.



Have you registered yourself in
Voters List?

If not, please get registered and ensure your voting right.

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*Empowered lives.
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