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Reflecting Buddhist Philosophy in the Fundamental Rights of the Constitution of Nepal

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ABSTRACT

Buddhist philosophy is rooted in the ethical norms of compassion, non-violence, equality, justice, and the welfare of all sentient beings. Although these values are widely recognised as essential principles of modern democracy and human rights, they were taught by Gautama Buddha more than two thousand five hundred years ago. As the birthplace of the Buddha, Nepal has a distinctive historical and cultural connection with these teachings. This study examines the extent to which Buddhist philosophy is reflected in the fundamental rights guaranteed by the Constitution of Nepal. The analysis shows that many constitutional rights, among them the rights to life, freedom, equality, justice, education, health, religious freedom, and social justice, are consistent with the ethical principles of Buddhist philosophy.

Keywords: *Buddhist philosophy, Fundamental rights, Constitution of Nepal, Compassion, Equality, Justice, Constitutional values*

I. INTRODUCTION TO BUDDHIST PHILOSOPHY

Buddhist philosophy is the branch of Eastern philosophy based on the teachings of Gautama Buddha (c. 563 BCE to c. 483 BCE). It germinated in the soil of Nepal, has existed for thousands of years, and has spread across Asia and more recently to the West without being organised by a unified institutional authority, producing numerous and divergent forms of Buddhist thought and practice. It is said that the Buddha gave 84,000 teachings in all, and each has been the subject of multiple translations, interpretations, and debates for millennia. It deals with problems in metaphysics, phenomenology, ethics, and epistemology. Buddhism addresses the suffering of living creatures, and also the system of governance, politics, law, and the other areas necessary for the welfare of the state. Human beings remain the primary focus of Buddhist teachings. As a basic aim, Buddhist philosophy guides human beings from the darkness of suffering (*dukkha*) to the light of liberation through an absorption of the core Buddhist

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principles, that is, the Four Noble Truths, the *Pañcasīla*, the Noble Eightfold Path, the Three Marks of Existence, the Law of Dependent Origination, and the Four Sublime States.

II. FUNDAMENTAL RIGHTS IN CONSTITUTIONAL HISTORY

Fundamental rights are basic human rights guaranteed by States to their own citizens and to the people residing within their territories. In Nepal, the concept of constitutional rights safeguarding the civil liberties of the people can be traced to the Government of Nepal Act, 2004 BS (1948), from which the history of constitution-making begins. That Act introduced fundamental rights for the first time.¹ The constitutions promulgated in 2007 BS (1951),² 2015 BS (1959),³ 2019 BS (1962),⁴ 2047 BS (1990),⁵ 2063 BS (2007),⁶ and 2072 BS (2015)⁷ have each carried that legacy forward through the recognition and protection of fundamental rights. All years given for Nepalese constitutional instruments in this article follow the Bikram Sambat calendar, with the corresponding year of the common era in brackets.

The present Constitution provides a list of 31 fundamental rights. It includes the right to live with dignity, the right to freedom, the right to equality, rights regarding mass communications, rights regarding justice, rights of victims of crime, the right against torture, the right against preventive detention, the right against untouchability and racial discrimination, the right to property, the right to religious freedom, the right to information, the right to privacy, the right against exploitation, the right to environment, the right to education, the right to language and culture, the right to employment, the right to labour, the right to health, the right to food, the right to shelter, the rights of women, the rights of children, the rights of Dalits, the right to family, the right to social justice, rights regarding social security, the rights of consumers, the right against exile, and rights regarding the implementation of fundamental rights and constitutional remedy. This is the first time in the constitutional history of Nepal that such a long list has been provided to the Nepali people, and it includes several new-generation rights.

III. BUDDHIST PHILOSOPHY AND ITS ALIGNMENT WITH FUNDAMENTAL RIGHTS

The provision of the fundamental rights and duties of the people, articulated under Part 3, is the most profound feature of the Constitution of Nepal. Thirty-one in number, these rights and duties are more detailed and comprehensive than those in most written constitutions, and they

¹ The Government of Nepal Act, 2004 BS (1948) (Nepal).

² The Interim Government of Nepal Act, 2007 BS (1951) (Nepal).

³ The Constitution of the Kingdom of Nepal, 2015 BS (1959).

⁴ The Constitution of Nepal, 2019 BS (1962).

⁵ The Constitution of the Kingdom of Nepal, 2047 BS (1990).

⁶ The Interim Constitution of Nepal, 2063 BS (2007).

⁷ The Constitution of Nepal, 2072 BS (2015) [hereinafter NEPAL CONST.].

are consistent with the values and beliefs of inclusive modern democratic thought. This is why Part 3 is also called the Bill of Rights of Nepal. The preamble states that the main purpose of the Constitution is to establish freedom, equality, and fraternity in society, which is to be fulfilled through the provision of fundamental rights. Their primary aim is to prevent the government from acting arbitrarily. They help citizens to live in a dignified way, secure their personal liberty, and allow them to develop themselves. They provide protection to different classes and work to end exploitation. They ensure that women are granted the same rights as men and seek to eliminate discrimination on the basis of gender, caste, and other factors.

A. Right to live with dignity

Article 16 states that every person shall have the right to live with dignity and that no law shall be made providing for the death penalty.⁸ This right, which ensures that individuals can have a respected life and enjoy their rights without discrimination, is deeply rooted in Buddhist philosophy. Among the five precepts introduced by the Buddha, the precept to refrain from killing is foundational. It respects and protects the right to life, emphasising the sanctity of life and the interconnectedness of all beings.⁹ Buddhist philosophy takes the view that every sentient being deserves life and respect. The concept of dependent origination (*pratītyasamutpāda*) teaches that all life is interconnected and that harming others ultimately harms oneself.¹⁰ This promotes the protection of life as a fundamental ethical responsibility.

Buddhist philosophy holds no provision for the death penalty, as it contradicts the precepts of non-killing and non-violence. Despite being a murderer who wore a garland of the fingers of those he had killed, Angulimala was not put to death. He was instead given the chance to reform himself by entering the Sangha. Similarly, after killing his own father, King Ajatashatru felt immense remorse and sought solace from the Buddha, who forgave him and offered teachings rather than punishment. As recorded in the *Dhananjani Sutta*, civil servants who committed corrupt acts were advised and kept under restraint rather than harshly penalised.

This strand of Buddhist philosophy embodies the value of life and recognises its sanctity, and it has been realised and integrated into the Constitution of Nepal. The right to live with dignity is guaranteed as a fundamental right, reflecting the Buddhist view that all beings deserve life and respect. By forbidding the death penalty, the Constitution aligns with the Buddhist commitment to non-violence and the protection of life.

⁸ NEPAL CONST. art. 16(1).

⁹ Leanne Fital Alarid & Hsiao-Ming Wang, *Mercy and Punishment: Buddhism and the Death Penalty*, 28 SOC. JUST. 231, 235 (2001).

¹⁰ PETER HARVEY, AN INTRODUCTION TO BUDDHISM: TEACHINGS, HISTORY AND PRACTICES 466 (2d ed. 2013).

B. Right to freedom

Freedom is a fundamental principle of democracy. Article 17 states that no person shall be deprived of personal liberty except in accordance with law, and that every citizen shall have the following freedoms:¹¹

- freedom of opinion and expression;
- freedom to assemble peaceably and without arms;
- freedom to form political parties;
- freedom to form unions and associations;
- freedom to move and reside in any part of Nepal; and
- freedom to practise any profession, carry on any occupation, and establish and operate any industry, trade, or business in any part of Nepal.

The Buddhist scriptures, particularly the Suttas and the Vinaya texts that record the teachings and the disciplinary rules of the Buddha, emphasise several aspects of freedom and of the individual rights of members of the Sangha. The Buddha is regarded as one of the earliest thinkers to prioritise freedom of thought, as is evident from the *Kālāma Sutta*, in which he advised his listeners to question teachings, traditions, and even his own words, and to rely on their own understanding and experience to discern the truth. That discourse is often cited as an early argument for freedom of expression and opinion. The Buddhist Tripitaka, the core of Buddhist philosophy, contains eighty-four thousand suttas; as recorded in the Sutta Pitaka, eighty-two thousand of these were expressed by the Buddha and the remaining two thousand are thoughts expounded by his disciples.

On the freedom to form associations, the Buddha himself established the first Buddhist Sangha, the monastic community at Sarnath, with the five ascetics known as the *Pañcavaggiya* monks. During the expansion of Buddhism the freedom to establish further Sanghas was assured. There was equality among the members of a Sangha, and separate Sanghas existed in different places. The establishment of a Sangha with a minimum of four persons was a provision allowed by the Buddha. The Sangha operated through democratic processes that ensured every member's voice was considered in decision-making.

On the right to peaceful assembly, there is no room for unrest in Buddhist philosophy. Right Livelihood, among the factors of the Noble Eightfold Path, prohibits five trades, of which trade in arms is one, which carries the sense of assembly that is peaceful and without arms. Problems

¹¹ NEPAL CONST. art. 17.

were arranged to be resolved by holding a meeting of the Sangha twice a month. During the Buddha's time it was also the tradition to listen to sermons in the *vihāra* in the evening, and monks would go to a householder's house to preach while people gathered to listen. This too may be read alongside the right to peaceful assembly.

On the freedom to move and reside from one place to another, the Buddha held that a monk does not have to stay in one place; his task is to visit different places and preach the teachings.

The Constitution also grants citizens the freedom to practise any profession. Under the caste system there was a bar on practising the professions of other castes, and the Buddha strongly opposed that restriction. In one of the discourses of the *Majjhima Nikāya* he said that a person should not follow a profession that makes his life worse, and should follow one that makes it better. On that criterion, people of all classes, regions, genders, and castes should be able to follow any profession, and where a profession harms a person's life he is entitled to refuse it. This indicates that Buddhist philosophy also supports the freedom to pursue an occupation according to one's own will.

C. Right to equality

Article 18 provides that all citizens shall be equal before the law and that no one shall be denied the equal protection of law. No discrimination shall be made in the application of general laws on grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology, or on other similar grounds; nor shall the State discriminate on those grounds.¹²

Read through Buddhist philosophy, equality is likewise guaranteed. After attaining enlightenment the Buddha, in his sermons, gave social and political guidance to those present without discrimination based on gender, race, caste, or class. One notable example is his instruction of the five monks in the *Dhammacakkappavattana Sutta*. The Buddha established the Vinaya to organise his Sangha, and the discourses he propounded are law for the Buddhist Sangha. The Vinaya applies to monks and householders alike, without discrimination. People of any caste, language, region, and religion could enter the Sangha. This is demonstrated by Upali, a principal disciple of the Buddha, who belonged to the barber caste and was nevertheless admitted and became the reciter of the Vinaya. Those called untouchables, and the poor, were also readily admitted, with no discrimination based on caste, origin, religion, economic status, or place of birth. The Buddha opposed the inequality that had spread through society, holding that since both dark and bright qualities, blamed and praised by the wise, are scattered

¹² NEPAL CONST. art. 18.

indiscriminately among the four castes, the wise do not recognise the claim that the Brahmin caste is the highest, and that anyone may become emancipated by *dhamma*. The *dhamma* applies equally to everyone regardless of class, social status, or economic circumstance. Because citizens and rulers alike are equal under the law of *dhamma*, political institutions should reflect that basic truth. For their time these were genuinely ground-breaking social insights.

In this vein the Vinaya Pitaka records that, just as the great rivers Ganga and Yamuna merge into the ocean and become known by the single name of the great sea, people of all four castes, Brahmins, Kshatriyas, Vaishyas, and Shudras, who embrace the *dhamma-vinaya* leave their former names and identities behind and are given equal status in the Sangha.¹³ This is vivid proof of equality in Buddhism.

One day, while walking along the banks of the Ganga, the Buddha encountered an old man named Sunita who was carrying excrement. Fearing that he would defile the Buddha and the monks, Sunita hesitated. The Buddha approached him and said that there is no caste discrimination in the Sangha, that he was human as they were, and that they did not fear being defiled by him. The Buddha opened the doors of the Sangha to Shudras and to women, which parallels the constitutional provision that all citizens are equal in the eyes of the law.

The Buddha's teachings reflect the principle of equality where he prescribes that monarchy, the dominant form of government during his lifetime, should rest on popular consent rather than divine right, be conducted in consultation with the governed, be even-handed in the application of justice, and conform to the *dhamma*. In this sense the Buddha emphasised a form of government in which equality is paramount, and his own institutional creation, the Sangha, is governed by strict equality in its rules for admission, participation, administration, and dispute resolution.

D. Rights relating to justice

Article 20 provides the rights relating to justice. It states:¹⁴

1. No person shall be detained in custody without being informed of the ground for his or her arrest.
2. Any person who is arrested shall have the right to consult a legal practitioner of his or her choice and to be defended by such legal practitioner.

¹³ THICH NHAT HANH, OLD PATH WHITE CLOUDS: WALKING IN THE FOOTSTEPS OF THE BUDDHA 284 (Parallax Press 1991).

¹⁴ NEPAL CONST. art. 20.

3. Any person who is arrested shall be produced before the adjudicating authority within twenty-four hours of such arrest.
4. No person shall be liable to punishment for an act that was not punishable by the law in force when the act was committed, nor shall any person be subjected to a punishment greater than that prescribed by the law in force at the time of the commission of the offence.
5. Every person charged with an offence shall be presumed innocent until proved guilty.
6. No person shall be tried and punished for the same offence in a court more than once.
7. No person charged with an offence shall be compelled to testify against himself or herself.
8. Every person shall have the right to be informed of any proceedings taken against him or her.
9. Every person shall have the right to a fair trial by an independent, impartial, and competent court or judicial body.
10. Any indigent party shall have the right to free legal aid in accordance with law.

In Buddhist philosophy, justice appears to rest on moral rules. The Buddha arranged moral rules for the members of the Sangha in order to make the community just, and the Vinaya Pitaka is witness to this. Violation of its provisions is a punishable act. In order to keep people within a moral range, the Buddha imposed penalties so that breaches of the rules arranged for the Sangha would not widen. Taking into account the character of the offender and the circumstances of punishment, he provided regulations for the system of justice within the Sangha comparable to those articulated in the Constitution. The Sangha established a settled basis for how punishment was to be given and what method was to be followed. Just as certain steps must be gone through today before a person is punished, that system was established by the Buddha. The first condition of a penalty was that the accused had to be given prior notice of it, which was called *ñatti*.¹⁵ Before being punished he was informed and notified of his wrongdoing. The constitutional right to an opportunity to be heard, which provides for a warrant before an arrest is made, is an evolved form of that requirement. In Buddhist philosophy right understanding (*sammā ditṭhi*) involves recognising the importance of truth and transparency, and arbitrary detention without informing the individual violates that principle. The right to consult a legal

¹⁵ RAHUL SANKRITYAYAN, *BUDDHACHARYA* 432 (Samyak Prakashan 2011).

practitioner ensures that individuals are not left vulnerable and unsupported, which aligns with the Buddhist value of compassion, *karuṇā*.

Buddhist philosophy accepts that only a person who is eligible is punished, that is, one who slanders the Buddha, the *dhamma* he preached, or the Sangha.¹⁶ A person who goes against those three jewels, knowingly or unknowingly, is defined as a person liable to punishment. It is also evident that a person is not punished without an adequate hearing in the Sangha; he or she is given the chance to speak before the tribunal the Sangha has constituted. This principle is known as *sammukhā-vinaya*, which translates as face to face, or in the presence of. *Ubbāhika* is a further method under which an independent committee is formed to resolve a dispute, and the committee so constituted is expected to consist of persons with the qualities and virtues necessary to render justice fairly and freely. During the Buddha's time the practice of examining evidence and witnesses was prevalent, as in the justice system of today. Protection against double jeopardy ensures that individuals are not subjected to repeated trials for the same offence, which promotes equanimity (*upekkhā*) and fairness; in Buddhist philosophy equanimity involves balanced and impartial treatment, reflecting fairness in judicial process. Providing free legal aid to those who cannot afford it demonstrates compassion (*karuṇā*), a central tenet of Buddhist philosophy, and ensures that all individuals, whatever their economic status, have access to justice.

E. Right against untouchability and discrimination

Article 24 provides that no person shall be subjected to any form of untouchability or discrimination in any private or public place on grounds of origin, caste, tribe, community, profession, occupation, or physical condition, and that in producing or distributing any goods, services, or facilities no person belonging to a particular caste or tribe shall be prevented from purchasing or acquiring them, nor shall they be sold, distributed, or provided only to persons of a particular caste or tribe.¹⁷ No act purporting to demonstrate any person or community as superior or inferior on grounds of origin, caste, tribe, or physical condition, or justifying social discrimination on grounds of caste, tribe, or untouchability, or propagating an ideology based on untouchability and caste-based superiority or hatred, or encouraging caste-based discrimination in any manner, is allowed. Discrimination in any form at a workplace on the ground of caste is likewise prohibited, any act of untouchability or discrimination committed in contravention of the law is punishable as a severe social offence, and the victim has the right to obtain compensation in accordance with law.

¹⁶ Sankrityayan, *supra* note 15, at 434.

¹⁷ NEPAL CONST. art. 24.

The content of this article reflects a profound influence of Buddhist philosophy. There was no caste untouchability in the Sangha. The Buddha welcomed individuals from all castes, including many considered low caste. The Vinaya Pitaka records him instructing monks not to use racially insulting words, which clarifies his commitment to equality and his rejection of the caste system. He considered the caste system unnecessary and artificial, and believed all to be sovereign and equal, refuting casteism through various instances. If a Brahmin steals he is punished as a thief, not as a Brahmin; if a Shudra steals he is punished as a thief without being called a Shudra. There is no difference founded on birth. Similarly, if Brahmins, Kshatriyas, Vaishyas, and Shudras renounce household life to become monks and enter the Sangha, they leave caste behind. The Buddha confirmed his position by observing that even the king honours the ascetic who belongs to no *varṇa* by giving him alms. His anti-caste measures were widely recognised in society, and his inclusive approach attracted many poor and low-caste individuals to the Sangha; some of those called untouchables, hut-dwellers, and refuse collectors became monks. The story of Prakriti, a low-caste girl who offered water to Ananda,¹⁸ the account of Shardul Karan telling King Prasenajit that casteism is wrong, and the conversation between the Buddha and the sweeper Sunita, all illustrate the Buddha's view of caste and equality. At that time asceticism was predominantly a Brahmin privilege, yet the Buddha's teachings inspired non-Brahmins, especially Kshatriyas, to become monks and to preach. A notable example of his inclusive approach was his ordination of Amrapali, a royal courtesan. The Buddha's teachings and practices thus laid the foundation for the principles enshrined in article 24, which seeks to eliminate untouchability and caste-based discrimination.

F. Right relating to property

Article 25 provides that every citizen has the right to acquire, own, sell, dispose of, and otherwise deal with property, and to acquire business profits from it.¹⁹ The first of the five precepts (*pañcasīla*) is to abstain from taking what is not given (*adinnādāna*). This precept underscores the importance of respecting the property of others and marks a fundamental ethical stance against theft and exploitation. Buddhist philosophy acknowledges the role of wealth in providing for oneself and others. The concept of *dāna*, generosity, is central, and sharing one's wealth and resources is seen as a virtuous act. That practice fosters community welfare and at the same time respects the right to property, by emphasising voluntary giving rather than coercion. The *Sigālovāda Sutta*, often described as the layperson's code of ethics, sets out the proper management of wealth, including spending, saving, and supporting one's family and

¹⁸ Ajantha Parthasarathi, *Deliverance of Prakriti in Rabindranath Tagore's Chandalika*, 44 UGC CARE J. 88 (2021).

¹⁹ NEPAL CONST. art. 25.

community, and treats the recognition of property rights as integral to the fulfilment of one's duties.

G. Right to religious freedom

Article 26 provides that every person who has faith in religion has the freedom to follow, practise, and protect that religion according to his or her belief, and that every religious denomination has the right to operate and protect its religious places. In exercising that right no one may do or cause anything adverse to public health, decency, or morals, disrupt public peace, or act in a manner that causes another to change religion or disturbs the religion of another, such conduct being punishable according to law.

In Buddhist philosophy, *dhamma* refers to the teachings of the Buddha. Buddhist philosophy does not posit a creator god or an abiding soul. The Buddha did not advocate the worship of deities or adherence to a set of dogmas; he taught the way to end suffering through wisdom. He did not compel anyone to accept the *dhamma* or to join the Sangha. He preached only morality and the way to be free of suffering, by which people were persuaded and so took the Threefold Refuge in the Buddha, the *dhamma*, and the Sangha. There are also examples in the Tripitaka of people who, having adopted the *dhamma*, did not find it congenial and returned to another religion, and the Buddha did not criticise them. As recorded in the *Brahmajāla Sutta* of the *Dīgha Nikāya*, he advised the monks not to become angry or displeased when others misrepresented the Buddha, the *dhamma*, or the Sangha, holding that anger would only harm oneself and emphasising the importance of equanimity. His ultimate goal was not the establishment of a religion but the establishment of truth, and he taught that *dhamma*, truth, should be followed. He showed tolerance towards the other religions practised in his time, bore them no animosity, and engaged in discourse with people of different religious backgrounds. The right to religious freedom therefore aligns well with Buddhist philosophy.

H. Right to a clean environment

The right to a clean environment is increasingly recognised as fundamental to human health, well-being, and dignity. It implies access to unpolluted air, water, and soil, and the protection of the ecosystems that support life. Article 30 provides that every citizen shall have the right to live in a clean and healthy environment, and that a victim shall have the right to obtain compensation in accordance with law for any injury caused by environmental pollution or degradation.²⁰

²⁰ NEPAL CONST. art. 30.

Central to Buddhist philosophy is the concept of dependent origination (*pratītyasamutpāda*), which holds that all phenomena are interconnected. It follows that harming the environment inevitably harms all beings who depend on it, and that preserving the environment is essential to the well-being of all life. Monks forbade the violent sacrifices performed at that time in order to protect trees and animals, and emphasised the protection of the forest as the dwelling place of the Sangha. Non-violent sacrifice is described in the *Kūṭadanta Sutta* of the *Dīgha Nikāya*, in which a Brahmin named Kutadanta was preparing a sacrifice for which seven hundred bulls, calves, goats, and sheep had been brought, and which he abandoned after being counselled. The principle of non-violence, or non-harming, urges the avoidance of harm to any living being. Environmental destruction and pollution may be seen as forms of violence against the earth and its inhabitants, so that living in a way that minimises environmental impact is an expression of *ahiṃsā*.

I. Right relating to education

Article 31 establishes the right of every citizen to access basic education, to compulsory and free education up to the basic level, and to free education up to the secondary level from the State.²¹ Citizens with disabilities and economically indigent citizens have the right to free higher education in accordance with law; visually impaired citizens have the right to free education through Braille; and citizens with hearing or speech impairment have the right to free education through sign language. Every Nepalese community residing in Nepal has the right to education in its mother tongue and, for that purpose, to open and operate schools and educational institutes in accordance with law.

The influence of Buddhist philosophy can be seen in the right to education. One of its central claims is that the suffering which exists in the world is owing to ignorance, and specifically to a want of understanding of the Four Noble Truths. Education, in this context, is a vital tool for dispelling ignorance; by promoting understanding and awareness of those truths it helps individuals break free from suffering. The Constitution treats education largely in connection with prosperity, whereas in Buddhist philosophy it is a holistic approach to personal and spiritual development, fostering virtues such as compassion (*karuṇā*), loving-kindness (*mettā*), and wisdom (*paññā*), and cultivating ethical conduct (*sīla*), mental discipline (*samādhi*), and wisdom. Ensuring free and compulsory education for all citizens up to the basic level, and free education up to the secondary level, removes barriers to learning and embodies the Buddhist principle of universal compassion. The constitutional provision for education through Braille

²¹ NEPAL CONST. art. 31.

and sign language shows a commitment to the needs of all individuals, reflecting the Buddhist principle of care for every sentient being. Allowing education in one's mother tongue fosters identity and belonging and promotes social harmony and respect for cultural diversity, which are key values in Buddhist philosophy.

J. Right to language and culture

Article 32 provides that every person and community has the right to use their own language and to participate in the cultural life of their community, and that every Nepalese community residing in Nepal has the right to preserve and promote its language, script, culture, cultural civilisation, and heritage.²²

Many languages were in use in the Buddha's time. Although there is no authentic record of the specific language in which he preached, it is widely accepted that he delivered his teachings in the vernacular. He did not believe in the sanctity of a particular language and opposed the idea that certain languages or regions held inherent holiness. When his monks once requested that his teachings be rendered into Vedic Sanskrit, he rejected the request and insisted that everyone should be allowed to receive his teachings in their own language. That stance on linguistic freedom has contributed to the global spread of Buddhist philosophy, and the thought the Buddha expressed regarding language is found to be inherent in article 32.

Culture is a domain in which social norms have existed for thousands of years and cannot be replaced by forcible recognition. The values and beliefs established by people in society, following the flow of nature, are the foundations of culture. Tolerance, brotherhood, harmony, equality, cooperation, coordination, integrity, and virtue are further bases of culture, around which society revolves. Those beliefs are sometimes manifested in literature, art, and tradition, and they receive the recognition of the State in such a way that the Constitution presents them as rights of citizens. Article 32 is a vivid example.

The Buddha did not wish to prohibit any side, and so adopted the middle way (*majjhimā paṭipadā*) in all aspects, a balanced approach that avoids extremes. This principle is central to a culture in which diverse perspectives and practices coexist harmoniously, and it remains relevant in the global context. The Buddha embraced a broad human culture that did not prohibit or reject any group, and this inclusive approach encouraged the coexistence of multiple cultures and practices, fostering unity and respect among different communities. The *Sigālovāda Sutta*, a long discourse on the duties of the layperson, sets out ethical guidelines for parents, children, teachers, friends, and heads of state, and emphasises the importance of duty in preserving

²² NEPAL CONST. art. 32.

culture. It suggests that a state remains strong as long as it protects and respects its elders, temples, and shrines. These principles align closely with the constitutionally guaranteed right to culture.

K. Right relating to health

Article 35 provides that every citizen has the right to free basic health services from the State and that no one shall be deprived of emergency health services.²³ Every person also has the right to information about his or her medical treatment, to equal access to health services, and to clean drinking water and sanitation.

Similar principles can be observed in the teachings and practices of the Buddha, who emphasised the health of monks and lay people alike and made rules directed at nutrition, health, and a decent standard of living. Consuming more than is necessary is regarded as detrimental to health and productive of various ailments, and the Buddha accordingly instructed his followers to eat once a day. He also adopted a policy of abstention from alcohol and other intoxicants, recognising their harmful effects on health and behaviour, which promoted physical health and mental clarity. On diet, the canonical position is narrower than is sometimes supposed: the Buddha declined to make vegetarianism compulsory when it was urged upon him, and permitted monks to accept meat that was blameless in three respects, that is, not seen, heard, or suspected to have been killed for them. For the improvement of health the Buddha set out many kinds of rule in the Vinaya Pitaka, and the *Bhesajjakkhandhaka* chapter in particular contains numerous references to health and to medical treatment.

L. Right to social justice

Article 42 provides that economically, socially, or educationally backward women, Dalits, indigenous nationalities, Madhesis, Tharus, Muslims, backward classes, minorities, marginalised communities, persons with disabilities, gender and sexual minorities, farmers, labourers, the oppressed, citizens of backward regions, and indigent Khas Arya shall have the right to participate in State bodies on the basis of the principle of proportional inclusion.²⁴ Indigent citizens and citizens of communities on the verge of extinction have the right to special opportunities and benefits in education, health, housing, employment, food, and social security for their protection, upliftment, empowerment, and development. Citizens with disabilities have the right to live with dignity and honour, with the identity of their diversity, and to equal access to public services and facilities. Every farmer has the right of access to land for agricultural

²³ NEPAL CONST. art. 35.

²⁴ NEPAL CONST. art. 42.

activity and to select and protect local seeds and agricultural species traditionally used, in accordance with law. The families of martyrs who sacrificed their lives, persons who were forcibly disappeared, and those disabled or injured in the people's movements, armed conflicts, and revolutions carried out for progressive democratic change in Nepal, together with democracy fighters, conflict victims and the displaced, persons with disabilities, the injured, and other victims, have the right to prioritised opportunity, with justice and due respect, in education, health, employment, housing, and social security, in accordance with law.

The principles set out in article 42 resonate deeply with Buddhist philosophy, and particularly with the idea of *bahujana sukhāya bahujana hitāya*, for the happiness of the many and for the welfare of the many.²⁵ Social justice was the first object of the Buddha in building an egalitarian society; the rights and interests of the oppressed are treated as the most important element in achieving it. His teachings emphasised the fundamental equality of all beings, which is evident in the way he structured the Sangha. The Sangha was open to people from all walks of life, regardless of caste, gender, or social status, and within it a person's standing was determined by spiritual attainment and adherence to the monastic code rather than by birth. That meritocratic system promoted the idea that spiritual progress and ethical conduct are the true measures of a person's worth. The Buddha's teachings and the organisational structure of the Sangha thus reflect a commitment to both the theoretical and the practical aspects of social justice. The emphasis on proportional inclusion, dignity, and welfare in article 42 mirrors the core Buddhist ideals of compassion, equality, and the pursuit of collective well-being.

IV. CONCLUSION

The core principles enshrined in the Constitution of Nepal are closely linked to the foundational beliefs of Buddhist philosophy. While the Constitution is rooted in contemporary democratic ideas and global human rights norms, it also mirrors significant Buddhist principles such as kindness, non-violence, equality, fairness, liberty, justice, freedom, human dignity, and the welfare of all people. These principles are evident in various constitutional entitlements, among them the rights to life, equality, justice, education, health, religious freedom, a clean environment, and social justice. This indicates that Buddhist philosophy has had a significant effect in shaping the ethical and moral framework of the Nepalese legal order. The Constitution of Nepal therefore not only safeguards the rights of citizens and of the people but also embodies the enduring lessons of the Buddha, which continue to promote peace, equality, and the well-being of society.

²⁵ RAKSHIT MADAN BAGDE, *ECONOMIC THOUGHTS OF THE TATHAGATA BUDDHA* 75 (Notion Press 2022).