

# Incorporating Buddhist Ethics and the Constitution of Nepal: Ensuring Child Rights Protection

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## Abstract

*This study explores the intersection of Buddhist ethics and the Constitution of Nepal in relation to child rights. Initially, it highlights key Buddhist principles such as compassion (karuṇā), non-harm (ahiṃsā), and moral responsibility (dharmā), all of which are closely linked to the care and dignity of children. Subsequently, the research analyzes the current provisions of the Nepalese Constitution concerning child rights. In essence, it examines the child rights articulated in the Constitution through a Buddhist lens. This research primarily employs a qualitative methodology, utilizing a variety of texts, including Buddhist literature, academic journals, articles, and the Constitution of Nepal, to investigate the application of Buddhist teachings in the formulation of the child rights in the Constitution, which has its roots over 2,500 years ago.*

**Keywords:** *Buddhist Ethics, Constitution of Nepal, Child Rights, Compassion, Non-harm.*

## Background

The word ‘child’ is derived from the Germanic language. ‘Child’ means ‘foetus’, or ‘infant’ or ‘new-born baby’. The Oxford dictionary defines ‘minor’ as a person below the age of puberty or below the legal age. In the Cambridge dictionary, ‘Child’ is defined as a boy or girl from birth to adulthood. In short, children are considered as immature human beings who need the protection and care of adults. “While all international human rights treaties apply to children, only the Convention explicitly elaborates who is defined as a child. Article 1 defines the child as a human being who

is below the age of 18 years” (Gerison & Ziba 407). According to Lamsal,

Childhood means more than just the time between birth and the attainment of adulthood. It refers to the state and condition of a child life: to the quality of those years. Children of the present are the citizen of the future. They are the foundation stone of the upcoming society and nation. Our future depends on them but their present depends on us. (1)

Children are human rights holders, human rights claimants and human rights defenders (HRDs); children in every country and in every region are standing up for children’s rights and human rights in general (Laural). Children are future adults. Therefore, it is necessary to pay special attention to their mental and physical health. As children are not physically, mentally and emotionally mature, they need special protection and rights. Therefore, child rights are a matter of great importance not only for children but for the entire human race.

The United Nations declared *the Rights of the Child* in 1954, which emphasized ensuring children’s rights such as the right to safety, education, health care, shelter and nutrition. According to the Convention on the Rights of the Child, children are defined as those under the age of 18 years. In Buddhism, there are various words related to children such as *Apaccha*, *Atraja*, *Bālak*, *Balikā*, *Daharpak*, *Darika* are used.

Buddhism considers human life as precious and invaluable, leading to the notion of offering special protection and direction to children, who represent humanity’s future. The Buddhist perspective on children’s rights emphasises motherhood, paternity, family obligations, and the empowerment of children in society. The Buddhist text *Sigālovāda Sutta* establishes the roles of parents and children. In this Sutta, the five duties of parents to children are mentioned, which is the basis of child right in Buddhism. These Buddhist thoughts prioritise children, emphasising ideals such as human dignity, compassion, nonviolence, and charity.

Numerous legal frameworks have been established worldwide to protect and promote children’s rights. These legal provisions are essential for ensuring the safety, education, health, and overall development of children. In Nepal, several modern laws have been enacted to safeguard children’s rights. The Constitution of Nepal, 2072, along with important laws such as the Children’s Act, 2075, the Child Labour Prohibition Act, 2056, and the Control of Trafficking and Trafficking in Persons Act, 2064, serve as essential legal instruments. However, despite these frameworks, there is still a need for effective implementation and increased social awareness. The

aforementioned Acts are primarily formulated in accordance with the Constitution Act 2072 of Nepal. This Constitution places significant emphasis on the rights of children.

Children represent the future of humanity. So, their rights must be legally protected at all levels. In this regard, Buddhism supports child rights through its important principles such as human dignity, compassion, nonviolence and charity. This article examines and compares child rights prevails in the form of Buddhist teachings with the constitution of Nepal.

## Statement of Problem

Granting children, the rights they need is essential for their healthy development, a key factor in the advancement of future human civilization. Therefore, fundamental child rights are indispensable. Though Buddhism originated over 2,500 years ago, its ethical teachings already addressed concepts of childcare and protection. Buddhist principles have been interpreted from various perspectives; religious, societal, economic, and political. Most studies have focused on human rights, but there is still insufficient research on child rights. This is why child rights in Buddhism constitute a distinct field of study. Similarly, examining the status of child rights in Nepalese laws and their compatibility with Buddhist principles' is equally important. In modern Nepal, child rights are enshrined in the constitution and legal frameworks as well. This research investigates how Buddhist teachings on child protection can align with and enhance Nepalese constitution concerned with child rights. The study aims to answer the following questions:

1. How does Buddhism view children's rights?
2. What are the constitutional provisions protecting child rights in Nepal?
3. How can Buddhist teachings on child rights be integrated into Nepal's constitution?

## Objectives

As human rights become ever more significant in modern world, the rights of children have raised as a vital issue. Buddhism, which highlights compassion (*karuṇā*), non-harm (*ahiṃsā*), and moral duty (*dharma*), offers a strong ethical framework that can aid in the protection of child rights. This research intends to examine how the Buddhist principles can strengthen contemporary child protection laws in Nepal. By analyzing and connecting Buddhist ethics with legal structures, the study aims to find

the way of boosting welfare of children in Nepal. The objectives of the studies are:

1. To analyze Buddhist ethical teachings related to child protection, concentrating on Buddhist teachings.
2. To study the provisions for child rights in Nepalese constitution.
3. To compare and interlink Buddhist principles with constitutions of Nepal for identifying areas of alignment and potential improvement.

## **Review of Literature**

According to United Nations,

The United Nations Convention on the Rights of the Child (UNCRC) is a landmark international treaty that delineates the rights of children and the corresponding obligations of states to protect these rights. Adopted in 1989, the UNCRC has become the most widely ratified human rights treaty in history, influencing national laws, policies, and international norms regarding children's welfare. (*Convention 3*)

Thera, Narada writes that in the translation of pali '*Sigālovāda Sutta: The Discourse to Sigāla*' that the *Sigālovāda* Sutra in Buddhism establishes the roles of parents and children. The Buddha saw a young man bow to the six directions (north, south, east, west, zenith, and nadir). When questioned why, the young guy acknowledged to following his late father's counsel without fully understanding it. Instead of criticising him, the Buddha gave the rite a practical meaning: honouring the six directions represents fulfilling obligations to parents, teachers, religious figures, spouses, children, and employees.

In her work "*Buddhism and Children*," Vanessa interprets *Rāhula*, the Buddha's son, and investigates the Buddha's treatment of him. The examination examines Siddhartha's renunciation and its impact on his son, *Rāhula*'s ordination at the age of seven, and his monastic existence as a youngster.

In her study entitled "*For a Sustainable Future: Buddhist Perspective of Child Protection with Special Reference to Theravada Buddhism*," *Karunāsagara Kaushalya* found that Buddhist principles advocate for the protection of children from the point of conception. Children are given the opportunity to choose between a secular life and a monastic path. Buddhism places significant importance on morality, urging adults to support children in developing ethical values. To promote a more harmonious world,

she recommends that all children be treated as if they were one's own.

In the study of “*Note: A Buddhist Perspective on an Alternative Approach for Upholding the Dignity of Children in the Midst of Globalization*”, Sarintip found that in the light of globalization, the concept of nurturing a virtuous community provides a whole new meaning. Drawing from the Buddhist notion of *Kalyāṇamittatā*—that is, the concept of noble or admirable friendship such a community naturally cultivates the environment for growth. By fostering good friendships and positive conditions, children are able to experience self-actualization and develop self-awareness, thus behaving in accordance with their intrinsic dignity. As *Kalyāṇamittatā* is the source of the good life, then so is the good future for children.

The research, “*Understanding Parent-Child Relationships in Theravāda Buddhism*,” by PYNNARDIPA and Bhante Dr. Chandrakitti (Champalal Mandrele) explores how *Theravāda* Buddhism informs interactions among family members through the lenses of ethical responsibilities, emotional attachments, and spiritual development. Emphasizing the idea that all action has a cause or effect (the beliefs of *Kamma*), it positions parents as the most important of ethical educators with the duty of children to honour their parents by living virtuous lives. It further highlights the group implementation of the Five Precepts and *Mettā* (loving-kindness) to guide respect and understanding.

The previous paragraph explored about the children's rights, whether directly or indirectly, within Buddhist teachings. Since the aim of this research is to analyze child rights in Nepalese laws through a Buddhist lens, we will review various publications concerning child rights in the context of Nepalese legislation.

Lamsal, Apar Kumar has studied entitled “*Culture and Country Towards Child Right in Nepal*” and concludes that Nepal government has contributed the situation in relation to child rights protection but it is bleak. Discrimination and backwardness are clearly evident in education, health, and other sectors of relevance. He just saw the conditions of the laws and its implications for real output to get the children benefited.

Gajurel, Dinesh Prasad writes in his seminar paper “*Child Rights in Nepal*” Nepal inculcated the rights of children into its Children's Act, 1992 but still, it has not been able to implement them completely. Justice systems overlook children's needs. Though children have rights, they lack awareness and support. It's the duty

of governments, parents, and society to create environments where these rights are upheld and realized.

Pant, Pragya and Sharad Nepal had done research entitled “*Status of Children in Nepal*” and found that the Convention on the Rights of the Child, 1989, laid down specific guidelines regarding the rights of children. While Nepal inculcated the same into its Children’s Act, 1992, it has not been able to implement them completely. Children continue to be victims of poverty, abuse, neglect, and discrimination. Justice systems overlook their needs. Though children have rights, they lack awareness and support. It’s the duty of governments, parents, and society to create environments where these rights are upheld and realized.

Jha Jivesh studied in titled “*Rights of Children Under the Constitution of Nepal*” and writes that Nepal’s Constitution affords children some basic rights but the juvenile justice system is still predominantly punitive rather than rehabilitative. By law, it is possible to transfer juvenile delinquents to correctional facilities and to exclude diversion in case of conduct punishable by terms of imprisonment of three years or more. This model restricts restorative justice options and focuses on punishment rather than rehabilitation.

All of the studies mentioned here are either about the concept of child rights in Buddhism or child rights in Nepalese law. However, no studies are done on Buddhist ethics and modern laws of Nepal for ensuring child rights protection have been conducted. So, this title is absolutely novel for research purposes.

## **Methodology**

This research is a qualitative research with analytical in nature and provides descriptive explanations on the findings. It is a library-based research which involves the study of books, journals, articles and different Buddhist texts and commentaries and the constitution and the laws of Nepal. The main sources of information are the Central Library of Lumbini Buddhist University, academic experts, and online resources. The paper discusses child rights and laws from the perspective of Buddhist literature and Nepalese legal frameworks, highlighting how Buddhist teachings are related to Nepalese laws on issues concerning child rights.

## **Limitations of the Study**

This research examines the intersection of Buddhist teachings concerning child rights and the provisions outlined in the Constitution of Nepal, 2072, while proposing avenues for enhancement. The study predominantly utilizes internet and library materials, which may limit access to a wide range of comprehensive resources. The literature review is restricted to a one-month timeframe, potentially impeding thorough investigation. Furthermore, the analysis is focused on Buddhist ethical principles regarding child protection and the constitutional framework, which may result in the omission of broader viewpoints. Nevertheless, the research aspires to provide valuable insights into the improvement of child rights protection in Nepal by merging Buddhist ethics with constitutional guidelines.

## Textual Analysis

The United Nations (UN) Convention on the Rights of the Child outlines 54 specific rights for children. These ideas of child rights focus on four main areas: existence, development, protection, and participation. The right to existence highlights the importance of children's right to life and survival, which encompasses access to health care, nutrition, and essential services. In a similar vein, the right to development relates to children's access to education, play, and cultural experiences that foster their physical, mental, and social growth. The right to protection ensures that children are safeguarded from violence, abuse, and exploitation, while the right to participate emphasizes the importance of including children's views, opinions, and wishes in decision-making processes, whereas the right to participation is related with children's views, opinions and wishes can be included in the decision-making process.

Following the United Nations' introduction of children's rights, which emphasized ensuring children's rights to safety, education, health care, shelter and nutrition, Nepal incorporated the concept of child rights into its constitution and other laws. This concept can also be traced back to Buddhist teachings. Following the United Nations' introduction of children's rights, which emphasized ensuring their safety, education, healthcare, shelter and nutrition, Nepal incorporated the concept of child rights into its constitution and other laws. This principle can also be traced back to Buddhist teachings.

## Concept of Child Rights in Buddhist Teachings

Children's care and upbringing are given particular importance in Buddhist education. The rights of children are explicitly stated in certain suttas. For instance, the *Sigālovāda Sutta* states that raising and educating children is the primary



responsibility of parents. According to the Sutta, parents have five obligations to their children:

- i. Education: It is our responsibility to provide children with a quality education.
- ii. Teaching Humility: It is the duty to instill in children moral principles and humility.
- iii. Teaching this business: imparting the abilities required to make a living.
- iv. Proper arrangement of marriage: Arranging marriage at suitable time.
- v. Property transfer: Make sure you transfer property at the appropriate moment.

UN has introduced in 'The United Nations Convention on the Rights of the Child' right number twenty-eight (28). According to this right 'Every child has the right to an education. Primary education should be free. Secondary and higher education should be available to every child. Children should be encouraged to go to school to the highest level possible. Discipline in schools should respect children's rights and never use.' This right of twenty-eight number is related to right of quality education by the parents to their child mentioned in *Sigālovāda Sutta*. In this way, principle of quality education as a fundamental right was present in Buddhist teachings as early as 2,500 years ago, predating modern human rights frameworks. This conceptual foundation reveals that the concept of education as a right is not a contemporary innovation, but rather has deep roots in ancient spiritual traditions. Subsequently, this principle has been institutionalized within modern child rights frameworks, particularly through the United Nations Convention on the Rights of the Child (UNCRC).

Buddhism is based on the principle of *karma*. This principle has also helped to protect the rights of children. In the *Mahākarmavibhaṅga Sutta*, it is mentioned that the future actions of the children are influenced by the conduct and education of the parents. It inspires parents to teach moral education and proper conduct for their children. It has played an important role in ensuring the rights of children in the Buddhist tradition.

Buddhist doctrine never looks down upon the status of any human being due to their age, race, ethnic group, caste or religion; but behaviour is



the component which makes people differ from each other. In the same manner, each and every child is a part of the society who has rights to be protected and educated without being offended or neglected. (*Karunāsagara* 270)

This enduring legacy serves as compelling evidence that the protective rights enshrined in the UNCRC including safety, education, and holistic development were philosophically embedded in Buddhist teachings millennia prior to their codification in international law.

In Buddhism, the three forms of action that create *karma*, *kāya* (body), *vācī* (speech), and *citta* (mind), are influenced by intention (*cetanā*). Ethical conduct in these domains significantly impacts future experiences, as illustrated in texts such as the *Nibbedhika Sutta* (AN 6.63) and the *Majjhima Nikāya*. When this principle is applied to the rights of children, it underscores the importance of shielding them from physical, verbal, and psychological abuse. Similar to how Buddhist ethics advocate for non-harm (*ahimsā*), the protection of children's rights necessitates the assurance of their safety, dignity, and emotional health. By adhering to these ethical principles, we foster a compassionate society in which children can flourish, thereby harmonizing Buddhist teachings with contemporary child-law frameworks.

Buddhism is based on the principle of non-violence. The principle of non-violence can be implemented to all even to children. In this contest, it states that children should not be subjected to any kind of violence, exploitation and abuse. The physical, mental, and emotional safety of children is important in Buddhism, which emphasizes children's rights. Likewise, the principle of compassion in Buddhism inspires to treat children with special affection and care.

From the moment of conception, the topic of child rights comes into play. In this regard, Buddhism, through the teachings of *Panchasheel*, highlights the importance of non-violence and the safeguarding of life, which includes the prohibition against killing animals. This principle also supports the view that abortion should be avoided, in line with the belief in protecting a child's right to life.

## Child rights in Constitution of Nepal

The Constitution of Nepal (2015) incorporates the core principles of the United Nations Convention on the Rights of the Child (1989). Article 39, under fundamental rights, guarantees key child rights such as survival, protection, development and

participation. Additionally, Article 51 ensures that state policies prioritize the best interests of children. These provisions make the Constitution child-friendly, reflecting the Government of Nepal's commitment to safeguarding children's welfare and addressing their needs with sensitivity and urgency.

The Constitution of Nepal, 2072 has provided special fundamental rights to children. Article 39 of the Constitution provides children with the right to proper upbringing, education, health care, and protection from violence and exploitation. The main points of child rights mentioned in the constitution are as follows:

The child rights related provisions in the Constitution of Nepal (2015) are outlined in the Article number 39 in heading 'Rights of the child' which are mentioned below,

1. Every child shall have the right to name and birth registration along with his or her identity.
2. Every child shall have the right to education, health, maintenance, proper care, sports, entertainment and overall personality development from the families and the State.
3. Every child shall have the right to elementary child development and child participation.
4. No child shall be employed to work in any factory, mine or engaged in similar other hazardous work.
5. No child shall be subjected to child marriage, transported illegally, abducted/ kidnapped or taken in hostage.
6. No child shall be recruited or used in army, police or any armed group, or be subjected, in the name of cultural or religious traditions, to abuse, exclusion or physical, mental, sexual or other form of exploitation or improper use by any means or in any manner.
7. No child shall be subjected to physical, mental or any other form of torture in home, school or other place and situation whatsoever.
8. Every child shall have the right to juvenile friendly justice.
9. The child who is helpless, orphan, with disabilities, conflict victim, displaced or vulnerable shall have the right to special protection and facilities from the

State.

10. Any act contrary to in clauses (4), (5), (6) and (7) shall be punishable by law, and a child who is the victim of such act shall have the right to obtain compensation from the perpetrator, in accordance with law.

The Constitution of Nepal (2015) strongly advocates for child rights by integrating provisions from the United Nations Convention on the Rights of the Child (CRC). Beyond Article 39, which guarantees fundamental rights for children, there are 11 additional articles focused on their welfare. Article 11(4) allows for citizenship by descent for any child found in Nepal with unknown parents. Article 18 ensures the right to equality, while Article 29 prohibits all forms of exploitation. Article 30 guarantees the right to a clean and healthy environment, and Article 31 secures the right to education. Furthermore, Article 35 provides the right to health, and Article 51 promotes social justice and inclusion.

In the same way in Article number 43, the constitution has mentioned the right to social security even for children saying ‘Right to social security: The indigent citizens, incapacitated and helpless citizens, helpless single women, citizens with disabilities, children, citizens who cannot take care themselves and citizens belonging to the tribes on the verge of extinction shall have the right to social security, in accordance with law.’

The Constitution supports the four fundamental principles of the CRC: non-discrimination, prioritizing the best interests of children, respecting children’s opinions, and ensuring their survival and development. By adopting these principles, the Constitution of Nepal is justly seen as child-friendly, demonstrating the country’s dedication to safeguarding and advancing children’s rights.

In the constitution of Nepal, children have fundamental rights such as rights of name and birth registration, which also include education, health, care, and development. They also have rights of Protection from hazardous work, child marriage, trafficking, and exploitation in the constitutions. Children are authorised to protection against torture and harmful cultural practices and enabled to a juvenile-friendly justice system. Special protection is conferred to the helpless children, and legal remedies indeed exist to accommodate violations of these rights.

## **Applying Buddhist Teachings to Uphold Constitutional Child Rights**

The Constitution of Nepal guarantees children protection from exploitation,

abuse, and violence (Article 39). This concept has been included in Buddhist teachings in the form of *Karunā* and *ahimsā*. *Karunā* of Buddhist philosophy encourages society to care for and protect children. In the same way, *ahimsā* program can be implemented in schools and communities for fostering an environment free from physical and emotional harm.

Article 31 of Constitution of Nepal establishes the right to free and compulsory education. Education holds significant value in Buddhism, particularly through the concepts of *Prajñā* (Wisdom) and ethical conduct. By fostering an educational framework grounded in moral and ethical principles, we can ensure that children acquire not only academic knowledge but also develop into responsible members of society.

The constitution guarantees the right to adequate care, health and nurturing for children. The *Sigālovāda Sutta*, a key text in Buddhist teachings, delineates the obligations of parents to their children, which comprise ensuring education, safety, and moral instruction. These tenets can motivate families and communities to proactively uphold the rights of children.

Within the Buddha's teachings of Eightfold Path, *sammā ājīva* establishes ethical economic principles that reject exploitation. This framework can inform public policy initiatives aimed at eliminating child labour and upholding children's rights.

## **Conclusion**

The Constitution of Nepal (2015) reflects key Buddhist teachings in its child rights provisions by highlighting ethical responsibilities, non-violence and compassion. The *Sigālovāda Sutta* emphasizes the obligation of parents to provide their children with education, moral values, and skills for livelihood, which corresponds with Article 39 of the Constitution that ensures children's rights to education, health care, protection and overall development. Additionally, the Buddhist principle of *karma*, as discussed in the *Mahākarmavibhaṅga Sutta*, underscores how parents' actions can shape their children's futures, aligning with the constitutional emphasis on prioritizing children's best interests in their upbringing and protection.

Buddhism's core principle of *ahimsā* is evident in constitutional provisions that ban child marriage, child labour, trafficking, and all forms of exploitation (Article 39). The teachings of *Panchasheel*, especially the directive against taking life, correspond with the protections for children's rights to survival and safety from abuse. The

focus on *karunā*, which is central to Buddhist ethics, aligns with the Constitution's dedication to juvenile-friendly justice, equality, and social security for at-risk children.

The Constitution of Nepal ensures the protection of child rights to safety, education, and care, which is in harmony with Buddhist principles. The concepts of *Karunā* and *ahimsā* advocate for the safeguarding of children and the creation of secure environments. The provision for free education in Article 31 reflects the value of *Prajñā*, facilitating the holistic development of children both academically and morally. Furthermore, the principle of *sammā ājīva* stands against exploitation, aligning with initiatives aimed at eradicating child labor and fostering equality. Collectively, these principles contribute to the enhancement of child rights protection in Nepal.

Thus, the concept of child rights, incorporated into the Constitution of Nepal under the influence of the UNCRC. These were already presented in Buddhist teachings but in albeit framed within ethical and dharmic principles. This demonstrates that the child rights now codified in Nepal's legal framework have philosophical roots in Buddhism. Accordingly, it can be argued that Buddhist teachings form the foundational basis for modern child rights, both in international conventions like the UNCRC and in national legal instruments such as Nepal's constitution.

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