

# Duties of citizens in the Constitution of Nepal and South Asian Countries

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## 1. General Background

Generally, those who are born in the territory of the country, born by parents of same country and who are the long time residents of the country are accepted as the citizens of the country. A citizen should have duties and responsibilities for his/her country. He should try to do the public good. He should control his conduct on the light of the good of his/her country. He/she should try to build himself to do the best service for the country. He/she should have patriotism and fellow-feeling. As a citizen, he/she should know his responsibility to discharge his/her duties. Fundamental duties are defined as the moral obligations of all citizens to promote a spirit of patriotism and to uphold the unity of the country. Before the discussion about the subject we have to define the phrase “Duties of Citizen”.

A duty is an act which one ought to do, an act the opposite of which would be a wrong. Duties like wrongs are being moral duty, fundamental duty and legal duty<sup>1</sup>. The term “citizen” means a person who resides within the territorial limits of the state. Speaking in terms of political science, citizen means a person who is in the members of the state & who enjoys social & political rights. Citizens duties is also known as Civic Responsibility and defined as the “responsibility of a citizen” It is comprised of actions and attitudes associated with a country. The role of citizens in a democratic country is to respect and obey laws (federal, state and local laws), pay taxes honestly and on time etc.

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<sup>1</sup> DR. BAL BHADUR MUKHIA, COMPARATIVE JURISPRUDENCE Part-I (Chapter V- Critical Study of Jurisprudential Concepts), M and T. Mukhia, Kathmandu, (2011).

In democracy, people enjoy many political, social and cultural rights and privileges. It is the primary function of a government to secure people's rights of its citizens. At the same time, citizens also have important roles to play for making this system effective and credible. As responsible citizens, we have moral and legal obligations and responsibilities towards our country. It is the primary duty and obligation of every citizen to respect and uphold the dignity of the constitution.

Rights and duties are interrelated subjects and cannot be separated from one another. We can't enjoy our rights without fulfilling our duties. Rights and duties go side by side. We can't imagine of one without the other. These are the two sides of the same coin. The source of right is duty. If we all discharge our duties, rights will not be far to seek.<sup>2</sup> If the state gives the right to life to a citizen, it also imposes an obligation on him to not to expose his life to dangers, as well as to respect the life of others. Rights can be enjoyed only in the world of duties. For every right there is corresponding duty. To enjoy one's rights others have duty to allow him to do the same. If one has the right to life and it is the duty of others to respect his life and not to cause any harm to him. A good society cannot be created only by enjoying rights without fulfilling any social duties and accountabilities. All rights become meaningless in condition of discharge their duties properly.

In democracy, duties correspond to rights where the state and citizens are bound by mutual obligations and civilized by socialization, communication and nationalization. It transcends selfish human nature, which seeks to govern the weak by depriving their dignity, nationality and humanity. A balance between rights and duties can bring the Nepali society to the cardinal virtue of middle path and build social solidarity.<sup>3</sup>

We must always try to promote social interest in enjoying our rights and everyone's duty is to use their rights for promoting the welfare of the society as a whole. It is duty of all citizens to be loyal to the state. Citizens should always be ready to defend the state. Thus a citizen has both Rights and Duties.

Fundamental rights are what we want others to do for us whereas the duties are those acts which we should perform for others. Fundamental rights apply

<sup>2</sup> SUBHASH C KASHYAP, OUR CONSTITUTION (5<sup>th</sup> ed.), National Book Trust, India, 53, (2011).

<sup>3</sup> Dev Raj Dahal, The Rising Nepal, April 2, 2019

to both citizens and foreigners but duties are apply only citizens. Likewise fundamental rights have impact on the government whereas fundamental duties have impact on the citizens. All democratic countries of the World have provided fundamental rights and various countries have adopted the provision of fundamental duties in its constitution. But citizens of every state have duty towards their country.

## 2. Kinds of Duties

There are various kinds of duties that may be categories as civil, legal and moral duties.

**2.1. Civil duties:** civil duties are also known as fundamental duties of the citizen. These are mainly concern with one's own country and general public. These duties are major duties of a citizen that we have to fulfill. Those are:

- To safeguard the nationality, sovereignty and integrity of the nation
- To abide by the constitution and respect its deals and institutions, the national flag and national anthem;
- To uphold and protect the sovereignty, unity and integrity of the country.
- To promote harmony and the spirit of common brotherhood amongst all people of the country transcending religious, linguistic, regional diversity & dignity of women.
- To value and preserve the tradition and culture of the country.
- To protect and improve the national environment including forest, lake, rivers, wild animals and other living creatures.
- To protect and preserve public property.
- To render compulsory service as and when the State so requires etc.
- To remain loyal to the country.
- To exercise voting right.
- To raise voice in favour of the truth and justice.

**2.2 Legal duties:** Legal duties are those duties which are must have to perform by law. Every citizen's duty is to respect the laws of the land and everyone is bounded by law to perform those duties. Generally following duties are considered as legal duties:

- To obey to the law of the country.
- To pay the taxes honestly & regularly according to law
- To obey the command of law.

**2.3 Moral duties:** Moral duties are those duties which are not legally bound to maintain them. A duty which we ought to perform, as we think it is right to do, but we are not legally bounded to fulfill. We should learn to live morally and ethically dignified life. The duties are:

- To respect our parents and serve other family members, elders teachers, relatives, neighbours etc.
- To look after his own family.
- To respect our teachers.
- To help the poor.
- To earn money through fair means.
- To serve our village as well as nation and the World etc.

### 3. Duties of Citizens in Various Countries

Every citizen of a country has duty towards his nation, constitution, law and his family and society. Various democratic countries of the world have provided various duties of citizen in their constitution and laws. The duties of a citizen vary widely from country to country and depend as well on the basic political structure of the country. Citizens of most countries are expected to serve in their country's military in times of need. It is considered a fundamental duty to protect the country and fellow citizens. Some countries require military service during times of war. Other countries require citizens to serve in the military for a certain period of time during both war and peace time. To support their countries financially is another fundamental duty of citizens in all countries. This is generally done through the paying of taxes. Taxes pay for things that benefit all citizens such as transportation or education. To vote and choose leaders is both a duty and a freedom for citizens in every country. To obey the laws of their countries is another duty recognized by all countries. Article 29(1) of Universal declaration of Human Rights 1948 says: Everyone has duties to the community in which alone the free and full development of his personality is possible.

To respect nation, to obey Laws and to Pay Taxes are major duties of a citizen accepted by every country of the world. American citizens have also following those duties according to constitution and laws of USA. United Kingdom has not written constitution and the same type of citizens duties are there as America has. All South Asian countries consist of people of different races, castes, religious, languages, communities, etc. and the maintenance national unity and integrity is of principal importance. In this

context, the fundamental duty is to be abided by the Constitution and upholding and protection of the sovereignty, and integrity of the country assumes paramount importance. They also have provided some provisions of duty in their constitution. The writer has described the constitutional provisions of those countries' as follows:

### 3.1 Duties of citizens in Indian Constitution

One important salient features of the Indian Constitution is the corporation of the fundamental duties of citizens. The Constitution clearly mentioned the provision of fundamental duties in its text by 42<sup>nd</sup> and 86<sup>th</sup> amendment of the constitution in 1976 and 2002. The Fundamental Duties are defined as the moral obligations of all citizens to promote a spirit of patriotism and to uphold the unity of India. There are eleven fundamental Duties of the citizens towards the State enumerated in Article 51-A in part-IV A of the Constitution of India, but there is no provision in the Indian constitution for direct enforcement of any of these duties nor any sanction to prevent their violation. The provisions of fundamental duties for citizen in India are as follows:

Article 51A: Fundamental duties- It shall be the duty of every citizen of India –

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;

- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.
- (k) to provide opportunities for education by the parent or the guardian, to his child, or a ward between the age of 6 and 14 years.

According to the above provision we can say there are lots of duties to Indian people but there is no provision in the Constitution for direct enforcement of the fundamental duties enshrined in article 51A nor is there any provision to prevent or punish their violation. The Supreme Court of India also decided some decision regarding the provision of fundamental duties. In the case of **Surya Narain v. Union of India**<sup>4</sup> the court said- Mandamus cannot be sought against an individual who does not observe his duties under this article. In another case of **Bijoi Emmanuel v. State of Kerala**<sup>5</sup>, the court said- proper respect is shown to the National Anthem by standing up when the National Anthem is sung. it will not be right to say that disrespect is shown by not joining in the singing.

### 3.2 Duties of citizens in the Constitution of Afghanistan

Like Indian and Nepalese constitution, the Constitution of Afghanistan also imposes a duty on citizens to observe the provisions of the charter by being obedient to laws and respecting the public order. While imposing a duty on the citizen to defend the country, Article 55 foresees enactment of a particular law which could pave the ways for the compulsory military service to every citizen. The constitution also provides duties to the government. According to Article 75 the government has the duties to execute the constitutional provision, other laws, and final orders of the courts. Protect the independence, defend the territorial integrity, and safeguard the interests and dignity of Afghanistan in the international community is also included in duties of government.<sup>6</sup>

### 3.3 Duties of citizens in the Constitution of Sri Lanka

The Constitution of Sri Lanka also imposes an obligation on the citizen to protect the nature and conserve its riches. Article 28 of the constitution begins with a title of 'Fundamental Duties' that embodies following six duties:<sup>7</sup>

<sup>4</sup> AIR 1982 SC 1

<sup>5</sup> AIR 1987 SC 748

<sup>6</sup> THE CONSTITUTION OF AFGHANISTAN

<sup>7</sup> THE CONSTITUTION OF DEMOCRATIC SOCIALIST REPUBLIC OF SRI-LANKA

- (a) to uphold and defend the Constitution and the law;
- (b) to further the national interest and to foster national unity;
- (c) to work conscientiously in his chosen occupation;
- (d) to preserve and protect public property and to combat misuse and waste of public property;
- (e) to respect the rights and freedoms of others; and
- (f) to protect nature and conserve its riches.

### 3.4 Duties of citizens in the Constitution of Pakistan

Similarly, the Constitution of Pakistan states that the loyalty to the state is the basic duty of every citizen. Maintaining that a non-citizen should also uphold the laws of Pakistan, Article 5(2) legislates, "Obedience to constitution and law is the inviolable obligation of every citizen wherever he may be and of every other person for the time being within Pakistan."<sup>8</sup>

### 3.5 Duties of citizens in the Constitution of Bangladesh

The Constitution of Bangladesh has provided the duties of Citizens and of public servants. The Article 21(1) of the constitution is concerned with the duties of citizens and says - it is the duty of every citizen to observe the Constitution and the laws, to maintain discipline, to perform public duties and to protect public property. The constitution also provided every person in the service of the Republic has a duty to strive at all times to serve the people.<sup>9</sup>

### 3.6 Duties of citizens in the Constitution of Maldives

Article 67 of the Constitution of the Republic of the Maldives clarifies that the exercise and enjoyment of fundamental rights and freedoms is inseparable from the performance of responsibilities and duties, and it is the responsibility of every citizen<sup>10</sup>

- a. to respect and protect the rights and freedoms of others;
- b. to foster tolerance, mutual respect, and friendship among all people and groups;
- c. to contribute to the well-being and advancement of the community;
- d. to promote the sovereignty, unity, security, integrity and dignity of the Maldives;

<sup>8</sup> THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN

<sup>9</sup> THE CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BANGLADESH

<sup>10</sup> THE CONSTITUTION OF THE REPUBLIC OF MALDIVES

- e. to respect the Constitution and the rule of law;
- f. to promote democratic values and practices in a manner that is not inconsistent with any tenet of Islam;
- g. to preserve and protect the State religion of Islam, culture, language and heritage of the country;
- h. to preserve and protect the natural environment, biodiversity, resources and beauty of the country and to abstain from all forms of pollution and ecological degradation;
- i. to respect the national flag, state emblem and the national anthem.

According to the constitution every person in the Maldives must respect these duties

### **3.7 Duties of citizens in the Constitution of Bhutan**

Similarly, The Constitution of the Kingdom of Bhutan also provided some duties to its citizen and people.<sup>11</sup> It has incorporated long list of following eleven duties under Article 8 of the constitution:

- a. A Bhutanese citizen shall preserve, protect and defend the sovereignty, integrity, security and unity of Bhutan and render national service when called upon to do so.
- b. A Bhutanese citizen shall have the duty to preserve, protect and respect the culture and heritage of the nation.
- c. A Bhutanese citizen shall foster tolerance, mutual respect and spirit of brotherhood amongst all the people of Bhutan transcending religious, linguistic, regional or sectional diversities.
- d. A person shall respect the National Flag and the National Anthem.
- e. A person shall not tolerate or participate in acts of injury, torture or killing of another person, terrorism, abuse of women, children or any other person and shall take necessary steps to prevent such acts.
- f. A person shall have the responsibility to provide help, to the greatest possible extent, to victims of accidents and in times of natural calamity.
- g. A person shall have the responsibility to safeguard public property.
- h. A person shall have the responsibility to pay taxes in accordance with the law.

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<sup>11</sup> THE CONSTITUTION OF THE KINGDOM OF BHUTAN

- i. Every person shall have the duty to uphold justice and to act against corruption.
- j. Every person shall have the duty to act in aid of the law.
- k. Every person shall have the duty and responsibility to respect and abide by the provisions of this Constitution.

### 3.8 Duties of citizens in the Constitution of Nepal

Nepali Constitution deems citizen and the state sovereign entities bound by reciprocal loyalties and duties. It spells out 31 rights from the right to life, liberty, education, health, property, social security and work to food sovereignty and four duties to Nepali citizen: safeguard the nationality, sovereignty and territorial integrity of the state, remain loyal to it, abide by the Constitution and law, render compulsory service needed by the state and protect and preserve public property.<sup>12</sup>

“Duties of Citizens” is a phrase inserted in our present constitution, but it is not a new concept for Nepalese constitutional history. It was also mentioned in previous constitutions of Nepal. First constitution “The Government of Nepal Act, 1948” has clearly included the duties of citizen together with the fundamental rights. In part II of the constitution there was provision of “Fundamental Rights and Duties” of the citizens. Article 4 provided the fundamental rights and Article 5 provided the fundamental duties of every citizen. The provision of fundamental duties is as follows:

“Subject to this physical, mental and economic capacity, it shall be the duty of every citizen to promote public welfare, to contribute to public funds, to be in readiness to labour physically and mentally for the safety and well being of the Realm and bear true loyalty to His Majesty the King and His Highness Sri 3 Maharaja and be faithful to the State and its legal system”

The Interim Constitution of Nepal, 1951 and the Constitution of Kingdom of Nepal, 1959 had not provided any duties of citizen in its text clearly. But the Constitution of Nepal, 1962 had provided following fundamental duties:<sup>13</sup>

- (a) To render devotion and loyalty towards the kingdom of Nepal;
- (b) To exercise one’s rights with due regard to the law and without infringing upon the rights of others;
- (c) To obey the provisions made by the constitution; and

<sup>12</sup> Dev Raj Dahal, *The Rising Nepal*, April 2, 2019

<sup>13</sup> THE CONSTITUTION OF NEPAL, Art. 9, (1962).

- (d) To maintain harmony in society by not doing anything to entice hatred, derision, violent act or damage to the public or private property among caste, ethnicity, region, community, class, religion or any other such matters affecting the sovereignty, indivisibility and unity of Nepal.

The Constitution of the Kingdom of Nepal, 1990 and the Interim Constitution of Nepal, 2007 did not have clear provision of duties of citizen, but the present constitution of Nepal also accepted the “duties of citizens” is an inherent part of the constitution.

The Constituent Assembly of Nepal thought the necessity of duties of citizen and maintained the provision in Article 48 of the constitution in its fundamental rights chapter. The provision is as follows:

Article 48: Duties of citizens: Every citizen shall have the following duties:

- (a) to safeguard the nationality, sovereignty and integrity of Nepal, while being loyal to the nation,
- (b) to abide by the Constitution and law,
- (c) to render compulsory service as and when the State so requires,
- (d) to protect and preserve public property.

The “duties of citizens” of the Constitution of Nepal is rewritten provision after the constitution of Nepal, 1962. Failure to perform these duties does not carry any penalty, yet the citizens are expected to follow them. These duties are for the citizen not for the State and legislation is necessary for their implementation. But the expectation is that every citizens of Nepal obey those duties for interest of themselves and nation.

#### 4. Conclusion

We cannot have a right without a corresponding duty or a duty without a corresponding right. Every right or duty involves a *vinculum juris* or bond of legal obligation, by which two or more persons are bound together. There can, therefore, be no duty unless there is someone to whom it is due; and there can be no right unless there is someone whom it is claimed, and there can be no wrong unless there is someone who is wronged that it is to say whose right has been violated<sup>14</sup>.

As responsible citizens of a country we have some duties or responsibilities towards our countries, which are known as legal duty, moral duty and civil

<sup>14</sup> MUKHIA, supra note 2.

duty etc. Legal duty is every one's duty to obey constitution and laws. Moral duties are those which are not legally bound to fulfill. Similarly we have some obligations or duties which are known as civil duties such as to serve the nation, to obey the law of the nation, to pay taxes to exercise voting right etc. As mentioned above, there are many roles that the citizens have to fulfill their duties in federal democratic country Nepal. In the gist we can say, the Constitutional arrangement of fundamental duties reminds the citizens that the rights cannot exist without duties. All the citizens shall have duty to be abided as mentioned in Article 48 of the existing Constitution such as to safeguard the nationality, sovereignty, integrity of Nepal while being loyal to the nation, abide by the Constitution and law, render compulsory service as and when the State so requires and protect and preserve public property.

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