

ROLE OF FUNDAMENTAL DUTIES IN NATION BUILDING

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ABSTRACT

Rights and duties play a vital role in the development of a nation. Rights are the opportunity given to the individual to be a part of the development while duties on the other side make a citizen obliged to contribute in the development of the nation. India is the one of the few countries in the world with a tradition since ancient times where people have had tradition to perform their duties. In India the concept of kartavya- the performance of one duty towards society. The idea of fundamental duties has been borrowed from constitution of erstwhile USSR along with the plan concept of five year plan. Till then, Japan was only the democratic state that contains the duties of the citizen. Fundamental duties are incorporated in part IV-A of the constitution under Article 51A. Originally there are ten fundamental duties that have been incorporated but subsequently on 86th amendment in 2002, eleventh duty was added. By the 42nd amendment of the constitution adopted in 1976, fundamental duties have also been enumerated. In 1998, Atal Bihari Vajpayee's government had appointed the justice J.S Verma Committee to operationalise the suggestion to teach fundamental duties to the Indian citizens. Everyone says or say most of the citizens that government is inefficient or that laws are too old. At times we complain that the municipality does not pick up the garbage and at times that pollution level is increasingly like anything and government is not taking a strict action but here all the time we say! Or complaint... but what we have done as a responsible citizen although it is the duty of every citizen to contribute their efforts for the growth of nation but unfortunately, hardly anyone is ready to take the responsibility. It's the knowledge of what is right or wrong that makes a man responsible to himself and to the society. Mahatma Gandhi depict the value of duties through one of his sayings "that begin with duties of a man and rights will follow as a spring follows winter". Thereby, the main objective of my research paper is the importance of fundamental duties and to make people aware about fundamental duties being as responsible citizen as rights and duties are correlative' The Bhagwat Gita also ask people to perform their duty, "Perform your obligatory duty, because action is indeed better than inaction".

INTRODUCTION

The fundamental duties were incorporated in part IV-A of our constitution by 42nd amendment act, 1976 upon the recommendation of Swaran Singh committee on 15th July after the meeting of all India congress⁵⁸⁵. Earlier fundamental rights were not recognized in India but fundamental duties were added by 42nd and 86th amendments. The Indian constitution possess with two main pillars that are fundamental rights and fundamental duties. The idea of fundamental duties has been borrowed from the constitution of USSR erstwhile whereas the Japan was the only democratic state that consists of the duties or obligation of the citizens. It is very important that one should know about his or her duties towards the society and the country. The expression nation is being used for a sovereign state or a country. Nation building refers to the process which makes states, their governments, legitimates its authority and ensures national identity. In total we have eleven fundamentals duties after 86th amendment in 2002. Rights and duties are two sides a same coin and inseparable in nature. Fundamental duties are more like moral obligation on the citizens to encourage patriotism and unity, sense of belongingness.

H.R Gokhale, eleventh Union Law Minister, stated that the post in dependent history, demonstrated that individuals over emphasizing the fundamental rights available to them with a “zeal much more than that shown fulfilling their fundamental obligation of respecting the established legal order”⁵⁸⁶.

In 1976, late Prime Minister Indira Gandhi justifies the inclusion of fundamental duties within then constitution saying that it will uplifts the democracy. According to Indira Gandhi “*the moral values of the fundamental duties would not be to smother rights but to establish a democratic balance by making people conscious of their duties equally as they are conscious of their rights*”.

The Bhagwad Gita and Ramayana also ask people to perform their duties within the Gita, Lord Krishna ordains, “*one should do ones duties without expectation of any fruits*”.

According to Mahatma Gandhi the rights and duties can't be divorced or separated as it is a very fashionable saying that with great power great responsibility comes.

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⁵⁸⁵ Swaran singh committee Report, (1976) 2 SCC.

⁵⁸⁶ My fundamental duties under Indian constitution, justice korian Joseph
http://www.thehindu.com/multimedia/archive/02932/Expanding_the_idea_2932328a.pdf

Mahatma Gandhi held that “satyagraha was born for I used to be striving to decide what my duty was”. Whenever we emphasize on rights, its main factor that one is also sincere about his or her duties towards the society at large. Universally, great emphasis has been laid on citizen’s duties. Article 29(1) of the universal declaration of human rights states: “Everyone has duties to the community in which alone the free and full development of his personality is possible”.

The United States of America is one amongst the most effective instance of responsible citizenship- that each one of the duties and responsibilities of that citizen of a nation should exercise. There are three things which build a nation. Firstly, noble ideals. Secondly, the aptitude of the citizens for achieving these ideas. Thirdly, constant efforts made by each citizen to strive for excellence and take his country forward⁵⁸⁷. Father of the nation Mahatma Gandhi, while commenting on the performance of duties had once said that: “*The true source of right is duty. If we all discharge our duties, rights will not be far to seek. If leaving duties unperformed we run after rights, they will escape us like will-o'-the-wisp, the more we pursue them, the farther they will fly.*” We are given various rights which, when breached are enforceable against the state. While we are given these rights, certain duties are expected from the citizens because the concept of duty is embedded in the highest tradition of the Indian culture, thought, literature, history and philosophy⁵⁸⁸.

THE CONCEPT OF DUTY IN INDIAN SOCIETY

In ancient days, people and their lives are supported on noble conduct of life, where the four Vedas protected the firm followers of the prescribed division of duties and thus varied the various stages of life. As Hinduism developed from the traditional Vedic religion, the concept of rita led to the doctrine of Dharma (duty) and Karma (accumulated effects of good and bad action). Rita is that the physical order of the universe, the order of sacrifice and thus the moral law of the universe. In Rin the main aim of purusharthas is to verify that the individuals wouldn’t neglect their obligatory duties by becoming obsessive about particular desire which will concluded as a moral and social degeneration and destruction of values. To further ensure stable social framework, Hinduism introduces the concept of debts. Hinduism has defined four goals (aims) of human life which are called the four purusharthas (“purusha”

⁵⁸⁷ Government of India Report : National Commission to Review the working of the constitution, volume II P373

⁵http://www.thehindu.com/multimedia/archive/02932/Expanding_the_idea_2932328a.pdf

means a personality of a being and “artha” means goal of human being). These four goals develop a stable social framework within which one can live with tranquility.

The very first goal is Dharma, the word comes from dhri which states to uphold and maintain. Dharma is defined in Sanskrit as “dharyati iti dharmaha” means which upholds and sustain. Dharma is that the means as well as goals. Dharma is first human goal and foundation of all other three goals. Dharmic actions are those as individual, social, political and professional actions which are based upon the four virtues- truth, ahimsa, morality and ethics.

Second goal is Artha and its several meanings but it means wealth (although the word artha is interpreted as understating ones existence). Hinduism recognizes material wealth for happiness and proper living of one’s life. Hindu thinking gets up for simple living, it doesn’t glorify poverty and doesn’t consider wealth as a hurdle to self realization.

The third goal is Kama the word is typically misunderstood or misconcepted with concupiscence. Hinduism acknowledges Kama as a goal of human life and declares “he who performs his prescribed duties out of desire in right manner will obtain fulfillment of all the needs and reach the deathless state”.

The fourth and final goal is Moksha that denotes spiritual perfection as per Hindu thinking⁵⁸⁹. The belief was that observation of one’s own duty will result in heaven and infinite blessings. Varnashrama dharma lays down the duties of different classes of people at different stages of life. Beyond that duties have given birth to rights to all the traditions⁵⁹⁰. The Vedas, rigveda, samaveda, yajurveda and atharvaveda with other religious digests prescribe the respective duties of the four Verna and four stages of life.⁵⁹¹ They laid down six duties within the frame of commands. It was considered that failure to perform individual’s duty would end in ‘sin’ for which there was ‘punishment’ in another world.⁵⁹² There was an idea of birth and rebirth and where the life in rebirth would rely on one’s karma within the existing life. Eastern jurisprudence confines all the aspects behavior within ‘Dharma’ for which it is said ‘*Dharmo Rakshti Rakshta*’ (respect dharma dharma will respect you) Dharma in its depths involves duties as its subject matter. Even the King is alleged to possess duties falling under Raj dharma⁵⁹³.

⁵⁸⁹ <https://rasfreenotes.in/main-notes/ras-mains-paper-2/ethics/ethical-concept-rit-and-rin-concept-of-duties/>

⁵⁹⁰ Mahendra P. Singh, et al. edited), Human Rights and Basic Needs (theory and Practice 3, in Mahendra P. Singh, Human rights in the Indian Tradition search for an Alternative Model,23 (2008).

⁵⁹¹ S.C Dubey, Indian report, (1990).

⁵⁹² T.K. Tope, Fundamental duties & Justifiability,(1982)

⁵⁹³ [https://amity.edu/UserFiles/aibs/3212Article-VII%20\(Page%2049-57\).pdf](https://amity.edu/UserFiles/aibs/3212Article-VII%20(Page%2049-57).pdf).

IMPORTANCE OF FUNDAMENTAL DUTIES

- They remind Indian citizens of their duty towards their society, fellow citizens and the nation.
- They inspire citizens and promote a sense of discipline and commitment among them.
- They help courts in examining and determining the constitutional validity of the law.
- They are enforceable by law therefore parliament can make appropriate penalty or punishment in case of failure of any aforesaid.
- They serve as a warning against anti-national and anti-social activities like burning flags, destroying public property etc.
- Fundamental duties consist of both the moral as well as civic duties. Example cherishing national emblem is on civic lead.
- Fundamental duties enshrined under Article 51A(e) seek to promote harmony and the spirit of common brotherhood, transcending the barrier of religion, language, etc.⁵⁹⁴

SWARAN SINGH COMMITTEE

The committee was founded in 1976 to form a recommendation for fundamental duties, there necessity was felt during the time of emergency and thus the party recommended the separate chapter for fundamental duties so that citizens while enjoying their rights are often responsive to the duties on their part on the exact same time. The government accepted the suggestion and included during a separate article 51A which had ten fundamental duties. Non-inclusion of fundamental duties was a massive mistake within the original constitution which has now been ratified. Although Swaran Singh Committee suggested the incorporation of only eight fundamental duties but the 42nd Amendment had ten duties. It's not surprising that not all the recommendations were accepted by the then government, a number of these non-recommendations are:

- I. The parliament may provide for the imposition of punishment or penalty as considered suitable for non-compliance of those duties.

⁵⁹⁴ Article on relevance of fundamental duties in the Indian express.
<https://www.drishtiiias.com/daily-updates/daily-news-editorials/relevance-of-fundamental-duties>

- II. Such punishment or law won't be questioned in a very court of law for the enforcement of fundamental rights and just in case it caused a breach of fundamental right.
- III. Duty to pay taxes by the citizen was also on the list of fundamental duties.

JUSTICE VERMA COMMITTEE

Justice Verma committee was constituted in 1998 to plan a technique and to figure for strategy for operationalizing a programme initiated country wide for the aim of teaching fundamental duties and make it enforceable in every educational establishment and to initiate as in-servicing training. The committee has acknowledged of non-operationalization of fundamental duties and it had not been because of lack of concern or non-availability of legal provisions, but it was not because of the strategy of implementation. There are enough legal provisions and committee had given with these provisions:

The prevention of Insults to National Honour Act, 1971 has already been implemented stipulating that no citizen can disrespect the National flag, constitution of India and National anthem which are enshrined within the first clause of the article 51-A.

1. There are various criminal laws which are enacted to give punishment to people encouraging enmity between different section of individual on the grounds of race, religion, language, place of birth and etc.
2. To provide punishment for the offence related to caste and religion, the protection of civil rights act, 1955 was enacted.
3. There are various sections of IPC the imputation and assertions, which prejudicial to nation's integrity and unity and are punishable offence.
4. The Unlawful Activities Act of 1967 was enacted to prevent a communal organization to be declared unlawful association.
5. For the disqualification of Members of parliament or state legislatures that have indulged in corrupt practices such as soliciting votes on the name of religion between different sections of people on grounds of race, caste, language, religion or any other ground, The Representation of People Act, 1951 was enacted.
6. The protection of wildlife and prohibition of trade in rare and endangered animals is done by The Wildlife Act, 1972.

7. To ensure the implementation of Article 51A clause (g), The Forest conservation Act 1980 was implemented which provides for indiscriminate deforestation and diversion of forest land for non- forest purpose.

CONCEPT OF ARTICLE 29 (1) OF UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948.

Everyone has duty to the community within which alone the free and full development of his personality is possible.

It is the basic principle that every right has a corresponding duty and every duty has a corresponding right but though it's not absolute rule and therefore it has certain exceptions that person may have a right but there may not be a corresponding duty.

In *A.I.I.M.S Student union v A.I.I.M.S.*⁵⁹⁵ the three judges bench of the Supreme Court made it clear that fundamentals duties may not enforceable by a writ of the court, yet provided valuable guidance and aid to interpretation and resolution of constitutional and legal issues. In case of doubt or choice of people, people's wish as manifested through Article 51-A can serve as a guide not only for resolving the issues but also for constructing the relief given by the court. The fundamental duties must be given their full meaning as expected by the enactment of forty-second Amendment.

In *Rural litigation and entitlement Kendra v. State of Uttar Pradesh*⁵⁹⁶, a complete ban and closing of mining operation carried on in Mussoorie hills was held to be sustainable by deriving support from the fundamental duty as enriched Article 51-a (g) of the constitution. The court held that preservation of the environment and keeping the ecological balance unaffected during a task which not only government but also every citizen must undertake.

In *State of Gujarat v. Mirzapur Moti Kureshi Kasaab Jamat*⁵⁹⁷, the petitioner had challenged the constitutional validity of the Bombay animal (preservation of Gujarat amendment) Act, 1994, by which the state had prohibited slaughter of cows and its progeny on the ground that it was violative of their rights to carry on business as per Article 19(1)(g) of the constitution. The Supreme Court held that the ban imposed by the act a reasonable restriction on their business and in the interest of the general public within the meaning of the clause (6) of the article 19 of the constitution. Restriction imposed for promoting the

⁵⁹⁵ AIR 2001 SC 3262

⁵⁹⁶ AIR 1987 SC 359

⁵⁹⁷ AIR 2006 SC 212

objectives of the DPSP Article 48 and Article 51-A is a reasonable restriction on the fundamental rights of the petitioner therefore, valid.

JUDICIAL RESPONSES

In **Vellore citizen's welfare forum vs. Union of India**⁵⁹⁸ and **Bandkhal and Surajkund Lakes**⁵⁹⁹ matter, the Apex court recognized 'The Precautionary Principle' and the 'The Polluters Pay' principle as essential features of 'sustainable Development' and part of the environment law of the country. Article 21, DPSPs and Fundamental Duty clause (g) of the article 51A were relied on by the Supreme Court for the spelling out of a clear mandate to the state to guard and improve the environment and to safeguard the forests and wild lifetime of the country. The court held it mandatory for the state government to anticipate, prevent and attack the causes of environment degradation.

In **Aruna Roy v. Union of India**⁶⁰⁰, the constitutional validity of the National Curriculum Framework for school or college Education has been challenged within the Supreme court that it violates Article 28 of the constitution and is against the secular fabric of our nation. It was providing value education development associate with major religions within the world. The court held that National Curriculum is not imparting any religion instructions which are prohibited under article 51A(e) which says, the people will strive to promote harmony and the spirit of common brotherhood should be maintained among all the people of the India, irrespective of caste, creed, culture and language and it has to work on renouncing several practices that derogatory to the dignity of a woman.

In **M.C Mehta v. Union of India & Ors**⁶⁰¹, the petitioner, a well-known personality in the legal field, had filed the petition before the court complaining that neither the government nor the people were giving adequate attention to stop the pollution of the river Ganga, and it's necessary to take the step for the purpose of the protecting the river Ganga from pollution and keep it clean. The Supreme Court held that under article 51A(g), it is the duty of the central government to introduce compulsory teaching of lessons of a minimum of for one hour during a week on protection and improvement of the natural environment in all educational institution of the country. The direction to the central government was given to make

⁵⁹⁸ 1996 5SCC 647

⁵⁹⁹ 1997 3SCC 715

⁶⁰⁰ AIR 2002 SC 3176

⁶⁰¹ 1983 1SCC 471

available text books written on that subject and direction was given to distribute them free in educational institutes. To persuade citizens interest among them and for active participation, the suggestion was made for organizing events like keep the town clean, keep the town clean, keep the village clean week in every city, town, village throughout India once a year.

RIGHTS AND DUTIES

Salmond defines it as 'A right an interest recognized and protected by a rule of lights. It is an interest respect for which is duty, and disregard of which is a wrong'. Breach of duty or the disregard has to be actionable except in few situations except in few situations falling under general exception⁶⁰². On the other Duguit arrives at a finding that 'no one has the other right than always try to do his duty'. In his view law is merely an embodiment of duties which a private individual is meant to perform as a part and parcel of social organization for furtherance of social solidarity. Roseau has a balanced view as he state that who says that men are born free and but everywhere they are in chains. These chains on analysis seem to self-imposed by men in a democratic society. These chains are nothing than that restrain made by the society on ones right. The rights and duties form most of the basis of law and they are related to one another.

IN MINERVA MILLS CASE⁶⁰³

The Supreme court observed that '*it is the function of the judges, may their duty, to pronounce upon the validity of laws. If courts are totally deprives of that power, the fundamental rights conferred upon the people will become a mere adornment because rights without remedies are writ in water. A controlled constitution will then become uncontrolled...*'

As the right and duties being correlative in broader sense a requirement without remedy can also be considered as writ in water. However, there are jurists who say that they are often be duties without corresponding right.

The right is secondary and collateral to the duty. Everybody has the duty like duty to living creatures, environment, society, state etc. so that there can be happiness all around "Sarve

⁶⁰² Sections 76 to 106, Chapter IV of the Indian Penal Code and under other like laws.

⁶⁰³ Minerva Mills Ltd. Vs. Union of India & Ors., AIR 1980 SC 1789.

baswan ti sukham". M. Rama Jois⁶⁰⁴ refers to dharma and law in his legal and constitutional history of India in a manner as follows: 'dharma is a Sanskrit expression of the widest import, as there is no corresponding word in any of the language':

'Law is the king of kings;

Nothing is superior to law;

The law aided by the power of the king;

Enables the weal prevail over king'.

Dr. Radhakrishnan the president of India in relation to eastern thought observes that 'Even kings are subordinate to dharma, to the rule of law'⁶⁰⁵. Manu states⁶⁰⁶ that King's power to punish, keeps the people in the righteous path. Fear of punishment only yields worldly happiness and enjoyment. Therefore, rule of law is pointer towards performance of duty. Once everybody in a given society performs his duty, there emerges the satisfaction of right.

FUNDAMENTAL DUTIES IN INDIA

Article 51A of our constitution every citizen has been obligated to perform certain duties called the Fundamental Duties. These duties are defined as the moral obligation to all the citizens of India.

The following are the eleven fundamental duties of every citizen of India.

- 1) To abide by the constitution and respect the National Flag and National Anthem.
- 2) To cherish and follow the noble ideals which inspired our national struggle for freedom.
- 3) To protect and uphold the sovereignty, unity and integrity of India.
- 4) To defend the country and render national service when called upon to do so,
- 5) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women.
- 6) To value and preserve rich heritage of our composite culture.
- 7) To protect and improve the natural environment including forests, lake, river and wild life and to have compassion for living creatures.

⁶⁰⁴ Legal and constitutional history of India by M. Rama Jois, Published by Universal Law Publishing Co Pvt. Ltd.

⁶⁰⁵ The Principal Upanishads by Dr. S. Radhakrishnan.

⁶⁰⁶ Manu VII -22 (Referred by M. Rama Jois in Legal and Constitutional History of India.

- 8) To develop scientific temper, humanism and the spirit of inquiry and reform.
- 9) To safeguard public property and to abjure violence.
- 10) To strive towards excellence in all spheres of individuals and collective activity, so that the nation constantly rises to higher level of endeavor and achievement.

Subsequently, another duty was added by 86th constitutional amendment act, 2002.

- 11) Who are parent and guardian to provide opportunities for education for his child?
Or as the case may be, ward between the age of six and fourteen years.

CONCLUSION

In modern context, it become increasingly important instill the sense of belongingness and civic responsibilities among the citizens of India. The fundamental duties inherit number of the ideals, thoughts, beliefs of great saint, philosophers, social reformers and political leaders inspite of its vagueness the fundamental duties fulfil an extended need. Excess emphasis on fundamental rights decreases the importance of performance of their correlated rights. Every right implies a corresponding duty but every duty does not imply a corresponding right. Man does not live for himself alone. Fundamental duties are laid down to draw the attention of the citizens towards the duties they owe to their Motherland and moreover every individual has certain responsibilities towards the society as fundamental duties or sense of responsibilities is the foundation of human dignity that one must possess. If every citizen performs his duty irrespective of the fact of caste, creed, color, sex and religion and contribute their efforts towards the present day polity and situation like pandemic like covid19 where it's not only in the hands of the government unless or until citizen perform their due duty towards the betterment of the society, or to eradicate this problems from its very roots. Rich or poor, in power or out of power, obedience to citizenship duty, at all costs and risks, is the essence of civilized life. It clearly elaborates the through some of the famous sayings as John. F. Kennedy, 'Do not ask what the country can do for you, but as what you can do for the country'. Russell Kirl, 'every right is married to a duty, every freedom owes a corresponding responsibility'.

REFERENCES

- Jurisprudential Aspects of Fundamental Duties and their Enforceability: A StudProf. (Dr.) R.L. Koul Amity Law School, NOIDA, AUUP Dr. Meenakshi Koul Assistant Professor, Symbiosis Law School, NOIDA.
- <https://www.drishtias.com/daily-updates/daily-news-editorials/relevance-of-fundamental-duties>
- My fundamental duties under Indian constitution by Justice Kurian Joseph https://www.thehindu.com/multimedia/archive/02932/Expanding_the_idea_29_32328a.pdf.
- Dr. J.N. Pandey, constitution law of India Book
- <https://indianexpress.com/article/opinion/columns/fundamental-duties-rights-indian-constitution-6136622/>
- <https://blog.ipleaders.in/fundamental-duties/>
- <http://www.legalservicesindia.com/article/1778/Fundamental-Duties-under-the-Constitution-as-Legally-Enforceable-Duties-under-Different-Statutes.html>